

**State sovereignty discourse and the
Just War Tradition: Assessing
Colombia's 2008 cross-border raid into
Ecuador and its foreign policy
implications**

Kim Refshauge

**Master of Arts (Research) in International Studies, School of
International Studies,
University of Technology Sydney**

2017

CERTIFICATE OF ORIGINAL AUTHORSHIP

This thesis is the result of a research candidature at the University of Technology, Sydney as in fulfilment of the requirements for a Master's degree. I certify that the work in this thesis has not previously been submitted for a different degree.

I also certify that the thesis has been written by me. Any help that I have received in my research work and the preparation of the thesis itself has been acknowledged. In addition, I certify that all information sources and literature used are indicated in the thesis.

Signature of Student:

Date: 27-July-2017

ACKNOWLEDGEMENT

I am grateful to my supervisor, Associate Professor Jeff Browitt, for his unwavering support and dedicated supervision over the last two years. I would also like to extend my deepest gratitude to my parents for their encouragement. This thesis would not have been possible without them.

TABLE OF CONTENTS

ABSTRACT	vii
INTRODUCTION:	1
Military interventions similar to Operation Phoenix:	2
Typology of justifications for military interventions	10
Thesis structure	12
CHAPTER ONE: LITERATURE REVIEW	16
Part One: The Colombian armed conflict	16
Part Two: Sovereignty discourse	22
Part Three: Just War Theory	42
CHAPTER TWO: OPERATION PHOENIX	61
Part One: Background	61
Part Two: Applying Just Armed Conflict Theory	79
CHAPTER THREE: THE AFTERMATH OF THE RAID	96
Part One: The domestic reaction	96
Part Two: The international reaction	99
CHAPTER FOUR: AVOIDING AN INTERSTATE WAR	105
Part One: The basis for peace	106
Part Two: Jus Post-Bellum	116
CONCLUSION	119
BIBLIOGRAPHY	127

ABSTRACT

In March 2008, under the code name “Operation Phoenix”, the Colombian military attacked the base camp of a section of the left-wing guerrilla group, the Revolutionary Armed Forces of Colombia (FARC), located just across the border in Ecuadorian territory. The guerrilla base was stationed inside Ecuador to carry out activities inside Colombia, retreat and thus avoid Colombian troops. However, the attack by the Colombian military was not sanctioned by the Ecuadorian government, which prompted a diplomatic crisis in the region. This kind of limited military intervention remains a topical area of study as national militaries continue to battle armed, non-state actors around the world. This thesis seeks to determine under what circumstances, if any, a nation-state such as Colombia is morally justified in violating the sovereignty of another country. The study is conducted through the lens of state-sovereignty discourse and Just War Theory. It evaluates the foreign policy implications of military interventions like Operation Phoenix. The thesis seeks to address a gap in the existing literature by explicitly addressing Colombia’s modern foreign policy from an ethical perspective.

INTRODUCTION:

On 1 March 2008 Colombian President Alvaro Uribe ordered the military to attack a base of the Revolutionary Armed Forces of Colombia (FARC), inside the Ecuadorean border. The base had been established by the FARC to avoid Colombian troops. No prior warning was given to the Ecuadorean government. The raid, code-named *Operación Fenix* (Operation Phoenix), lasted only hours and resulted in 25 deaths, including that of senior FARC commander Luis Édgar Devia Silva, better known under the pseudonym “Raúl Reyes,” as well as an Ecuadorian citizen, four Mexican students invited to the camp, and a Colombian soldier. Colombian troops also retrieved secret FARC documents, which indicated that the left-wing Venezuelan President Hugo Chávez and Ecuadorean President Rafael Correa were supporting the rebels. The raid was a military and domestic political success for the conservative Uribe administration; defeating the FARC, the country’s largest insurgent group, was a government priority. However it set off a regional diplomatic crisis.

This thesis investigates the Uribe administration’s justifications for invading a neighbouring sovereign, democratic state in peacetime and the implications for Colombian foreign policy then and now. The broad aim is to use Operation Phoenix as a case study to determine under what circumstances, if any, a nation-state is morally justified in violating the sovereignty of another country, and more specifically, if a perceived military threat ever justifies a preventative military strike. This paper initially frames the response with reference to sovereignty discourse. Operation Phoenix reflected a self-contradictory conception of sovereignty held by the Uribe administration: while the Uribe administration demonstrated a commitment to the preservation of Colombian sovereignty, it paradoxically ceded partial authority to a foreign government – the United States – and violently undermined the sovereignty of a neighbouring state. This thesis scrutinises Operation Phoenix by analysing it through the framework of the principles of Just War Theory. My conclusions are less concerned with the legality or strategic merits of Operation Phoenix than with sovereignty discourse and Just War Theory: the conclusion does not seek to declare the raid to be absolutely right

or wrong or provide moral absolutes. Rather, the purpose is to determine why the Uribe administration carried out the raid and why it defended its actions in the way it did.

The thesis also strives to make an original contribution to the literature on the Uribe Administration's foreign policy. A great deal of contemporary analysis on the Colombian civil war has focused on human rights violations, strategic competition between the key players, the bilateral relationship between the United States and Colombia, and attempts to the end the violence through negotiation. Much less has been written on the topic of international military intervention as a component of Colombia's foreign policy, especially in English-language texts. This reflects the fact that Colombia's military has historically focused on internal threats rather than external ones. In other words, Operation Phoenix was an anomaly. By studying it, this author hopes to draw insights into Colombia's foreign policy imperatives.

In terms of methodology, the thesis will employ a narrative literature review in the first chapter and policy analysis in the second, third and fourth chapters. The sources primarily consist of governmental statements, treaty documents, official correspondences, non-governmental reports, newspaper articles and scholarly texts. The research project does not include any field work, such as interviews. This is because the decision makers would likely not make themselves available and, even if they did, they would probably not deviate from previous public statements. A second consideration was the nature of Operation Phoenix and its location. The raid was conducted by the Colombian military, police and clandestine agents with covert support from the United States. It took place in an isolated region outside the control of the Colombian state. Given these factors, the risks and difficulty of conducting an investigative piece less reliant on official sources do not outweigh any likely benefit.

Military interventions similar to Operation Phoenix:

This study of Operation Phoenix will contribute to knowledge on Colombian military policy as well as similar, limited military interventions elsewhere in the world. There are six key factors of Operation Phoenix that distinguish it from other

kinds of armed interventions. First, it was authorised by the government of a nation-state. Secondly, the targets of the attack were non-state actors. Thirdly, the attack took place in a neighbouring country with which the aggressor state was at peace. Fourthly, the attack was limited in terms of duration, targets, resources and territory. Fifthly, the attack was carried out openly by the military of the aggressor nation-state, rather than exclusively using proxy forces or somehow denying responsibility. Lastly, the targets were not acting under the direct authority of the host state. There have been numerous other interventions in the post-World War Two era that also contained these elements. The diversity of these interventions in terms of geography, ideology, era, language and strategic goals of the participants indicates that the lessons of Operation Phoenix might be applicable in a wider context. Here, the author briefly outlines in chronological order the histories of five such interventions and how they reinforce the significance of this research project.

The first occurred during apartheid in South Africa as the state confronted members and sympathisers of the African National Congress (ANC) based in neighbouring Botswana, which the South African government accused of infiltrating saboteurs into South Africa. On 14 June 1985 the South African government sent commandos into Gaborone, the capital of Botswana, to raid the houses and offices of alleged supporters of the ANC.¹ The raid, code-named Operation Plecksy, took only 40 minutes. Among the 12 killed were a Somalian, a 6-year-old Basotho girl and two Botswanans. Commander of the South African armed forces, General Constand Viljoen, stated: “The aim of the operation was to disrupt the nerve center of the ANC machinery”.² South Africa justified Operation Plecksy on the basis of being sabotaged in the past and in protecting itself from further injury in the future. Foreign Minister Rieke Botha said Operation Plecksy was necessary: “to protect South Africa and its people from the increasing number of terrorist attacks emanating from Botswana”.³ Mr Botha noted that South African officials had previously asked Botswana to expel ANC personnel from Botswanan territory.

¹The Truth and Reconciliation Commission, *Truth and Reconciliation Commission of South Africa Report - Volume Two* (1998). p.105

²Alan Cowell, "U.S. Recalls South Africa Envoy in Response to Raid on Botswana; 16 Are Reported Killed as Commandos Strike an Insurgent 'Center'," *The New York Times*, 15 June 1985.

³Ibid.

Further, he argued, the raid had been necessary to forestall attacks on non-white political leaders in South Africa. Thus the rationale blended elements of self-defence and preventative war. The attack drew criticism from Botswana and external observers, such as the United States.⁴

Superficially, there are many similarities between Operation Plecksy and Operation Phoenix. Both resulted in relatively few casualties, both took place in a neighbouring state that had a restricted capacity to defend itself or retaliate, and both were limited to a short amount of time and were declared strategic successes, notwithstanding international condemnation. Most relevant for the purposes of this thesis, the same type of justification would come to be used by Colombia more than twenty years later.

A second example of military intervention from the Cold War era was found in Nicaragua. Following the violent ousting of the Somoza dictatorship in 1979, the leftist Sandinista National Liberation Front governed Nicaragua from 1979 until 1990. From 1981 to 1990, the Sandinistas faced armed opposition from anti-communist guerrillas known as the Contras. To avoid Nicaraguan armed forces, the Contras established permanent camps in the mountainous Las Vegas Salient region of Honduras. At various times during the war the Sandinistas crossed the border to attack the Contras.⁵ These raids were opposed by the Honduran government, which claimed that Nicaragua had violated their sovereignty. Unlike Operation Phoenix, the presence of Contras in Honduras did not culminate in a single, audacious military offensive. Rather, the Sandinistas made repeated cross border incursions in the course of the nine-year conflict and, during the second half of 1986, even stationed up to 1000 troops on “virtually permanent” patrol duty inside Las Vegas Salient.⁶ The Honduran government maintained a complicated relationship with the Contras. On the one hand, its antipathy toward the Sandinistas’ Marxist policies and support from the United States allowed for the presence of the Contras in the first place. Conversely, Honduran support for the Contras also led to low-level

⁴Milt Freudenheim and Henry Giniger, "The World; South Africa Crosses the Line," *ibid.*, 16 June.

⁵James LeMoyné, "Honduras Eager to Have Rebels Out," *ibid.*, 10 December 1986.

⁶Dan Williams, "Honduras Leaves Key Border Area to Contras and Their Sandinista Foes," *Los Angeles Times*, 7 December 1986.

firefights between the Honduran army and Sandinista troops. In early December 1986, for example, Sandinista units reportedly attacked Honduran positions and burned three villages. They also allegedly overran a Honduran patrol, injuring three soldiers and capturing two others.⁷ The violence did not, however, escalate into a sustained, large-scale conflict between Honduras and Nicaragua.

Once again, there are key similarities between this conflict and the Colombian war. First, Honduran Government sympathised, to a degree, with the rebels and allowed them to hold bases close to the Nicaragua border, but did not sanction or help plan the Contra raids into Nicaragua. In these ways, the Honduran government was in a similar position to the Correa Administration in Ecuador in 2008. Secondly, the violence never escalated into a major war between the two states. A notable difference is that the United States supported the Contras, tacitly approving their violation of Nicaraguan sovereignty. Indeed, The United States stationed 1000 troops and intelligence agents in Honduras on a semi-permanent basis.⁸ At a shallow level, this is the exact opposite of the US position in 2008, when it went to great lengths to protect the sovereignty of Colombia as they faced challenges from FARC guerrillas. This highlights the fact that even though the Cold War was said to symbolically end in 1989 with the fall of the Berlin Wall, Cold War logic also underpinned the position-taking of the United States vis-à-vis its logistical support for Operation Phoenix. What appears to be a contradiction is actually a consistent policy of antagonism towards armed, Leftist insurgency in the Americas.

A third example is Israel's violation of Lebanon's sovereignty in 2006. On 12 July 2006, Hezbollah fighters attacked an Israeli military patrol, killing three soldiers and capturing two. Israeli Defence Forces (IDF) retaliated by launching strikes in Lebanon, including the Beirut airport. Following rocket attacks on northern Israeli cities, the IDF crossed into south Lebanon and engaged Hezbollah in war. By the time a ceasefire was reached on 14 August 2006, 116 IDF soldiers, 43 Israeli civilians, between 280 and 500 anti-Israel armed combatants, and 1,109 Lebanese civilians had died in the fighting. In Israel, 6,000 homes were hit by rockets fired

⁷LeMoyné, "Honduras Eager to Have Rebels Out."

⁸Williams, "Honduras Leaves Key Border Area to Contras and Their Sandinista Foes."

by militants; between 300,000 and 500,000 people were displaced. In Lebanon, more than 900,000 people were displaced.⁹

Again, there are multiple similarities with Operation Phoenix, notwithstanding the much higher number of casualties and the scale of destruction; that is, the IDF violated the sovereignty of a neighbouring state to attack non-state actors and justified doing so on the grounds of self-defence.¹⁰ Hezbollah, while a powerful actor in Lebanon, did not act on behalf of the Lebanese government. Rather, as with FARC in Ecuador, they were allowed to operate in Lebanon due to combination of state weakness and acquiescence.

The final two examples of limited military intervention pertain to the United States' campaign to destroy foreign-based terrorist organisations. As will be explored further in Chapter Two, the United States justified their role in Operation Phoenix in the same way they rationalised the use of drones and special forces raids in their pursuit of terrorist groups. In short, the White House's Office of Legal Counsel concluded that states had the right to defend themselves against terrorist groups operating from a country that was unable or unwilling to expel them. This interpretation of self-defence included the right to violate the sovereignty of the state that hosted the terrorists. Furthermore, the targeted killing of a terrorist could not be considered an assassination, and therefore illegal under US law, if the organisation to which the terrorist belonged posed an ongoing threat and could not be reasonably expected to surrender. This argument has been used to defend drone strikes and special forces operations in Pakistan, Yemen and Somalia.¹¹

Among the special forces operations was Operation Neptune's Spear - the targeted killing of Osama bin Laden. Late on 1 May 2011, US Navy Sea, Air and Land Teams (SEALS) boarded two helicopters at Jalalabad Air Field in eastern Afghanistan and arrived at Abbottabad, Pakistan, shortly after midnight. The

⁹Mark Zeitoun, Karim Eid-Sabbagh, and Jeremy Loveless, "The Analytical Framework of Water and Armed Conflict: A Focus on the 2006 Summer War between Israel and Lebanon," *Disasters* 38, no. 1 (2014).

¹⁰Ibid.

¹¹Dana Priest, "Covert Action in Colombia: U.S. Intelligence, Gps Bomb Kits Help Latin American Nation Cripple Rebel Forces," *The Washington Post*, 21 December 2013.

SEALs stormed a fortified compound, killing bin Laden and four others, including unarmed civilians. Notwithstanding the deaths of innocents or the violation of Pakistan's sovereignty, the operation was a political high point of Obama's first term and widely celebrated as a success in the United States. It is worth noting that the raid was likely not the only time the United States had violated Pakistan's sovereignty. Journalist Nicholas Schmidle reported claims by a US special-operations officer that US forces had surreptitiously crossed into Pakistan up to 12 times prior to the bin Laden raid.¹²

The Obama Administration authorised the offensive without seeking permission from Pakistan, a supposed ally.¹³ The administration's account of events has since been disputed by others. In 2015, for example, investigative journalist Seymour Hersh wrote an article claiming senior officials in Pakistan's army and the Inter-Services Intelligence agency (ISI) were crucial to Operation Neptune's Spear. Hersh argued bin Laden had been a prisoner of ISI since 2006. He further contended that Pakistani security officials had prior knowledge of the raid and allowed the SEALs to enter Pakistani airspace without encountering resistance.¹⁴ Both the Obama Administration and Hersh's descriptions of what happened rely on either classified information or anonymous sources. Plainly, it is beyond the scope of this thesis to determine whether or not the United States colluded with Pakistani agents. In either case, however, the Pakistani civilian leadership did not approve the raid beforehand or condone it afterwards. In this way, the United States was as culpable of a violation of sovereignty as the Uribe Administration was in 2008.

An important difference was Pakistan's reaction to the violation of its sovereignty. While the government was humiliated, it largely abstained from publicly criticising the Obama Administration. Pakistan President Asif Ali Zardari wrote: "Although the events of Sunday were not a joint operation... we in Pakistan take some satisfaction that our early assistance in identifying an al-Qaeda (AQ) courier

¹²Nicholas Schmidle, "Getting Bin Laden: What Happened That Night in Abbottabad," *The New Yorker*, 8 August 2011.

¹³Barack H Obama, *Remarks by the President on Osama Bin Laden* (The White House, 2011).

¹⁴Seymour M Hersh, "The Killing of Osama Bin Laden," *London Review of Books*, 21 May 2015.

ultimately led to this day.”¹⁵ Evidently, a violation of a state’s sovereignty and subsequent embarrassment does not necessarily lead to a strong, public condemnation against the offender. Thus, the implication is that the condemnation of Operation Phoenix by Ecuador’s Correa Administration represented a conscious choice rather than an inevitable, natural response. Military cross-border raids such as those described above, which problematise hard and fast notions of sovereignty, highlight an issue that will recur in this thesis: how to justify (“sell”) a raid to the domestic audience of the attacking country; and how to justify it to an international audience, including the United Nations (UN).

A final and far more complex example of limited military intervention against non-state actors is the ongoing fight against the Islamic State of Iraq and Syria (ISIS). Following the 2003 US invasion of Iraq, numerous Islamic terrorist groups emerged, challenging the new Iraqi state. Among these was the Islamic State of Iraq (ISI), which formed in 2006.¹⁶ In August 2011, ISI leader Abu Bakr al-Baghdadi dispatched an expeditionary force to Syria. The objective was, inter alia, to expand into and exploit the new sectarian armed conflict. The subsequent success led to the addition of “Syria” to its name, becoming ISIS. In January 2014, a contingent of ISIS combatants from Syria surged across the border, joining comrades in Iraq and capturing numerous cities in the north of the country.¹⁷ On 29 June 2014, ISIS declared the territory under its control as belonging to an Islamic state with al-Baghdadi as its caliph.¹⁸

US military involvement in Iraq since the 2003 “Shock and Awe” campaign has continued on a large scale and in partnership with allied states and therefore does not match the description of limited military intervention outlined above. However, the interventions by external forces in Syria, particularly those targeting ISIS, do meet the criteria. A detailed survey of the roles of foreign countries combating ISIS and others in Syria is not justified for the purposes of this paper. However, the activities of the United States in Syria reveal similarities with Operation Phoenix.

¹⁵Asif Ali Zardari, "Pakistan Did Its Part," *The Washington Post*, 2 May 2011.

¹⁶David Kilcullen, "Blood Year: Terror and the Islamic State," *Quarterly Essay* 2015.p.50

¹⁷Ibid.p.57

¹⁸"Al Qaeda Splinter Group Declares Islamic 'Caliphate'," *Reuters*, 29 June 2014.

As of December 2016, the United States had hundreds of Special Operations Forces working against ISIS in Syria.¹⁹ They have also conducted five thousand air strikes in the country, at a cost of USD12.6 million a day.²⁰ For example, in late August 2016, a US drone used laser-guided munitions to kill Taha Sobhi Falaha, alias Abu Muhammad al-Adnani, a senior ISIS strategists and propagandist (the Russian government disputed this version of events).²¹ The raid was carried out over a short amount of time in territory bordering a coalition partner, using limited personnel and assets, without the approval of the Syrian government and targeting a prominent non-state actor. In these ways, it displayed many similarities with the Uribe Administration's raid into Ecuador.

A further element of the conflict that has implications for this thesis is the contested status of statehood in Syria. What distinguishes ISIS from other guerrilla groups is its claim to be a nation-state. The definition of a state will be explored in Chapter One of this thesis. However, it is instructive to note that while the international community has not acknowledged ISIS as a state, it has arguably met the functional criteria of statehood. Counter-insurgency expert David Kilcullen noted that: (1) ISIS controls territory; (2) that territory is home to a fixed population; (3) that population owes allegiance, if under extreme coercion, to ISIS; and (4) ISIS has entered into relations with other states, evidenced, for example, by receiving funding from Saudi Arabia and Qatar.²²

The FARC has not made similar claims to statehood in Colombia (nor Ecuador). However, like ISIS, it has taken on the responsibilities that would ordinarily be within the purview of the Colombian government. In isolated regions in Colombia that are under FARC control, the guerrillas administer public services, levy taxes, take responsibility for law enforcement and provide educational services.²³ The

¹⁹Robin Wright, "After the Islamic State," *The New Yorker*, 12 December 2016.

²⁰Ibid.

²¹Ibid.

"Abu Muhammad Al-Adnani, the Voice of Isis, Is Dead," *The New Yorker*, 30 August 2016.

"Us Says It Killed Is Strategist Adnani," *BBC News*, 12 September 2016.

²²Kilcullen, "Blood Year: Terror and the Islamic State." p.61

²³Alfredo Schulte-Bockholt, *The Politics of Organized Crime and the Organized Crime of Politics: A Study in Criminal Power* (Lanham: Lexington Books, 2006). p.135

nature and implications of FARC's role in Colombia will be further explored in Chapter Two.

Three conclusions can be drawn from this survey of limited military interventions. First, the phenomenon is widespread and it has been employed by states of varying motives and means. The evidence suggests limited intervention is a policy option worldwide, even for states with relatively small armies, such as Nicaragua. Secondly, there are no signs this kind of war-making will end anytime soon. As shown by the US military operations in Syria and Pakistan, limited strikes have become a favoured, ongoing tactic of the Obama Administration. Thirdly, the effects of limited intervention are often uncertain. In all of the cases cited above, including Operation Phoenix, the military leaders declared the operations successful. However, the long-term ramifications are harder to discern. In the case of Operation Neptune's Spear, for example, Kilcullen argued the death of bin Laden did little to dent global terror networks and enhance the security of the United States.²⁴ Rather, at best, it lent President Obama political capital in the lead-up to his successful re-election in 2012. It also, in Kilcullen's view, magnified popular expectations of an accelerated withdrawal of US troops from Afghanistan.²⁵ While this is a contested account of the aftermath, it illustrates the ambiguous nature of the outcomes of limited intervention.

A corollary of these conclusions is that this thesis is topical and will likely remain so into the near future. Thus its findings will not only add to one's understanding of the Colombian war, but also hold value for students of modern armed conflict more generally.

Typology of justifications for military interventions

The Uribe Administration's rationale for Operation Phoenix centred on an invocation of self-defence, the punishment of wrongdoers and preventative war. A week after the raid, Uribe defended the actions of his government at a Heads of

²⁴Kilcullen, "Blood Year: Terror and the Islamic State."

²⁵Ibid.

State summit of the Rio Group in Santo Domingo, Dominican Republic. According to his statement, the FARC had launched 40 attacks on Colombian targets from Ecuadorean territory since 2004.²⁶ He did not claim Operation Phoenix was ordered to prevent an imminent attack and therefore it cannot be classified as a pre-emptive strike. The clear implication, however, was that the FARC camps in Ecuador would inevitably be used again to stage attacks against the Colombian armed forces. In this way, Uribe justified the raid in terms of preventative war, which is a form of self-defence. Uribe also said that Reyes was guilty of homicide, terrorism, rebellion, kidnapping and causing bodily harm.²⁷ Assuming there was no reasonable chance of arresting Reyes, Operation Phoenix could be seen as the just punishment of criminal wrongdoing. Before assessing these claims, it is useful to briefly explore the various types of justifications that states have used in the past.

States have defended their use of military interventions in many ways. Even in the most authoritarian regimes, states have justified military action to themselves, the domestic population and to international counterparts. Wars are not always easily defined; many conflicts are a combination of different kinds of wars.²⁸ A typology of the various justifications for military intervention serves two purposes. It provides context for the war strategy adopted by the Uribe Administration, which resulted in the raid into Ecuador. It also helps inform the forthcoming discussion regarding the changed notion of sovereignty. That is, what can the Uribe Administration's choice of self-defence, preventive war and punishment say about its conception of sovereignty?

Of the literature concerning the justification of military intervention, ten distinct arguments are apparent. These include: religious grounds or Holy War, revenge, ethnic cleansing, self-defence, humanitarian intervention and the responsibility to protect, preemptive war, preventive war, protection of trade routes, the rescue of foreign nationals abroad, and the promotion of democracy (for examples, see

²⁶Álvaro Uribe Vélez, "Intervención Del Presidente Álvaro Uribe Ante Jefes De Estado Del Grupo De Río," in *XX Cumbre de Jefes de Estado y de Gobierno del Grupo Río* (Santo Domingo 2008).

²⁷Ibid.

²⁸Sylvain Vité, "Typology of Armed Conflicts in International Humanitarian Law: Legal Concepts and Actual Situations," *International Review of the Red Cross* 91, no. 873 (2009).

Evans, Elshtain, Power, Walzer, and Wright).²⁹ I acknowledge that other kinds of interventions exist that are related but distinct from kinetic military actions. These include economic sanctions, covert intelligence operations, diplomacy and military deterrence. Yet, as this thesis is focused on a military violation of sovereignty, a discussion of alternative forms of intervention is omitted from this dissertation.

Thesis structure

This thesis is structured into four chapters. Chapter One contains a literature review of the scholarship regarding the Colombian conflict, state sovereignty discourse and Just War Theory. Chapter Two addresses the context in which the Uribe Administration sanctioned Operation Phoenix and an assessment of it using a branch of Just War Theory. Chapter Three comprises a critical examination of the raid's aftermath. Chapter Four identifies the reasons why the upheaval did not lead to war and how Ecuador responded in terms of post-war justice.

Chapter One defines the term “state” and traces the origins of sovereignty discourse. Sovereignty and the international system of nation-states are uniquely modern phenomena; their antecedents are found in mid 17th Century Europe. Prior to the Peace of Westphalia, signed in 1648, Europe had overlapping and intersecting layers of authority, chiefly between princes and the Church.³⁰ While the Peace of Westphalia was not a watershed moment that itself changed the international system, it is often seen in the literature as a symbol of the movement towards the creation of states that had a clear conception of state boundaries and would stand outside the theological disputes and moral absolutes of the Church.³¹ At least since Westphalia, sovereignty discourse has had a recurring contradiction

²⁹Gareth J Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington DC: Brookings Institution Press, 2008).

Jean Bethke Elshtain, *Just War against Terror : The Burden of American Power in a Violent World* (New York: Basic Books, 2008).

Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books, 2002).

Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (London: Penguin Books, 1978).

Quincy Wright, *A Study of War* (Chicago: University of Chicago Press, 1942).

³⁰Robert Jackson, *Sovereignty: Evolution of an Idea* (Cambridge: Polity Press, 2007).p.7

³¹Ibid.

between a state's right to non-interference and a state's right to wage war. A clear understanding of the contested and changed nature of sovereignty since the emergence of the nation-state is a useful starting point. By locating the Uribe Administration's conception of sovereignty in the scholarly debates, we have one way to answer this paper's central question: what circumstances justify a violation of sovereignty?

To be sure, sovereignty discourse is useful, but it leaves certain questions unanswered. What are the moral imperatives that should compel or constrain a leader's decision to wage war? Should morality be a consideration at all or can everything be reduced to Thucydides' famous maxim, cited by Walzer: "they that have odds of power exact as much as they can, and the weak yield to such conditions as they can get."³²To respond to these questions and provide greater depth to my analysis of Operation Phoenix, this author has selected Just War Theory as an analytical framework. The Charters of the UN and the Organisation of American States (OAS) were heavily referenced in the justification and condemnation that followed Operation Phoenix. However, as I will show, studies of international law are limited. Unlike positive law, Just War Theory comes from a tradition of moral, political philosophy whose genesis is commonly traced to Catholicism in the Middle Ages. Just War Theory experienced a revival in the 1970s with the arrival of contemporary theorists such as Michael Walzer and Jean Bethke Elshtain. As Walzer notes, Just War Theory is a tool to scrutinise a state's reasons for waging war, a tool that could be used by people who might be uninterested or untrained in international relations.³³ With its emphasis on morality, Just War Theory has a bias in favour of human rights arguments. A literature review of Just War Theory and a defence of its inclusion in this thesis will therefore be offered in Chapter One in conjunction with the discussion of sovereignty.

Chapter Two explains the structure of the Colombian armed conflict and assesses Operation Phoenix in terms of Just War Theory discourse. Specifically, this chapter will look at the causes of the conflict and the factors that sustain it, the position and

³²Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. p.7

³³*Ibid.*p.xiii

objectives of the main players, the facts of the raid, and the *jus ad bellum* and *jus in bello* components of Just War Theory. It focuses on the reasons why the Uribe Administration chose military intervention over diplomacy. Again, the aim is not to reach a verdict of guilty or not guilty; the chief purpose is to draw conclusions as to how the Uribe Administration justified its actions on ethical grounds.

The third chapter reviews the aftermath of Operation Phoenix. While the domestic response was widely supportive of the government, the reaction of regional powers to Uribe's military incursion into Ecuador was hostile. Predictably, Ecuador opposed the violation of their sovereignty and temporarily severed diplomatic ties. Venezuela, under the leadership of then-President Hugo Chávez, wished to show solidarity with the Correa Administration in Ecuador and followed suit.³⁴ Chávez went even further and mobilised Venezuelan troops to the Colombian border. Other South American countries, such as Brazil, Argentina, Chile, Bolivia and Panama, all under left-leaning governments, condemned the raid but stopped short of cutting diplomatic ties or threatening retaliation. The Rio Group and the OAS both issued declarations reaffirming the right of states to non-interference from foreign powers, but stopped short of condemning the Uribe Administration.³⁵ UN Secretary General Ban Ki Moon implied these fora were sufficient to resolve the crisis and stressed the need for a peaceful solution.³⁶ The United States, as an established ally of Colombia, offered support for the incursion.

Beyond the diplomatic crisis that immediately followed Operation Phoenix, and the subsequent rapprochement, Chapter Four will identify reasons why the upheaval did not lead to war and will evaluate the response of Ecuador and Venezuela in

³⁴César Paredes, "Ecuador Y Venezuela Cierran Sus Embajadas En Colombia," *Semana*, 3 March 2008.

³⁵Grupo de Rio, "Declaración De Santo Domingo," in *XX Cumbre de Jefes de Estado y de Gobierno del Grupo de Rio* (Santo Domingo 2008).
El Consejo Permanente de la Organización de los Estados Americanos, "Convocatoria De La Reunión De Consulta De Ministros De Relaciones Exteriores Y Nombramiento De Una Comisión," in *CP/RES. 930 (1632/08)*, ed. Organización de los Estados Americanos (2008).

³⁶United Nations, "Ban Supports the Oas in the Crisis between Colombia and Ecuador," (2008).

terms of post-war justice. A conclusion will draw implications for Just War Theory more generally.

CHAPTER ONE: LITERATURE REVIEW

Part One: The Colombian armed conflict

Colombia's armed conflict, as a topic in its own right, has already generated an abundance of scholarly research by political scientists in academia, think tanks and diplomatic writings. However, there has been a conspicuous lack of English-language studies that deal with Colombian foreign policy. Most of the literature that relates to modern Colombian foreign policy falls into two categories: works that deal with issues related to but not focused on foreign policy; that is, they typically explore the triangle of violence between the Colombian Armed Forces, guerrilla groups and the paramilitaries. A second category is academic literature that explicitly examines foreign policy, but with an almost exclusive preoccupation with the Colombia-United States relationship.

The literature regarding the domestic elements of the Colombian armed struggle can be categorised into four subsections: peace processes, history, armed groups, and injustice. One of the leading scholars on Colombian politics is Harvey F. Kline, who wrote a three-piece series about the impact of armed groups on the stability of the Colombian state as well as efforts to broker peace with such groups.³⁷ For the purposes of this thesis, Kline's work is instructive as it shows the difficulties of reaching a negotiating peace settlement with armed groups: in other words, the notion that the Uribe Administration ought to have gone to the negotiating table with the FARC before launching an international raid is not as easy as it might seem. Secondly, there are accounts by historians (Hylton; LaRosa & Mejía; Pearce, Safford & Palacios; and Simons)³⁸ who typically trace the roots of violence in

³⁷Harvey F Kline, *State Building and Conflict Resolution in Colombia, 1986-1994* (Tuscaloosa: University Alabama Press, 1999).

Chronicles of a Failure Foretold: The Peace Process of Colombian President Andres Pastrana (Tuscaloosa: The University of Alabama Press, 2007).

Showing Teeth to the Dragons: State-Building by Colombian President Alvaro Uribe Velez, 2002-2006 (Tuscaloosa: The University of Alabama Press, 2009).

³⁸Forrest Hylton, *Evil Hour in Colombia* (London & New York: Verso, 2006).

Michael J LaRosa and Germán R Mejía, *Colombia: A Concise Contemporary History* (Plymouth: Rowman & Littlefield Publishers Inc, 2012).

Colombia from the colonial era to the modern day. While international relations are mentioned, they are not investigated with any depth. Thirdly, some authors have focused their attention on the role and structure of the armed groups, such as the FARC, and how they operate (Brittain; Dudley; Leech; and Saskiewicz).³⁹ Such investigations are useful to this research project as they allow us to challenge assertions put forth by the Uribe Administration, including references made to FARC as “narcoterrorists” or “*mafiosos*”. A final grouping of the literature emphasises the search for justice and the factors that often impede these efforts (Bouvier, Carroll, and Echavarría Alvarez).⁴⁰ I recognise that “justice” might be an imperfect categorisation, given the diverse threads of argument that these authors adopt, but it does capture a recurrent theme common to each of them.

Colombia’s armed conflict has historically been confined within its own borders; the causes and effects of the bloody struggle have been largely endogenous. The great exception to this has been the longstanding, military involvement of the United States. Several factors have made Colombia strategically important for the United States over the last several decades: its geographic position, its anti-communist and pro-capitalist governments, the production and exportation of most of the cocaine consumed in the United States, its natural resources, and, more recently, the presence of groups designated as terrorists during the global “War on Terror”. In 2016, as President Obama announced a USD450 million security plan for Colombia, he said: “This is one of the strongest partnerships in the

J. Pearce, *Colombia: Inside the Labyrinth* (London: Latin American Bureau, 1990).

Frank Safford and Marco Palacios, *Colombia: Fragmented Land, Divided Society* (New York: Oxford University Press, 2002).

Geoff Simons, *Colombia: A Brutal History* (London: Saqi, 2004).

³⁹James J Brittain, *Revolutionary Social Change in Colombia: The Origin and Direction of the Farc-Ep* (London: Pluto Press, 2010).

Steven Dudley, *Walking Ghosts: Murder and Guerrilla Politics in Colombia* (Abingdon: Routledge, 2003).

Garry Leech, *The Farc: The Longest Insurgency* (New York: Zed Books, 2011).

Paul E Saskiewicz, *The Revolutionary Armed Forces of Colombia - People's Army (Farc-Ep): Marxist-Leninist Insurgency or Criminal Enterprise?*, vol. Master of Arts in National Security Affairs (Monterey Naval Postgraduate School, 2005).

⁴⁰Virginia M Bouvier, *Colombia: Building Peace in a Time of War* (Washington: United States Institute of Peace Press, 2009).

Leah Anne Carroll, *Violent Democratization: Social Movements, Elites, and Politics in Colombia's Rural War Zones, 1984-2008* (Notre Dame: University of Notre Dame Press, 2011).

Josefina Echavarría Alvarez, *In/Security in Colombia : Writing Political Identities in the Democratic Security Policy* (Manchester & New York: Manchester University Press, 2010).

hemisphere”.⁴¹ In 2009, the Bush Administration awarded Álvaro Uribe the Presidential Medal of Freedom. Bush triumphantly declared: “President Uribe has reawakened the hopes of his countrymen and shown a model of leadership to a watching world”.⁴² In 2000, the Clinton Administration signed a USD1.6 billion anti-insurgent/anti-drug trafficking aid package for Colombia. This made Colombia, in 2000, the third-largest recipient of US military aid behind Israel and Egypt.⁴³ While there have been moments of animosity, the United States has had few similarly strong partnerships in the region. Given these facts, several authors have focused their attention on the role of the United States in the Colombian civil war.

One of the ways in which the bilateral relationship has been analysed is through the causes, implementation and outcome of Plan Colombia (see Aviles; Crandall; Petras; and Rosen).⁴⁴ It is arguably the most discussed aspect of modern Colombian foreign relations. Others have focused on what they see as evidence of US imperialism in Colombia (see Leech; Stokes; Villar & Cottell).⁴⁵ This includes references to US economic and trade policies, military bases, counter-narcotics and counter-terrorism efforts in Colombia. A third way to evaluate the role of the United States has been as part of a broader survey of Colombian foreign policy (see Bagley & Tokatlian; and Tickner).⁴⁶ Landen A. Sorrell takes a comprehensive

⁴¹The White House, "Remarks by President Obama and President Santos of Colombia at Plan Colombia Reception," (2016).

⁴²"President Bush Honors Presidential Medal of Freedom Recipients " (2009).

⁴³Office of Management and Budget - Executive Office of the President, (2000).

⁴⁴William Aviles, "Us Intervention in Colombia: The Role of Transnational Relations," *Bulletin of Latin American Research* 27, no. 3 (2008).

Russell Crandall, *Driven by Drugs: Us Policy toward Colombia* (London: Lynne Rienner, 2008).

J Petras "The Geopolitics of Plan Colombia," *Monthly Review* 53, no. 1 (2001).

Jonathan D Rosen, *The Losing War: Plan Colombia and Beyond* (Albany: SUNY Press, 2014).

⁴⁵Garry Leech, *Killing Peace: Colombia's Conflict and the Failure of U.S. Intervention* (New York: Information Network of the Americas, 2002).

Doug Stokes, *America's Other War: Terrorizing Colombia* (London: Zed Books, 2004).

Oliver Villar and Drew Cottle, *Cocaine, Death Squads, and the War on Terror: U.S. Imperialism and Class Struggle in Colombia* (United States: Monthly Review Press, 2011).

⁴⁶Bruce Michael Bagley and Juan Gabriel Tokatlian, "Colombian Foreign Policy in the 1980s: The Search for Leverage," *Journal of Interamerican Studies and World Affairs* 27, no. 3 (1985).

Arlene B. Tickner, "Colombia: U.S. Subordinate, Autonomous Actor, or Something in Between?," in *Latin American and Caribbean Foreign Policy*, ed. Frank O. Mora and Jeanne A.K. Hey (Lanham: Rowman & Littlefield, 2003).

"Intervención Por Invitación: Claves De La Política Exterior Colombiana Y De Sus Debilidades Principales," *Colombia Internacional* 65 (2007).

approach, examining contemporary issues that include the United States' economic interest in Colombia, as well as security concerns.⁴⁷ Each of these approaches has value and this thesis will draw upon some of them in Chapter Two, as any discussion of Operation Phoenix must address the role of the United States. After all, the raid was facilitated by US military assistance.

Notwithstanding the focus on domestic issues and the influence of the United States, there have been a few notable English-language studies that have directly taken Operation Phoenix as a case study. Frank Walsh explicitly addresses the legality of Operation Phoenix and offers an argument sympathetic to the Uribe Administration and its actions.⁴⁸ He submits that Uribe Administration's actions were justified on the basis of self-defence and did not contravene international law. He also offers an innovative framework through which to view the exercise of self-defence by a nation-state. His "new paradigm" model evaluates potential policy options by mapping out the nature of terrorist aggression compared to a host nation's culpability. The model is flawed, however, insofar as the author failed to investigate relevant judgments by the International Court of Justice (ICJ), and this undermined his ability to verify facts and allegations by overlooking Spanish-language sources. In other words, Walsh's conclusions do not end the debates surrounding the justness of Operation Phoenix or its implications.

Cecilia Bailliet also examines Operation Phoenix from a legal standpoint, but unlike Walsh, pays special attention to UN Security Council Resolution 1373.⁴⁹ Issued in 2001, Resolution 1373 calls on states to deny any form of support to terrorist groups in their territory. This decree could be seen as part of an attempt to expand the remit of the Responsibility to Protect Doctrine (R2P).⁵⁰ R2P conditions a state's right to non-interference on their respect of human rights. A broadened

⁴⁷Landen A Sorrell, *Colombia: U.S. Relations and Issues* (New York: Nova Science Publishers Inc, 2010).

⁴⁸Frank M Walsh, "Rethinking the Legality of Colombia's Attack on the Farc in Ecuador: A New Paradigm for Balancing Territorial Integrity, Self-Defense and the Duties of Sovereignty," *Pace International Law Review* 21, no. 1 (2009).

⁴⁹Cecilia Bailliet, "The "Unrule" of Law: Unintended Consequences of Applying the Responsibility to Prevent to Counterterrorism, a Case Study of Colombia's Raid in Ecuador," in *Security: A Multidisciplinary Normative Approach*, ed. Cecilia Bailliet (Leiden: Brill | Nijhoff, 2009).

⁵⁰*Ibid.*p.176

version of R2P could include counter-terrorism as an additional requirement for states to meet. After reviewing international law, the arguments presented by the Uribe and Correa Administrations, and the resolutions of the OAS and Rio Group, Bailliet concludes: “unilateral use of force in the context of counter terrorism, conducted without consultation of the host state, is *not* lawful”.⁵¹ In other words, Operation Phoenix was not legal and should be seen as potentially incompatible with the norms espoused in the UN and OAS Charters.

Tatiana Waisberg also discusses Operation Phoenix from a legal perspective, repeating the facts of the raid and briefly outlining the precedents in international law. Similar to what I have written earlier in this thesis, she draws comparisons between alleged violations of sovereignty by Israel, Turkey and the United States in the age of the War on Terror, confirming it is a topical and important area of discussion for international relations scholars.⁵² Waisberg draws attention to three cases that have relevance to Operation Phoenix. First, the ICJ ruling in 1986 against the United States has relevance to Operation Phoenix. According to the ICJ, a state that actively supports non-state actors in attacking another state is guilty of, at least, a violation of sovereignty.⁵³ In the 2005 Congo v. Uganda case, the ICJ found that a state was not violating the sovereignty of another state by merely allowing non-state actors to stage attacks from their territory.⁵⁴ In other words, culpability depended on the relationship between the non-state actors and the host state from which they launched military attacks. Following the 11 September 2001 terrorist attacks, however, the UN Security Council recognised the United States’ right to self-defence, citing Article 51, without referring to specific states that supported AQ either passively or actively. Waisberg’s analytical narrative thus illustrates the sometimes inconsistent findings of international law as they pertain to violations of sovereignty. Whether one agrees with Walsh or Bailliet or remains neutral, as Waisberg does, is mostly immaterial in terms of the purpose of this thesis, despite

⁵¹Ibid.p.227

⁵²Tatiana Waisberg, "The Colombia-Ecuador Armed Crisis of March 2008: The Practice of Targeted Killing and Incursions against Non-State Actors Harbored at Terrorist Safe Havens in a Third Party State," *Studies in Conflict & Terrorism* 32, no. 6 (2009).

⁵³*Case Concerning the Military and Paramilitary Activities in and against Nicaragua (Nicaragua V. United States of America)*, (1986).

⁵⁴*Case Concerning Armed Activities on the Territory of the Congo: (Democratic Republic of the Congo V. Uganda)*, (2005).

the explicit attention paid to Operation Phoenix. Once again, this is not a legal dissertation and does not attempt to reach a conclusion based on law. As will be found in Chapter Two, Uribe's actions were likely shaped by considerations that fell outside of international law.

In addition to legal scrutiny, there have been empirical studies of Operation Phoenix. The first is by Gabriel Marcella who, writing for the Strategic Studies Institute, offers an overview of the facts and the arguments made by the Colombian and Ecuadorean governments. He identifies the tension between a state's right to protect its population and a state's right to non-interference from external actors.⁵⁵ However, the descriptive nature of his analysis limits the depth of his conclusions: "the United States can be an indirect catalyst for confidence-building between Colombia and Ecuador; both the United States and Colombia can do more to address Ecuador's concerns".⁵⁶ The International Institute for Strategic Studies (IISS) also takes an empirical approach to Operation Phoenix by analysing material seized by Colombian authorities at the FARC's camp in Ecuador. Their study details the links between FARC and officials in Ecuador and Venezuela. IISS finds that FARC's objectives were enhanced once it appreciated the international dimension of the Colombian conflict; the Uribe Administration, by comparison, had "not developed a countervailing international strategy of comparable effect".⁵⁷ Finally, a report by the International Assessment and Strategy Centre explores the nuances of Ecuador's relationship with the FARC and find several instances of the Correa government supporting them.⁵⁸ Their work is instructive as it shows the FARC continuing to use Ecuadorian territory to rest, regroup and refinance in the years following Operation Phoenix. This data is useful in verifying facts and gaining an overview of the FARC's activities. This thesis will build upon these studies by drawing upon not only empirical evidence, but also the discourses of sovereignty and Just War Theory.

⁵⁵Gabriel Marcella, *War without Borders: The Colombia-Ecuador Crisis of 2008* (Strategic Studies Institute 2008).

⁵⁶*Ibid.* p.36

⁵⁷Nigel Inkster and James Lockhart Smith, *The Farc Files : Venezuela, Ecuador and the Secret Archive of 'Raúl Reyes'* (London: International Institute for Strategic Studies, 2011).

⁵⁸Douglas Farah and Glenn R Simpson, *Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens Revolution* (International Assessment and Strategy Centre, 2010).

As shown in this brief literature review, there is an absence of scholarship on the morality of Colombia's national security strategies, of which Operation Phoenix was a product. Further, the cross-border raid could set a precedent for future aggressive Colombian military action in foreign countries. If it is found that the benefits of the raid outweighed the political fallout that followed, it could have implications for all Colombians, their adversaries, and the countries in which their enemies take refuge. The study of Operation Phoenix also matters insofar as it will contribute to the historical record of how recent Colombian foreign policy has developed and been shaped by domestic civil conflict as much as external, regional power blocs and regional political movements, such as the rise of the so-called Pink Tide countries (Venezuela, Chile, Ecuador, Brazil, Argentina, Bolivia, Uruguay, Paraguay, Dominican Republic, El Salvador and Nicaragua). Consequently, this thesis will serve as an original piece of research with which other scholars can enter into critical dialogue. It contributes to opening up a new debate about 21st Century Colombian foreign policy and its implications.

While the Colombian government and the FARC have recently reached a peace agreement, certain factions have vowed to continue fighting.⁵⁹ The Colombian state continues to view other armed groups as real threats. How Colombia should defend itself against internal enemies remains a topical question.

Part Two: Sovereignty discourse

“A major intellectual requirement of our time is to rethink the question of sovereignty...to recognise that it may take more than one form and perform more than one function.” B. Boutros-Ghali⁶⁰

The Uribe Administration authorised Operation Phoenix because it followed a conception of sovereignty that stressed the importance of state survival and state strength. The Correa Administration objected to the raid by invoking the principle of non-intervention, which is commonly tied to the discourse of state sovereignty.

⁵⁹Mimi Yagoub, "Peace Deal Signed in Colombia as Threat of Farc Fragmentation Looms Large," *InSight Crime*, 24 November 2016.

⁶⁰Boutros Boutros-Ghali, "Empowering the United Nations," *Foreign Affairs* 71, no. 5 (1992).p.99

Other regional players, such as Venezuela, also protested against the cross-border incursion, citing a violation of sovereignty. Leading up to 2008, the Chávez Administration had consistently criticised US-style interventionism in Latin America.⁶¹ The notion of sovereignty was at the heart of this conflict and, as outlined in the introduction to this thesis, many others.

To better understand state sovereignty, the second section of this chapter critically reviews the existing scholarly literature on the topic. Shelves of books and articles have already been published on sovereignty and many of history's greatest political thinkers have weighed in the debates. An exhaustive review of all that has been written is plainly beyond the scope of this thesis. I have therefore limited the parameters of my review by focusing on the Peace of Westphalia and how it pertains to the modern era of nation-states and warfare.

For the sake of clarity, I wish to outline the structure of Part Two of this chapter. First, I provide definitions of key terms and introduce two of the early contributors to sovereignty discourse: Thomas Hobbes and Jean Bodin. While I define "state" for precision and context, I eschew the larger debates about what it means and how it came about. Secondly, I outline a common interpretation of the notion of sovereignty that Andreas Osiander calls the "Westphalian Myth". According to the Westphalian Myth, the Peace of Westphalia marked the beginning of nation-states with clearly demarcated boundaries and fixed populations. It codified the principle that states had a right of non-interference from outsiders. This conceptualisation of sovereignty strongly corresponds to the current world system. Thirdly, I expound on Stephen Krasner's understanding of sovereignty, affording particular attention to his earlier work. Lastly, I review recent studies on Latin American regional integration efforts. By arranging the literature review of sovereignty discourse in this manner, I aim to narrow what is a broad and complex topic while still acknowledging the major thinkers and debates relevant to the discussion of Operation Phoenix.

⁶¹Hugo Chávez Frías, "Statement by H.E. Hugo Chavez Frias, President of the Bolivarian Republic of Venezuela," *Law and Business Review of the Americas* 12, no. 4 (2006).

Defining the State

It is instructive to begin with a few definitions of the state. Max Weber viewed the state as a “human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory”.⁶² For Charles Tilly, states are “relatively centralised, differentiated organisations, the officials of which more or less successfully claim control over the chief concentrated means of violence within a population inhabiting [...] territory.”⁶³ According to Devetak, the modern state is built on a series of monopolies.⁶⁴ That is, states claim exclusive rights to coercion, management of the economy, lawmaking, international representation, border control, and political loyalty. Robert Jackson continues in a similar fashion, claiming that a state comprises a “delimited territory, with a permanent population, under the authority of a government.”⁶⁵ These authors all therefore define the state primarily through a specified territory over which it performs several functions, such as a monopoly on the legitimate use of power and coercion.

Anthony Giddens defines the nation-state as “a collectivity existing within a clearly demarcated territory, which is subject to a unitary administration, reflexively monitored both by the internal state apparatus and those of other states.”⁶⁶ This is key to our considerations of how Operation Phoenix was justified. The Uribe Administration sought to satisfy two audiences: the Colombian state apparatus, including the public; and the international community. This dualism was also true of the Correa Administration, which had to balance the expectations of the electorate with the importance of peaceful Ecuador-Colombia relations.

⁶²Max Weber, "Politics as Vocation," in *From Max Weber*, ed. H.H. Gerth and C.W. Mills (New York: Routledge and Kegan Paul, 1948).p.78

⁶³Charles Tilly, "War Making and State Making as Organised Crime," in *Bringing the State Back In*, ed. P Evans, D Rueschemeyer, and T Skocpol (Cambridge: Cambridge University Press, 1985).p.170

⁶⁴Richard Devetak, "The Modern State and Its Origins," in *An Introduction to International Relations: Australian Perspectives*, ed. Richard Devetak, Anthony Burke, and Jim George (New York: Cambridge University Press, 2007).p.122

⁶⁵Jackson, *Sovereignty: Evolution of an Idea*.p.14

⁶⁶ Anthony Giddens, *The Nation-State and Violence*, Vol. 2: A Contemporary Critique of Historical p.116

Given the value the Uribe Administration placed on state strength, it is worthwhile noting that states (and nations) are not natural phenomena that can be assumed to continue forever. On the topic of nationalism, Ernest Gellner wrote: “Nations as a natural God-given way of classifying men, as a coherent...political destiny, are a myth”.⁶⁷ Further, he points out that throughout history nations have been both invented and obliterated.⁶⁸ Benedict Anderson proposed that the nation “is an imagined community...because the members of even the smallest nation will never know most of their fellow members, meet them, or even hear of them, yet in the minds of each lives the image of their communion.”⁶⁹ It should be remembered then that the Colombian state is, as much as anything else, a social construct open to challenge and change. For the purposes of this thesis, then Colombia, Ecuador, Venezuela and the United States are universally recognised as nation-states; the FARC are invariably viewed as a non-state or para-state actor (hereafter, the word “state” will be used interchangeably with “nation-state”).

Before analysing the geopolitics of Operation Phoenix and its foreign policy implications, it is first necessary to examine the discourse surrounding “state sovereignty”. State sovereignty discourse is a disputed term that originated in the Middle Ages and has continued to evolve since then; it is subject to a broad spectrum of interpretations. Kalmo and Skinner, for instance, emphasise the contested and protean nature of the term, and wish to: “dispel the illusion that there is a single agreed upon concept of sovereignty for which one could offer a clear definition.”⁷⁰ Conversely, given the sheer volume of scholarly work that has already been written on this topic, this paper does not attempt to cover all the literature regarding sovereignty. Rather, the following is an effort to synthesise a small number of conceptual pieces and engage with the politics of origins. This will later serve as a way to analyse Operation Phoenix.

⁶⁷Ernest Gellner, *Nations and Nationalisms* (Oxford: Basil Blackwell, 1983).pp.48-9

⁶⁸Ibid.

⁶⁹Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983).pp.6-7

⁷⁰Hent Kalmo and Quentin Skinner, *Sovereignty in Fragments : The Past, Present and Future of a Contested Concept* (Cambridge & New York: Cambridge University Press, 2010).p.69

The sovereign nation-state is a modern and worldwide phenomenon. Unlike previous forms of authority, such as city-states, empires and feudal states, nation-states are part of a global system. Today, sovereignty is inescapable. All inhabitable territory with a permanent population is part of a sovereign state. Consequently, all peoples, regardless of their identities and vast differences, belong to a sovereign nation. Further, as Jackson points out, a sovereign nation does not imply a particular style of government.⁷¹ An Islamic republic, a fascist dictatorship or a liberal democracy could all equally qualify as sovereign nations. Sovereign states are thus both universal and specific to the modern era. Nation-states face myriad challenges, such as war, the effects of climate change, global terrorism and poverty, to name just a few. While states have faced obstacles in the past, and even been destroyed in some cases, the worldwide organisation of nation-states has been enduring. The changed forms of authority suggest that there is nothing inevitable about state sovereignty. A new or previous form of political organisation might occur in the future. Nevertheless, the prevailing state of affairs means that state sovereignty discourse remains highly determinant.

Early contributors to state sovereignty discourse

An early contributor to the debates regarding the nation-states and sovereignty was Thomas Hobbes. Hobbes famously claimed the default disposition of mankind, the state of nature, was one of war, conflict, distrust and hostility. Hobbes's seminal work, *Leviathan*, sought to provide a remedy to the state of nature in the form of a mortal God, a sovereign.⁷² Hobbes argued the sovereign must be the supreme source of authority. He questioned universalistic claims of morality by the Holy Roman Empire. Politics, from his view, ought to focus on choosing life over death at the hands of others, rather than glory, honour, or a privileged place in a possible after-life. The sovereign, for Hobbes, was to be the artificially reconstructed will of the people, a representative. In Hobbes's view, the sovereign could never act unjustly. The sovereign is inward looking domestically and outward looking as an

⁷¹Jackson, *Sovereignty: Evolution of an Idea*.p.13

⁷²Thomas Hobbes, *Leviathan* (Salt Lake City: Literary Archive Foundation, 2002).

independent actor internationally.⁷³ Jean Bodin similarly argued in *Six Books of the Republic* that power and authority ought to be entrusted to a single decision maker. Like Hobbes, Bodin believed in the need for a sovereign; the authority to deploy force must be monopolised by a single entity.⁷⁴

Thus, the sovereign state, for Hobbes and Bodin, comprises two key features, which are referred to as absolute sovereignty or classical sovereignty. The first is the unshared supremacy of the sovereign within defined borders and over the population. Whatever other sources of power there may be, such as non-state actors, the sovereign is the highest legitimate authority. A decision of the sovereign could therefore never be appealed. The second feature of classical sovereignty is external independence. Each sovereign state is, by definition, independent of other states, regardless of size or power. The state sovereignty discourse of Hobbes and Bodin are commonly interpreted by modern scholars as static.

This paradigm has been challenged by critical theorists and constructivists who argue that sovereignty can also be seen as contingent and contested by nature. To say otherwise, in their view, would risk seeing sovereignty as ahistorical and timeless, which, as will be shown later, can perpetuate myths that obscure our understanding of international relations (Ashley; Bartelson; Biersteker & Weber; Walker; and Weber).⁷⁵ R. B. J. Walker touches on this: “the very attempt to treat sovereignty as a matter of definition and legal principle encourages a certain amnesia about its historical and culturally specific character.”⁷⁶

⁷³Ibid.

⁷⁴Jean Bodin, "Four Chapters from the Six Books of the Republic," in *Bodin: On Sovereignty*, ed. Julian H Franklin (Cambridge: Cambridge University Press, 1992).p.1

⁷⁵R.K Ashley, "Untying the Sovereign State: A Double Reading of the Anarchy Problematique," *Millennium - Journal of International Studies* 17, no. 2 (1988).

J Bartelson, *A Genealogy of Sovereignty* (Cambridge: Cambridge University Press, 1995).

Thomas J Biersteker et al., *State Sovereignty as a Social Construct*, ed. TJ Biersteker and C Weber (Cambridge: Cambridge University Press, 1996).

Christian Reus-Smit, "Human Rights and the Social Construction of Sovereignty," *Review of International Studies* 27, no. 4 (2001).

C Weber, *Simulating Sovereignty: Intervention, the State and Symbolic Exchange* (Cambridge: Cambridge University Press, 1995).

⁷⁶RBJ Walker, "State Sovereignty and the Articulation of Political Space/Time," *Millennium - Journal of International Studies* 20 no. 3 (1991).p.450

The Westphalian Myth

The principle of state sovereignty often follows a widely accepted narrative of continual transformation of the organisation of political structures. The story begins with tribes, progresses to Greek city-states, advances to the emergence of empires and, in Europe at least, develops into feudalism. During the Renaissance, notions of sovereignty, ostensibly redolent of the present international system, began to be codified.⁷⁷ Europe predominately took the lead in this progression. Following World War Two, international codifications of an alleged historical emphasis on total state independence were established in the UN Charter (and later too in the OAS Charter). This included the right of non-intervention. In more recent years, there has been an erosion of sovereignty in two primary ways. First, some states have voluntarily ceded part of their authority to external entities, such as the ICJ and the European Union (EU). Secondly, there has been a growing call for humanitarian intervention to prevent mass atrocities, viz. genocide, exemplified by the R2P doctrine. Examples of the debates concerning the diminution of sovereignty can be seen in Evans, Fowler and Bunck, Gottlieb, Group of Lisbon, Spiro and, Sinclair and Byers.⁷⁸

At the heart of this narrative is the Peace of Westphalia, shorthand for the Treaty of Munster and the Treaty of Osnabruck, both signed on 24 October 1648. The Treaty of Munster was an agreement between the Holy Roman Empire and the King of France; the Holy Roman Empire and the queen of Sweden agreed to the Treaty of Osnabruck. The settlement ended the Thirty Years' War between two main parties. On the one side were members of the Habsburg dynasty, who believed the Pope had the right to control all of Christendom. On the other were Denmark, the Dutch

⁷⁷Ibid.p.451

⁷⁸Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All*.

Michael Ross Fowler and Julie Marie Bunck, *Law, Power, and the Sovereign State: The Evolution and Application of the Concept of Sovereignty* (University Park: Pennsylvania State University Press, 1995).

Gideon Gottlieb, *Nation against State: A New Approach to Ethnic Conflicts and the Decline of Sovereignty* (New York: Council on Foreign Relations Press, 1993).

Group of Lisbon, *Limits to Competition* (Cambridge: MIT Press, 1995).

Peter Spiro, "The New Sovereignists," *Foreign Affairs* 79, no. 6 (2000).

Adriana Sinclair and Michael Byers, "When Us Scholars Speak of 'Sovereignty', What Do They Mean?," *Political Studies* 55, no. 2 (2007).

Republic, France, Sweden and the German Princes, who rejected the Pope's claim and instead asserted the right of state independence.⁷⁹ Consequently, the Peace of Westphalia could be seen as an end to Habsburg aspirations for a supranational empire.

The corollary, continuing with the conventional depiction, is that the settlement helped transform Europe into a system of states that has parallels with the current notion of global state sovereignty. Seymour Brown, for example, argues that Westphalia enshrined two key principles: "(1) the government of each country is unequivocally sovereign within its territorial jurisdiction, and (2) countries shall not interfere in each other's domestic affairs."⁸⁰ The idea that Westphalia marked the establishment of a system of nation-states is a popular one (see Boucher; Bull; Evans; and Newnham).⁸¹ The notion that Westphalia signified the establishment of state territorial inviolability is also common (see Knutsen; Holsti; Morgenthau; Parkinson; Sheehan; Spruyt; and Zacher).⁸² Philpott is perhaps the most strident in his view that Westphalia marked a turning point in the history of state sovereignty. He proposes: "[i]n the history of sovereignty one can skip three hundred years

⁷⁹Andreas Osiander, "Sovereignty, International Relations, and the Westphalian Myth," *International Organization* 55, no. 2 (2001).p.252

⁸⁰Seyom Brown, *International Relations in a Changing Global System: Toward a Theory of the World Polity* (Boulder: Westview, 1992).p.74

⁸¹David Boucher, *Political Theories of International Relations* (Oxford: Oxford University Press, 1998).

Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (London: Macmillan, 1977).

Graham Evans and Jeffrey Newnham, *The Dictionary of World Politics: A Reference Guide to Concepts, Ideas, and Institutions* (Hemel Hempstead: Harvester Wheatsheaf, 1990).

⁸²Torbörn L Knutsen, *A History of International Relations Theory* (Manchester: Manchester University Press, 1992).

Kalevi J Holsti, *Peace and War: Armed Conflicts and International Order 1648-1989* (Cambridge: Cambridge University Press, 1991).

Hans Joachim Morgenthau, *Politics among Nations: The Struggle for Power and Peace*, ed. Kenneth W Thompson (New York: McGraw-Hill, 1985).

Frederick Parkinson, *The Philosophy of International Relations: A Study in the History of Thought* (Beverly Hills: Sage, 1977).

Michael Sheehan, *The Balance of Power: History and Theory* (London: Routledge, 1996).

Hendrik Spruyt, *The Sovereign State and Its Competitors* (Princeton: Princeton University Press, 1994).

Mark W Zacher, "The Decaying Pillars of the Westphalian Temple: Implications for International Order and Governance," in *Governance without Government: Order and Change in World Politics*, ed. James N Rosenau and Ernst-Otto Czempiel (Cambridge: Cambridge University Press, 1992).

without omitting noteworthy change.”⁸³ There is a clear suggestion in this narrative that sovereignty is static and has only recently been challenged by notions of humanitarian intervention and globalisation.

Challenging the Westphalian Myth

Osiander is one of a handful of sovereignty discourse scholars to thoroughly dispute the narrative and legacy of Westphalia outlined above. He contends that territoriality, legal equality among states, and the right to be free from external intervention were not evident in the immediate aftermath of Westphalia and did not develop because of it. On the contrary, Osiander argues, the current international system more closely resembles that of the Holy Roman Empire than the Europe of Westphalia. He accuses scholars of projecting conclusions on to 1648 despite a lack of evidence.⁸⁴ He advances his belief that the conventional narrative of the Westphalian model is a myth by addressing three issues: Habsburg hegemonic ambition, constraints on supposedly new “sovereign” actors, and the congruence of state and society.

First, the Westphalia Myth was created partly by a misunderstanding of the Habsburgs, stemming from an acceptance of anti-Habsburg propaganda. The Westphalian Myth presupposes that the Catholic Habsburg dynasty represented a threat to burgeoning individual states. On the contrary, Osiander contends the Habsburgs were in a position of weakness in the early 17th Century owing to hostilities with the Protestant elites in the kingdoms of Bohemia and Hungary, with whom they shared power. In 1620, Holy Roman emperor Ferdinand II, a Habsburg, emerged from a drawn out struggle with the “Union”, an anti-Catholic alliance, as a weakened leader. In 1629, with the help of Bohemian nobleman Albrecht von Wallenstein, the emperor quashed a military intervention by the Danish king in north Germany.⁸⁵ The following year, Ferdinand began processes of re-

⁸³Daniel Philpott, "On the Cusp of Sovereignty: Lessons from the Sixteenth Century," in *Sovereignty at the Crossroads? Morality and International Politics in the Post-Cold War Era*, ed. Luis E Lugo (London: Rowman and Littlefield, 1996).p.43

⁸⁴Osiander, "Sovereignty, International Relations, and the Westphalian Myth."p.284

⁸⁵Ibid.p.256

Catholicisation of church assets in the territory, called the Edict of Restitution. Osiander concludes that these developments were designed to reverse the decline of Catholic power rather than examples of belligerence.⁸⁶ Paradoxically, the edict may have weakened Ferdinand by making him even more unpopular with the Protestant princes and stretching his resources.⁸⁷ In 1630, Swedish King Gustaf Adolf launched a failed military campaign against the emperor ostensibly to check his power. Additionally, French Cardinal Richelieu engaged in manoeuvres in northern Italy in the early 1630s to put pressure on the Habsburgs in Spain.⁸⁸ Osiander adduces such events to prove the war was not fought to secure independence against the Habsburg dynasty. Both the French and Swedes justified their military actions by claiming the Habsburgs were plotting universal monarchy and oppression of enemies.⁸⁹ These charges were based on alleged intentions rather than acts and were thus hard to disprove. In the lead up to peace talks, the Swedes in particular stepped up their propaganda efforts. Osiander contends that more recent scholars have accepted the narrative presented in wartime anti-Habsburg propaganda and subsequently misinterpreted the meaning of Westphalia.⁹⁰

Secondly, the treaties do not provide for the independence of European actors nor are there explicit references to the notion of non-intervention. Osiander argues that any meaning regarding these ideas attached to Westphalia represents a wilful, revisionist interpretation that is out of step with the intention of the drafters.⁹¹ He demonstrates the limits on “sovereign” actors immediately following 1648 and beyond by pointing to the constraints on princes and free cities of the empire to determine the religion of their subjects, the common misconception that Westphalia gave states the right to form alliances with foreign actors, and the overlapping jurisdiction of the courts.

⁸⁶Ibid.p.257

⁸⁷Ibid.

⁸⁸Ibid.

⁸⁹*The States System of Europe, 1640-1990: Peacemaking and the Conditions of International Stability* (Oxford: Clarendon Press, 1994).p.263

⁹⁰"Sovereignty, International Relations, and the Westphalian Myth."p.264

⁹¹Ibid.p.267

Osiander concludes by speculating that the present system of nation-states may have parallels with the Europe of 1648. He suggests: “the global system today in certain respects bears more resemblance to the type of system exemplified by the Holy Roman Empire than the so-called Westphalian model. There is a clear de facto trend...toward something closer to...territorial jurisdiction under external legal regime shared by the actors.”⁹² A possible example of this would be the EU. That is, contrary to the Westphalian myth, growing interdependence among international actors might resemble the past instead of something new altogether.

Osiander’s attempt to debunk the Westphalian Myth closely resembles that of Derek Croxton (although he does not cite his work), who made a similar argument two years prior. Croxton also shows that the estates could negotiate with external actors prior to 1648. Furthermore, the right of princes to choose their religion was established in 1555 by the peace of Ausburg, rather than Westphalia.⁹³ Finally, the Peace of Westphalia did not constitute mutual recognition among states. Indeed, in 1648, the French did not challenge the primacy of the Emperor. As a consequence of these findings, Croxton concludes: “Westphalia contributed little to the theory or practice of sovereignty, explicitly or implicitly”.⁹⁴ While both Osiander and Croxton focus on the history of Westphalia, they pay relatively little attention to the notion of non-intervention, which is an important component of the Westphalian Myth.

Luke Glanville agrees with Osiander and Croxton insofar as he believes the conventional narrative surrounding the Peace of Westphalia in sovereignty discourse is a myth. Glanville repeats and substantiates several of the arguments previously put forward by these authors. He also adds to their contributions by focusing on the right of leaders to wage war versus the notion of non-intervention. The argument is that, contrary to the Westphalian myth, the right to wage war was

⁹²Ibid.p.283

⁹³Derek Croxton, "The Peace of Westphalia of 1648 and the Origins of Sovereignty," *The International History Review* 21, no. 3 (1999).p.575

⁹⁴Ibid.p.584

first seen as the external corollary of the internal supremacy of the sovereign.⁹⁵

Glanville traces discourse of the right to wage war back to some of the early contributors to the just war tradition. Saint Thomas Aquinas and Francisco Suárez argued that princes ought to have the power and the right to protect the citizenry. In 1625, Hugo Grotius defended a more expansive right of war, claiming that the punishment of wrongdoers also constituted a just reason to declare war.⁹⁶

According to this discourse, princes were not precluded from intervening in other's affairs if certain conditions were met. That is, the right of non-intervention had not been established.

Following the conventional narrative of sovereignty, one would expect the Peace of Westphalia to rectify this and establish the principle of non-intervention among states. However, as we have seen, autonomous nation-states were not founded in 1648. Furthermore, Glanville claims the first clear statements of a sovereign right to non-intervention came in the 18th Century in the works of Christian Wolff and, later, Emmeric de Vattel.⁹⁷ Ruminating on the defence of liberty and the independence of states in 1853, Vattel wrote: "all states have a right to be governed as they think proper, and that no state has the smallest right to interfere in the government of another."⁹⁸ Vattel also articulated exceptions to this right of non-intervention, such as war to rescue the oppressed. Further to this, he claimed that states: "are equal and independent, and cannot claim a right of judgment over each other."⁹⁹ Thus, Vattel espouses a nuanced conception of non-intervention that acknowledges the right to wage war and the ostensible legal equality among states.

Glanville traces the subsequent, gradual acceptance of the right of non-intervention by lawyers and statesmen. In his view, a decisive shift toward non-intervention in state sovereignty discourse was reflected in the signing of the Kellogg-Briand Pact

⁹⁵Luke Glanville, "The Myth of "Traditional" Sovereignty," *International Studies Quarterly* 57, no. 1 (2013).p.79

⁹⁶Ibid.p.81

⁹⁷Ibid.p.82

⁹⁸Emmeric de Vattel, *The Law of Nations or Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns*, ed. Joseph Chitty (Philadelphia: T. & J.W. Johnson, Law Booksellers, 1853).p.ii.iv.54

⁹⁹Ibid.p.iii.iii.40

of 1928. In it, the Great Powers of the time announced: “that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another”.¹⁰⁰ As shown later in this thesis, this sentiment was further consolidated after World War Two with, for example, the signing of the UN Charter in 1945. As with Vattel, these milestones in international law were all accompanied by the view that there were exceptions to the right of non-intervention; that is, even the strongest proponents of non-interference accepted that war could or should be sanctioned in certain cases. Contrary to the notion that the post-Cold War world has seen new challenges to sovereignty, an argument that often accompanies the Westphalia Myth, Glanville shows that contradictory principles have been at the heart of sovereignty discourse since days of Wolff in the 18th Century.

Sebastian Schmidt concurs with the aforementioned authors in that the conventional narrative of Westphalia is erroneous and therefore can lead to faulty analysis of contemporary developments in world politics. Schmidt argues one of the negative implications of the Westphalian Myth is that it could lead scholars to exaggerate changes in world politics, such as globalisation.¹⁰¹ Further to this, Schmidt states that the Westphalian Myth implies a linear progression of sovereignty discourse from 1648, when, in fact, the changes may have been more multi-dimensional.¹⁰² Thus, a potential problem of the Westphalian Myth is misinterpreting change.

Beaulac is in agreement with Osiander, Glanville, Croxton and Schmidt that the Peace of Westphalia is broadly misunderstood in international relations literature. He adds to their work by making the argument that: “myths form part of sign-systems in which they can both represent and create reality. These are passive and active functions of language”.¹⁰³ In other words, the Westphalian Myth is not only

¹⁰⁰Glanville, "The Myth of "Traditional" Sovereignty."p.85

¹⁰¹Sebastian Schmidt, "To Order the Minds of Scholars: The Discourse of the Peace of Westphalia in International Relations Literature," *ibid.*55, no. 3 (2011).p.616

¹⁰²*Ibid.*

¹⁰³Stéphane Beaulac, *The Power of Language in the Making of International Law the Word Sovereignty in Bodin and Vattel and the Myth of Westphalia* (Leiden & Boston: Martinus Nijhoff Publishers, 2004).p.185

an erroneous depiction of what occurred in the past, but also shaped subsequent behaviour. Beaulac continues: “words and myths can demonstrate, and... carry, fabulous power within humanity.”¹⁰⁴ The extent or existence of this power will be tested in Chapter Two, which examines the notion of sovereignty that underpinned the Uribe Administration’s justification for Operation Phoenix.

Krasner and the disaggregation of sovereignty discourse

It is possible to accept, as Stephen Krasner does, the Westphalian model as flawed and still usefully employ it as an analytical construct. He first challenges the constructivists’ claim that sovereignty is historically contingent. Instead, Krasner provides a static model of sovereignty, which comprises four parts: domestic sovereignty, legal sovereignty, interdependence sovereignty and Westphalian/Vatellian sovereignty. The latter refers to territoriality and the exclusion of external actors from domestic authority. Krasner openly acknowledges problems with what Osiander and Glanville describe as the Westphalian Myth, but uses elements of it anyway: “the Westphalian sovereign state model has never been an accurate description of many of the entities that have been regarded as states.”¹⁰⁵ And specifically on the inclusion of non-intervention:

The norm of non-intervention in internal affairs had virtually nothing to do with the Peace of Westphalia [...] It was not clearly articulated until the end of the eighteenth century. Nevertheless, the common terminology is used here because the Westphalian model has so much entered common usage, even if it is historically inaccurate.¹⁰⁶

This thesis expands on Krasner’s notion of sovereignty as it is useful for analysing the justifications of Operation Phoenix by the Uribe Administration in 2008. No comparison is made between Operation Phoenix and military interventions from

¹⁰⁴Ibid.

¹⁰⁵Stephen D Krasner, "Rethinking the Sovereign State Model," *Review of International Studies* 27, no. 5 (2001).p.17

¹⁰⁶*Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999).p.20

other time periods. Of the survey of similar cases listed in the introduction to this thesis, the earliest took place in the Cold War. One of Schmidt's criticisms of the Westphalian Myth is that it predisposes scholars to exaggerate or misunderstand changes to sovereignty. However, this thesis does not argue that Operation Phoenix represented a new challenge to a notion of non-intervention that has its origins in Westphalia. Rather, this thesis is more concerned with the nature of the intervention in 2008 and which aspect/s of sovereignty it violated. As shown earlier, the notion of sovereignty is not one-dimensional, it can be disaggregated in various ways.

For Krasner, domestic sovereignty is concerned with the organisation and effectiveness of authority within the state. This notion of sovereignty can be traced back to the works of early sovereignty theorists, Bodin and Hobbes. Both favoured the establishment of an ultimate authority, whose supremacy could not be contested. According to Krasner, authority could be concentrated in a single entity or shared among various institutions, such as in a federal structure. Following this definition, a violation of domestic sovereignty would occur if, for example, a state voluntarily ceded partial authority to a supranational organisation or was the victim of a coup. That is, a violation of sovereignty is not necessarily just or unjust; it can be done by invitation or coercion.

Interdependence sovereignty refers to a state's ability to regulate what passes across its borders.¹⁰⁷ Unlike domestic sovereignty, which refers to authority, interdependence corresponds to control. This could include, for example, the control a state has in managing movement of people, goods, capital, diseases and ideas across territorial boundaries. Like domestic sovereignty, a violation of interdependence sovereignty could be the desired result of a government decision or the consequence of an unwanted action carried out by enemies of the state.

The meaning of legal sovereignty is the legal equality and mutual recognition among nation-states. For instance, a state with legal sovereignty would be able to join multilateral fora, enter into treaty agreements with other states, and secure diplomatic immunity for foreign service officers working abroad. Krasner finds the

¹⁰⁷Ibid.p.13

origins of legal sovereignty discourse in *Le droit de gens* by Vattel in 1758. Vattel compared the equality of men in the state of nature to equality among states. A state could control more territory, carry more economic clout or military might than other states, but they would still be legally equal to each other. There are various additional criteria: the ability to defend a delimited territory, the existence of an established government, and the presence of a population. While legal sovereignty is highly desirable, it does not necessarily preclude states who lack it from conducting government business, such as making trade deals.

Vatellian sovereignty (previously labelled Westphalian sovereignty) is based on the principles of territoriality and the exclusion of external actors from domestic authority structures.¹⁰⁸ According to Krasner: “Westphalian sovereignty is violated when external actors influence or determine domestic authority structures.”¹⁰⁹ As with the other three kinds of sovereignty, Vatellian sovereignty can be violated through invitation and/or intervention. As shown above, Vattel was one of the first to articulate the principles of non-intervention, which explains Krasner’s use of his name to describe this type of sovereignty. The notion of Vatellian sovereignty is at the core of this thesis.

Vatellian sovereignty has, at times, overlapped with domestic, interdependence and legal sovereignty. Despite their interrelatedness, the violation of one kind of sovereignty does not necessarily imply the breach of another sort of sovereignty. In some instances, such as the conditions of trade deals, a contravention of sovereignty is done willingly with the expectation it will bring positive results for the state. In other cases, such as Operation Phoenix, a violation of sovereignty was clearly against the wishes and interests of Ecuador and other states. Krasner accepts that the rules of sovereignty are often contradictory. He refers to the complex dynamic of different conceptions of sovereignty as “organized hypocrisy”. He writes: “Norms are sometimes mutually inconsistent. Power is asymmetrical. No

¹⁰⁸Ibid.p.20

¹⁰⁹Ibid.

rule or set of rules can cover all circumstances [...] Organized hypocrisy is the norm.”¹¹⁰

Latin America and Sovereignty Discourse

Today, sovereignty is a global phenomenon, which applies to all nation-states. State sovereignty applies to all regions of the world; that is the point. However, a great portion of the literature on state sovereignty discourse comes from European theorists and draws on European case studies. The Peace of Westphalia, the establishment of the EU and the writings of Hobbes and Vattel, are prominent examples. The theory and practice of statehood were exported to Latin America following the age of colonialism. Colombia, Ecuador and Venezuela only achieved their independence from Spain in the early 19th Century. Perhaps for these reasons, there has been a dearth of scholarly work that has focused on sovereignty discourse with an emphasis on Latin America.

One of the themes scholars of Latin American political history have commonly chosen to investigate is the nature of the state. That is, how were Latin American states formed, how have they evolved over time and what does this say about the relative absence of interstate war in the region? Answers to these questions have been put forward by Miguel Centeno, Moreno J. Kurtz, Fernando López-Alves, and Frank Safford, among others.¹¹¹ A literature review of the Latin American state is beyond the scope of this thesis. However, I will draw upon some of the works of these authors in Chapter Four in order to explain why Colombia and Ecuador did not go to war following Operation Phoenix.

¹¹⁰Ibid.p.42

¹¹¹Miguel Angel Centeno, *Blood and Debt: War and the Nation-State in Latin America* (University Park: The Pennsylvania State University Press, 2002).

Marcus J Kurtz, *Latin American State Building in Comparative Perspective: Social Foundations of Institutional Order* (West Nyack: Cambridge University Press, 2013).

Fernando López-Alves, *State Formation and Democracy in Latin America, 1810-1900* (Durham: Duke University Press, 2000).

Frank Safford, "The Construction of National States in Latin America, 1820-1890," in *State and Nation Making in Latin America and Spain: Republics of the Possible*, ed. Miguel A Centeno and Agustin E Ferraro (Cambridge: Cambridge University Press, 2013).

Recent studies addressing state sovereignty discourse in Latin America have tended to focus on regionalism. Paulo Roberto de Almeida, for example, laments the lack of regional integration in Latin America. The underlying assumption in his analysis is that economic and political integration, akin to the EU, would be beneficial and signify progress. Almeida argues that the culprit is the dominance of “national sovereignty” politics among Latin American states. He finds that national sovereignty is expressed both in states’ reluctance to establish effective, supranational organisations and in a lack of compliance with signed agreements.¹¹²

Eduardo Pastrana Buelvas agrees with de Almeida that there has been modest interest in regional integration, or “shared sovereignty”, in Latin America.¹¹³ The prime reason, in his view, is a lack of “stateness”. Here, stateness refers to the ability of the state to: mobilise resources, defend territory with armed force, maintain law and order domestically, and regulate economic and social activity.¹¹⁴ For Pastrana Buelvas, “region” in Europe meant a construct that could transform nation-state logic. Conversely, in Latin America, “region” pertained to efforts to strengthen the state against threats to sovereignty from the United States and Europe.

By comparison, Thomas Legler frames the debate of regionalism in terms of optimists and skeptics. In his view, optimists argue that there has been a shift from US-dominated regionalism in the 1990s to post-hegemonic regionalism in the 21st Century, which is transforming the notion of sovereignty in Latin America.¹¹⁵ This transformation comprises two interrelated elements: the creation of regional multilateral organisations that exclude the United States and the strengthening of a common Latin American identity. The skeptics also accept that such changes have occurred but claim they are limited, have enhanced presidential authority, and are

¹¹²Paulo Roberto de Almeida, "Sovereignty and Regional Integration in Latin America: A Political Conundrum?," *Contexto Internacional* 35, no. 2 (2013).p.491

¹¹³Eduardo Pastrana Buelvas, "Why Regionalism Has Failed in Latin America: Lack of Stateness as an Important Factor for Failure of Sovereignty Transfer in Integration Projects," *ibid.*p.444

¹¹⁴D Zaytsev, "Indices of "Stateness" and Governance: Damaging Fallacies and Possibly Optimizing Choices," in *International Conference on Public Policy* (Grenoble2013).

¹¹⁵Thomas Legler, "Post-Hegemonic Regionalism and Sovereignty in Latin America: Optimists, Skeptics, and an Emerging Research Agenda," *Contexto Internacional* 35, no. 2 (2013).p.327

not transformative in kind. They argue the new regional organisations are weak, especially when compared to their European counterparts. Skeptics also point out that the fragility of post-hegemonic regionalism is reflected in the absence of strong networks of non-state actors.¹¹⁶

In all three of these studies, comparisons have been made between Latin American economic and political groups and the EU. Plainly, the states of Latin America have not integrated to nearly the same degree as their European counterparts. The common factor to all of these efforts at regionalism, successful or not, is that they are voluntary. If a state surrenders partial authority to a supranational entity, it is typically done so by invitation. But this thesis is not chiefly concerned with regional integration, especially as it usually emphasises economic issues. Thus, the literature canvassed here that addresses state sovereignty discourse in Latin America is not valuable in addressing the key research question of this paper: when is a state justified in attacking another state in the pursuit of hostile, armed non-state actors? Therefore, while the work of de Almeida, Pastrana Buelvas and Legler might be useful in provoking further debate in the field of Latin American sovereignty discourse, it will not feature in the remainder of this thesis.

Looking forward

By referring to the aforementioned sovereignty theorists, this thesis will locate the actions of the Uribe Administration in the context of the disparate notions of sovereignty. For example, using Krasner's understanding of sovereignty as comprising four elements – mutual recognition among states, exclusive territory, exclusive domestic authority, and regulation of transborder activities – a few possibilities seem likely. First, domestic sovereignty and international legal sovereignty are not directly related to Operation Phoenix. The Uribe Administration did not deny recognition of Ecuador as a sovereign state nor did it interfere with domestic power structures in Ecuador. Second, a breach of Ecuador's interdependence sovereignty – the control of transborder movements – was possibly a factor that led to Operation Phoenix. That is, Ecuador was not able to

¹¹⁶Ibid.p.339

prevent the FARC from entering and exiting Ecuadorean territory (the Uribe Administration alleges the Ecuadorean state might not have wanted to do so anyway). Third, through Operation Phoenix, the Colombian armed forces violated Ecuador's Vattelian sovereignty. If, as Krasner believes, Vattelian sovereignty requires the absence of external control or influence then the cross-border raid was clearly a violation. Moreover, the activities of the FARC, another external actor, in Ecuador are also examples of a violation of Vattelian sovereignty, even if they were by invitation. These three possibilities will be tested in Chapter Two.

The preceding literature review has shown that there is a demonstrable lack of clarity concerning the criteria for a violation of sovereignty. Although this thesis has expanded more on Krasner's conception sovereignty than others it is by no means an uncontested construct. Even when one takes international events, such as Operation Phoenix, and interprets them through the thinking of the aforementioned scholars of sovereignty discourse, there are still many questions to be answered. In assessing the Uribe Administration's justification for the cross-border raid, this thesis focuses on the question of justice. As stated previously, strategic advantage and the letter of international law are mostly omitted. When considering whether Operation Phoenix was just, sovereignty discourse only takes us so far. A more precise analytical tool is needed. With this in mind, this thesis now turns to the literature on Just War Theory.

Part Three: Just War Theory

Selecting a Just War Theory framework

Just war theory is one of several analytical frameworks through which one can understand military violations of sovereignty. Alleged instances of breached sovereignty are often followed by appeals to international law by the victim state. Indeed, one of the ways in which analysts have sought to understand the merits of Operation Phoenix is international law. The most pertinent sources of international law in this case are the UN Charter and the OAS Charter, to which Colombia and Ecuador are both signatories. The first relevant passage of the UN Charter is Chapter II, Article 2, paragraph 4:

All members shall refrain in their international relations from the threat or use of force against territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.¹¹⁷

A key word in this text is “force” as it has several possible interpretations. As the word is used in other sections of the Charter, this paper interprets the word “force” as “armed force”. Another important qualifier refers to the words “inconsistent with the Purposes of the United Nations”. Depending on one’s interpretation of the Purposes of the UN, Article 2 might not forbid military intervention.

Another important stipulation is found in Chapter II, Article 2, paragraph 7:

Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present

¹¹⁷United Nations, *Charter of the United Nations* (1945).

Charter, but this principle shall not prejudice the application of enforcement measures under Chapter VII.¹¹⁸

Written and ratified in 1945, Article 2 implies near total autonomy for nation-states, free from outside interference. The great exception to this rule of inviolable sovereignty is Chapter VII, Article 51, which recognises self-defence as a given right of states:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.¹¹⁹

In other words, unless or until the Security Council takes action to address an armed attack against a member state, that state has the right to defend itself. Leaving aside questions of proportionality and means for now, the notion of self-defence is one of the few principles in international law that enjoys universal support. What is contestable is the interpretation of what constitutes self-defence. It could solely mean the right to respond to an attack which has already occurred or which is ongoing. However, it could be conflated with preventative war, where a state responds to what it sees as an inevitable attack.

Many of the principles of the UN Charter overlap with the laws of other multilateral organisations, such as the OAS. In relation to military intervention, Chapter IV, Article 21 states:

¹¹⁸ Ibid

¹¹⁹United Nations, *Charter of the United Nations*.

The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized.¹²⁰

Unlike Article 2 of the UN Charter, the OAS Charter unambiguously places the inviolability of state sovereignty ahead of all other considerations.

At the debate within the OAS Permanent Council on 4 March 2008, Colombia made their case on Article 51 of the UN Charter and UN Security Council Resolution 1373, which compelled states to combat terrorism.¹²¹ Colombia Ambassador Camilo Alfonso Ospina Bernal argued that the Colombian military violated Ecuadorean sovereignty in order to exercise the constitutional duty protect its citizens from what was regarded as terrorism (the FARC's status as terrorists is addressed in Chapter Two). Ospina Bernal also said that, as terrorism is a transnational threat and violates not only Colombian sovereignty but puts the entire region at risk.¹²² Nevertheless, Ecuador's Minister for Foreign Affairs, Maria Isabel Salvador, rejected Colombia's claim to self-defense. Salvador contended the criteria of: necessity, immediacy and proportionality had not been met. Rather, Colombia was depicted as an aggressor nation, violating Articles 15, 19, 21 and 28 of the OAS Charter.¹²³

As noted earlier in the literature review, the legality of Operation Phoenix is unclear. On the evidence, lawyer and academic Bailliet argues that Colombia's "unilateral use of force in the context of counter-terrorism, conducted without the

¹²⁰Organization of American States, *Charter of the Organization of American States* (1948).

¹²¹Bailliet, "The "Unrule" of Law: Unintended Consequences of Applying the Responsibility to Prevent to Counterterrorism, a Case Study of Colombia's Raid in Ecuador." p.188

¹²² Ibid p.189

¹²³ Ibid p.190

consultation of the host state, is not lawful.”¹²⁴ Conversely, Walsh maintains it was entirely justified under the circumstances, given Colombia’s need to defend itself and Ecuador’s failure to combat the FARC presence. The competing arguments highlight the ambiguity in international law as it relates to military intervention and violations of sovereignty. The lack of a definitive judicial ruling stems from tension between two core tenets of modern sovereignty: the right and duty of sovereign leaders to protect their populations; and the right of states to operate free from external interference. Whether the kind of military intervention seen in Operation Phoenix was universally acknowledged as legal or illegal, it would not answer the question of whether it was morally just. Foreign relations and national security policy are not administered in the abstract and certainly do not correspond neatly with the decrees of the UN or OAS. In his memoir, “No Hay Causa Perdida”(No Lost Causes), Uribe makes clear the decision to attack the FARC in Ecuador stemmed from a strong commitment to defeat the guerrillas. He anticipated diplomatic fallout and international retaliation following the raid, yet he proceeded anyway. In 2012, he wrote of the decision to bomb the FARC camp: “if another bitter confrontation was necessary to eliminate this mad murderer [Reyes] and ensure...respect for Colombia’s security, then so be it.”¹²⁵ Regarding the subsequent call to send troops across the border to verify the results he stated: “the stakes of this operation were too high for us to refuse.”¹²⁶ Considerations of international law appear to be of little significance in the decision-making process. It is clear then that other analytical tools are needed to understand the topic.

If international law is the domain of lawyers and idealists, then neo-realism is the realm of the policy-maker. Neo-realism is the predominant school of political thought in strategic-military scholarship on the Americas. It can be used to identify how the interests of a state can be secured in a world of competition with other states. It emphasises the structural factors as the main determinants of state interaction. Neo-realists contend that the state is the principal actor in global politics and emphasise geo-strategic and military issues and high strategy. For neo-

¹²⁴ Ibid p.227

¹²⁵ Álvaro Uribe Vélez, *No Hay Causa Perdida* (New York: Celebra, 2012).p.266

¹²⁶ Ibid.p.267

realists, anarchy is what the world would look like in the absence of the international system; a collection of sovereign states is necessary to reduce the likelihood of war and destruction. States must achieve security either by themselves or through alliances with other states. The neo-realist approach also assumes that states are rational actors. Robert Keohane explains that states have “consistent, ordered preferences, and that they calculate the costs and benefits of all alternative policies.”¹²⁷ While the Uribe Administration demonstrated muted concern for high principles of international law, the tenets of neo-realism may provide a better explanation for why it sanctioned Operation Phoenix.

Even so, it would not help us answer the central question of this thesis: under what circumstances, if any, is a nation-state morally justified in violating the sovereignty of another country? The question of justice is inseparable from the notion of morality. Neo-realism places no great expectation that morality does, or should, guide the actions of states in their international relations. It is therefore necessary to find a theoretical approach that acknowledges moral considerations in war-making, as well as the agency of the Colombian state. This is possible through a study of Just War Theory, which comes from a tradition of moral political philosophy; it is used to evaluate the justifications for the use of force and how that force is carried out.

Modern notion of Just War Theory

There is no single Just War Theory that comprises a set of universally agreed upon principles. Just war theorists do not always agree on which principles should be adopted, nor are they united on how they ought to be interpreted. Nevertheless, what distinguishes Just War Theory is a set of common assumptions. First, war is undesirable but sometimes necessary; secondly, as humans can reason and are capable of self-control, there is a *prima facie* moral obligation not to casually kill other human beings. Therefore, reason is necessary to determine the validity of justifications for war. Thirdly, rival theoretical frameworks do not provide adequate rhetorical tools for people to argue about war. And fourthly, legality and strategic

¹²⁷Robert Keohane, *Neorealism and Its Critics* (New York: Columbia University Press, 1986).p.11

interests should not always take precedence over considerations of justice and morality.¹²⁸ These assumptions underpin three subsections of Just War Theory: *jus ad bellum* and *jus in bello*— why you fight and how you fight. More recently, the notion of *jus post bellum*— post-war justice — has been added to the discourse.

Just War Theory comes from a tradition of moral philosophy whose origins are typically traced to Saint Augustine of Hippo. The space constraints of this thesis do not allow for a review of the early just war thinkers commensurable to their contributions to the just war tradition. Yet even the briefest of introductions to the seminal theorists will illustrate the non-linear development of Just War Theory. St Augustine taught that Christians were morally permitted to engage in war if they did so under legitimate authority, with the objective of peace and if they were motivated by love.¹²⁹ In the Middle Ages, Gratian built upon these precepts and argued that church officials could be justified in declaring war when the faith came under threat.¹³⁰ Saint Thomas Aquinas also attempted to develop the concept of just war. He wrote that a just war required the authority of a sovereign, just cause and right intention.¹³¹ During the Reformation, Luther reasoned that soldiers ought to consider the morality of their actions in addition to their leaders who were responsible for declaring war.¹³² Unlike Gratian, Luther denounced the religiously inspired war. In the same era, Calvin conversely argued that the government should protect religious worship and faith.¹³³ The philosophers Francisco de Vitoria, Francisco Suárez, Hugo Grotius and John Locke cited the Christian arguments but also substantiated just war principles in natural law.¹³⁴ This summary indicates the variety within the development of Just War Theory discourse. To varying degrees,

¹²⁸ A law is not necessarily “morally correct” –it is just an agreed upon rule within a given valuing community. The death penalty is considered immoral by many, but a law nonetheless in many parts of the world.

¹²⁹David D Corey and J. Daryl Charles, *The Just War Tradition: An Introduction* (Wilmington: ISI Books, 2012). p.10

¹³⁰Ibid. p.11

¹³¹St Thomas Aquinas, "Summa Theologiae," in *Le Droit De Juste Guerre*, ed. Yves de la Briere (Paris: Pedone, 1933).

¹³²Martin Luther, "On Temporal Authority," in *Luther and Calvin on Secular Authority*, ed. Harro Hopfl (Cambridge: Cambridge University Press, 1991).

¹³³J Calvin, *Institutio Christianae Religionis*, ed. John T McNeill, The Library of Christian Classics (Philadelphia: Westminster Press, c1960).

¹³⁴Corey and Charles, *The Just War Tradition: An Introduction*. pp.12-13

the works of the aforementioned authors are incorporated into the theories of contemporary just war scholars.

According to Richard J Regan, *jus ad bellum* comprises five elements: first, the decision to go to war should be made by a legitimate authority; secondly, the war must be waged for a just cause; thirdly, war must be waged with the right intention; fourthly, war must only be sanctioned if there is no viable alternative, also known as the principle of last resort; and lastly, the war should have a reasonable chance of success.¹³⁵ For Regan, *jus in bello* stipulates armed force must be proportional and should discriminate between combatants and civilians.¹³⁶ As we shall see, each criterion can be interpreted differently. Other just war theorists do not even choose to categorise just war theory in this way. This thesis does not suggest that Regan's just war theory is correct to the exclusion of all others, rather that this pithy summary serves as an appropriate structure to introduce the main strands of Just War Theory.

Jus Ad Bellum

One of the *jus ad bellum* considerations is legitimate authority, the entities that are morally justified in declaring war. The notion of legitimate authority dates back to at least the writings of Aquinas in the 13th Century. Aquinas deemed legitimate authority to be one with constitutional powers.¹³⁷ Therefore a just war must be a public one; private citizens should not take it upon themselves to organise an armed intervention. In contemporary Just War Theory, however, legitimate authority is usually taken to mean nation-states and organisations composed of nation-states, such as the UN. A typical example can be found in Jean Elshtain's analysis of the US invasion of Afghanistan in 2001. She cited the Bush Administration's invocation of Article 51 of the UN Charter, which pertains to the right of nation-

¹³⁵Richard J Regan, *Just War: Principles and Cases* (Washington DC: Catholic University of America Press, 2013).

¹³⁶Ibid.

¹³⁷Aquinas, "Summa Theologiae."

states to self-defense.¹³⁸ Here, both a democratically elected head of state and a relevant multilateral entity are regarded as legitimate.

The notion of legitimate authority can be complicated by the rights of guerrillas and dictators. If a band of disaffected citizens are not permitted to participate in the political process are they then justified in taking up arms to overthrow the government? If so, there are further questions as to the precise conditions under which a revolution should take place. We can also ask the inverse, when, if at all, do dictators have the right to quash an insurrection? This is not a binary conundrum either; there are multiple forms of government. What is the minimum standard an individual or political office must reach to achieve legitimacy? Just War Theory provides no definitive answers to these questions. It is up to the just war theorist to borrow from other schools of political science to determine what is legitimate and argue the case from there.

A second major consideration within *jus ad bellum* is just cause, which comprises two elements. The first principle of just cause is that war must aim to prevent or remedy a wrongful act.¹³⁹ Just cause is open to wide interpretation and debate; however, all just war theorists agree that self-defence is a valid reason. Yet there is a second debate about what kinds of self-defence are permissible. The invocation of self-defence presupposes that the victim nation-state has a right to rule over its territory and the instigator of war has no just cause of its own. However, self-defence becomes more complex when the idea of third parties are introduced. Under what conditions is a nation-state morally allowed to come to the aid of another nation-state? Furthermore, it is often difficult to confirm facts during an unfolding crisis. For example, a nation-state might mobilise its armed forces and direct them to the border of a neighbouring country. This raises the issue of how certain a nation-state has to be that it faces imminent attack and, if an attack has already occurred, who is responsible for the aggression. In an attempt to answer these questions, Regan asserts: “a prospective victim nation needs to have [...]

¹³⁸Elshtain, *Just War against Terror : The Burden of American Power in a Violent World*.p.61

¹³⁹Regan, *Just War: Principles and Cases*.p.48

practical certainty, no reasonable doubt (better than 90 percent probability).”¹⁴⁰

This kind of statement is typical of the just war literature. Theorists propose rules that seem intuitively correct to them; they offer arbitrary opinions and standards. It is worth repeating, then, that this thesis avoids moral absolutes and recognises that the complexity of warfare cannot be neatly quantified.

The second principle of just cause is proportionality. That is, war must only be a response to something correspondingly serious.¹⁴¹ As noted in the introduction to this thesis, the protection of trade routes and the rescue of foreign nationals abroad have previously been used as justifications for military intervention. According to Regan, the death or capture of foreign nationals and economic injury never justify a declaration of war.¹⁴² The chief reason for this is that those kinds of hostile acts are not proportional to sustained kinetic military action. Proportionality is also a consideration when deciding how to respond to acts of terrorism. This could include assessing how many people are dead, injured, displaced, as well as the financial cost and damaged assets. As with legitimate authority, just war theory does not offer a comprehensive, universally accepted response to the question of proportionality.

A third aspect of *jus ad bellum* is right intention. According to Just War Theory, wars must be waged to promote good and avoid evil.¹⁴³ Right intention is one of the most subjective of the *jus ad bellum* criteria. Noam Chomsky, for example, dismisses the principle as vacuous: “even the worst criminals claim right intentions.”¹⁴⁴ It is true that, given we cannot see into the minds of world leaders, it is impossible to be sure of the true motives behind war. The best we can do is assess whether the stated objectives of a nation-state and its explanations correspond to its actions.

¹⁴⁰Ibid. p.52

¹⁴¹Ibid. p.96

¹⁴²Ibid. p.57

¹⁴³Ibid. p.85

¹⁴⁴Noam Chomsky, *Just War Theory* (U.S. Military Academy, West Point2006).

A fourth *jus ad bellum* rule is last resort. Regan states that: “Nations are not justified in resorting to war as long as they have reasonable hope that means short of war can prevent or rectify wrong [...] The key word is *reasonable*”.¹⁴⁵ Common alternatives to war include negotiations, economic sanctions and the deployment of an international peace-keeping force. It is up to the individual just war theorist to argue why their conception of “reasonable hope” is valid.

The final standard of *jus ad bellum* included in this review is the probability of success. The benefit of this precept is that it guards against recklessness. If peace is not likely to be achieved through war, Just War Theory stipulates that destruction that would be caused by military action is not morally acceptable.¹⁴⁶ The only possible exception is if the cause for war is of supreme importance, such as the immediate survival of a nation-state and its population. Given this fifth standard, a country might not even be justified fighting a war of pure self-defense if it is overwhelmingly likely that the aggressor will achieve all of its military objectives anyway. Sacrificing the lives of soldiers for the purposes of honour or national pride, when total defeat is inevitable, would therefore not be moral.

Jus In Bello

As with *jus ad bellum*, the notion of proportionality is also key to *jus in bello*, the just conduct of war. Once more, there is no set ratio of the costs and benefits of war. Unlike *jus ad bellum*, which solely applies to leaders with the authority to order war, *jus in bello* also applies to soldiers.¹⁴⁷ For example, the decision to throw a grenade into a room will likely rest with a soldier rather than a politician. Under the principle of proportionality, the soldier must determine who else is in the room and, if there are civilians as well as enemy combatants, if the good of killing the enemy outweighs the bad of killing innocents. It is here that the rhetoric of “collateral damage” often comes into play.

¹⁴⁵Regan, *Just War: Principles and Cases*.p.65

¹⁴⁶Amy E Eckert, *Outsourcing War: The Just War Tradition in the Ge of Military Privatization* (Ithaca: Cornell University Press, 2016).p.83

¹⁴⁷Regan, *Just War: Principles and Cases*.p.96

The second component of *jus in bello* is discrimination. That is, a recognition of different levels of responsibility between political leaders who authorise war, military leaders who are accountable for war strategy, soldiers who carry out the fighting, civilians who contribute to the war effort and civilians who do not.¹⁴⁸ According to Regan, military action must target only enemy combatants and military infrastructure; militaries should avoid harming civilian.¹⁴⁹ He sees spies and civilian participants as equally valid targets as soldiers. All non-resistant prisoners of war must be kept alive and treated humanely.

Jus Post Bellum

Much of the just war tradition is consumed with the *jus ad bellum* and *jus in bello* debates. For this reason, both feature prominently in this thesis. However, the more recent development of *jus post bellum* (post-war justice) will also be examined. The aims of *jus post bellum* are to determine how to end war on just terms and achieve a more just state of affairs than existed before the conflict. According to Brian Orend, this is achieved in three ways: the aggressor returning that which it took from the victim state; punishment of the aggressor; and preventing a resumption of armed hostilities.¹⁵⁰

By outlining a theory of *jus post bellum*, we can better answer the question of when a state is justified in attacking another state in the pursuit of hostile, armed non-state actors. Suppose that the Uribe Administration's cross-border raid had just cause and was conducted in a just manner. Even then the raid might be morally unjustified if, for example, the Colombian government ended the hostilities in such a way that the possibility for future, more extensive armed conflict was high.

In order to meet the goals of *jus post bellum*, Orend proposes five principles that victorious states could follow: just cause for termination of the war, right intention,

¹⁴⁸Ibid,p.88

¹⁴⁹Ibid.

¹⁵⁰Brian Orend, "Jus Post Bellum," *Journal of Social Philosophy* 31, no. 1 (2000).p.124

public declaration and legitimate authority, discrimination, and proportionality.¹⁵¹ Clearly, these principles mirror those outlined in the *jus ad bellum* and *jus in bello* discussions. In this way, they should be read as an extension of Just War Theory rather than an appendage essentially different in kind. By drawing upon established principles to articulate his theory of post-war justice, Orend naturally incorporates the work of others, namely Walzer and Emmanuel Kant. (He does this, even though Walzer and Kant paid relatively little attention to *jus post bellum* compared to *jus ad bellum* and *jus in bello*.)

For Orend, a just cause for termination of war occurs when the victor state has reasonably defended and vindicated the rights of victims against whom the aggressor directed its force.¹⁵² In this situation, the aggressor state would be in such a weakened condition that it would agree to cease hostilities, surrender any gains it made during the war, and submit itself to reasonable principles of punishment by the state it victimised. In other words, the war must be won decisively. A settlement to end hostilities that rewarded the aggressor in some way would be immoral and unjust.

Right intention stipulates that the motives of the victor must be pure. A state should end war with the twin goals of peace and justice. Using one's advantage to seek revenge or profit would be unjust. Moreover, the victor should be willing to subject its own forces, as well as that of the enemy, to investigation and prosecution of *jus in bello* war crimes.¹⁵³ The problem with right intention in *jus post bellum* is the same as the criticism of it in *jus ad bellum*. It is almost impossible to ascertain the true motives of governments in nation-states. There is no simple way to prove why a state is acting in the way that it is. Observers must therefore limit themselves to seeing whether the words of leaders are matched by their actions.

¹⁵¹Ibid,pp.128-129

¹⁵²Michael Walzer *on War and Justice* (Montreal: McGill-Queen's University Press, 2000).p.151

¹⁵³Ibid.

Reminiscent of *jus ad bellum*, a public declaration of an end to hostilities by a legitimate authority is a requirement for *jus post bellum*.¹⁵⁴ Again, the key question is what constitutes a legitimate authority. The issue of legitimate authority is not necessarily problematic for this thesis. Using conventional definitions, the Uribe and Correa administrations, for example, are legitimate authorities; it would be difficult to call the FARC legitimate authorities (even if the grievances they claim to address are), since they are engaged in acts which, under Colombian government definition, are terrorist (their designation as a terrorist group is disputed; Chapter Two includes a brief discussion of this point).

Discrimination in *jus post bellum* refers to the differentiation between political leaders, military leaders, soldiers, and civilians. Punitive measures must focus on those most responsible for the war. Such measures could include war tribunals and financial compensation. At a national level, the aggressor nation, for example, could be compelled to reduce the size and remit of the armed forces.¹⁵⁵

The principle of post-war proportionality stipulates that the terms of peace must not exceed a reasonable vindication of the rights of victims. As in *jus in bello*, proportionality is largely a matter of opinion. There exists no satisfactory formula in Just War Theory through which one can determine what is proportional and what is not. Therefore, to meet the criterion of proportionality, a state merely has to demonstrate that the terms of peace are reasonable.¹⁵⁶ It could do this in a number of ways: adhering to international norms, international law, public opinion, precedents found in cases which are the most similar, and by placing an equal value on the lives of individuals regardless of their differences (such as race, nationality, religion and health).

As Corey and Charles mention, merely by separating questions into distinct categories removes certain ambiguities.¹⁵⁷ By unpacking the components of *jus ad bellum*, *jus in bello* and *jus post bellum*, we can identify which elements of a war

¹⁵⁴Ibid.

¹⁵⁵"Jus Post Bellum."p.127

¹⁵⁶Ibid.p.129

¹⁵⁷Corey and Charles, *The Just War Tradition: An Introduction*.p.17

are just or unjust: “Distinguishing among these categories is certainly essential for precise ethical thought, speech, and action.”¹⁵⁸ This guards against sweeping claims that a war or military action is right or wrong, justified or not justified.

Michael Walzer

One of the most influential just war theorists is Michael Walzer, who triggered a revival of Just War Theory discourse with his seminal *Just and Unjust Wars* in 1978. His publications are particularly important for three reasons. First, he draws upon the findings of the early just war thinkers, such as Augustine and Aquinas, and defends the need for morality in war. Therefore, his own arguments are informed by, and fit within, the just war tradition. Secondly, he applies his theories to contemporary case studies, such as nuclear deterrence and, later, the “War on Terror”.¹⁵⁹ This makes it easier to apply his just war criteria in the case of Operation Phoenix; to test the positions of Augustine would require a greater degree of imagination. Thirdly, his bibliography is ubiquitously cited in the modern just war scholarly literature (see, for example, Corey & Charles; Fiala; Howse; Lango; Brough & van der Linden; Orend; Regan; and Whitman).¹⁶⁰ This is indicative of his stature in current debates.

From the outset, Walzer argues his just war theory is dualistic. There is a separation between *jus ad bellum* and *jus in bello*. In brief, a just war can be waged unjustly and an unjust war can be conducted justly.¹⁶¹ That is, one could meet all the criteria

¹⁵⁸Ibid.

¹⁵⁹Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations. Arguing About War* (New Haven & London: Yale University Press, 2004).

¹⁶⁰Corey and Charles, *The Just War Tradition: An Introduction*.

Andrew Fiala, *The Just War Myth: The Moral Illusions of War* (Lanham: Rowman & Littlefield Publishers Inc, 2008).

Robert Howse, "Thucydides and Just War: How to Begin to Read Walzer's Just and Unjust Wars," *European Journal of International Law* 24, no. 1 (2013).

Michael W Brough, John W Lango, and Harry van der Linden, *Rethinking the Just War Tradition* (Albany: SUNY Press, 2007).

Orend, *Michael Walzer on War and Justice*.

Regan, *Just War: Principles and Cases*.

Jeffrey P Whitman, "Just War Theory and the War on Terrorism: A Utilitarian Perspective," *Public Integrity* 9, no. 1 (2007).

¹⁶¹Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*.p.21

for *jus ad bellum* and violate those of *jus in bello*, and vice versa. Walzer justifies the logical independence by claiming political leaders and their soldiers hold different responsibilities. Political leaders are solely responsible for meeting just cause criteria while policy makers and combatants are jointly responsible for just conduct. For Walzer, both of these aspects of Just War Theory (and *jus post bellum*) are grounded in the rights of individuals to life and freedom.¹⁶²

Graham Parsons exposes a different dualism in Walzer's Just War Theory. He argues there is incoherence between the different logics that underpin Walzer's *jus ad bellum* and *jus in bello*. Essentially, Walzer's theory of *jus ad bellum* is founded on the supreme importance of the survival of political communities, whereas *jus in bello* emphasises the survival and freedom of the individual as paramount.¹⁶³ For Walzer, war can only be justified as a response to aggression. This is because it violates the rights of states. These rights include political independence and territorial integrity, which Krasner also describes. States' rights are constituted through a process of association and mutuality, a Burkeian contract between "the living the dead and those who are yet to be born."¹⁶⁴ In other words, wars of aggression are unjust because they impinge upon the rights of a common life. It follows that soldiers who are called upon to defend against aggression are doing so to protect the rights of a political community. As Parsons points out: "here, the common life is ontologically prior to its individual parts; it is what makes the parts what they are."¹⁶⁵ Consequently, Walzer's *jus ad bellum* places the highest value on the interest on a supra-individual entity.

Walzer's *jus in bello*, as interpreted by Parsons, explores the tension between individual, opposing combatants who have an equal right to life. Walzer posits that the only way a soldier can forfeit their right to life is by violently threatening the life or liberty of another. But simply by their role as a member of the armed forces

¹⁶²Ibid.p.xvi

¹⁶³Graham Parsons, "The Incoherence of Walzer's Just War Theory," *Social Theory and Practice* 38, no. 4 (2012).p.676

¹⁶⁴Michael Walzer, "The Moral Standing of States: A Response to Four Critics," *Philosophy and Public Affairs* 9, no. 3 (1980).p.211

¹⁶⁵Parsons, "The Incoherence of Walzer's Just War Theory."p.7

during wartime, each soldier poses a threat to the life of others. This could be done directly or indirectly. In this way, the reasons why a soldier's government orders them to war are irrelevant—all combatants are fair game.¹⁶⁶ Following the principle of discrimination, all non-combatants are not to be deliberately harmed in warfare. As noted above, a point of contention among just war theorists is the blurred lines between what constitutes a combatant and non-combatant. Yet whatever the definition, Walzer's conception of *jus in bello* stresses the rights of the individual rather than the political communities to which they belong.

The incoherence of Walzer's just war theory is exemplified by "supreme emergencies"—situations where the survival of the political community depends on actions that violate *jus in bello* principles, such as deliberately targeting innocent civilians. For Walzer, the rights of the political community transcend those of individuals. He states: "no government can put the life of the community [...] at risk, so long as there are actions available to it, even immoral actions, that would avoid or reduce the risk."¹⁶⁷ (It is important to note that this is not a question of numbers. A national leader could brook the death of, say, 3000 of his/her people, innocent civilians, in a bombing raid by the enemy if, and only if, they did not constitute a political community.) Walzer illustrates the nature of supreme emergencies by describing the Allied bombing of German cities during World War Two (the fire bombing of Dresden perhaps the most notorious) and the nuclear destruction of Hiroshima.¹⁶⁸ Following Walzer's Just War Theory, these acts could only have been morally justified if they were the only way to prevent the destruction of political communities.

A second example of inconsistency in Walzer's theory comes from the rights and responsibility of soldiers. Walzer contends that members of a state's armed forces are compelled to deploy to war as so directed by the government; combatants do not have the right to choose which wars they fight.¹⁶⁹ Under *jus ad bellum*, soldiers must assent to the commands of their political masters regardless of whether they

¹⁶⁶Ibid.p.672

¹⁶⁷Walzer, *Arguing About War*.p.42

¹⁶⁸*Just and Unjust Wars: A Moral Argument with Historical Illustrations*. pp.255-268

¹⁶⁹Ibid.

believe the cause is just or not. Here, the political community is supreme. Under Walzer's *jus in bello*, however, soldiers must disobey orders that violate the just conduct principles of discrimination and proportionality. Parsons argues this dualism between the rights of political communities and individuals is contradictory and arbitrary.¹⁷⁰ At the heart of this debate is the question: what is the highest value in war, the public good or the individual's right to life?

Jean Elshtain

In addition to Walzer, Jean Elshtain is also a major contributor to the modern body of scholarly literature on Just War Theory. For Elshtain, the goal of just war theory is to determine how justice can be achieved. In keeping with the just war tradition, she acknowledges that sometimes war is preferable to peace.¹⁷¹ Sometimes it is morally justifiable to violently confront regimes that, for instance, perpetrate genocides or persecute people based on their political affiliations. She shares with Walzer a focus on contemporary case studies, such as the US-led invasions of Afghanistan in 2001 and Iraq in 2003.

Lest Just War Theory, particularly the *jus ad bellum* component, be seen as an impossibly high standard for modern states to meet, Elshtain argues in *Just War Against Terror* that these military interventions were morally justified.¹⁷² Redolent of the Bush Administration's rhetoric, Elshtain frames the threat of terrorism in terms of a contest between good and evil. She frequently refers to Augustine's Christian ethics as they guide her Just War Theory. Like many others, Elshtain sees five criteria that, if met, morally justify an armed response: just cause, legitimate authority, right intention, last resort, and a reasonable chance of success.¹⁷³ These criteria have already been outlined above and their inclusion in Just War Theory analyses are not controversial. Elshtain applies her theory to the immediate post-9/11 world and finds that there is a legitimate role for a global policeman: "If human dignity needs a 'new guarantee,' who will be the guarantor? There is no state

¹⁷⁰Parsons, "The Incoherence of Walzer's Just War Theory." p.676

¹⁷¹Elshtain, *Just War against Terror: The Burden of American Power in a Violent World*.p.50

¹⁷²Ibid.

¹⁷³Ibid. pp.57-58

except the United States with the power and (we hope) the will to play this role.”¹⁷⁴ Elshstain’s position is thus relevant to the case of Operation Phoenix because it takes into account the threats posed by non-state actors hiding in nation-states during peacetime.

Nicholas Rengger partially agrees with Elshstain’s argument, but also warns against overreach. He writes: “We can agree that the United States was right to strike back at those that had attacked it, agree also that such a response, inasmuch as it was limited and proportional, was just. But [...] permanent war is unlikely to be just in any sense.”¹⁷⁵ Here, Rengger refers to the requirement in Just War Theory for continual revision of the justifications for war. A nation-state with initial just cause does not have *carte blanche* to conduct a global war campaign. Each declaration of war and military action must be judged individually. In addition to this, other scholars have taken issue with Elshstain’s interpretation of Augustinian principles and her conception of just cause, right intention, and proportionality (see O’Driscoll; and Zehfuss).¹⁷⁶

Just Armed Conflict Theory

At this point, it would be valuable to clarify how and when Just War Theory can be applied. As the name implies, Just War Theory has historically addressed the rights and wrongs of conflicts large enough to be called wars. David J. Singer and Melvin Small define a war as a conflict that produces one thousand deaths per year.¹⁷⁷ There are many variations of war, but all have this factor in common. Using this definition, Operation Phoenix was not a war. It was a short, military incursion that resulted in the deaths of 25 people. By what right then can one use Just War Theory to analyse what would not ordinarily be called a war? This thesis answers this

¹⁷⁴Ibid.p.167

¹⁷⁵Nicholas Rengger, "Just a War against Terror? Jean Bethke Elshstain's Burden and American Power," *International Affairs* 80, no. 1 (2004).p.115

¹⁷⁶Cian O’Driscoll, "Jean Bethke Elshstain's Just War against Terror: A Tale of Two Cities," *International Relations* 21, no. 4 (2007).

Maja Zehfuss, "The Tragedy of Violent Justice: The Danger of Elshstain's Just War against Terror," *ibid.*

¹⁷⁷David J Singer and Melvin Small, *Resort to Arms* (Beverly Hills: Sage, 1982).

question by adopting what John W. Lango terms “Just Armed Conflict Theory”, which is based on just armed-conflict principles.¹⁷⁸Lango proposes that: “just war principles should be generalized, so they are applicable to all forms of armed conflict...[and] the resultant just armed conflict principles should be specified.”¹⁷⁹ Such an approach is warranted for two reasons. First, it recognises that there are situations short of war that require moral deliberation, such as limited military interventions. Secondly, the principles of Just War Theory outlined above do not constitute a static doctrine that can be usefully applied to any and every armed conflict. Rather, we should see the Just War Tradition as a heuristic device that recognises the differences between, say, humanitarian intervention and defending against cyber attacks, and refine our Just Armed Conflict Theory principles accordingly. A detailed evaluation of Lango’s just armed conflict theory and its alternatives is beyond the limits of this thesis. At this point, it is sufficient to say that the application of Just Armed Conflict Theory will take into account the distinct characteristics of Operation Phoenix.

In the relevant scholarly literature, just war scholars typically use case studies from major wars, conflicts that meet Singer and Small’s definition of a war. In *Just and Unjust Wars*, Walzer applies his just war principles to World War II, the Vietnam War, the Franco-Prussian War and others.¹⁸⁰ More recently, Elshtain wrote of Just War Theory in the context of the United States’ “War on Terror”.¹⁸¹ By analysing a single, much smaller conflict, my thesis will serve two purposes. First, it will strengthen Lango’s position that Just Armed Conflict Theory can be applied to small-scale military operations within the Just War Theory tradition. Secondly, it will provide an original contribution to the growing scholarly literature of Just Armed Conflict Theory.

¹⁷⁸John W Lango, "Generalizing and Temporalizing Just War Principles: Illustrated by the Principle of Just Cause," in *Rethinking the Just War Tradition* (Albany: SUNY Press, 2007).p.76

¹⁷⁹Ibid.p.78

¹⁸⁰Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*.

¹⁸¹Elshtain, *Just War against Terror : The Burden of American Power in a Violent World*.

CHAPTER TWO: OPERATION PHOENIX

Part One: Background

The contours of the Colombian armed conflict can be illustrated through the experience of individuals. In the mid 1990s, locals of Montes de María, near the northern Caribbean coast of Colombia, protested the battles between the guerrillas, paramilitary groups and the army in the region. Local student Mayerlis Angarita described the predicament of her fellow residents: “The guerrillas attacked us because they said we aided the paramilitary, the paramilitary attacked us because they said we aided the guerrillas, and the government was suspicious of us because they believed anyone speaking up was a left-leaning extremist”.¹⁸² Following the suspicious disappearance of her mother, Angarita moved to another town where she lived in poverty, unable to attend school.

A short distance away from her new town in Montes de María was El Salado, which was under the violent control of the FARC. One of the FARC’s primary rivals at the time was the United Self-Defence Forces of Colombia (*Auto Defensas Unidas de Colombia* - AUC), which sought to expel the guerrillas from El Salado. On 18 February 2000, the AUC sacked the town, resulting in the death of more than 100 people. AUC combatants shot, stabbed, dismembered and mutilated many of the men in front of their loved ones. One man allegedly had ropes tied to his neck and legs which were then pulled apart by AUC fighters. The paramilitaries then gang raped, tortured and killed many of the women.¹⁸³ The horror that took place in Montes de María was not an anomaly in the Colombian war. Reports of disappearances, forced displacement, poverty, lack of access to schooling, murder, torture, bloody rivalry between non-state actors, and complete lack of state protection are widespread. When investigating the causes and effects of Operation Phoenix, then, it is important to remember that multiple forces are at play. The civil war is more complicated than a binary struggle between the FARC and the state.

¹⁸²Mariana Palau, "Colombia's Revolutionary Women: Talking to Heal," *Al Jazeera*, 24 March 2016.

¹⁸³*Ibid.*

Colombian Foreign Policy

Operation Phoenix was an anomaly in the history of Colombian foreign policy. Due to the relative weakness of the state and the pressing concerns of the internal armed conflict, Colombia has never had the will or capacity to project power beyond its immediate surroundings. Colombia's foreign policy imperatives have, at least since the 1960s, been tied to the objectives of the armed conflict, namely to eliminate the insurgency and thereby consolidate state power. Furthermore, as will be demonstrated, the country never reached a consensus on the best strategy to achieve peace.

Juan Gabriel Tokatlian identifies three categories into which the foreign policies of all modern Colombian presidents fall. All of these models are underpinned by realist assumptions: the state is the most important actor in international relations, the primary goal of the state is survival, the foreign policy goals of a state are driven by rational self-interest, and the achievement of policy goals requires the state to hold legitimacy and control over national resources. While realism theory is not a key component of this thesis, it is a useful basis for outlining various Colombian foreign policies because it holds that a state's internal security policies are intrinsically linked to its foreign policy objectives. The nexus between domestic and foreign policy is at the heart of my analysis of Operation Phoenix. In each of the following frameworks, the state uses foreign policy to extract economic resources and political support with the ultimate aim of resolving the internal armed conflict.

The first of Tokatlian's frameworks is Forced Pacification Diplomacy (FPD). FPD comprises two fundamental elements: confrontation against external counterparts who risk worsening the internal conflict and submission toward the United States in order to secure military aid.¹⁸⁴ In this model, therefore, the United States is not seen as a threat to peace, rather the opposite. Here, Colombia would condemn or

¹⁸⁴Juan Gabriel Tokatlian, "Colombia at War: The Search for a Peace Diplomacy," *International Journal of Politics, Culture and Society* 14, no. 2 (2000).p.336

possibly even attack foreign states if they were thought, for example, to be supporting the FARC. Moreover, by attaining support from Washington, Colombia would have their tacit approval to pursue the war effort without any serious condemnation from the United States. FPD therefore emphasises the role of the military, underwritten by the United States, and underplays the responsibility to engage with regional partners diplomatically. FPD strongly corresponds to the “*respice polum*” (look to the North) doctrine, a term coined by President Marco Fidel Suárez (1918-1922) to indicate that Colombia should stand by the United States, be guided by the “North Star”.¹⁸⁵ In more recent decades, the administrations of Julio César Turbay (1978-1982) and Uribe were unambiguous proponents of FPD.

The second category is Negotiated Peace Diplomacy (NPD). NPD is effectively the inverse model to FDP. The two tenets of NPD are the search for domestic peace via diplomatic engagement with foreign governments and through a negotiated peace settlement with the guerrilla groups.¹⁸⁶ President Belisario Betancur (1982-1986) encapsulated this idea when he said: “peace is indivisible, and we aware that it is not attainable if acting only within national borders.”¹⁸⁷ Under NPD, the United States is seen as one actor among many rather than a primary power whose support must be acquired. NPD can also focus on the interests of other countries in the pursuit of stronger foreign relations. Alfonso López Michelsen, who was appointed Colombia’s Foreign Minister in 1968 and later served as President (1974-1978), referred to this kind of approach as “*respice similia*” (look to your neighbours and fellow nations).¹⁸⁸ Examples of presidents who followed this approach include Michelsen, Betancur (until 1985), Ernesto Samper (1994-1998), and, initially, Andrés Pastrana (1998-2002).

Tokatlian’s third category, Neutralising Diplomacy (ND), is essentially a compromise between FPD and NPD that allows for more nuanced policies. In an

¹⁸⁵Gerhard Drekonja, "Colombia: Learning the Foreign Policy Process," *Journal of Interamerican Studies and World Affairs* 25, no. 2 (1983). p.232

¹⁸⁶Tokatlian, "Colombia at War: The Search for a Peace Diplomacy."p.338

¹⁸⁷Belisario Betancur, *Una Sola Paz* (Bogota: Imprenta Nacional de Colombia, 1983).p.117

¹⁸⁸Drekonja, "Colombia: Learning the Foreign Policy Process."p.237

ND scenario, relationships with foreign counterparts are not absolute.¹⁸⁹ In relation to the domestic armed conflict, Colombian foreign policy under ND is designed to develop situations that strengthen support for both military operations and peace talks with rebel groups; friendly relations with the United States are desirable but not supreme. Arlene Tickner denominates this hybrid approach “*ad libitum alternare utrumque principium*”(alternation between two principles at will).¹⁹⁰ Presidents Virgilio Barco (1986-1990) and César Gaviria (1990-1994) incorporated ND into their peace strategies.

Over the last century, Colombian foreign policy has oscillated between FPD, NPD and ND approaches. Policy has typically been the result of reacting to events and external forces rather than carefully planned statecraft. According to Tickner, this can be explained by four factors: the personalities in La Casa Nariño (the residence of the Colombian head of state), the historical incompetence of the Foreign Ministry and its inability to plan for the long-term, the changing attitudes of the United States, and the changing dynamics of the internal armed conflict.¹⁹¹ This is evident in the policies of the Uribe Administration as well as his predecessors.

The Pastrana Administration set the conditions for the Uribe Administration to pursue single-minded policies, including Operation Phoenix. The Colombian people elected Pastrana in 1998, after he pledged to negotiate a peace deal with the FARC. The peace process took place when FARC’s military power was near its zenith. It also followed the presidency of Samper, whose term was wracked by allegations he accepted funds from the Cali Cartel. In other words, the government came to the table from a position of relative military and political weakness.

Pastrana designated a 41,958-square kilometre demilitarised zone in southern Colombia in which the negotiations took place.¹⁹² The bilateral ceasefire was only in effect in this zone; the government and guerrillas were fighting and negotiating at the same time. Both the FARC and the Colombian army took the opportunity to

¹⁸⁹Tokatlian, "Colombia at War: The Search for a Peace Diplomacy."p.341

¹⁹⁰Tickner, "Colombia: U.S. Subordinate, Autonomous Actor, or Something in Between?."p.172

¹⁹¹Ibid.p.182

¹⁹²Leech, *The Farc: The Longest Insurgency*.p.75

regroup and strengthen their military positions. The reasons for the failure of the talks are numerous and contested (for a full account, see Kline).¹⁹³ With the costs of war less than the price of peace, arguably for both sides, Pastrana officially ended the talks on 20 February 2002.¹⁹⁴

While Pastrana is widely remembered for the failed peace deal, his administration also attracted significant military aid from the United States. The most prominent manifestation of US military aid to Colombia was Plan Colombia (for more on this, see Hylton; Pachon; Petras; and Veillette). Early in his presidency, Pastrana argued that the armed conflict was a symptom of social problems; he advocated a kind of “Marshall Plan” for Colombia, soliciting help from the United States, Europe, Japan, and multilateral organisations.¹⁹⁵ But by September 1999, Pastrana instead portrayed Colombia as a victim of drug traffickers, a nation-state whose problems posed a security threat to the United States.¹⁹⁶ By depicting Colombia in this way, he secured US support for Plan Colombia; that is, the militarisation of the response to the armed conflict began under Pastrana and was continued by Uribe, a shift from NPD to FPD.

The Uribe Administration

Wary of further negotiations with the guerrillas following the unsuccessful peace talks during the Pastrana era, the Colombian people opted for a new way forward and voted Álvaro Uribe into office at the 2002 presidential election. A hard-line, conservative politician who promised to make no concessions to the FARC, such as those made by Pastrana, Uribe focused his efforts on defeating the guerrillas militarily. This approach, underwritten by US military aid, strongly aligned with the *respice polum* and FPD doctrines. Upon assuming office, Uribe implemented

¹⁹³Kline, *Chronicles of a Failure Foretold: The Peace Process of Colombian President Andres Pastrana*.

¹⁹⁴"Fin a Diálogos Con Las Farc," *El Tiempo*, 21 February 2002.

¹⁹⁵Rodrigo Pardo, "Relaciones Internacionales Y Proceso De Paz Proyecciones Sobre Escenarios Rodrigo Pardo García-Peña," *Colombia Internacional* 58 (2001).p.36

¹⁹⁶Arlene B. Tickner, "Intervención Por Invitación: Claves De La Política Exterior Colombiana Y De Sus Debilidades Principales," *ibid.*65 (2007).p.100

"Colombia: U.S. Subordinate, Autonomous Actor, or Something in Between?."p.181

the Democratic Security Policy (DSP), a term that denoted his overall strategy to win the war.

Two aspects of the DSP are particularly relevant to this thesis due to their focus on counterinsurgency. First, the DSP led to an unprecedented expansion and professionalisation of Colombia's armed forces. Changes included: adding professional soldiers rather than conscripts, modernising military intelligence, improving logistical support, increasing the discretion to sack personnel, and enhancing training programs.¹⁹⁷ Another reform included the "Soldiers from My Town" scheme, and others, which leveraged local populations to support conventional military forces.¹⁹⁸ The DSP improved the capacity of the armed forces and generated greater confidence among the Colombian people in the ability of the state to protect them.¹⁹⁹ The Uribe Administration levied war taxes on the wealthy and used funds from the United States to help finance the reforms.²⁰⁰

Secondly, the DSP expanded the presence of the state. Early military operations aimed at removing the FARC presence from Colombia's major cities, such as Bogotá and Medellín. Once the major cities were secured, Uribe ordered the military to recapture territory in traditional FARC strongholds in the country's south.²⁰¹ According to Farah: "More than 90% of the Colombian population lives in the northwest half of the country, and that half of the country produces more than 90% of the Colombia's legitimate GDP"; the south-east has historically been sparsely populated, with large tracts of land under guerrilla control.²⁰² By 2012, FARC fighters, whose membership had dwindled to 9,000, had retreated to more

¹⁹⁷Kline, *Showing Teeth to the Dragons: State-Building by Colombian President Alvaro Uribe Velez, 2002-2006*.p.40

¹⁹⁸Ibid. pp.39-41

¹⁹⁹German Giraldo Restrepo, "Transforming the Colombian Army During the War on Terrorism" (U.S. Army War College, 2006).p.19

²⁰⁰Douglas Farah, "Lessons Learned from the Campaign against the Farc in Colombia," *The NEFA Foundation* (2008).p.6

²⁰¹Kline, *Showing Teeth to the Dragons: State-Building by Colombian President Alvaro Uribe Velez, 2002-2006*. pp.45-48

²⁰²Farah, "Lessons Learned from the Campaign against the Farc in Colombia."p.7

remote locations.²⁰³ With fewer places to operate in Colombia, the Ecuadorean border regions were appealing for the FARC.

The negative consequences of the DSP were manifold. A notable example was the “false positives” scandal. As part of the transformation of the military, soldiers were rewarded for the number of guerrillas they killed. In addition to genuine guerrillas, some soldiers murdered innocent civilians and recorded them as deaths in combat to inflate their achievements. These extrajudicial killings, especially prevalent from 2004, became known as false positives.²⁰⁴ In 2007 alone, 1119 false positives were recorded.²⁰⁵ UN Special Rapporteur Philip Alston found it was not state policy but, “Overall, there was a crucial failure of accountability;”²⁰⁶ they were an unintended consequence of the DSP.

A second scandal was dubbed “*parapolítica*”—the collusion between elected representatives, many of whom were loyal to the Uribe Administration, and paramilitary death squads. The story broke in 2006 when seized computers from demobilised paramilitary leader “Jorge 40” confirmed that paramilitaries had been illegally collaborating with politicians.²⁰⁷ By 2012, 45 congressmen and seven governors were convicted for using paramilitaries to intimidate voters; an additional 140 former congressmen faced investigations.²⁰⁸ The Prosecutor General’s Office suspected that more than 11,000 politicians, officials and businessmen made pacts with the paramilitaries.²⁰⁹

The false positives, *parapolítica*, and other injustices, are relevant to this thesis insofar as they show a policy imbalance in the Uribe Administration. The crimes were a result, deliberate or not, of the uncompromising military pursuit of the FARC. That the Uribe Administration permitted and facilitated human rights

²⁰³ Ibid.

²⁰⁴ Philip Alston, *Informe Del Relator Especial Sobre Las Ejecuciones Extrajudiciales, Sumarias O Arbitrarias* (United Nations: Human Rights Council, 2010).

²⁰⁵ Adriaan Alsema, “False Positives,” *Colombia Reports*, 14 August 2012.

²⁰⁶ Alston, *Informe Del Relator Especial Sobre Las Ejecuciones Extrajudiciales, Sumarias O Arbitrarias*.

²⁰⁷ Adriaan Alsema, “Parapolitics Scandal,” *Colombia Reports*, 5 July 2012.

²⁰⁸ Ibid.

²⁰⁹ Ibid.

abuses was indicative of its priorities. If we accept that Alvaro Uribe tolerated widespread corruption among his political supporters, and that he indirectly encouraged the murder of innocent civilians, Operation Phoenix seems less surprising. Rather, the raid's diplomatic fallout can be seen as one of a series of unintended consequences of the energetic counterinsurgency. In other words, Álvaro Uribe had a blindspot where the FARC was concerned.

The FARC

Any scholarly discussion of the modern Colombian armed conflict must include or be based upon a sound understanding of the FARC. Here, I briefly profile their history, organisational structure, and power sources. This will help to explain why some FARC combatants sought shelter in Ecuador and why the Uribe administration considered it wise to attack them there.

On 27 May 1964, Colombian government forces attacked communist rebels in the rural community of Marquetalia in the Tolima department (province). The offensive cleared the rebels out, but 48 survivors, led by Pedro Antonio Marín Marín, alias Manuel Marulanda, formed a guerrilla movement called the Southern Bloc. The group later changed its name to the Revolutionary Armed Forces of Colombia and took the attack on Marquetalia as their official founding date. The FARC was created by a politicised peasantry, which saw themselves as responding to state repression. The FARC consolidated influence in rural areas, accumulating power at a local level.²¹⁰ Furthermore, the remoteness and hazardous terrain of the jungle made it impossible for the Colombian Armed Forces to militarily defeat the insurgency.

The FARC's power has fluctuated throughout its history. The guerrilla group, Colombia's largest, reached the height of its military strength in the 1990s. In 1998, the FARC boasted 18,000 fighters and controlled key transport routes that connected Colombia's major cities. In November 1997, the US Defense Intelligence Agency reported that the guerrillas could defeat the Colombian Armed

²¹⁰Leech, *The Farc: The Longest Insurgency*.p.23

Forces within five years unless the government made radical changes.²¹¹ As explained in a previous section, this era preceded and was the justification for the hard-line policies of the Uribe Administration. By 2012, the number of FARC Fronts had been reduced to 65, compared to a peak of more than 80 in the 1990s.²¹²

The military structure of the FARC is hierarchical. The group is led by a seven-member Secretariat, which includes the supreme commander. At the time of his death, Reyes belonged to the Secretariat. Next is the Central High Command, which consists of 30 senior commanders. Below that are the seven Blocs, which operate in different regions. In order of decreasing size and seniority, Blocs comprise Fronts, Columns, Platoons and Squads, the latter of which fields 12 fighters.²¹³ The 48th Front, which belongs to the FARC's Southern Bloc, was highly active along the Ecuadorean border in 2008 and sheltered Reyes in his final days.

The FARC employed varied means to finance and staff its rebellion. They strived to be self-sufficient, primarily generating capital from kidnapping, extortion, levying taxes, and participating in the illegal drug trade. This way, they minimised their vulnerability to external forces, such as the mercurial disposition of the Chávez Administration. The FARC primarily recruited from rural areas; the enlistment of child soldiers is well documented.²¹⁴ Due to the cocaine boom in the 1970s, many Colombians moved to rural, coca growing areas. Some of these areas were traditional FARC strongholds. Later, particularly in the 1990s, the FARC increasingly controlled the production of cocaine; much of their rural power base were poor farmers who cultivated coca leaves.²¹⁵ Thus, the FARC was deeply implicated in the drug trade but in a different way to other criminal groups.

²¹¹"Multilateral Invasion Force for Colombia?," *NACLA Report on the Americas* 36, no. 1 (1998).

²¹²Adriaan Alsema, "Farc Fronts (Map)," *Colombia Reports*, 17 June 2012.

²¹³Leech, *The Farc: The Longest Insurgency*.p.17

²¹⁴Human Rights Watch, *War without Quarter: Colombia and International Humanitarian Law* (New York 1998).

²¹⁵Leech, *The Farc: The Longest Insurgency*.p.72

At various points during the conflict, the FARC and the government made serious attempts to negotiate a peace settlement and enter the legitimate political process, such as in 1984 during the administration of Belisario Betancur (1982-1986). In 1985, a political offshoot of the FARC, called the Patriotic Union (UP), was established. UP registered modest gains in the 1985 congressional elections. However, UP members were subsequently persecuted and targeted for assassination by right-wing reactionary and paramilitary groups (see Dudley).²¹⁶ The destruction of the UP consolidated the FARC's distrust of the government and commitment to armed rebellion. A decade later, the Pastrana Administration commenced its doomed effort to broker a peace deal. In both cases, the structure of the Colombian economy, among other issues, was a major obstacle for the FARC and government negotiators. The FARC protested the country's neoliberal policies and demanded sweeping agrarian reforms that would empower the peasantry; the government did not accede to these wishes.

Lastly, there is debate as to how the FARC should be defined. They have been variously described as guerrillas, insurgents, criminals, belligerents, revolutionaries, and terrorists (see, for example, Brittain; the FARC Secretariat; Leech; and Uribe).²¹⁷ The Uribe Administration repeatedly emphasised their status as terrorists when defending the necessity of Operation Phoenix. The word "terrorist" carries a multitude of meanings. The dominant interpretations have evolved over time,²¹⁸ meaning that they are temporal rather than innate. Writing from an international law perspective, Ben Saul summed up a central problem with crafting a definition of "terrorism".

Disagreement about terrorism runs much deeper than technical disputes about drafting; it reflects doctrinal, ideological, and

²¹⁶Dudley, *Walking Ghosts: Murder and Guerrilla Politics in Colombia*.

²¹⁷Brittain, *Revolutionary Social Change in Colombia: The Origin and Direction of the Farc-Ep* Secretariado Nacional de las FARC-EP, "Quiénes Somos Y Por Qué Luchamos," <http://www.farc-ep.co/nosotros.html>.

Leech, *The Farc: The Longest Insurgency*.

Uribe Vélez, *No Hay Causa Perdida*.

²¹⁸Ben Saul, *Defining Terrorism in International Law*, Oxford Monographs in International Law (Oxford: Oxford University Press, 2008). pp.1-4

jurisprudential arguments about who is entitled to exercise violence, against whom, and for what purposes.²¹⁹

For these reasons, one needs to consider the context in which the FARC fought in 2008. As this Chapter shows, Operation Phoenix took place in the context of the “War on Terror,” which invoked notions of good (the United States and her allies) versus evil (terrorist groups, particularly AQ).²²⁰ Thus, depictions of the FARC as terrorists were unambiguously negative. The FARC and others recognised this and sought to change the denomination.

Less than two months before Operation Phoenix, President Chávez asked the governments of Latin America and Europe to remove the FARC from a list of terrorist groups and accord them belligerent status.²²¹ The latter would have granted the FARC legal standing and stood as an open admission by the Uribe Administration that it had lost partial control of its territory to organised, rebel forces.²²² The Uribe Administration declined and continued using “terrorists” as the preferred term for the FARC.

This thesis lacks the scope to reach a definitive categorisation of the FARC nor a definition of “terrorism”. It is also lacking space to consider, in depth, how the Uribe Administration used language to influence the war on the FARC. For consistency and expediency, this paper refers to the group as either guerrillas or insurgents. The benefit of these labels is that it avoids the more partisan monikers, such as “revolutionaries” and, at the other end of the spectrum, “terrorists”. Further, it acknowledges the reality that they have used violence and crime to achieve a political outcomes.

²¹⁹Ibid. p.4

²²⁰George W Bush, "President Delivers State of the Union Address " in *The President's State of the Union Address* (Washington, DC2002).

²²¹"Colombian Minister Terms Chavez's Request for Farc Recognition "Outrageous"," *BBC Monitoring Americas*, 11 January 2008.

²²²Ewen Allison and Robert K Goldman, "Belligerent Status," *Crimes of War*, <http://www.crimesofwar.org/a-z-guide/belligerent-status/>.

The history of the FARC has clear implications for this thesis. First, the guerrillas' power derived from the rural peasantry, aided by geographic advantages. Secondly, failed attempts at peace had legitimised the Uribe Administration's military-focused counterinsurgency strategy, which, in turn, pushed the guerrillas away from urban centres. Thirdly, control over the production of cocaine partially accounted for the FARC's revenues. Fourthly, the contested nature of their legitimacy is reflected in the debates about how to describe the FARC: as wicked terrorists, freedom fighters, or with a more neutral term. These facts provide some context for why Reyes hid in Ecuador, why the Uribe Administration chose to attack him there and how it justified the raid afterwards.

The ELN

A second, smaller armed insurgency, the National Liberation Army (*Ejército de Liberación Nacional* - ELN), also formed in the 1960s. The group began as a Marxist-Leninist nationalist movement, drawing inspiration from the Cuban revolution and incorporating liberation theology into its outlook.²²³ The FARC have, at times, engaged in a bitter rivalry with the ELN (and, until its demobilisation 1991, the Popular Liberation Army). While they have both fought political and military battles against the Colombian government, they were not historically considered allies. In December 2009, however, guerrilla leaders negotiated a ceasefire, which later evolved into a full partnership in some areas of the country.²²⁴ At the time of writing, there are concerns the ELN will take over some of the criminal territory of the FARC if the latter reaches a peace deal with the Santos Administration.²²⁵

Paramilitaries, neo-paramilitaries and drug traffickers

Along with the rise of the FARC and ELN came the development and privatisation of the counterinsurgency. Private armies have existed in Colombia since the 19th

²²³"Farc Profile," *InSight Crime*, 25 August 2016.

²²⁴"ElN Profile," *InSight Crime*, 4 November 2016.

²²⁵David Gagne, "Despite Colombia Accord, a New Rebel Threat Emerges," *ibid.*, 14 September.

Century; however, it was not until the early 1980s that they became institutionalised.²²⁶ With wealthy landholders facing a wave of kidnappings by the guerrillas, self-defence groups emerged; some of them were legally constituted.²²⁷ Soon, however, the self-defence groups began working for drug traffickers as well as the large landholders; they soon focused on protecting drug cargos and other assets, rather than civilians. In 1996, a loose federation of self-defence groups called the AUC was created.

The power of the AUC and other armed non-state actors led to what Nazih Richani calls “fragmented sovereignty”.²²⁸ Richani claims that: “State builders not only had to confront some of the most inhospitable terrain in Latin America...but they also had to contend with severely limited military and extraction capabilities.”²²⁹ The aforementioned story of Mayerlis Angarita helps to encapsulate the brutality of these groups. From 2004 to 2006, the Uribe Administration reached a deal with the paramilitary groups. They agreed to disarm and demobilise; in exchange, the government arranged lenient penalties for their crimes and pledged to help them integrate into society. In reality, the process was a farce. Many demobilised combatants returned to crime, signalling the rise of neo-paramilitary groups.²³⁰

Among the many illegal activities of the paramilitary outfits, past and present, was drug trafficking. From the 1980s until the mid 1990s, Colombia’s cocaine industry was largely controlled by the Medellín Cartel and the Cali Cartel. Unlike the FARC, the drug cartel leaders’ political agendas did not extend beyond consolidating their own personal power bases. Since the dissolution of the cartels the drug trade has become more fragmented.²³¹ Smaller groups specialise in

²²⁶Nazih Richani, "Caudillos and the Crisis of the Colombian State: Fragmented Sovereignty, the War System and the Privatisation of Counterinsurgency in Colombia," *Third World Quarterly* 28, no. 2 (2007).p.404

²²⁷"Auc Profile," *InSight Crime*, 17 November 2015.

²²⁸*Systems of Violence: The Political Economy of War and Peace in Colombia* (New York: SUNY Press, 2002).

²²⁹"Caudillos and the Crisis of the Colombian State: Fragmented Sovereignty, the War System and the Privatisation of Counterinsurgency in Colombia."p.405

²³⁰"Auc Profile."

²³¹Scott H Decker and Margaret Townsend Chapman, *Drug Smugglers on Drug Smuggling: Lessons from the Inside* (Philadelphia: Temple University Press, 2008).

specific aspects of the supply chain, such as production or transport. These groups include, but are not limited to, the neo-paramilitaries.

Ecuador

The bilateral Colombia-Ecuador relationship leading up to the events of March 2008 is key to understanding Operation Phoenix. First, the Colombian internal armed conflict negatively affected Ecuador in three particular ways: the influx of Colombian refugees and migrants into northern Ecuador, the spread of violent conflict itself, and the effect of aerial fumigation of Colombian coca crops close to the Ecuadorean border.²³² In 2007, according to the Centre for Mediation, Peace, and Resolution of Conflict, International, Ecuador hosted “half a million Colombians, the largest refugee population in Latin America”.²³³ This was particularly true in the northern provinces of Esmeraldas, Carchi, and Sucumbíos where the raid took place. These regions are relatively poor compared to the rest of the country, which is reflected in a lack of basic services and high rates of illiteracy. In part, President Correa attributed these phenomena as symptoms of the DSP. In response, the Correa Administration launched Plan Ecuador, a non-military effort to resolve the problems in its northern provinces. The aforementioned spillover effects of the Colombian armed conflict into Ecuador strained the bilateral relationship.

Secondly, the Correa Administration practised a brand of politics that often differed with the objectives of the Uribe Administration and its US ally. For example, from early 2007, the Correa Administration cultivated friendly relations with Iran, antagonising the United States. According to Farah and Simpson: “Ecuador’s central bank entered into a series of agreements with Iranian banks that are sanctioned by both the United States and the United Nations.”²³⁴ Here, we see a

²³²Karoline Popp, "Colombia, Ecuador and Two Plans: An Overview of the Colombian Conflict and Colombian-Ecuadorian Relations," in *CEMPROC Working Paper Series: In peace, conflict, and development* (Center for Mediation, Peace, and Resolution of Conflict, International, 2007).p.4

²³³Ibid.p.5

²³⁴Farah and Simpson, *Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens Revolution*.p.15

clear contrast between Correa Administration's foreign policy and Uribe's *respicere polum*/FPD strategy.

The contrast was also shown on March 22 2007, when Ecuadorean authorities allegedly found two dead FARC guerrillas washed up on a riverbank near the border.²³⁵ The Correa Administration alleged that they were killed by the Colombian Armed Forces, which had violated Ecuador's sovereignty. Colombia's chief diplomat, Fernando Araújo, responded: "since I have been Foreign Minister, I have found nothing but permanent protest and an attitude perceived as hostile," from his Ecuadorean counterparts.²³⁶ President Uribe later reprimanded Araújo for his imprudent remarks.²³⁷ Although the exchange did not escalate, it previewed several elements of the diplomatic crisis that followed a year later: an alleged violation of sovereignty stemming from the presence of FARC guerrillas, mixed messages from the Colombian foreign policy establishment, and a failure to address long-term, systemic problems on the border.

Thirdly, central to the Uribe Administration's justification for Operation Phoenix was the allegation that the Correa Administration was an untrustworthy and corrupted partner in the fight against the FARC. This claim was substantiated after the raid by evidence linking specific members of Correa's government to the FARC. On 30 December 2004, Reyes, after having moved permanently to the border region, received a warning: "Friendly Ecuadoreans officials let me know that the Ecuadoreans know the location of Reyes."²³⁸ The meaning of this missive is ambiguous. It could have served as a warning for Reyes to flee; equally it could have implied that his position was safe because the government did not intent to dislodge him. In either case, the Correa Administration's ability or resolve to dispel the FARC presence in the country was questionable.

²³⁵"Canciller Araujo Refuta Denuncia Sobre Incursión Militar Y Dice a Ecuador Que Presente Las Pruebas," *El Tiempo*, 29 March 2007.

²³⁶"Tras 'Jalón De Orejas' Por Una Declaración Hacia Caracas, Uribe Regaña a Araújo Por Imprudencia Contra Quito," *Semana*, 30 March 2007.

²³⁷Ibid.

²³⁸*Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens Revolution*.p.15

Venezuela

The role of Venezuela is also important to this thesis because of its support of the Correa Administration immediately following Operation Phoenix and its alleged ties to the FARC. Colombia-Venezuela relations were fraught in the years leading up to Operation Phoenix.²³⁹ President Hugo Chávez openly criticised the policies of the United States and its role in the region.²⁴⁰ He also had a conciliatory attitude toward the FARC, believing that they had legitimate grievances. Therefore, Chávez was the antithesis of Uribe in at least two significant ways.

The differences between Uribe and Chávez were expressed, for example, in the case of Rodrigo Granda. In late 2004, Venezuelan officials arrested Granda, a senior FARC leader, their “Foreign Minister”, in Caracas where he was alleged to have been enjoying a comfortable lifestyle.²⁴¹ The officials then transported him across the border, delivering him to Colombian authorities. The Chávez Administration accused the Colombians of bribing a group of Venezuelan National Guardsmen to carry out the arrest, thus violating Venezuela’s sovereignty.²⁴² The Chávez Administration also recalled its ambassador from Bogotá, suspended bilateral accords and sought an official apology. For its part, the Uribe Administration asserted it had the right to offer rewards leading to the capture of guerrillas.²⁴³ It complained that the Venezuelans could have done more to flush out the rebels hiding in its territory. The Bush Administration publicly supported the Colombians and admonished Chávez.²⁴⁴ Yet this should not suggest the relationship between Uribe and Chávez leading up to Operation Phoenix was without moments of cooperation and tactfulness (see Romero).²⁴⁵

²³⁹James Sturcke, "Colombia-Venezuela Relations Head Towards Deep Freeze," *The Guardian*, 27 November 2007.

²⁴⁰"El Coco De La Onu," *Semana*, 23 September 2006.

²⁴¹Juan Forero, "Capture of Rebel Divides Latin American Neighbors," *The New York Times*, 23 January 2005.

²⁴²Ibid.

²⁴³Ibid.

²⁴⁴Ibid.

²⁴⁵Simon Romero, "Leaders of Venezuela and Colombia, Ideological Opposites, Are Tightening Ties," *ibid.*, 19 October 2007.

Operation Phoenix

Operation Phoenix resulted from years of secret collaboration, extraneous to Plan Colombia, between the Uribe Administration and US authorities. An effort from 2003 to find three US hostages held by the guerrillas spawned an additional objective: targeting the FARC leadership.²⁴⁶ According to reporting by the Washington Post in 2013, the Central Intelligence Agency (CIA) and the National Security Agency covertly provided the Colombians with real-time intelligence and GPS guidance kits that improved the accuracy of bombs, rendering them “smart bombs”.²⁴⁷ In late 2007, this technology was used to kill the leaders of the 16th and 37th FARC fronts. While the Colombian Armed Forces carried out the attacks, they “would have to ask approval for some targets, and if they misused the bombs, the CIA could deny GPS reception for future use.”²⁴⁸ It is unknown if the CIA gave, or if the Colombians sought, permission for the Reyes assassination.

Operation Phoenix took place on 1 March 2008. At 12:25, eight Colombian military aircraft launched attacks, from Colombian airspace, on Ecuadorean territory. Colombian helicopters then transported troops into Ecuador, where they exchanged fire with combatants not already killed during the bombing. The mission resulted in the deaths of at least 25 people, including Reyes, 19 other guerrillas, a Colombian soldier, an Ecuadorean and four Mexican students; an undetermined number fled or were injured (accounts differ as to the number of casualties).²⁴⁹ The soldiers seized FARC equipment, including laptops belonging Reyes, which contained archived FARC correspondence. Uribe did not notify Ecuador President Rafael Correa until the raid was already in progress; Uribe claimed that if he had

²⁴⁶Priest, "Covert Action in Colombia."

²⁴⁷Ibid.

²⁴⁸Ibid.

²⁴⁹ Ray Walser, "The Crisis in the Andes: Ecuador, Colombia, and Venezuela," The Heritage Foundation, <http://www.heritage.org/research/lecture/the-crisis-in-the-andes-ecuador-colombia-and-venezuela>.

"Informe De La Comisión De La Oea Que Visitó Ecuador Y Colombia," (Organización de los Estados Americanos, 2008).

"Corte De Ecuador Exonera a Santos Por Ataque a Campamento De 'Raúl Reyes'," *Semana*, 13 May 2016.

notified Correa earlier, then Reyes would likely have escaped.²⁵⁰ The role of the United States was not revealed to Correa or the public. Again, the mission was a quintessential example of the Uribe Administration's FPD and *respice polum* oriented foreign policy.

The FARC Files

Colombia alleged that Ecuador was not only failing to control its own territory but was, at times, actively aiding the FARC. Following Operation Phoenix, the laptops belonging to Raúl Reyes were evaluated by intelligence analysts (for a full, third-party account, see Inkster and Smith).²⁵¹ The Uribe Administration subsequently alleged that the FARC had donated USD100,000 to Correa's first election campaign and received support from officials in the Ecuadorean government. Such figures include Ignacio Chauvín, former under-secretary for political affairs in the Ministry of National Security.²⁵² Prior to government service, Chauvín was an activist for the Simon Bolivar Brigades (BSB) and the Latin American Association of Human Rights. According to the Angostura commission, the BSB was "nothing less than an arm of the CCB, which in turn is the political arm of the FARC".²⁵³ Chauvín admitted to visiting Reyes at least seven times between December 2007 and February 2008. At the time, Chauvín was a friend, collaborator and colleague of National Security Minister Gustavo Larrea.

Larrea himself was identified by Reyes in internal FARC communications as a friendly contact for the guerrilla group, bestowing upon him the codename "Juan". Given his senior position, Larrea had access to classified intelligence as well as influence over government policy regarding the FARC's presence in Ecuador. According to Reyes documents, Larrea conspired with the guerrillas to prevent them being harassed by Ecuadorean authorities. Larrea disputes this but acknowledges meeting with Reyes, allegedly to facilitate the release of FARC

²⁵⁰Uribe Vélez, *No Hay Causa Perdida*.p.265

²⁵¹Inkster and Smith, *The Farc Files : Venezuela, Ecuador and the Secret Archive of 'Raúl Reyes'*.

²⁵²Farah and Simpson, *Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens Revolution*.p.28

²⁵³Francisco Huerta Montalvo et al, "Informe Comision De Transparencia Y Verdad: Caso Angostura," (2009).p.105

kidnap victims.²⁵⁴ The claim that President Correa knew of and supported the presence of FARC camps in Ecuador has never been proven. Nevertheless, the Reyes files vindicated the Uribe Administration's distrust of its Ecuadorean counterparts.

The files retrieved at Angostura also revealed secret relationships between the guerrillas and the Chávez Administration. Chávez allegedly agreed to provide the FARC with USD300 million to boost their military capability.²⁵⁵ In response, the Uribe Administration threatened to take the matter to the International Criminal Court, accusing Chávez of "sponsoring and financing genocide."²⁵⁶ There is thus a very complex story here with important implications for interventionism, national sovereignty and Just Armed Conflict Theory.

Part Two: Applying Just Armed Conflict Theory

"We acted defensively, to protect ourselves from terrorists. We did nothing wrong." Alvaro Uribe²⁵⁷

In Chapter One, I discussed the development of state sovereignty discourse, paying particular attention to Stephen Krasner's conception of sovereignty. I also reviewed the literature of Just War Theory, outlining the *jus ad bellum*, *jus in bello* and *jus post bellum* Just Armed Conflict Theory criteria. The first half of this chapter has already examined Colombia's recent foreign policy history, profiled the key groups, delved into the events leading up to Operation Phoenix and the facts of the raid itself. It is now possible to assess the justifications for Operation Phoenix, put forward by the Uribe Administration, in the context of Just War Theory and the discourse on state sovereignty.

²⁵⁴Farah and Simpson, *Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens Revolution*. p.71

²⁵⁵Inkster and Smith, *The Farc Files : Venezuela, Ecuador and the Secret Archive of 'Raúl Reyes'*.

²⁵⁶"Por 'Patrocinio De Genocidas', Colombia Denunciará a Hugo Chávez Ante La Corte Penal Internacional," *El Tiempo*, 4 March 2008.

²⁵⁷Uribe Vélez, *No Hay Causa Perdida*. p.273

In regard to legitimate authority, Just Armed Conflict Theory analysis places the burden solely on the shoulders of the aggressor, the Uribe Administration. Colombia has a formal democratic political structure; it ostensibly holds free and fair elections. Uribe himself repeatedly stressed Colombia's support of democratic values and the rule of law. It is therefore fitting that this thesis judges the legitimacy of the Uribe Administration's authority with reference to Colombian law and democracy. According to Article 189 of the Constitution, the President has a wide remit in foreign policy:

It is the responsibility of the President of the Republic [to]...Direct international relations...Direct the public force and its disposition as supreme commander of the armed forces...Direct military operations when he/she deems it appropriate...Provide for the external security of the Republic; defend the independence and honour of the nation and the inviolability of its territory.²⁵⁸

However, in many instances, the President must also seek approval from the legislature. Article 189 also stipulates that the President must: "declare war with the approval of the Senate or without such authorisation to repel foreign aggression."²⁵⁹This rule can be overturned during a State of Exception. Article 212 reads: "The declaration of a state of foreign war is made only when the Senate approves the declaration of war, except when in the judgment of the President, it was necessary to repel the aggression."²⁶⁰When the threat is deemed to have passed, the State of Exception is to be lifted.

The Constitution thus provides the President with ample powers to respond to urgent threats, direct and enforce foreign policy. While the legislature has a role in oversight, the Executive can essentially waive these rules in cases, or under the guise, of a national emergency. The war powers section of the Constitution is

²⁵⁸"Colombia's Constitution of 1991 with Amendments through 2005," (1991 (rev. 2005)).

²⁵⁹Ibid.

²⁶⁰Ibid.

highly relevant to protracted interstate wars and crises. The meaning of it is less clear in the case of Operation Phoenix because the raid was not in response to foreign aggression. Moreover, the raid was so quick and with so few casualties that it is not clear it constituted a war.

The Uribe Administration sanctioned Operation Phoenix without the approval of the Senate, without a formal declaration of war and without calling for a State of Exception. Instead, it conducted the intervention in secret. This illustrates the blurred lines between war and covert intelligence operations. The raid to kill bin Laden, mentioned in the introduction to this thesis, is a well-known, quintessential example of this phenomenon. If we regard Operation Phoenix as a war, it failed to meet the necessary constitutional requirements and was therefore illegal. Yet if we see it as something other than war, the Constitution is mostly silent. Anything short of war would fall under the broad heading of international relations, which is directed by the judgement of the President.

Chapter One reiterated that this is not a legal dissertation. Moreover, in explaining Just Armed Conflict Theory, Lango states that the principles ought to be tailored to the specifics of each case study. With this in mind, Operation Phoenix should not be considered a war, as referred to in the Colombian Constitution. Rather, it belongs to a specific kind of short-term military intervention that targets non-state or para-state actors. Other examples of this were raised in the introduction: Botswana in 1985, Nicaragua in the 1980s, Lebanon in 2006, Pakistan in 2011, and Syria in the present day. The conclusion to be drawn is that the Executive had the legal right to authorise the incursion into Ecuador and therefore partially meets the criteria for legitimate authority under Just Armed Conflict Theory.

In addition to domestic legal considerations, the political support for the Uribe Administration is key to the idea of legitimate authority. In 2006, Uribe won re-election by securing 62.2% of the vote; his nearest rival attracted an uncompetitive 22.04%.²⁶¹ His political campaign emphasised his hard-line attitude toward fighting the FARC. Voters could have reasonably expected a second Uribe Administration

²⁶¹"Queremos Una Nación Pluralista':Uribe," *Semana*, 18 May 2006.

to target the FARC leadership for assassination. However, Uribe made no mention of violating the sovereignty of another country to this end. In terms of democratic values, Uribe was a popularly elected president, known for his bellicose stratagem. Any presumption that the Colombian people would approve of a cross-border raid was confirmed shortly after Operation Phoenix. According to *Centro Nacional Consultoria*, 83% of Colombians supported the Reyes assassination.²⁶² The raid also garnered supportive coverage from regional media, which cited the government's legitimacy (see Fuchs and Reyes Posada).²⁶³ When considered alongside his constitutional rights, it can be safely said that President Uribe acted with legitimate authority when he sanctioned Operation Phoenix.

This thesis uses Just Armed Conflict Theory to scrutinise the actions of only the Uribe Administration, but it is also important to note the participation of the United States. As mentioned above, the United States was reported to have had a pivotal role in the raid, possibly even requiring the Colombian Armed Forces to obtain the permission of the CIA to carry out the bombing. If one could prove that the United States acted in the way described by the *Washington Post*,²⁶⁴ a study of its actions in terms of Just War would be justified. While the Uribe Administration had legitimate authority, the same does not necessarily apply to their northern ally. The same goes for the other Just Armed Conflict criteria.

Further to this, it is possible the Uribe Administration sacrificed one kind of sovereignty to the United States in order to secure it and another kind from the FARC. That is, the Colombian government purportedly ceded certain state rights to its coalition partner. One of Krasner's four kinds of sovereignty is domestic sovereignty – the organisation and effectiveness of authority within the state. This corresponds to Hobbesian idea that a true sovereign necessarily has supreme authority regarding internal/domestic affairs. If the Colombian Armed Forces

²⁶²"83 Por Ciento De Respaldo Al Presidente Por Ataque a Campamento De 'Raúl Reyes' Revela Encuesta," *El Tiempo*, 3 March 2008.

²⁶³Gustavo J Fuchs, *Las Garras Del Fenix: La Prensa Latinamericana Durante La Operacion Fenix* (Quito: CIESPAL, 2013).

Alejandro Reyes Posada, "El Derecho De Colombia De Ganar Su Guerra Interna," *El Tiempo*, 4 March 2008.

²⁶⁴Priest, "Covert Action in Colombia."

needed CIA permission to use their “smart bomb” technology, this would be an example of the Colombian state willingly and partly surrendering domestic sovereignty, the aim of which was to, paradoxically, weaken the FARC, the strongest, non-state challenger to the Uribe Administration’s domestic authority. By targeting a senior FARC leader in Reyes, the government would also have been trying to shore up their interdependence sovereignty – a state’s ability to regulate what passes across its borders. This goes to the heart of Krasner’s conception of “organised hypocrisy”. That is, a state can lose sovereignty by invitation as well as via coercion. A state can also cede one type of sovereignty to fortify it and/or another. It is for precisely these reasons that one should be sceptical of casual complaints of a “violation of sovereignty.” The truth, evidently, is more nuanced.

The second criterion, just cause, comprises two requirements: (1) that military intervention must aim to prevent or remedy a wrongful act; and (2) it must be proportional. On the same day as the raid took place, Colombia’s Defence Ministry released a statement offering an explanation. It said that human intelligence sources confirmed the location of Reyes on 29 February, 2008, close to the Ecuadorean border. Shortly after midnight, on 1 March, Colombian helicopters approached the area. At this point, FARC soldiers had crossed into Ecuadorean territory and fired upon the Colombian helicopters. According to the Defence document, the armed forces then returned fire from the Colombian side of the border “having always had in mind the order not to violate Ecuadorean air space,” before crossing into Ecuador to secure the area.²⁶⁵ The next day, 2 March, the Colombian Foreign Ministry sent a message to their Ecuadorean counterparts, which also portrayed the bombing as an impromptu reaction to FARC aggression.²⁶⁶ This account, which conforms to a “hot pursuit” narrative, was untrue and later changed by the Uribe Administration. The implication being that Uribe’s team knew this had the potential to create a serious international incident. On 7 March 2008, delivering a speech in front of regional leaders, Álvaro Uribe amended his administration’s version of events. He reiterated that the military had bombed the FARC camp from

²⁶⁵Ministerio de Defensa, "Comunicado Del Ministerio De Defensa," (2008).

²⁶⁶Gobierno de Colombia, "Respuesta De La Cancillería De Colombia Al Gobierno De Ecuador," (2008).

Colombian airspace and that helicopters then ferried soldiers into Ecuador to secure the area. Uribe discontinued the fiction that the FARC had fled across the border that night and opened fire on the helicopters.

At first, Uribe downplayed the bellicosity of Operation Phoenix. He acknowledged the raid was not ideal and assured his international counterparts that it did not represent a shift in policy toward unilateral military interventions. The Colombian President then displayed ersatz contrition for sending the Colombian armed forces into Ecuador uninvited. It was self-evidently insincere of him to express regret for something and, in the same breath, vigorously defend its necessity.

Uribe's defence was based on a "creative" conception of sovereignty. He said: "It is a violation of sovereignty when there is an incursion into [foreign] territory, and it is a violation of sovereignty when there is an attack against the people." The reference to territorial sovereignty is what Krasner calls Vattelian sovereignty, discussed in the literature review. The high value that nation-states place on Vattelian sovereignty is shown in international law, particularly in Article 2 of the UN Charter and Article 21 of the OAS Charter. However, the claim that an attack against the public from within that self-same society represents a violation of sovereignty is novel.

Using Krasner's model of disaggregated sovereignty, an attack against the people would most closely align with a coercive violation of domestic sovereignty – the organisation and effectiveness of authority within the state. In other words, when the FARC commits an act of rebellion they undermine the Colombian state's ability to rule, to provide law and order. Uribe did not afford these two conceptions of sovereignty equal value. He stated: "To speak of territorial sovereignty, one must also speak of that other expression of sovereignty, more important than the territorial; that is, the right of the people not to be attacked."²⁶⁷ Here, Uribe referred to the notion of self-defence. But he did not clarify which kind of self-defence he is talking about. Did he mean self-defence by disarming a particular guerrilla who planned to attack the Colombian people? Or did he mean the bombing acted as a

²⁶⁷Uribe Vélez, "Intervención Del Presidente Álvaro Uribe Ante Jefes De Estado Del Grupo De Río."

general deterrent to the FARC? Uribe simply portrayed the FARC, and Reyes in particular, as dangerous and allows others to draw their own inferences.

Uribe also framed the raid as one act in a wider campaign to assert the dominance of the state over a country that has long been ravaged by armed non-state actors. He said: “Colombia now has reestablished the monopoly of the state in the fight against crime”²⁶⁸ This statement did not necessarily correspond to the facts but it did illustrate the motives behind the raid, namely to re-affirm and strengthen the power of the state by weakening the FARC. Thus Operation Phoenix was triggered by opportunity, rather than retaliation for, or prevention of, a specific crime perpetrated by the FARC. As indicated earlier in this chapter, the FARC had a long history of violent crimes committed against the Colombian army and innocent civilians.

There was also particular value in killing Reyes, a senior member of the FARC’s Secretariat. In the words of Uribe, Reyes was “one of the most sinister terrorists in the history of humanity”; his death was seen as a military success.²⁶⁹

Notwithstanding that hyperbolic characterisation, Colombian authorities did accuse Reyes of 121 crimes: homicide (57), terrorism (26), kidnapping (25); and causing personal injury (9). He held a pivotal post in the FARC’s organisational structure. Indeed, Reyes had long been groomed to replace the ageing Manuel Marulanda as the FARC’s leader.²⁷⁰ The implication is that Reyes’ death was justice for past crimes and would have undermined the FARC’s ability to commit crimes in the future. Therefore, the first element of just cause – to prevent or remedy a wrongful act – was soundly argued by the Uribe Administration.

This thesis will raise the second issue of just cause – proportionality – in *jus in bello* terms as well as a *jus ad bellum* consideration. Proportionality in *jus ad bellum* refers to the overall decision to launch war; it asks one to reflect on the total carnage of war relative to the injustice that provoked it. The *jus in bello* principle of

²⁶⁸Ibid.

²⁶⁹Ibid.

²⁷⁰Douglas Farah, "The Farc in Transition: The Fatal Weakening of the Western Hemisphere's Oldest Guerrilla Movement," *The NEFA Foundation* (2008).

proportionality refers to specific acts within a broader conflict. Given Operation Phoenix was a single mission that lasted only a few hours, it does not seem beneficial to discuss proportionality twice. Proportionality requires us to weigh the magnitude of the violence caused by the intervention – 25 deaths – against the scale of the threat and past wrongdoing posed by Reyes and his cadre of guerrillas. As mentioned earlier, the decision to kill the guerrillas rather than capture them was deemed warranted. The Colombian armed forces used conventional weapons against the FARC –“smart bombs”. They did not deploy nuclear, biological or chemical weapons; nor did they torture any of the survivors. In this way, the means of the intervention were not unusual or controversial. They were also justified under just armed conflict theory.

Proportionality is commonly raised when innocent people, as well as the guilty, are killed. Governments typically refer to this with the sanitised term “collateral damage”. Apart from the FARC soldiers, the Colombian Armed Forces killed four Mexican students and an Ecuadorean civilian. There is no evidence to support the proposition that the Uribe Administration knew about these people prior to the raid. The location of the camp was deliberately isolated, far away from urban centres. As Uribe told the Rio Group: “We are not bombing the Ecuadorean people; we are bombing a place where there was no civilian population, a camp of sinister terrorists.”²⁷¹ It is therefore reasonable to conclude that the raid met the standard of proportionality.

The third element of *jus ad bellum* in Just Armed Conflict Theory is right intention. The Uribe Administration’s stated objective was to kill Raúl Reyes, a senior FARC commander, as part of a broader strategy to decapitate the FARC leadership with “precision bombing”. Any additional FARC deaths or injury to their cause was welcome, but not the key driver of the mission. By this measure, the Uribe Administration met its obligations under right intention. The actions of the Colombian military did not extend much beyond the bombing (though, they did cross into Ecuador to recover the bodies and seize FARC documents, which is still a transgression of Ecuadorean national sovereignty, no matter how one conceives

²⁷¹Uribe Vélez, "Intervención Del Presidente Álvaro Uribe Ante Jefes De Estado Del Grupo De Río."

it). They did not, for example, leave a residual force, appropriate Ecuadorean resources, claim new territory or target anyone beyond the FARC combatants. Indeed, even Correa and Chávez did not accuse Uribe of doing anything other than target Reyes on foreign soil.

Further to this, President Uribe took responsibility for Operation Phoenix. In his memoirs, Uribe claims he was encouraged to sacrifice a senior member of the national security team in order to secure a resolution to the diplomatic crisis, a show of goodwill and contrition.²⁷² Uribe dismissed this idea, lending full support to his colleagues on the basis that he needed to show loyalty and that the raid was justified.²⁷³ This account is substantiated by the fact that key architects of the raid, such as then-Defence Minister Juan Manuel Santos and General Freddy Padilla, maintained their jobs. Indeed, the Uribe Administration opposed efforts by the Ecuadorean judiciary sought to have these men tried in court.²⁷⁴ In other words, the Uribe Administration did not attempt to portray Operation Phoenix as the result of unruly members of the Colombian Armed Forces or cabinet. Uribe's honesty, in this particular instance, further substantiates the case that his administration adhered to the principle of right intention.

The Uribe Administration is on shakier ground, however, when one considers the principle of last resort. In his justification of the raid, Uribe did not argue Operation Phoenix was aimed at stopping an imminent, specific attack by Reyes. Thus, the raid was not preemptive. Rather, in addition to seeking to punish wrongdoing on the part of the FARC, Uribe implied the raid was to prevent future, unspecified harm against the Colombian people. That is, it was a preventative military intervention, averting an otherwise inevitable strike by Reyes and/or the guerrillas under his command (the logic here is similar to the US assassination of Osama bin Laden).

²⁷²*No Hay Causa Perdida*. p.272

²⁷³*Ibid.*

²⁷⁴"Se Enfria Cita De Mañana Con Ecuador," *El Tiempo*, 14 October 2009.
"A Superar El Impasse," *El Tiempo*, 17 October 2009.

An alternative to Operation Phoenix, a joint strike with the United States, would have been partnering with the Ecuadorean State to capture or kill Reyes. The Uribe Administration accused the Correa Administration prior to the raid of failing to effectively fight the FARC in northern Ecuador. According to Uribe: "From 2004 to date [March 2008], the FARC have produced 40 attacks against Colombia from Ecuadorean territory."²⁷⁵ After the bombing on 1 March, Colombian soldiers seized FARC documents at the camp that ostensibly proved the FARC had been working with elements of the Ecuadorean and Venezuelan governments. This vindicated the Uribe Administration, which had long decried what it saw as a lack of cooperation from its neighbours. In terms of last resort, the connection between FARC, Ecuador, Venezuela is important because it suggests Colombia could not rely on its neighbours to assist in capturing Reyes. What is less clear is whether Correa himself sympathised with the rebels or merely had a flimsy hold over his own functionaries. If the content of the FARC files are taken as true, it is reasonable to accept the Uribe Administration's charge that the Ecuadorean government could not, or would not, capture Reyes. That is, the Colombians would have been warranted in believing that Correa could not be trusted on this matter: if Reyes was to be killed, it had to be done without Ecuador's assistance.

This line of argument was key to the Uribe Administration's defence of Operation Phoenix at the OAS and Rio Group fora. It pertained to the Just Armed Conflict criterion of last resort, but also just cause. Irrespective of whether the Uribe Administration was right in its claims that the Correa and Chávez administrations were secretly aiding the FARC, it is first useful to explore the connection between inculcation and military interventions in Latin America. Even for those who conclude that the cross-border raid was warranted, it is revealing to see how the Uribe Administration used the seized FARC data to instil a negative narrative surrounding Ecuador and Venezuela.

As Gustavo Fuchs suggests in his 2013 analysis of the international media coverage of Operation Phoenix, the Uribe Administration was successful in using the FARC data to discredit the Chávez and Correa regimes. He concludes that, after the raid,

²⁷⁵"Intervención Del Presidente Álvaro Uribe Ante Jefes De Estado Del Grupo De Río."

the press effectively took the veracity of the FARC files at face value. Based on Operation Phoenix and other recent, US-backed military interventions, such as those in Libya and Syria, Fuchs contends that: “The categorisation of a government as dictatorial or terrorist permits the justification of unilateral, international action.”²⁷⁶ From this point of view, linking Correa and Chávez to the so-called FARC “narco-terrorists” was key to the Uribe Administration’s rationale for the raid. Fuchs’ describes a strategy of misdirection based on three components: blaming the Ecuadorean government for the presence of FARC combatants in its territory and implying a friendship between the two, portraying Ecuador and Venezuela as aggressive states that used sovereignty discourse to distract from their misdeeds, and framing the raid as a defensive measure in a hostile region.²⁷⁷

However, Fuchs’ work is undermined by his choice of data collection and transparent distaste for the United States. He studied the reportage of five daily newspapers – two from Costa Rica and one each from Chile, Argentina and Mexico – from the time of the raid until March 2008.²⁷⁸ The need for Fuchs to limit the scope of his study is understandable but it means the reader learns nothing about the role of the media in the countries most involved in the raid and its aftermath: Colombia, Ecuador, Venezuela and the United States. Throughout the book, he portrays the United States as a Mephistophelian entity bent on acquiring resources, such as oil, at the expense of democratic nations who refuse to acquiesce.²⁷⁹ Fuchs’ continual insinuations of US malfeasance at every turn suggests he approached the study from an ideological standpoint. Consequently, he is dismissive of the possibility that the FARC files reflect the truth.

In any case, given their evident importance in the Uribe Administration’s justification for Operation Phoenix, the FARC data merit scrutiny. The Colombian authorities first took custody of the FARC electronic storage devices in the early hours of 1 March 2008. These devices included three laptops, two external hard

²⁷⁶Fuchs, *Las Garras Del Fenix: La Prensa Latinamericana Durante La Operacion Fenix*.pp.138-139

²⁷⁷Ibid.p.81

²⁷⁸Ibid.p.90

²⁷⁹Ibid.

disks and three universal serial bus (USB) drives.²⁸⁰ The Uribe Administration asked INTERPOL to conduct a forensic examination of these devices, which they did, via an Incident Response Team.²⁸¹ The role of the INTERPOL team was to determine the data stored on the devices, find out if the files had been tampered with after falling into the hands of the Colombian officials and to investigate whether the evidence had been handled correctly.²⁸² Critically, it was not the responsibility of INTERPOL to conclude whether or not the content of the files were accurate.

Following an investigation, INTERPOL released a report on the matter, dated May 2008. It found that: the data contained documents, images and videos; the Colombian Judicial Police appropriately handled the data from their receipt on March 3 until their handover to INTERPOL on 10 March; Colombian authorities who had access to the data from 1 March to 3 March, when they were given to the Judicial Police, did not handle the evidence in accordance with internationally accepted principles; and finally, that there was, “no evidence that user files were created, modified or deleted...following their seizure...by Colombian authorities.”²⁸³ Rather than making write-protected images of the data before looking at the content, the Colombians first accessed the files directly. According to INTERPOL, this broke with recognised best practise for handling electronic evidence.²⁸⁴

Despite the uncertainty, one can draw some conclusions based on INTERPOL’s findings. First, there was no evidence proving the Uribe Administration tampered with the FARC data. Secondly, there was no evidence that any of the information contained in the FARC devices was accurate. That is, claims by the FARC, found in the files, that it had been in communication with officials from the Correa and Chávez administrations were not necessarily true. They were the definition of

²⁸⁰“Interpol’s Forensic Report on Farc Computers and Hardware Seized by Colombia,” (INTERPOL, 2008).

²⁸¹Ibid.

²⁸²Ibid.

²⁸³Ibid.

²⁸⁴Ibid.

hearsay. It could have been pure disinformation, the undistorted truth or something in between. Thirdly, it is possible that, especially from 1 March to March 3, the Colombian officials fabricated evidence and successfully covered their tracks. The Uribe Administration used the FARC data to make allegations of covert collusion between the FARC and Colombia's neighbours. Yet, as the INTERPOL report shows, to accept these arguments would require one to simply trust the word of the Uribe Administration. It is impossible to completely verify all of their claims.

To return to the issue of last resort, did Reyes have to be killed or could the Colombians have arrested him? The element of surprise was crucial to the success of Operation Phoenix. When Reyes made camp, he was typically surrounded by rings of bodyguards and scouts who could forewarn him of approaching adversaries. To capture Reyes would have required Colombian armed forces to penetrate these defences without giving him time to flee; they would have had to detain him and smuggle him back across the border. This would have been difficult given the fighting capacity of the FARC and the difficult terrain. The rivers and thick jungles required the guerrillas to travel on foot, by boat, four-wheel drive vehicles, and construct makeshift bridges. One can only speculate, but it seems as though a capture mission would have had a negligible chance of success.

Another alternative for the Uribe Administration was to wait for Reyes to return to Colombian territory before killing him. The fact that the raid took place on foreign soil posed plenty of legal problems. It also provoked a debate about Vattelian Sovereignty. However, it carries less importance in the last resort component of Just Armed Conflict Theory, which is ultimately a heuristic device based on morality, not positive law. It should be remembered that, in several ways, the area around the FARC camp only notionally belonged to Ecuador. Given 85 percent to 90 percent of the local population at the time was Colombian,²⁸⁵ the Ecuadorean State had a limited presence and capacity to govern, and the region held no particular cultural or economic importance. In a non-legal analysis, the relative importance of regions within sovereign territory should be recognised.

²⁸⁵Huerta Montalvo et al, "Informe Comision De Transparencia Y Verdad: Caso Angostura." pp.91-92

A final option was to refrain from attacking Reyes altogether. Last resort requires leaders to employ a military strike only when it is necessary. In the Just War Tradition, necessity is commonly described as preventing an imminent attack or responding to a recent or ongoing attack. This was not the case in March 2008. The broader war was ongoing, but Reyes and his bodyguards did not pose a specific threat at the time of the bombing. (At least, the Uribe Administration did not offer any suggestion or evidence that they posed an imminent threat.) The sanctioning of Operation Phoenix was an unnecessary choice, albeit one that yielded military success for the Colombian Armed Forces.

In the planning stages of Operation Phoenix, the Colombian armed forces believed the raid had a high chance of success, another tenet of Just Armed Conflict Theory. As reported by the *Washington Post*, the military had experimented with US weapons technology on two FARC targets prior to the Reyes strike. On 1 September, 2007, a joint Colombia-United States team killed Tomás Medina Caracas, alias “Negro Acacio”, who served as head of the 16th Front. Six weeks later they assassinated Gustavo Rueda Díaz, also known as “Martín Caballero”, leader of the 37th Front. Furthermore, in 2003 the DEA covertly embedded FARC satellite phones with listening devices. Five years later, these same phones helped Colombian authorities track Reyes to the camp in Angostura. Thus, the available evidence suggests that the Uribe Administration was correct in its judgement that Operation Phoenix had a high chance of success. To reiterate, this criterion goes beyond the “ends justify the means” argument that any wrongs are excused if it leads to a good outcome. Instead, the principle is intended to guard against cavalier risk-taking, gambling with soldiers’ lives in the name of high principles rather than concrete outcomes.

Finally, there is the *jus in bello* consideration of discrimination – making the distinction between combatants and non-combatants. It requires that the Uribe Administration, or rather its functionaries, correctly identified Reyes and his fellow guerrillas *ex ante*, and exclusively targeted them. Apart from Reyes and his Colombian comrades, there were several foreigners present at the FARC camp on the night of the raid. Among them was Franklin Aisalla, an Ecuadorean citizen,

who died in the attack. To date there is uncertainty of Aisalla's role at the FARC camp. Although he likely worked for the guerrillas, anonymous intelligence sources were reported as claiming he was a double agent for the Colombian police who helped locate Reyes.²⁸⁶ After the raid, the Correa and Uribe administrations disagreed over the cause of death. Colombian authorities claimed Aisalla died from injuries sustained in the initial bombardment; their Ecuadorean counterparts cited evidence that he had died afterwards from seven kicks to the back of the head.²⁸⁷ The dispute continued into 2009, when the Ecuadorean government framed Aisalla's death as a murder to be addressed by the courts rather than an act of combat against a guerrilla insurgent.²⁸⁸

This contrasted with the Mexican government's response to the raid. In addition to Aisalla, five Mexican students were at the FARC camp on 1 March 2008; four were killed and one fled injured (two Colombians also escaped from the attack).²⁸⁹ Mexican President Felipe Calderón refrained from speculating on the activities of the students at the camp, collaborated with the Uribe Administration, and ultimately sought compensation for their deaths. Unlike its approach to the Correa Administration, Uribe sought to conciliate the Calderón Administration and considered the possibility of compensation.²⁹⁰ As with the case of Aisalla, there exists disagreement regarding their activities at the camp.

This thesis borrows from Walzer's work, elucidated in the literature review, by classifying both soldiers and people that directly support the fighting, such as civilians providing shelter for the guerrillas, as legitimate targets. The students visiting to the camp had been attending a conference of the BSB, a FARC front

²⁸⁶"Ecuadoriano Muerto En Ataque a 'Raúl Reyes' Sería Agente Doble De Las Farc Y La Policía De Su País," *El Tiempo*, 16 March 2009.

²⁸⁷"Explosión Mató a Ecuadoriano En Bombardeo a Campamento De 'Raúl Reyes', Afirmó Gobierno Colombiano," *El Tiempo*, 7 May 2008.

"Colombia Responde a Ecuador Que Franklin Aisalla Murió Por Ataque a Campamento De 'Reyes'," *El Tiempo*, 26 June 2009.

"Colombia Insiste Que El Ecuadoriano Franklin Aisalla Murió Por Efectos Del Bombardeo a 'Raúl Reyes'," *El Tiempo*, 26 June 2009.

²⁸⁸"Demandan a Colombia Por Muerte De Franklin Aisalla," *El Tiempo*, 12 June 2009.

²⁸⁹"Cancillería Analiza Solicitud De Indemnización De México," *El Tiempo*, 27 March 2008.

²⁹⁰"Colombia Estudia El Pago Que Pide México," *El Tiempo*, 28 March 2008.

"Explicaciones De Uribe Sobre Ataque a Campamento De 'Raúl Reyes' Convencieron a Presidente De México," *El Tiempo*, 16 April 2008.

organisation, in Quito shortly before the raid. According to Farah and Simpson, they were invited to the camp by the FARC.²⁹¹ Whether they assisted the FARC in the fighting or were merely sympathetic to their cause is unknown. According to President Uribe, there were only two acceptable reasons to be at the FARC camp: as hostages of the guerrillas or as part of an authorised humanitarian mission.²⁹²

There was nothing to suggest Aisalla or the Mexicans were either of these. As stated above, given that the Colombian military apparently did not know about students and the Ecuadorean. Years after the raid, Uribe wrote: “Crucially, I was also certain that we could comply with an ironclad rule of my administration: that there be no risks of innocent civilians dying in our air strikes.”²⁹³ If one were to give Uribe the benefit of the doubt, given the absence of contradictory evidence, it could be said that Operation Phoenix met the standard of *jus in bello* discrimination.

To summarise, the Uribe Administration sanctioned Operation Phoenix with legitimate authority based on the political support for its aggressive anti-FARC strategy and the extensive powers afforded to it in the Constitution.

Notwithstanding the mendacious, initial account of the raid and curious perspective on the notion of sovereignty, the Administration correctly identified Reyes as a dangerous man, a senior figure in an armed group engaged in rebellion.

Accordingly, the government met the *jus ad bellum* criterion of just cause. With regard to last resort, the Administration disregarded reasonable alternatives to military intervention on foreign soil. Specifically, it could have waited for Reyes to return to Colombia or left him alone. The Uribe Administration did not make the case that either of these options would have endangered Colombian lives. Even if he remained in Ecuador indefinitely, he posed no imminent threat, which meant Operation Phoenix was a mission of choice rather than necessity. The probability of success was high, based on previous outcomes, fulfilling the final *jus ad bellum* criterion. Due to the isolation of the FARC camp, Operation Phoenix produced few casualties, all of whom were arguably implicated in guerrilla activity. That is, the raid met the *jus in bello* standards of proportionality and discrimination.

²⁹¹Farah and Simpson, *Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens Revolution*.p.35

²⁹²"Explicaciones De Uribe Sobre Ataque a Campamento De 'Raúl Reyes' Convencieron a Presidente De México."

²⁹³Uribe Vélez, *No Hay Causa Perdida*. p.266

CHAPTER THREE: THE AFTERMATH OF THE RAID

This third chapter is concerned with the ramifications of Operation Phoenix. In determining which ways the Uribe Administration was justified (or not) in sanctioning the raid, it is essential to evaluate its consequences for the region. To this end, this chapter is structured into two parts. The first part outlines the domestic reaction to Operation Phoenix, which was overwhelmingly positive. Secondly, there is an outline of the immediate reaction of the international community, with particular attention afforded to Ecuador and Venezuela.

Part One: The domestic reaction

The Uribe Administration garnered widespread, domestic adulation for Operation Phoenix, especially among Colombia's political, military and media elites. While Colombia's national polity has for much of its history been structured into a duopoly between the Liberal and Conservative parties, the political system in 2008 was more fragmented and fluid. The Uribe Administration was supported in Congress by a coalition of parties: Cambio Radical, Partido Social de Unidad Nacional (more commonly known as Partido de la U), Partido Conservador Colombiano (Conservative Party), Alas Equipo Colombia, Convergencia Ciudadana, Colombia Democrática and Movimiento Colombia Viva. The opposition, loosely defined, comprised Polo Democrático Alternativo (Polo) and the Partido Liberal Colombiano (Liberal Party). Smaller, independent parties held the remaining seats in the Legislature. Following Operation Phoenix, the Executive received support from traditional allies as well as opposition groups.

On 2 March, delegates from all political parties represented in Congress gathered at the La Casa Nariño. Liberal Senator Héctor Helí Rojas called the diplomatic standoff a "catastrophe" but concluded that: "in this very difficult moment we have come to tell Uribe that as Colombians 'we are as one, single man'".²⁹⁴ Later, however, Rojas

²⁹⁴"Oposición Manifestó Su Respaldo Al Presidente Uribe En Crisis Diplomática," *El Tiempo*, 3 March 2008.

withheld support for the Uribe Administration's plans to bring charges against Hugo Chávez at the International Criminal Court. Similarly, Polo Senator Jesús Bernal Amorocho supported the raid and criticised the Chávez Administration but thought that ICC action would aggravate the situation.²⁹⁵ Thus, Operation Phoenix failed to rally the main opposition parties against the government. On the contrary, it unified them. Moreover, the opposition to legal action against Venezuela was indicative of the political spectrum in 2008. A brief, limited military incursion might have been acceptable to the Colombian polity but only barely, anything more would have lost bipartisan support.

Cambio Radical leader Germán Vargas agreed with the Uribe Administration, expressing concerns that the FARC had been receiving support from neighbouring countries. President of the Partido de la U Carlos García said that, if the allegations of malfeasance provoked by the FARC files proved to be accurate, Colombia was entitled to feel aggrieved, not Ecuador or Venezuela.²⁹⁶ Following this line, Conservative Party President Efraín Cepeda condemned Chávez for his "irrational actions" and welcomed the involvement of the international community, such as the OAS, to help resolve the dispute.²⁹⁷ As with the Opposition, the Uribe Administration allies in Congress failed to criticise the military incursion into Ecuador. Due to the near unanimity within Colombia regarding the right to violate Ecuador's sovereignty, the debate quickly shifted to determine the extent of the FARC's ties to the Correa and Chávez administrations, and resolving the diplomatic crisis with the same.

Operation Phoenix also attracted condemnation from within Colombia, although typically from groups already critical of the national government. The FARC, unsurprisingly, was at the forefront of these protests. In a press release the day after the raid, the group said the incursion: "not only dangerously strained the relations of this government with the sister republics, but seriously damaged the possibilities of a humanitarian exchange."²⁹⁸ The first of these charges – damaging international

²⁹⁵"Polémica Por Idea De Uribe De Denunciar a Chávez En La Corte," *El Tiempo*, 5 March 2008.

²⁹⁶"Oposición Manifestó Su Respaldo Al Presidente Uribe En Crisis Diplomática."

²⁹⁷"Unánime Apoyo Al Gobierno Uribe," *El Tiempo*, 3 March 2008.

²⁹⁸Secretariado Nacional de las FARC-EP, "Comunicado Sobre La Muerte Del Camarada Raúl Reyes," (2008).

relations – was cynical and hypocritical. The tensions between Bogotá and Quito, including before the raid, had much to do with the FARC. As described in Chapter Two, Uribe and Correa quarrelled over: aerial fumigation in southern Colombia, the US military presence, the flow of refugees across the border, and the activities of the FARC itself. The FARC was either the cause of, or partly responsible for, each of these issues. Even if one judges the FARC cause to be good and just, it cannot be said that constructive relations between the Uribe and Correa administrations were their goal, much less a priority. On the contrary, the FARC desired to isolate the Uribe Administration internationally.

The second of the FARC's criticisms pertained to the release of hostages. At the time, Reyes was allegedly negotiating the release of FARC hostages, including Ingrid Betancourt, a dual French-Colombian citizen. French Foreign Minister Bernard Kouchner said: "It's bad news that the man with whom we were negotiating, with whom we had contact, has died."²⁹⁹ (As it happened, Betancourt and 14 other hostages were rescued by the Colombian Armed Forces four months after Operation Phoenix.)³⁰⁰ The notion that the raid indirectly endangered the lives of the hostages by killing one of the rebel negotiators pertains to the Just Armed Conflict Theory standard of *jus ad bellum* proportionality. That is, the potential harm done to the hostage negotiations would have been a cost for the Uribe Administration to consider. As shown in Chapter Two, this thesis argues the Uribe Administration was proportional in its actions given the importance of Reyes to the FARC and unlikely chance of killing innocents. The fact that the Uribe Administration successfully rescued those particular 15 hostages further lends credibility to its hardline, militaristic strategy against the guerrillas.

The higher echelons of the Colombian Armed Forces and National Police also supported the cross-border raid.³⁰¹ While this might appear to be an obvious point, it should not be assumed that the Colombian army would necessarily support foreign military adventures. As will be explicated in the following section, Latin American militaries have historically directed their force inwardly, largely avoiding interstate

²⁹⁹"Reyes Era El Contacto De Francia Para La Liberación De Betancourt," *La Nación*, 3 March 2008.

³⁰⁰"Gracias a Dios Y a Colombia': Ingrid Betancourt," *El Tiempo*, 2 July 2008.

³⁰¹Uribe Vélez, *No Hay Causa Perdida*. p.263

conflicts. Even though the target of Operation Phoenix was a senior FARC commander, a domestic enemy, the foreign location represented a departure from previous military raids.

In addition to Colombia's political and military officialdom, the print news media also appeared to swing behind the Uribe Administration. The most influential, mainstream, newspapers in 2008 were *El Tiempo*, *El Espectador*, *Semana*, and *El Colombiano*. In the days and months following Operation Phoenix, each published articles in favour of the government's position that foreign intervention was warranted.³⁰² Nevertheless, this thesis is not an investigation of the media, it does not entail systematic appraisal of the media reportage. On this topic, there is currently a gap in the scholarly literature. As shown in the literature review of this paper, most extant analyses of Operation Phoenix centre on the political and legal implications. It remains for future authors to build upon the work of authors like Fuchs and construct an account of how the Colombian media (and that of Ecuador and Venezuela) covered Operation Phoenix. Yet, a summary survey of the print journalism in 2008 suggests the media largely accepted the Uribe Administration's justification for Operation Phoenix.

Part Two: The international reaction

The initial international reaction to Operation Phoenix, particularly from Ecuador and Venezuela, was overwhelmingly hostile. The Correa Administration's outrage focused on two elements: the territorial violation of sovereignty; and allegations that it had surreptitiously allied itself with the FARC. The Correa Administration broke diplomatic relations with Colombia shortly after the raid. On 2 March 2008, Correa recalled ambassador Francisco Suescum Ottati from Bogotá. The administration also imposed new tariffs on trade from Colombia. On 3 March and local media reported that the Correa Administration had deployed 3200 troops to the Colombian border. The move coincided with President Chávez's decision to also mobilise the military. The

³⁰²Reyes Posada, "El Derecho De Colombia De Ganar Su Guerra Interna." "Editorial," *Semana*, 4 March 2008.

Ernesto Yamhure, "Los Amiguitos De Los Terroristas," *El Espectador*, 7 March 2008.

"Hay Que Cogerle La Caña a Chávez," *El Colombiano*, 9 June 2008.

Uribe Administration declared it would not send troops of its own to match the movements of its neighbouring countries.

Throughout, these actions were mirrored by wrathful denunciations of the Uribe Administration. On 6/7 March 2008, regional leaders spoke on the matter during a forum of the Rio Group. At the summit, Correa said: “Stop trying to justify the unjustifiable and openly acknowledge that you have no right to attack Ecuador...and dismantle this fallacy about the FARC that not even you believe Mr Uribe.”³⁰³ After trading criticisms, Correa and Uribe shook hands. Correa said: “With the commitment of never attacking a brother country again and by asking forgiveness, we can consider this very serious incident resolved.”³⁰⁴ The handshake was important but did not signal a genuine rapprochement. Rather than a show of forgiveness, the Rio Group meeting demonstrated that the Correa Administration would not retaliate militarily.

Diplomatic ties between the two countries were only fully reestablished in the final months of 2010. This might have been spurred by the fact that the Ecuadorean economy was suffering from the conflict as well as that of Colombia. In addition to this, in October 2009, a judge from Sucumbios issued an arrest warrant for Colombians General Freddy Padilla and Defense Minister Juan Manuel Santos. The warrants were lifted weeks later due to political necessity. Thus, the Ecuadorean response to Operation Phoenix was drawn-out and mixed.

Similarly, Venezuela also condemned the breach of Ecuador’s sovereignty as well as accusations it had secretly helped the FARC. Venezuela’s permanent representative to the OAS, Jorge Valero, sought a supportive declaration from the group. Using rhetoric analogous to his President, Valero said: “the government of Colombia lies shamelessly... We are in the presence of a genocidal guerrilla action.”³⁰⁵ In addition to fiery rhetoric, the Chávez Administration threatened retaliatory attacks on Colombia if another mission, similar to Operation Phoenix, were perpetrated against Venezuela. On his weekly television program “Aló, Presidente”, Chávez said:

³⁰³"In Quotes: Rio Summit Sparring," *BBC NEWS*, 8 March 2008.

³⁰⁴Ibid.

³⁰⁵"Sesión De La Oea Permanence En Receso Mientras Se Estudia Posible Resolución Contra Colombia," *El Tiempo*, 3 March 2008.

Mr Defence Minister, move for me 10 battalions (500 men in each) to the Colombian border immediately, the air force is to be deployed, we do not want war but we will not permit the North American empire to come and divide and weaken us.³⁰⁶

Former Venezuelan Defence Minister Raúl Isaias Baduel, who left the portfolio only two months prior to the raid, believed these manoeuvres were intended to provoke a reaction from Bogotá.³⁰⁷ In other words, from his view, the mobilisation of the armed forces was bait rather than a bluff. At the time, local press coverage also covered the events as though interstate war was a genuine possibility,³⁰⁸ that is, the heightened tensions immediately following Operation Phoenix should not be understated. Further to this, Chávez expelled Colombia's ambassador and other diplomats.³⁰⁹

In late 2010, evidence emerged that the Uribe Administration had plans to conduct a raid, similar to Operation Phoenix, inside Venezuelan territory. A secret US document from the embassy in Bogotá, dated January 28, 2008, and released by Wikileaks, revealed that Uribe compared the threat of Hugo Chávez to that of Adolf Hitler. Uribe was quoted in the document as saying to visiting US lawmakers that: "the best counter to Chávez...remains action, including use of the military."³¹⁰ The purpose of this military action was to capture rebel leaders hiding in Venezuela. It is unknown how the US officials responded.³¹¹ The Wikileaks revelation substantiates Chávez's stated fears in March 2008 that Colombia might have been considering a violation of Venezuela's Vattelian sovereignty.

It would be erroneous to assume that, following the diplomatic fallout from the Ecuador raid, the Uribe Administration foreclosed any future, unilateral strikes against

³⁰⁶Pedro Pablo Peñaloza, "Chávez Cierra Embajada Y Moviliza 10 Batallones Colombia Se Excusó Con Ecuador Por Incursió," *ibid.*

³⁰⁷"Oposición Venezolana Acusa a Chávez De Traición a La Patria," *ibid.*, 4 March.

³⁰⁸Eduardo Pizarro Leongómez, "La Guerra Imposible," *ibid.*, 21 May.

³⁰⁹Waisberg, "The Colombia-Ecuador Armed Crisis of March 2008: The Practice of Targeted Killing and Incursions against Non-State Actors Harbored at Terrorist Safe Havens in a Third Party State."

³¹⁰"Colombian 'Military Plan for Farc'," *Al Jazeera*, 12 December 2010.

³¹¹*Ibid.*

its neighbours. On 13 August 2012, Uribe claimed: “We obtained new evidence of guerrilla camps in Venezuela. I had three options: Make the allegations [public], stay quiet, and the other option was a military operation in Venezuela. I lacked time.”³¹² Shortly after these remarks were made, Chávez retorted that Uribe: “didn’t lack time, he lacked balls.”³¹³ There are two possible interpretations of this acerbic exchange. Either it meant there was a real possibility Colombia would have militarily intervened in Venezuela or that Uribe was simply using the freedom of his post-presidency to throw shade on an old foe.

The response of the Chávez Administration to the Reyes raid was heavily shaped by both Venezuela’s domestic and international circumstances in 2008. Changes to Venezuela’s constitution in 1999 expanded the power of the Executive at the expense of the central bank, the media, the judiciary and sub-national governments. According to Mijares, Chávez and his party: “enjoyed almost unfettered dominance over politics and the state.”³¹⁴ Secondly, the price of oil increased from USD9.80 per barrel in 1998 to USD133 per barrel in 2008.³¹⁵ As a major oil exporter, these prices resulted in large windfalls for the Venezuelan state. Lastly, Chávez’s tenure in high office coincided with growing multipolarity in the world, evidenced, for example, by the increased economic clout of China and the assertiveness of Vladimir Putin’s Russia.³¹⁶ The weight of these non-western nation-states provided the Chávez Administration with freedom to balance against the power of the United States. These three factors support the contention that, in 2008, the Chávez Administration had maximum flexibility in its foreign policy and therefore felt able to take a conspicuous stand against the Uribe Administration’s violation of Ecuador’s territorial sovereignty.

Each of the aforementioned factors are, by their nature, non-permanent. Current Venezuelan President Nicolás Maduro does not enjoy all the advantages of his

³¹²“Parlamento Venezolano Rechaza Declaración Injerencista De Uribe,” *El Espectador*, 14 August 2012.

³¹³“Hugo Chávez: A Uribe “Le Faltaron Cojones” Para Intervenir En Venezuela,” *El Espectador*, 15 August 2012.

³¹⁴Víctor M Mijares, “Venezuela’s Post-Chávez Foreign Policy,” *Americas Quarterly* 9, no. 1 (2015).p.77

³¹⁵Ibid.

³¹⁶Ibid.p.78

predecessor. By 2015, the price of oil had more than halved from 2008, fiscally constraining the state.³¹⁷ Moreover, the country is plagued by rising inflation, food shortages, high levels of crime, power outages, and social unrest.³¹⁸ Due to these factors, inter alia, the Maduro Administration is more likely to react to international events than pursue an expansive foreign policy similar to that of the Chávez years. While Maduro wouldn't necessarily brook a violation of Venezuelan sovereignty by Colombia, his options would nonetheless be limited. In other words, the Chávez Administration's reaction to Operation Phoenix should not be seen as inevitable or natural; rather it was, at least in part, a product of the particular circumstances of his presidency in 2008.

In addition to Ecuador and Venezuela, left-wing Nicaraguan President Daniel Ortega also broke diplomatic ties with Colombia in retaliation for Operation Phoenix. The Ortega Administration explained that the move was intended to show solidarity with Ecuador.³¹⁹ For its part, the Uribe Administration accused Ortega of hypocrisy.³²⁰ As noted in the introduction to this thesis, the Nicaraguan armed forces intervened in Honduras in the 1980s to attack rebel bases. While it is reasonable for national governments to change policies over time, it is revealing that Colombia and Nicaragua, in opposition to each other in 2008, both regarded sovereignty in a similar way. That is, Vattelian sovereignty is sacred, except for situations when it interferes with the government's wishes. Put differently, sovereignty discourse is used to mask political motives; it is not treated as a guiding principle. The two countries agreed to re-establish diplomatic ties at the Rio Group summit.³²¹ That the diplomatic dispute lasted only a week suggests the move was more akin to a stunt than a serious policy imperative.

Other regional states and international organisations were also critical of the raid, but recognised the need for an investigation into the alleged ties between the FARC and the governments of Ecuador and Venezuela. The major multilateral organisations

³¹⁷Ibid.p.79

³¹⁸William Finnegan, "Venezuela, a Failing State," *The New Yorker*, 14 November 2016.

³¹⁹Edufio Peña, "Ortega Rompe Relaciones Y Calienta Cita De 20 Países," *El Tiempo*, 7 March 2008.

³²⁰Colombia Y Ecuador Zanjaron Crisis Diplomática Con Apretón De Manos En Grupo De Río," *ibid.*, 6 March.

³²¹Nicaragua Formaliza Reanudación De Relaciones Diplomáticas Con Colombia," *El Tiempo*, 12 March 2008.

involved in the dispute were the OAS and the Rio Group. The OAS, which includes the United States, has a Charter to which all member states pledge to obey. The Rio Group does not include the United States, has neither a charter, nor a permanent staff; it consists of annual meetings among the heads of state of participating nation-states. On 7 March 2008, the Rio Group issued a declaration that called for peace and stability: “We reject this violation of the territorial integrity of Ecuador. . . . We note, with satisfaction, the full apology that President Alvaro Uribe offered the Government and people of Ecuador.”³²² The declaration did not openly excoriate the Uribe Administration for its actions, nor did it address the allegations that the Correa and Chávez Administrations had covertly cooperated with the FARC.

On 17 March 2008, the OAS commission that investigated the raid released its report. It found that, *inter alia*, Operation Phoenix violated Article 21 of the OAS Charter, which forbids any kind of military occupation against a member state for whatever reason. The commission concluded that the raid: “constitutes a violation of sovereignty and territorial integrity of Ecuador and of principles of international law.”³²³ Further to this, it urged the peaceful resolutions of political tensions and improved cooperation between Ecuador and Colombia.

The Rio Group declaration and OAS report, both expressions of political opinion in Latin America, are interesting because of what they omitted. Both failed to strongly condemn the Uribe Administration’s actions, instead favouring meek reaffirmations of the principle of territorial inviolability. Appropriate to their functions, neither group issued a legal ruling. The legality of Operation Phoenix, and the accusations of conspiracy against Correa and Chávez, remained contested. Finally, the morality of Operation Phoenix was never raised as an issue; the crisis was seen in the context of international law and geopolitics – averting interstate war. This reinforces the contention of this thesis that a discussion of Just Armed Conflict Theory is valuable insofar as it addresses a gap in the debate, contributing to a wider understanding of Operation Phoenix.

³²²Grupo de Rio, "Declaración De Santo Domingo."

³²³ "Informe De La Comisión De La Oea Que Visitó Ecuador Y Colombia," (Organización de los Estados Americanos, 2008).p.14

The United States, which, as shown in Chapter Two, had a pivotal role in Operation Phoenix, offered a different response to the crisis. The White House released a statement of support for the Uribe Administration. On 4 March, President Bush stated: “America fully supports Colombia’s democracy, and that we firmly oppose any acts of aggression that could destabilise the region... America will continue to stand with Colombia as it confronts violence and terror.”³²⁴ Here, “acts of aggression” can be taken to mean potential retaliation against Colombia following the 1 March raid. US Ambassador to the OAS, Robert Manzanares ascribed the blame to the FARC: “It is the FARC, rather than any member state here that has undertaken repeated incursions and infringements of national sovereignty.”³²⁵ Again, this is a reference to the FARC’s violation of the interdependence and Vattelian sovereignty of both Ecuador and Colombia. By moving freely across nation-state borders, the guerrillas had demonstrated the weak control of the governments over the area. For absolute clarity, Manzanares continued: “We fully support the efforts of the Colombian government and President Uribe to respond to this threat.”³²⁶ With this, the United States committed itself to a minority opinion in the region – that the Uribe Administration was right to militarily intervene in Ecuador to rout FARC guerrillas.

Peripheral players, namely Canada and the Bahamas, adopted a neutral stance following the cross-border intervention. Dominican Republic President Leonel Fernández, Chilean President Michelle Bachelet, Mexican President Felipe Calderón, and Brazilian President Luiz Inazio Lula da Silva all offered their services to broker a diplomatic resolution to the political crisis.³²⁷

CHAPTER FOUR: AVOIDING AN INTERSTATE WAR

³²⁴Bailliet, "The "Unrule" of Law: Unintended Consequences of Applying the Responsibility to Prevent to Counterterrorism, a Case Study of Colombia's Raid in Ecuador." p.193

³²⁵Ibid.

³²⁶Ibid.

³²⁷Sandra Borda, "'La Cumbre Demostró Que El Mecanismo Sigue Funcionando'," *Semana*, 7 March 2008.

"Alcance De La Crisis," *ibid.*, 3 March.

This chapter tests and expands on the arguments of Jorge M. Battaglini, who proposes five explanations for why an interstate war in the Andes did not materialise following the raid. The second component of the chapter assesses the resolution of Operation Phoenix and the subsequent diplomatic crisis in terms of *jus post bellum* principles; that is, was the peaceful resolution of political sabre-rattling morally justified?

Part One: The basis for peace

One way to explain why neither Ecuador nor Venezuela decided to escalate the crisis is to explore what a war with Colombia would have entailed. In short, an interstate conflict in the Andes, regardless of who achieved the upper hand, would have crippled the economies and militaries of each nation-state; the potential for subsequent political backlash was also a strong possibility. Battaglini lists five explanatory factors: the congruence of state and nation, the focus on domestic threats among Latin American militaries, the tradition of peaceful resolutions in the region, economic interdependence, and the limited capacity of the armed forces of Ecuador and Venezuela to prosecute an international war. Others, such as Ridauto Lucio Fernandes, further substantiate parts of this hypothesis.

A structural determinant of war that might explain the reaction to Operation Phoenix is what Benjamin Miller describes as an incongruence between state and nation.³²⁸ As noted in the literature review, the nation is related but distinct from the state, often expressed as the cultural nation versus the political state. A nation can comprise a political community, bound by shared language, culture, religion, political beliefs or mutual safety. A nation does not necessarily fit neatly within the borders of a nation-state. The Kurds, for example, are currently agitating for their own nation-state and concomitant self-determination. The Kurdish people live in parts of Turkey, Iraq, Syria and Iran. Moreover many other communities choose to identify themselves in ways other than their nationality. In the Kurdish parts of the Middle East, and elsewhere, there is a low level of congruence between the state and the nation. According to Miller's theory, this would at least partly explain the ongoing violence in that region.

³²⁸Benjamin Miller, *States, Nations, and the Great Powers: The Sources of Regional War and Peace* (Cambridge: Cambridge University Press, 2007).

Battaglino argues there is a high degree of agreement between state and nation in South America. For example, no South American nation-state was founded or dissolved as a result of violence in the 20th Century; changes to territorial borders were minimal. In each of the three countries involved – Colombia, Ecuador and Venezuela – alternative forms of identification, such as ethnicity, religion, or secessionist movements never posed a threat to the state. Even the violent armed groups in Colombia see themselves as belonging to the same nation as their enemies. The FARC, for instance, claims their struggle is an act of patriotism; they aim to transform Colombia rather than divide it.

The implication of nation/nation-state balance is best demonstrated by a hypothetical example. Suppose that the FARC led a separatist movement in the eastern and southern regions of Colombia. The people of this movement would self-identify more with others in Venezuela and Ecuador than with their fellow Colombians. In this instance, it is plausible that the Correa and Chávez administrations would have had greater incentive and capacity to conduct a military retaliation against Colombia. The invasion of eastern Ukraine by pro-Russian separatists in 2014 is an example of such a situation. The presence of locals sympathetic to the government of Vladimir Putin has been recognised by analysts as a factor, though not the main driver, in the annexation of Crimea.³²⁹ That comparable conditions were not present in the case of Colombia is a credible, partial explanation for the peaceful resolution of tensions following Operation Phoenix.

A second explanation is the traditional role of the military in South America. Historically, the militaries of Colombia, Venezuela and Ecuador have been focused on domestic threats. This is most clearly shown in the case of Colombia where the military has for decades fought against guerrilla groups and, at times, paramilitary and organised crime groups. Battaglino contends that the internal armed conflict leads to a strengthening and expansion of the armed forces, giving the military establishment greater power. Centeno and Martin refer to this as an “elitist calculation”.³³⁰ The

³²⁹Roy Allison, "Russian 'Deniable' Intervention in Ukraine: How and Why Russia Broke the Rules," *International Affairs* 90, no. 6 (2014).p.1285

³³⁰Centeno, *Blood and Debt: War and the Nation-State in Latin America*.

transformation of the Colombian military under the Uribe Administration supports this argument. Targeting an external enemy could also bolster the power of the military but with a greater risk of failure. The defeat of Argentine forces at the hands of the British in the Falklands War in 1982 demonstrated this. Furthermore, South American militaries wield considerable influence over the civilian leadership. Thus, not only did the military leaders in Ecuador and Venezuela have strong incentives to avoid an interstate war, they were well placed to block any warlike moves by their presidents. To clarify, Operation Phoenix does not count as such a war because the Colombian military never intended to engage with Ecuadorean forces.

A third contributing factor to the absence of war was the tradition of interstate peace in Latin America. Battaglino contends this is due to “a combination of shared values, rules, formal and informal institutions” that undermine the chances of war.³³¹ For example, on resolving territorial disputes, Colombia, Ecuador, Venezuela, and others used arbitration processes 151 times between the 1820s and 1970.³³² This would indicate that the principle of peaceful resolution of disputes listed OAS Charter is largely adhered to in practice and therefore constitutes a well-established international relations norm in the region. Over the last five decades, neither Colombia nor Venezuela entered into any major international war; Ecuador fought Peru over border disputes in 1981 and 1995. Overall, Centeno finds: “No matter how measured, Latin America appears remarkably peaceful.”³³³ Clearly, if Venezuela or Ecuador had retaliated militarily against Colombia it would have represented a notable departure from regional norms.

For Sandra Borda, the aftermath of Operation Phoenix demonstrated the effectiveness of regional fora, such as the Rio Group. Borda stated: “the summit was a moment of diplomatic catharsis, absolutely necessary for the presidents.”³³⁴ The forum provided

Felix Martin, *Militarist Peace in South America* (New York: Palgrave, 2006).

³³¹ Jorge M Battaglino, “¿Réquiem Para La Guerra En La Región Andina?: Límites Al Conflicto En Las Relaciones Entre Colombia Y Venezuela,” *Revista SAAP: Sociedad Argentina de Análisis Político* 3, no. 3 (2009), p.572

³³² Kalevi J Holsti, *The State, War, and the State of War* (Cambridge: Cambridge University Press, 1996), p.156

³³³ Centeno, *Blood and Debt: War and the Nation-State in Latin America*, p.37

³³⁴ Borda, “La Cumbre Demostró Que El Mecanismo Sigue Funcionando’.”

regional leaders with space to air their disagreements, reach a compromise on the wording of the joint declaration, and state their intentions. The Rio Group was a successor to the Contadora Group, which Colombia and others created in the 1986. By implication, the lack of this kind of political architecture and shared history would have increased the likelihood of an armed response to Operation Phoenix.

The notion of an enduring, influential tradition of interstate peace in Latin America is supported by the rise of the Union of South American Nations (UNASUR) in 2008. While the Rio Group and OAS were instrumental in calming tensions immediately after Operation Phoenix, neither prevented the standoff in the first place nor the protracted aftermath. According to Chipman and Smith, this impelled South American states to seek better ways to address security interests in multilateral institutions.³³⁵ The South American Community of Nations was created in 2004; in 2007, the group changed its name to UNASUR; on May 28, 2008, 12 states signed UNASUR's Constitutive Treaty.³³⁶ UNASUR comprises: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela; all member-states also belong to the OAS. Both institutions are independent of one another. UNASUR was originally conceived as a tool of industry cooperation, focusing on infrastructure and integration; however, it has a complex institutional design and does not adhere to a particular integration model.³³⁷ In Brazil, shortly after the Reyes assassination, the administration of Luiz Inácio Lula da Silva, commonly referred to as "Lula", proposed the creation of a security arm of UNASUR, the South American Defense Council (*Consejo de Defensa Suramericano*— CDS).³³⁸

³³⁵John Chipman and James Lockhart Smith, "South America: Framing Regional Security," *Survival* 51, no. 6 (2009).p.79

³³⁶José Briceño-Ruiz, "From the South American Free Trade Area to the Union of South American Nations: The Transformations of a Rising Regional Process," *Latin American Policy* 1, no. 2 (2010). Detlef Nolte and Wehner L, "Unasur and Regional Security in South America," in *Regional Organisations and Security: Conceptions and Practices*, ed. Stephen Aris and Andreas Wenger (London: Routledge, 2013).

³³⁷Brigitte Weiffen, Leslie Wehner, and Detlef Nolte, "Overlapping Regional Security Institutions in South America: The Case of Oas and Unasur," *International Area Studies Review* 16, no. 4 (2013). .p.377
Miriam Gomes Saraiva, "The Brazilian Soft Power Tradition," *Current History* 113, no. 760 (2014). p.67

³³⁸Weiffen, Wehner, and Nolte, "Overlapping Regional Security Institutions in South America: The Case of Oas and Unasur."p.377

Since 2000, the Brazilian government has preferred to augment its influence by partnering with fellow South American states; by promoting UNASUR, the Lula Administration both downgraded the importance it placed on the Rio Group and counterbalanced the US-led OAS.³³⁹ UNASUR's architects drew heavily on the security ideas and practices of the OAS, resulting in some overlap;³⁴⁰ however, it remains a sub-regional challenge to the OAS.³⁴¹ The overall purpose of the CDS is to consolidate the continent as a region of peace and democracy.

Like the UN and OAS charters, the CDS Statute lists principles of sovereignty that are often contradictory. Article 3 stipulates that the Council shall have: "Unrestricted respect for the sovereignty, integrity and territorial inviolability of the States, non-intervention in their internal affairs;"³⁴² that is, unqualified support for Vattelian sovereignty. However, Article 3 also reaffirms: "the full force of democratic government systems and protection of the same in defence matters in the event of threats...rejection of the presence or actions of illicit armed groups that exercise or promote violence".³⁴³ Thus, there is also a provision for nation-states to attack armed groups, such as the FARC. It is far from certain, given the wording of its own Statute, that the CDS would have achieved anything more than the Rio Group or OAS regarding Operation Phoenix.

Regarding UNASUR, the legacy of Operation Phoenix is enigmatic. On the one hand, it substantiates Battaglino's contention that Latin American states are actively in favour of establishing cooperative traditions of interstate peace. However, the CDS contains no mechanism that suggests it would have been a forum in which the Uribe Administration would have cooperated with the Correa Administration. The incentives and costs of launching a military intervention are unchanged by the new presence of UNASUR's CDS.

³³⁹Saraiva, "The Brazilian Soft Power Tradition."p.68

³⁴⁰Weiffen, Wehner, and Nolte, "Overlapping Regional Security Institutions in South America: The Case of Oas and Unasur."p.371

³⁴¹Ibid.

³⁴²*Statute of Unasur South American Defense Council*, (December 11).

³⁴³Ibid.

A fourth explanation is the high degree of difficulty in conducting war. The prospect of Venezuela or Ecuador launching a successful military strike against Colombia, even with modest objectives, would have been uncertain due to geography, the strength of the Colombian armed forces, and their own limited capabilities.³⁴⁴ Much of the 2219 kilometre Colombia-Venezuela border is difficult to cross due to thick jungle, rivers and marshes, slowing down the pace of ground forces.³⁴⁵ In some areas, the dense vegetation would hamper satellite and radio communications. Moreover, southeast Colombia is sparsely populated and has few valuable military targets. The best access routes between the two countries are in the central and northern parts of the border that are connected to the highway system.³⁴⁶ The Colombia-Ecuador border shares many of the same problems for potential invaders, exemplified by the enduring presence of the FARC in northern Ecuador.

The strength of the Colombian military, relative to its neighbours, must also be considered. Battaglino cites Military Power Review, a Brazilian organisation that measures militaries around the world, according to which there was close military parity between Venezuela and Colombia in 2008.³⁴⁷ Their modest naval forces were essentially equal; Venezuela enjoyed slightly superior air power; Colombia's army was larger and better trained due to decades of experience fighting insurgents.³⁴⁸ Notwithstanding Venezuela's shortcomings, Colombia's defences would have been severely undermined by its preoccupation with the FARC and other armed non-state actors. Ridauto Lúcio Fernandes, a military strategist, estimated that a foreign invasion would have sapped 50 per cent of the Colombian army's combat power.³⁴⁹ Moreover, additional forces would have been sent to the southern border to protect against a

³⁴⁴Jorge M Battaglino, "¿Réquiem Para La Guerra En La Región Andina?: Límites Al Conflicto En Las Relaciones Entre Colombia Y Venezuela," *Revista SAAP: Sociedad Argentina de Análisis Político* 3, no. 3 (2009).p.576

³⁴⁵Farah, "Lessons Learned from the Campaign against the Farc in Colombia."

³⁴⁶Ridauto Lúcio Fernandes, "Colombia, Ecuador Y Venezuela: Enseñanzas Estratégicas De La Crisis Fronteriza," *Boletín Elcano* 104, no. 7 (2008). p.3

³⁴⁷Battaglino, "¿Réquiem Para La Guerra En La Región Andina?: Límites Al Conflicto En Las Relaciones Entre Colombia Y Venezuela."p.576

³⁴⁸Ibid.

³⁴⁹Fernandes, "Colombia, Ecuador Y Venezuela: Enseñanzas Estratégicas De La Crisis Fronteriza."p.5

potential offensive by the Ecuadoreans.³⁵⁰ Finally, an important variable was the position of the United States, given its considerable military strength. At the time, the Bush Administration was already committed to two unpopular land wars in the Middle East and South Asia; it is unknown how it would have balanced its Colombian alliance with other military priorities.

The difficulties in launching an armed attack on Colombia in response to Operation Phoenix can be assessed through hypotheticals. Had they chosen to respond militarily to Operation Phoenix, Venezuela or Ecuador could have done so in a number of ways. Fernandes war-gamed three potential scenarios. They assume Venezuela as the prime mover with potential backing from Ecuador. The first plan, which this thesis calls Option A, is aggressive but falls short of a shooting war. Under Option A, Venezuela would dispatch its troops to the Colombian border, use oil revenues to fund an arms buildup, invest in further covert support for the FARC, openly lobby the international community to try and legitimise their cause, and galvanise the Venezuelan people using nationalist rhetoric.³⁵¹ Option B would entail all of the above, but Venezuela would also deploy light infantry across the southern part of the border, send in “heavy forces” through two narrow corridors in the north in Blitzkrieg style attacks against the Colombian army, and deliver military hardware to the FARC. Venezuelan forces, possibly with Ecuadorean support, would withdraw within days to minimise their exposure to a potential US-backed counterattack.³⁵² Option C is a long-term, sustained version of Option B.³⁵³ Rather than trying to inflict massive destruction on the Colombian army and thereby helping the FARC in their struggle, Venezuelan forces would instead commit to toppling the Uribe Administration in Bogotá. Each scenario is more outlandish than the last, but they illustrate what could have happened if Chávez had followed through on his threats. These hypothetical scenarios are interesting to consider, but they were never really an option. Sabre-rattling by Chávez was nothing more than that –more for domestic consumption to illustrate his patriotism to his fellow Venezuelans. At the end of the day, Ecuador, Colombia and Venezuela, in spite of

³⁵⁰Ibid.

³⁵¹Ibid.

³⁵²Ibid.

³⁵³Ibid.p.6

occasional tiffs, are relatively good neighbours with more in common than their differences.

Battaglino's fifth and final explanation for the peaceful resolution of the diplomatic crisis is economic interdependence between Colombia and its neighbours. At the time of the raid, bilateral commerce between Colombia and Venezuela was estimated to be USD6 billion.³⁵⁴ During the 18 months before and after Operation Phoenix, investment and trade between the two countries increased. The low cost of transport and high degree of complementarity underpin regional economic interdependence. Ecuador also benefits from trade with Colombia. In 2009 the Correa Administration removed tariffs on Colombian imports after it became clear the measures hurt Ecuador more than Colombia.³⁵⁵

From a historical perspective, it should not be surprising that the feud between Colombia and her neighbours did not escalate to a major, inter-state war. Compared to other regions in the world, Latin America has seen few large-scale wars between nation-states. On this notion, Centeno's *Blood and Debt* provides a useful starting point for explaining the absence of war. Centeno comes from the bellicist school of thinking, pioneered by Charles Tilly, who finds a causal link between war-making and state-making. According to Tilly, who is cited by Cameron Thies, successful state-building stems from four actions: (1) the state makes war to eliminate or neutralise external threats; (2) the state eliminates or pacifies domestic threats; (3) the state protects domestic actors that support its rule; (4) the state finances these activities by extracting resources from the people.³⁵⁶ Here, the presence of a clearly identifiable external threat is key to galvanising the state and consolidating its power. While Tilly focused his analysis on the early European states, Centeno applies the bellicist theory to Latin America.

³⁵⁴Hernando Salazar, "Vecinos Con Fuertes Lazos Comerciales," *BBC Mundo*, 28 November 2007.

³⁵⁵Battaglino, "¿Réquiem Para La Guerra En La Región Andina?: Límites Al Conflicto En Las Relaciones Entre Colombia Y Venezuela."p.578

³⁵⁶ Cameron G Thies, "War, Rivalry, and State Building in Latin America," *American Journal of Political Science* 49, no. 3 (2005).p.452

Centeno attempted to explain the relative lack of interstate conflict in the region and why so-called strong states did not develop from the few wars that did occur. On the causes of peace, he identified state incapacities as a major factor. This included poorly organised bureaucracies, weak militaries, and hazardous geography. Second, Latin Americans were rarely divided along lines of belligerent nationalism. Instead, conflict tended to be strongest between intrastate factions, such as religion, class, or loyalty to local elites. Lastly, national militaries throughout the continent were inwardly focused, attending to perceived domestic threats in the absence of conspicuous, external enemies. Stanislav Andreski had previously reached a similar conclusion, expounding on how the internal use of military force hinders a state's ability wage international war.³⁵⁷ While Centeno examined early Latin American states, these factors, particularly state incapacity and the importance of domestic threats, were echoed in 2008, as shown above.

Regarding the second question, the poor consolidation of Latin American states, Centeno discerned two explanations. According to his analysis: "enough of an institutional/administrative core must exist prior to war for it to serve as a stimulus for administrative development."³⁵⁸ In Latin America, most of the international conflicts occurred when the states lacked sufficient capacity to reap the benefits of war Tilly described. Furthermore, in the case of civil wars, fighting rarely resulted in decisive wins. Rather than gaining strength on the back of vanquished competitors, the victors were mostly left with poorly functioning national governments. Centeno's central thesis is that Latin America's limited wars were financed by foreign loans and led to mass bloodshed, "blood and debt", a form of violent peace.³⁵⁹ Fernando López Alves, cited by Thies, reaches a similar finding: that Latin American states took on foreign debt rather than using the national army to enforce taxation.³⁶⁰ If one accepts these arguments in the context of Colombia, there are implications for Operation Phoenix and its aftermath.

³⁵⁷Stanislav Andreski, "On the Peaceful Disposition of Military Dictatorships," *The Journal of Strategic Studies* 3, no. 3 (1980).

³⁵⁸Centeno, *Blood and Debt: War and the Nation-State in Latin America*. p.275

³⁵⁹Ibid. p.35

³⁶⁰Thies, "War, Rivalry, and State Building in Latin America." p.453

The Uribe Administration sanctioned Operation Phoenix due to the previously mentioned fragmented sovereignty. Since the end of the Cold War, the territory-related conflicts in Latin America have more commonly arisen from weakened sovereign control, not as part of a foreign policy expansionism.³⁶¹ This speaks to the Ecuador raid, but also to the Democratic Security Policy (DSP) generally because it emphasised the importance of neutralising the threat of domestic threats, namely the guerrillas. From this point of view, the relationships between the Uribe Administration and neighbouring states is depreciated. So long as there is internal, armed struggle in Colombia, there is potential for it to pervade the border regions. One could also conclude that, notwithstanding developments since the early days of Colombia's independence, the logic presented by Centeno has relevance to the events of 2008 and since.

At the time of writing, the Santos Administration is in the process of winding down the war with the FARC, which brings uncertain prospects for Colombian foreign policy. It remains to be seen if, and to what degree, the peace deal translates into a reduction in violence and a strengthening of the Colombian state. If, in the long-term, the national government does neutralise the threat of domestic, armed non-state actors, two possibilities could emerge. One is military contestation with other states. Currently, any territorial ambitions Colombia might have are suppressed by the exigencies of the civil war. However, if it neutralises all serious, internal threats, Colombia could have the capacity to challenge Ecuador and Venezuela in a more direct way than in 2008.

The second, and more likely, outcome is peaceful, interstate contestation among in South America. There is evidence that the Santos Administration has shifted away from the DSP, which produced Operation Phoenix, to a less ideological foreign policy.³⁶² For example, the Administration entered into the Pacific Alliance (PA), alongside Chile, Peru and Mexico. The PA is an alternative to Brazilian-led economic initiatives, such as Mercosur. This contrasts with the Uribe Administration's preference

³⁶¹Edgardo A Manero, "Strategic Representations, Territory and Border Areas: Latin America and Global Disorder," *Geopolitics* 12, no. 1 (2007).p.32

³⁶²Daniel Flandes and Rafael Castro, "Institutional Contestation: Colombia in the Pacific Alliance," *Bulletin of Latin American Research* 35, no. 1 (2016).p.79

of leveraging its friendship with the United States to balance against Brazil's influence. The Santos Administration has also sought to normalise relations with Venezuela.

Part Two: Jus Post-Bellum

The final section of this chapter assesses the international reaction to Operation Phoenix by using modified *jus post bellum* criteria in the context of Just Armed Conflict Theory. The standards to be met by nation-states that seek to end hostilities are: just cause for termination of the war, right intention, public declaration and legitimate authority, discrimination, and proportionality. As noted in the literature review, the Just War Tradition assumes that war is sometimes necessary; it can be preferable to continue a war rather than accept an unjust peace. Typically, *jus post bellum* applies to the victor state because it controls the terms of the peace. It is not clear this is appropriate in the case of Operation Phoenix because Colombia, the supposed victor, withdrew within hours and did not seek to alter the status quo by redrawing territorial boundaries for instance. However, *jus post bellum* is a useful way to analyse the actions of the Correa and Chávez administrations. That is, if the armed raid was as egregious as they claimed, was it not morally incumbent upon them to respond in kind? It also relates to the *jus ad bellum*, which I used in Chapter Two, to examine Colombia's actions. Specifically, if the reaction by Ecuador and its supporters was predictable, it bolsters the argument that Operation Phoenix was proportional and had a reasonable chance of overall success. Conversely, if the Colombians had thought the raid would provoke an interstate war, the raid would have been a more dangerous, and potentially unwise, course of action.

As noted above, what follows is an unconventional use of *jus post bellum*. Moreover, as explained in the literature review, just armed conflict theory requires its practitioners to acknowledge the particularities of their case studies. That is, one should not apply one rigid set of just war criteria to every conflict; a more insightful analysis results from a customised theory. To this end, I will employ the *jus post bellum* principles in an inverse way. Rather than asking if the Uribe Administration was right in ending hostilities, for example, this thesis queries why Correa did not respond and whether he held back the armed forces with right intention. It also asks whether an armed response could have abided by the tenets of discrimination and proportionality. The principles of

public declaration and legitimate authority are not considered because they do not add insight to the international reaction to Operation Phoenix.

In this variation of just cause, the Ecuadorean state had to have reasonably defended and vindicated the rights of the victims against whom the aggressor directed its force. In this case, most of the victims were not Ecuadoreans; 20 were FARC guerrillas and four were Mexican students. Only one victim was from Ecuador and he could plausibly have been described as combatant due to his mere presence at a secret guerrilla outpost. In terms of casualties, Operation Phoenix resulted in minimal harm against Ecuador. Nor did the raid hurt the Ecuadorean economy, destabilise its politics, loosen international recognition of the state, or interfere with the Correa Administration's then capacity to control transborder movements. In other words, to refer back to Krasner's disaggregation of sovereignty, Operation Phoenix was solely a violation of Vattelian sovereignty. It was not a breach of domestic, legal or interdependence sovereignty. The principal grievance was wounded national pride.

The just war tradition has a focus on tangible consequences, such as deaths, injuries, infrastructure destroyed and displaced populations. From Augustine to Suárez, from Aquinas to Elshtain, national embarrassment and frustration do not qualify as grounds for war in Just War Theory. Thus, the cause to retaliate militarily would rest on vindicating the rights of the fallen Ecuadorean citizen. A military strike would therefore have been completely disproportional. There has never been an example in the history of the Just War Tradition where the death of one person justified interstate war.

For its part, the Chávez Administration had no legitimate cause to launch a military strike. Its sovereignty had not been violated in any way by Operation Phoenix. Chávez declared that he was willing to go to war if the Colombians carried out a similar mission in Venezuela. Given this did not happen, Chávez had no reason, in the context of Just Armed Conflict Theory, to ignite hostilities.

The principle of right intention asks us to examine the motives behind the Correa Administration's restraint. At the Rio Group and OAS, after the raid took place, the

Correa Administration reaffirmed its support for Vattelian sovereignty. Unlike the Uribe Administration, the responsibility of the government to protect the public did not outweigh the notion of nation-state territorial inviolability. As noted in Chapter One, it is impossible to ascribe motive to action. The best we can do is see if the actions of political leaders correspond to their public rationales. In this case, Correa showed right intention by withholding military force in accordance with his professed support for Vattelian sovereignty.

Two other likely motives, which Correa did not elucidate, were the military weakness of his country and an absence of just cause. Part Two of this chapter discussed the various ways it could have responded militarily; each presupposed Venezuelan participation. The devastation would have been immense, militarily and economically, for all three nation-states. Furthermore, the material injury to Ecuador from Operation Phoenix was minimal. Uribe made clear there would not be a repeat performance, nullifying the notion that Correa faced an ongoing or imminent threat. That is, while Correa appealed to principles of international harmony and cooperation, the reality is he had minimal military strength and political capital to carry out a retaliatory strike even he had wanted to.

In terms of discrimination, the Correa Administration targeted those most responsible for Operation Phoenix, namely President Uribe, Defense Minister Santos and General Padilla. It publicly denounced Uribe in international fora, such as the Rio Group and OAS. The judiciary, believed to have been influenced by the Administration, issued arrest warrants for Santos and Padilla. Furthermore, Correa correctly identified the United States as a participant in the raid and excoriated it. The Administration did not seek to punish the individual soldiers that carried out the raid, nor did it seek to punish the Colombian people in general. The effects of these measures are debatable. In any event, the Administration largely met the discrimination standard by directing its response to the Colombian political and military leadership. The corollary is that a military reaction would likely not have been as discriminating.

In summary, Operation Phoenix does not lend itself to a straightforward *jus post-bellum* analysis. Yet it does serve as a useful framework to examine the immediate foreign policy implications of Operation Phoenix. Despite the rebuke from the Correa

Administration and the sabre-rattling from the Chávez Administration, an application of the *jus post-bellum* criteria suggests that they were morally justified in withholding military force. Due to the negligible damage to Ecuador, Correa did not have just cause to sanction a reciprocal strike. The Correa Administration showed right intention by adhering to the norm of nation-state non-interference. Finally, it aimed its displeasure at those most responsible for Operation Phoenix. Therefore, as Correa met all three of the applicable *juspost bellum* criteria, we can conclude the reaction of his administration was morally justified in terms of the Just War Tradition. Although the diplomatic crisis was resolved peacefully, the foreign policy implications for the region were mixed. The acrimonious relationship between the Uribe Administration and its neighbouring counterparts continued up until Uribe left office in 2010.

CONCLUSION

In the wake of Operation Phoenix, the Correa Administration complained its sovereignty had been violated. This issue seemed to revolve around a contest between the sanctity of sovereignty versus the right of nation-states to go to war. This is a topical debate and has been heavily studied in recent decades. The advocacy and criticism of the R2P doctrine is a prominent example. Defenders of sovereignty often trace its origins to the Peace of Westphalia, ostensibly marking the dawn of the current world order, dominated by nation-states. Defenders of military intervention commonly cite geopolitical and humanitarian imperatives. There is truth in both arguments, but as this thesis shows in the opening chapter, the dichotomy is misleading. First, there is evidence that the Peace of Westphalia did not signal the beginning of the nation-state system, much less establish the principle of territorial inviolability. Rather, the rise of the nation-state followed the Industrial and French Revolutions and spread to Latin America during the era of colonisation. Christian Wolff and Emmeric de Vattel were among the first to expound the notion of territorial sovereignty in political discourse. Stephen Krasner, to cite one of many, demonstrated that sovereignty can be seen in various ways, such as his quadri-conception of it: domestic, legal, interdependence and territorial. Thus, sovereignty discourse is contested and multi-dimensional; references to Westphalia are misplaced.

Secondly, attempts to justify military interventions in terms of international law and realpolitik often reflect opportunism, rather than considered positions. International law, with the UN Charter a prominent example, can be self-contradictory. When one nation-state invokes self-defence and the other describes it as shameless aggression, there is no arbiter, no legitimate world policeman. The UN has a role to play, but its ability to act is undercut when there is no consensus among its member states. Realist theories are also useful, exhibited by their wide use in international relations, but rate too low the importance of making moral decisions. Due to this gap, the Just War Tradition occupies an important place in foreign policy discourse.

Just Armed Conflict Theory is not a checklist of criteria that determines whether a military intervention is right or wrong. It is not based on moral absolutes; it presupposes that justice and morality are subjective. It merely prioritises certain lines of argument. A just war argument, for example, must explain how a certain action is proportional, rather than stating unequivocally how much a life is worth. In other words, to argue Operation Phoenix was right or wrong is to miss the point. To construct armed conflicts as binary contests between sovereignty and just war can be useful and admit nuanced positions. The development of R2P shows this. However, there is also room for the Just War Tradition. Just Armed Conflict Theory is essential because it disaggregates the arguments for war. Some moral standards might be met, others not. Justice is not singular; each Just War Theory criterion speaks only for itself. The just war structure therefore forces the reader to acknowledge all points of an argument rather than selectively focus on the strongest or weakest components.

The utility of Just Armed Conflict Theory

In terms of Colombian foreign policy, Just Armed Conflict Theory is most applicable to presidents that pursue Forced Pacification Diplomacy (FPD) strategies to secure peace. Of the three approaches designated by Tokatlian, only FPD corresponds to leaders who deliberately violate Vattelian sovereignty. In Negotiated Peace Diplomacy (NPD), foreign states are used to help broker peace with internal enemies. Under Neutralising Diplomacy (ND), uncooperative states are ignored or wooed, they are not attacked. Therefore, the Just War Tradition is most applicable to governments like the Uribe Administration, which worked under the *respice polum* doctrine at a time when

the United States wanted to defeat both drug trafficking and terrorism with military force.

The Just Armed Conflict Theory is useful both for reflection on past events and forward planning. In this paper, I have used Just Armed Conflict Theory to analyse a particular event in 2008. It served as a way to make a nuanced judgement about a multi-faceted military intervention. This is significant for observers of Colombian politics and those who craft its public policy. More importantly, however, Just War Conflict Theory can, and must be, applied to other conflicts around the world. Operation Phoenix is an illuminating example of how wars can be fought against non-state actors because of how the FARC is structured and the dynamic that Richani calls the Colombian “war system”.³⁶³

As shown in the second chapter of this thesis, the FARC of 2008 is similar to many armed non-state actors that currently pose security threats around the world in that it has employed a combination of guerrilla fighting, terrorism and organised crime. The FARC has also conducted international relations with individuals and groups from Ecuador, Venezuela, Spain, Ireland, Nicaragua, El Salvador and elsewhere. It has done so to advance its political and military agendas and build ideological coalitions. This is comparable to the activities of groups that make headlines in 2016, such as ISIS, Boko Haram, Hezbollah, AQ, al-Shabaab, the al-Nusrah Front and the ELN. Despite glaring differences, each of these groups also blends elements of insurgency, terrorism and crime, augmented by international connections.

Secondly, the structure of the Colombian armed conflict in 2008 has similarities with wars, past and present, in other parts of the world. That is, violent non-state or para-state actors attacking one country frequently use neighbouring territory as safe havens. As I noted in the introduction, this was evident in the Contras war against the Sandinistas in Nicaragua, anti-apartheid operators in Botswana, and jihadis in Pakistan. The second and fourth chapters of this thesis demonstrated that Just Armed Conflict Theory is a potent tool in assessing an action to thwart the FARC. It follows that it could also be useful to judge past and potential military interventions that are similar.

³⁶³Richani, *Systems of Violence: The Political Economy of War and Peace in Colombia*.

One of the conclusions of this thesis, then, is that Just Armed Conflict Theory could be applied to a wide variety of cases and has relevance to contemporary international relations. This would complement the already growing body of literature that examines larger conflicts using theories from the Just War Tradition.

The texts of major contributors to the Just War Tradition, such as Augustine, are timeless because they are protean, not static or simple; their meanings change depending on the reader. They can be taken as lessons in morality just as they can be linked to the changing political discourse of state sovereignty. This makes Just War theories difficult to interpret and craft; they demand our participation. In turn, we are rewarded when we can draw meaning from them, rather than being fed an easy script. Applying Just Armed Conflict Theory, and other products of the Just War Tradition, helps to free the mind from dogma and received wisdom.

According to the Just War Tradition, war can only be completely morally justified when all of the Just War Theory criteria are met. Yet this is problematic because, given the ample room for interpretation, no one stands as the supreme arbiter of whether a just war criterion has been met or not. Furthermore, the wars and conflicts of the past, including Operation Phoenix, suggest that the nature of armed struggle is difficult to discuss in absolute terms. Consequently, it is rare to see any conflict in which, by anyone's standards, all of the criteria are satisfied.

Perhaps a better question to pose, when assessing a past or prospective war, is: how justified is such a confrontation? That is: to what degree or in what ways is any particular war justified? This raises further complications, as one is forced to weigh the relative importance of each just war principle. If an aggressor nation-state acts with legitimate authority, does that mitigate a lack of *jus in bello* proportionality? As noted earlier in this thesis, the Just War Tradition does not lend itself easily to quantified conclusions. To enter the variables of a war into an equation using just armed conflict principles would likely generate an interesting but vastly flawed result.

Having already taken the nuances into consideration, just war theorist Michael Walzer guides us to an overall appraisal of Operation Phoenix. Walzer introduces *Just and Unjust Wars* by expressing an intention to arm ordinary citizens with the tools to argue

about war. For Walzer, Just War Theory is meant to be accessible for the entire citizenry, not only the intelligentsia. Moreover, there are occasions when it is not enough to acknowledge the complexities of war. If voters are to choose between two candidates for high office, one in favour of a particular military action, the other against, they must be able to reach an overall conclusion as to the morality of the choice. To this end, perhaps it is simpler to refer to the foundation that underpins Walzer's *jus ad bellum* principles: safeguarding the survival of a political community (even his concept of *jus in bello*, which is based on the sanctity of the rights of individuals, can be superseded by "supreme emergencies"). That is, did the survival of the Colombian people as a political community require the assassination of Reyes? This thesis has shown that the raid was one of a series of setbacks for the FARC in 2008 and may have hastened its journey to the negotiating table. Yet it was hardly crucial to the war effort, much less the survival and continuation of the Colombian state. Operation Phoenix was, in many ways, a morally permissible military intervention – it met most of the Just Armed Conflict criteria – but also unnecessary.

This was demonstrated in Chapter Two, which found that the Uribe Administration failed the *jus ad bellum* test of last resort. In the context of the Colombian armed conflict, there were other morally acceptable and strategically credible options available to the Uribe Administration. It could have waited for Reyes to return to Colombian territory before killing him, avoiding the diplomatic backlash; it could have cultivated better relations with the Correa Administration, making long-term bi-national cooperation against the FARC a reality; it could have notified the Correa about the location of Reyes, pressuring him to adopt a more resolute stand against the guerrillas. The Uribe Administration's decision to sanction Operation Phoenix can be convincingly defended on moral grounds with recourse to several elements of the Just War Tradition but, all told, this does not mean it was morally just.

The legacy of Operation Phoenix

Operation Phoenix was part of a wider, successful campaign to undermine the FARC. In broad terms, it was part of the Uribe Administration's militaristic strategy to defeat the FARC. In narrower terms, it confirmed the value of using "smart bombs" and GPS tracking technology to target the FARC leadership. The raid took place during a time

of hardship for the FARC. Along with Reyes, two other members of the FARC Secretariat died. Manuel Marulanda suffered a heart attack. Ivan Ríos's bodyguards betrayed him, cutting off one of his hands and presenting it to Colombian authorities as evidence of his death. During the first five months of 2008, 869 FARC combatants deserted the rebel outfit; 500 were killed and 460 captured. The surrender of Nelly Avila Moreno, alias "Karina", was among the most high-profile desertions. Her decision came as a result of military pressure from the Colombian army and a fear that she would be betrayed by her protectors, as happened to Ríos.³⁶⁴ In July, 2008, the Uribe Administration celebrated another high profile victory – the rescue of Ingrid Betancourt and other FARC hostages. This thesis did not prove that the Reyes assassination led to these setbacks, only that it compounded a particularly bleak year for them.

This paper has not investigated any possible causal links between Operation Phoenix and the peace process that began in August 2012. At the very least, however, the raid was a significant event that contributed to a transformation within the FARC, particularly its leadership and military strength. The disposition of the Secretariat was crucial to bringing the FARC to negotiating table with the Santos Administration. Furthermore, the diminished fighting capacity of the FARC was a source of leverage for the Colombian government's negotiators. Therefore, it is likely that the assassination of Reyes, to some extent, added to the commencement of the peace talks and possibly even to their outcome.

Conversely, it should be remembered that Operation Phoenix did not, on its own, imply an inevitable drift towards a political solution to the armed conflict. Following the deaths of Reyes, Marulanda and Ríos, the FARC selected Alfonso Cano as its leader; Alvaro Uribe continued to serve as President until the end of his term in 2010. Both leaders had little appetite for peace talks due to a variety of factors (each, for example, had seen loved ones murdered by the other side). The peace process was only publicly announced by Santos more than four years after Operation Phoenix. Therefore, the impact of Reyes's assassination on the armed conflict was real, but also limited.

³⁶⁴ Farah, "The Farc in Transition: The Fatal Weakening of the Western Hemisphere's Oldest Guerrilla Movement."p.8

Ironically, the lack of cooperation from the Correa Administration, which drove the argument for Colombian military action, was only exacerbated by Operation Phoenix. By jeopardising its relationship with neighbouring countries, Uribe guaranteed resistance to policies that might help in the fight against the FARC over the long-term, such as intelligence sharing. Paradoxically, the death of Reyes triggered a collapse in diplomatic relations between Colombia and its neighbours, which was a key strategic goal for the guerrillas. True, Ecuadorean officials were not reliable partners in 2008, but the Reyes assassination made it difficult, politically, for the Correa Administration to engage in better bilateral cooperation with Colombia.

Notwithstanding the attention Operation Phoenix brought to Sucumbíos, FARC guerrillas continued to operate in that region for many subsequent years. Five years after Operation Phoenix, for example, Ecuadorean authorities reported two confrontations with Colombian rebels in the same week.³⁶⁵ Later that year, the Ecuadorean army engaged likely FARC rebels not far from where Reyes was killed. According to InSight Crime: “the FARC maintains a permanent presence in Ecuador, but this presence is increasingly camouflaged, with rebels no longer wearing uniforms and openly carrying weapons, but moving around in civilian dress, and living among the border communities.”³⁶⁶ Evidently, Reyes’ death did little to deter the FARC from camping near the border. As explained in Chapter Two, this can be attributed to the success of the Colombian Armed Forces in pushing the guerrillas far away from major urban areas, but it was also no doubt due to an astute perception by the FARC that after the outcry over the Colombian military incursion into Ecuadorean national space, the Colombian government, now under a more moderate leader, would not do the same thing again in a hurry.

Operation Phoenix also had ramifications for the Chávez Administration and its ties with the FARC and Uribe Administration. First, the revelations from the FARC files put political pressure on Chávez to withdraw support for the guerrillas. Secondly, the

³⁶⁵Miriam Wells, "Ecuador Battles Farc, 5 Years after Death of Raul Reyes," *InSight Crime*, 28 March 2013.

³⁶⁶Jeremy McDermott, "Shootout on Colombia-Ecuador Border Claims 6 Lives," *ibid.*, 9 August.

posturing by Hugo Chávez following the raid exposed Venezuela's spindly military capabilities. Many of the tanks that were sent to the border did not reach their destination. It therefore seems likely that Venezuela would have had difficulty in carrying out military strikes against Colombia, as mapped out by Fernandes, And in any case, this never really was a serious option.

Finally, the prospect of another raid in the region is highly unlikely; in the eight years since Operation Phoenix there has not been another cross-border incursion. This has everything to do with the findings of the Rio Group. Borda contended: "The declaration is a legal precedent for the next interactions between the countries in the region."³⁶⁷ The OAS declaration, as well as the work of the commission which investigated the facts of the raid, also support this conclusion. Thus, ironically, Operation Phoenix might have actually strengthened the Vattelian norm of non-intervention among nation-states in the region over the long-term.

³⁶⁷Borda, "'La Cumbre Demostró Que El Mecanismo Sigue Funcionando'."

BIBLIOGRAPHY

- "83 Por Ciento De Respaldo Al Presidente Por Ataque a Campamento De 'Raúl Reyes' Revela Encuesta." *El Tiempo*, 3 March 2008.
- "Al Qaeda Splinter Group Declares Islamic 'Caliphate'." *Reuters*, 29 June 2014.
- "Alcance De La Crisis." *Semana*, 3 March 2008.
- Allison, Ewen, and Robert K Goldman. "Belligerent Status." *Crimes of War*, <http://www.crimesofwar.org/a-z-guide/belligerent-status/>.
- Allison, Roy. "Russian 'Deniable' Intervention in Ukraine: How and Why Russia Broke the Rules." *International Affairs* 90, no. 6 (2014): 1255-97.
- Alsema, Adriaan. "False Positives." *Colombia Reports*, 14 August 2012.
- . "Farc Fronts (Map)." *Colombia Reports*, 17 June 2012.
- . "Parapolitics Scandal." *Colombia Reports*, 5 July 2012.
- Alston, Philip. *Informe Del Relator Especial Sobre Las Ejecuciones Extrajudiciales, Sumarias O Arbitrarias*. United Nations: Human Rights Council, 2010.
- Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso, 1983.
- Andreski, Stanislav. "On the Peaceful Disposition of Military Dictatorships." *The Journal of Strategic Studies* 3, no. 3 (1980): 3-10.
- Aquinas, St Thomas. "Summa Theologiae." In *Le Droit De Juste Guerre*, edited by Yves de la Briere. Paris: Pedone, 1933.
- Ashley, R.K. "Untying the Sovereign State: A Double Reading of the Anarchy Problematique." *Millennium - Journal of International Studies* 17, no. 2 (1988): 227-62.
- "Auc Profile." *InSight Crime*, 17 November 2015.
- Aviles, William. "Us Intervention in Colombia: The Role of Transnational Relations." *Bulletin of Latin American Research* 27, no. 3 (2008): 19.
- Bagley, Bruce Michael, and Juan Gabriel Tokatlian. "Colombian Foreign Policy in the 1980s: The Search for Leverage." *Journal of Interamerican Studies and World Affairs* 27, no. 3 (1985): 35.
- Bailliet, Cecilia. "The 'Unrule' of Law: Unintended Consequences of Applying the Responsibility to Prevent to Counterterrorism, a Case Study of Colombia's Raid in Ecuador." In *Security: A Multidisciplinary Normative Approach*, edited by Cecilia Bailliet. Leiden: Brill | Nijhoff, 2009.

- Bartelson, J. *A Genealogy of Sovereignty*. Cambridge: Cambridge University Press, 1995.
- Battaglino, Jorge M. "¿Réquiem Para La Guerra En La Región Andina?: Límites Al Conflicto En Las Relaciones Entre Colombia Y Venezuela." *Revista SAAP: Sociedad Argentina de Análisis Político* 3, no. 3 (2009): 567-80.
- Beaulac, Stéphane. *The Power of Language in the Making of International Law the Word Sovereignty in Bodin and Vattel and the Myth of Westphalia*. Leiden & Boston: Martinus Nijhoff Publishers, 2004.
- Betancur, Belisario. *Una Sola Paz*. Bogota: Imprenta Nacional de Colombia, 1983.
- Biersteker, Thomas J, Cynthia Weber, David Strang, Naeem Inayatullah, Alexander Murphy, Roxanne Lynn Doty, Michael Barnett, *et al.* *State Sovereignty as a Social Construct*. Edited by TJ Biersteker and C Weber Cambridge: Cambridge University Press, 1996.
- Bodin, Jean. "Four Chapters from the Six Books of the Republic." In *Bodin: On Sovereignty*, edited by Julian H Franklin. Cambridge: Cambridge University Press, 1992.
- Borda, Sandra. "'La Cumbre Demostró Que El Mecanismo Sigue Funcionando'." *Semana*, 7 March 2008.
- Boucher, David. *Political Theories of International Relations* Oxford: Oxford University Press, 1998.
- Boutros-Ghali, Boutros. "Empowering the United Nations." *Foreign Affairs* 71, no. 5 (1992): 89-102.
- Bouvier, Virginia M. *Colombia: Building Peace in a Time of War*. Washington: United States Institute of Peace Press, 2009.
- Briceño-Ruiz, José. "From the South American Free Trade Area to the Union of South American Nations: The Transformations of a Rising Regional Process." *Latin American Policy* 1, no. 2 (2010): 208-29.
- Brittain, James J. *Revolutionary Social Change in Colombia: The Origin and Direction of the Farc-Ep* London: Pluto Press, 2010.
- Brough, Michael W, John W Lango, and Harry van der Linden. *Rethinking the Just War Tradition*. Albany: SUNY Press, 2007.
- Brown, Seyom. *International Relations in a Changing Global System: Toward a Theory of the World Polity*. Boulder: Westview, 1992.

- Bull, Hedley. *The Anarchical Society: A Study of Order in World Politics* London: Macmillan, 1977.
- Bush, George W. "President Delivers State of the Union Address " In *The President's State of the Union Address* Washington, DC, 2002.
- Calvin, J. *Institutio Christianae Religionis*. The Library of Christian Classics. Edited by John T McNeill Philadelphia: Westminster Press, c1960.
- "Canciller Araujo Refuta Denuncia Sobre Incursion Militar Y Dice a Ecuador Que Presente Las Pruebas." *El Tiempo*, 29 March 2007.
- "Cancillería Analiza Solicitud De Indemnización De México." *El Tiempo*, 27 March 2008.
- Carroll, Leah Anne. *Violent Democratization: Social Movements, Elites, and Politics in Colombia's Rural War Zones, 1984-2008*. Notre Dame: University of Notre Dame Press, 2011.
- Case Concerning Armed Activities on the Territory of the Congo: (Democratic Republic of the Congo V. Uganda)*, (2005).
- Case Concerning the Military and Paramilitary Activities in and against Nicaragua (Nicaragua V. United States of America)*, (1986).
- Centeno, Miguel Angel. *Blood and Debt: War and the Nation-State in Latin America*. University Park: The Pennsylvania State University Press, 2002.
- Chávez Frías, Hugo. "Statement by H.E. Hugo Chavez Frias, President of the Bolivarian Republic of Venezuela." *Law and Business Review of the Americas* 12, no. 4 (2006): 431-36.
- Chipman, John, and James Lockhart Smith. "South America: Framing Regional Security." *Survival* 51, no. 6 (2009): 77-104.
- Chomsky, Noam. *Just War Theory*. U.S. Military Academy, West Point, 2006.
- "Colombia's Constitution of 1991 with Amendments through 2005." 1991 (rev. 2005).
- "Colombia Estudia El Pago Que Pide México." *El Tiempo*, 28 March 2008.
- "Colombia Insiste Que El Ecuatoriano Franklin Aisalla Murió Por Efectos Del Bombardeo a 'Raúl Reyes'." *El Tiempo*, 26 June 2009.
- "Colombia Responde a Ecuador Que Franklin Aisalla Murió Por Ataque a Campamento De 'Reyes'." *El Tiempo*, 26 June 2009.
- "Colombia Y Ecuador Zanjaron Crisis Diplomática Con Apretón De Manos En Grupo De Río." *El Tiempo*, 6 March 2008.
- "Colombian 'Military Plan for Farc'." *Al Jazeera*, 12 December 2010.

"Colombian Minister Terms Chavez's Request for Farc Recognition "Outrageous"."

BBC Monitoring Americas, 11 January 2008.

Corey, David D, and J. Daryl Charles. *The Just War Tradition: An Introduction*.

Wilmington: ISI Books, 2012.

"Corte De Ecuador Exonera a Santos Por Ataque a Campamento De 'Raúl Reyes'."

Semana, 13 May 2016.

Cowell, Alan. "U.S. Recalls South Africa Envoy in Response to Raid on Botswana; 16

Are Reported Killed as Commandos Strike an Insurgent 'Center'." *The New York Times*, 15 June 1985.

Crandall, Russell. *Driven by Drugs: Us Policy toward Colombia*. London: Lynne

Rienner, 2008.

Croxton, Derek. "The Peace of Westphalia of 1648 and the Origins of Sovereignty."

The International History Review 21, no. 3 (1999): 569-91.

de Almeida, Paulo Roberto. "Sovereignty and Regional Integration in Latin America: A

Political Conundrum?". *Contexto Internacional* 35, no. 2 (2013): 471-95.

Decker, Scott H, and Margaret Townsend Chapman. *Drug Smugglers on Drug*

Smuggling: Lessons from the Inside. Philadelphia: Temple University Press, 2008.

"Demandan a Colombia Por Muerte De Franklin Aisalla." *El Tiempo*, 12 June 2009.

Devetak, Richard. "The Modern State and Its Origins." In *An Introduction to*

International Relations: Australian Perspectives, edited by Richard Devetak, Anthony Burke and Jim George. New York: Cambridge University Press, 2007.

Drekonja, Gerhard. "Colombia: Learning the Foreign Policy Process." *Journal of*

Interamerican Studies and World Affairs 25, no. 2 (1983): 229-50.

Dudley, Steven. *Walking Ghosts: Murder and Guerrilla Politics in Colombia*.

Abingdon: Routledge, 2003.

Echavarría Alvarez, Josefina. *In/Security in Colombia : Writing Political Identities in*

the Democratic Security Policy. Manchester & New York: Manchester University Press, 2010.

Eckert, Amy E. *Outsourcing War: The Just War Tradition in the Ge of Military*

Privatization. Ithaca: Cornell University Press, 2016.

"Ecuadoriano Muerto En Ataque a 'Raúl Reyes' Sería Agente Doble De Las Farc Y La

Policía De Su País." *El Tiempo*, 16 March 2009.

"Editorial." *Semana*, 4 March 2008.

- "El Coco De La Onu." *Semana*, 23 September 2006.
- El Consejo Permanente de la Organización de los Estados Americanos. "Convocatoria De La Reunión De Consulta De Ministros De Relaciones Exteriores Y Nombramiento De Una Comisión." In *CP/RES. 930 (1632/08)*, edited by Organización de los Estados Americanos, 2008.
- "Eln Profile." *InSight Crime*, 4 November 2016.
- Elshtain, Jean Bethke. *Just War against Terror : The Burden of American Power in a Violent World*. New York: Basic Books, 2008.
- Evans, Gareth J. *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All*. Washington DC: Brookings Institution Press, 2008.
- Evans, Graham, and Jeffrey Newnham. *The Dictionary of World Politics: A Reference Guide to Concepts, Ideas, and Institutions*. Hemel Hempstead: Harvester Wheatsheaf, 1990.
- "Explicaciones De Uribe Sobre Ataque a Campamento De 'Raúl Reyes' Convencieron a Presidente De México." *El Tiempo*, 16 April 2008.
- "Explosión Mató a Ecuatoriano En Bombardeo a Campamento De 'Raúl Reyes', Afirmó Gobierno Colombiano." *El Tiempo*, 7 May 2008.
- Farah, Douglas. "The Farc in Transition: The Fatal Weakening of the Western Hemisphere's Oldest Guerrilla Movement." *The NEFA Foundation* (July 2 2008).
- . "Lessons Learned from the Campaign against the Farc in Colombia." *The NEFA Foundation* (November 16 2008).
- Farah, Douglas, and Glenn R Simpson. *Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens Revolution*. International Assessment and Strategy Centre, 2010.
- "Farc Profile." *InSight Crime*, 25 August 2016.
- Fernandes, Ridauto Lúcio. "Colombia, Ecuador Y Venezuela: Enseñanzas Estratégicas De La Crisis Fronteriza." *Boletín Elcano* 104, no. 7 (2008).
- Fiala, Andrew. *The Just War Myth: The Moral Illussions of War*. Lanham: Rowman & Littlefield Publishers Inc, 2008.
- "Fin a Diálogos Con Las Farc." *El Tiempo*, 21 February 2002.
- Finnegan, William. "Venezuela, a Failing State." *The New Yorker*, 14 November 2016.
- Flemes, Daniel, and Rafael Castro. "Institutional Contestation: Colombia in the Pacific Alliance." *Bulletin of Latin American Research* 35, no. 1 (2016): 78-92.

- Forero, Juan. "Capture of Rebel Divides Latin American Neighbors." *The New York Times*, 23 January 2005.
- Fowler, Michael Ross, and Julie Marie Bunc. *Law, Power, and the Sovereign State: The Evolution and Application of the Concept of Sovereignty*. University Park: Pennsylvania State University Press, 1995.
- Freudenheim, Milt, and Henry Giniger. "The World; South Africa Crosses the Line." *The New York Times*, 16 June 1985.
- Fuchs, Gustavo J. *Las Garras Del Fenix: La Prensa Latinamericana Durante La Operacion Fenix*. Quito: CIESPAL, 2013.
- Gagne, David. "Despite Colombia Accord, a New Rebel Threat Emerges." *InSight Crime*, 14 September 2016.
- Gellner, Ernest. *Nations and Nationalisms*. Oxford: Basil Blackwell, 1983.
- Giraldo Restrepo, German. "Transforming the Colombian Army During the War on Terrorism." U.S. Army War College, 2006.
- Glanville, Luke. "The Myth of "Traditional" Sovereignty." *International Studies Quarterly* 57, no. 1 (2013): 79-90.
- Gobierno de Colombia. "Respuesta De La Cancillería De Colombia Al Gobierno De Ecuador." 2008.
- Gottlieb, Gideon. *Nation against State: A New Approach to Ethnic Conflicts and the Decline of Sovereignty*. New York: Council on Foreign Relations Press, 1993.
- "Gracias a Dios Y a Colombia': Ingrid Betancourt." *El Tiempo*, 2 July 2008.
- Group of Lisbon. *Limits to Competition*. Cambridge: MIT Press, 1995.
- Grupo de Rio. "Declaración De Santo Domingo." In *XX Cumbre de Jefes de Estado y de Gobierno del Grupo de Rio*. Santo Domingo, 2008.
- "Hay Que Cogerle La Caña a Chávez." *El Colombiano*, 9 June 2008.
- Hersh, Seymour M. "The Killing of Osama Bin Laden." *London Review of Books*, 21 May 2015.
- Hobbes, Thomas. *Leviathan*. Salt Lake City: Literary Archive Foundation, 2002.
- Holsti, Kalevi J. *Peace and War: Armed Conflicts and International Order 1648-1989*. Cambridge: Cambridge University Press, 1991.
- . *The State, War, and the State of War*. Cambridge: Cambridge University Press, 1996.
- Howse, Robert. "Thucydides and Just War: How to Begin to Read Walzer's Just and Unjust Wars." *European Journal of International Law* 24, no. 1 (2013): 17-24.

- Huerta Montalvo et al, Francisco. "Informe Comision De Transparencia Y Verdad: Caso Angostura." 2009.
- "Hugo Chávez: A Uribe "Le Faltaron Cojones" Para Intervenir En Venezuela." *El Espectador*, 15 August 2012.
- Human Rights Watch. *War without Quarter: Colombia and International Humanitarian Law*. New York 1998.
- Hylton, Forrest. *Evil Hour in Colombia*. London & New York: Verso, 2006.
- "In Quotes: Rio Summit Sparring." *BBC NEWS*, 8 March 2008.
- "Informe De La Comisión De La Oea Que Visitó Ecuador Y Colombia." Organización de los Estados Americanos, 2008.
- Inkster, Nigel, and James Lockhart Smith. *The Farc Files : Venezuela, Ecuador and the Secret Archive of 'Raúl Reyes'*. London: International Institute for Strategic Studies, 2011.
- "Interpol's Forensic Report on Farc Computers and Hardware Seized by Colombia." INTERPOL, 2008.
- Jackson, Robert. *Sovereignty: Evolution of an Idea*. Cambridge: Polity Press, 2007.
- Kalmo, Hent, and Quentin Skinner. *Sovereignty in Fragments : The Past, Present and Future of a Contested Concept*. Cambridge & New York: Cambridge University Press, 2010.
- Keohane, Robert. *Neorealism and Its Critics*. New York: Columbia University Press, 1986.
- Kilcullen, David. "Blood Year: Terror and the Islamic State." *Quarterly Essay*, 2015.
- Kline, Harvey F. *Chronicles of a Failure Foretold: The Peace Process of Colombian President Andres Pastrana*. Tuscaloosa: The University of Alabama Press, 2007.
- . *Showing Teeth to the Dragons: State-Building by Colombian President Alvaro Uribe Velez, 2002-2006*. Tuscaloosa: The University of Alabama Press, 2009.
- . *State Building and Conflict Resolution in Colombia, 1986-1994*. Tuscaloosa: University Alabama Press, 1999.
- Knutsen, Torbörn L. *A History of International Relations Theory*. Manchester: Manchester University Press, 1992.
- Krasner, Stephen D. "Rethinking the Sovereign State Model." *Review of International Studies* 27, no. 5 (2001): 17-42.

- . *Sovereignty: Organized Hypocrisy*. Princeton: Princeton University Press, 1999.
- Kurtz, Marcus J. *Latin American State Building in Comparative Perspective: Social Foundations of Institutional Order*. West Nyack: Cambridge University Press, 2013.
- Lango, John W. "Generalizing and Temporalizing Just War Principles: Illustrated by the Principle of Just Cause." In *Rethinking the Just War Tradition*. Albany: SUNY Press, 2007.
- LaRosa, Michael J, and Germán R Mejía. *Colombia: A Concise Contemporary History*. Plymouth: Rowman & Littlefield Publishers Inc, 2012.
- Leech, Garry. *The Farc: The Longest Insurgency*. New York: Zed Books, 2011.
- . *Killing Peace: Colombia's Conflict and the Failure of U.S. Intervention*. New York: Information Network of the Americas, 2002.
- Legler, Thomas. "Post-Hegemonic Regionalism and Sovereignty in Latin America: Optimists, Skeptics, and an Emerging Research Agenda." *Contexto Internacional* 35, no. 2 (2013): 325-52.
- LeMoyne, James. "Honduras Eager to Have Rebels Out." *The New York Times*, 10 December 1986.
- López-Alves, Fernando. *State Formation and Democracy in Latin America, 1810-1900*. Durham: Duke University Press, 2000.
- Luther, Martin. "On Temporal Authority." In *Luther and Calvin on Secular Authority*, edited by Harro Hopfl. Cambridge: Cambridge University Press, 1991.
- Manero, Edgardo A. "Strategic Representations, Territory and Border Areas: Latin America and Global Disorder." *Geopolitics* 12, no. 1 (2007): 19-56.
- Marcella, Gabriel. *War without Borders: The Colombia-Ecuador Crisis of 2008*. Strategic Studies Institute 2008.
- Martin, Felix. *Militarist Peace in South America*. New York: Palgrave, 2006.
- McDermott, Jeremy. "Shootout on Colombia-Ecuador Border Claims 6 Lives." *InSight Crime*, 9 August 2013.
- Mijares, Víctor M. "Venezuela's Post-Chávez Foreign Policy." *Americas Quarterly* 9, no. 1 (2015): 74-81.
- Miller, Benjamin. *States, Nations, and the Great Powers: The Sources of Regional War and Peace*. Cambridge: Cambridge University Press, 2007.
- Ministerio de Defensa. "Comunicado Del Ministerio De Defensa." 2008.

- Morgenthau, Hans Joachim. *Politics among Nations: The Struggle for Power and Peace*. Edited by Kenneth W Thompson New York: McGraw-Hill, 1985.
- "Multilateral Invasion Force for Colombia?". *NACLA Report on the Americas* 36, no. 1 (1998).
- "Nicaragua Formaliza Reanudación De Relaciones Diplomáticas Con Colombia." *El Tiempo*, 12 March 2008.
- Nolte, Detlef, and Wehner L. "Unasur and Regional Security in South America." In *Regional Organisations and Security: Conceptions and Practices*, edited by Stephen Aris and Andreas Wenger. London: Routledge, 2013.
- O'Driscoll, Cian. "Jean Bethke Elshtain's Just War against Terror: A Tale of Two Cities." *International Relations* 21, no. 4 (2007): 485-92.
- Obama, Barack H. *Remarks by the President on Osama Bin Laden*. The White House, 2011.
- Office of Management and Budget - Executive Office of the President. 2000.
- "Oposición Manifestó Su Respaldo Al Presidente Uribe En Crisis Diplomática." *El Tiempo*, 3 March 2008.
- "Oposición Venezolana Acusa a Chávez De Traición a La Patria." *El Tiempo*, 4 March 2008.
- Orend, Brian. "Jus Post Bellum." *Journal of Social Philosophy* 31, no. 1 (2000): 117-37.
———. *Michael Walzer on War and Justice*. Montreal: McGill-Queen's University Press, 2000.
- Organization of American States. *Charter of the Organization of American States*. 1948.
- Osiander, Andreas. "Sovereignty, International Relations, and the Westphalian Myth." *International Organization* 55, no. 2 (2001): 251-87.
———. *The States System of Europe, 1640-1990: Peacemaking and the Conditions of International Stability*. Oxford: Clarendon Press, 1994.
- Palau, Mariana. "Colombia's Revolutionary Women: Talking to Heal." *Al Jazeera*, 24 March 2016.
- Pardo, Rodrigo. "Relaciones Internacionales Y Proceso De Paz Proyecciones Sobre Escenarios Rodrigo Pardo García-Peña." *Colombia Internacional* 58 (2001): 28-50.
- Paredes, César. "Ecuador Y Venezuela Cierran Sus Embajadas En Colombia." *Semana*, 3 March 2008.

- Parkinson, Frederick. *The Philosophy of International Relations: A Study in the History of Thought*. Beverly Hills: Sage, 1977.
- "Parlamento Venezolano Rechaza Declaración Injerencista De Uribe." *El Espectador*, 14 August 2012.
- Parsons, Graham. "The Incoherence of Walzer's Just War Theory." *Social Theory and Practice* 38, no. 4 (2012): 663-88.
- Pastrana Buelvas, Eduardo. "Why Regionalism Has Failed in Latin America: Lack of Stateness as an Important Factor for Failure of Sovereignty Transfer in Integration Projects." *Contexto Internacional* 35, no. 2 (2013): 443-69.
- Pearce, J. *Colombia: Inside the Labyrinth*. London: Latin American Bureau, 1990.
- Peña, Edulfo. "Ortega Rompe Relaciones Y Calienta Cita De 20 Países." *El Tiempo*, 7 March 2008.
- Peñaloza, Pedro Pablo. "Chávez Cierra Embajada Y Moviliza 10 Batallones Colombia Se Excusó Con Ecuador Por Incurrió." *El Tiempo*, 3 March 2008.
- Petras, J. "The Geopolitics of Plan Colombia." *Monthly Review* 53, no. 1 (2001): 18.
- Philpott, Daniel. "On the Cusp of Sovereignty: Lessons from the Sixteenth Century." In *Sovereignty at the Crossroads? Morality and International Politics in the Post-Cold War Era*, edited by Luis E Lugo. London: Rowman and Littlefield, 1996.
- Pizarro Leongómez, Eduardo. "La Guerra Imposible." *El Tiempo*, 21 May 2008.
- "Polémica Por Idea De Uribe De Denunciar a Chávez En La Corte." *El Tiempo*, 5 March 2008.
- Popp, Karoline. "Colombia, Ecuador and Two Plans: An Overview of the Colombian Conflict and Colombian-Ecuadorian Relations." In *CEMPROC Working Paper Series: In peace, conflict, and development: Center for Mediation, Peace, and Resolution of Conflict, International*, 2007.
- "Por 'Patrocinio De Genocidas', Colombia Denunciará a Hugo Chávez Ante La Corte Penal Internacional." *El Tiempo*, 4 March 2008.
- Power, Samantha. *A Problem from Hell: America and the Age of Genocide*. New York: Basic Books, 2002.
- Priest, Dana. "Covert Action in Colombia: U.S. Intelligence, Gps Bomb Kits Help Latin American Nation Cripple Rebel Forces." *The Washington Post*, 21 December 2013.
- "Queremos Una Nación Pluralista':Uribe." *Semana*, 18 May 2006.

- Regan, Richard J. *Just War: Principles and Cases*. Washington DC: Catholic University of America Press, 2013.
- Rengger, Nicholas. "Just a War against Terror? Jean Bethke Elshtain's Burden and American Power." *International Affairs* 80, no. 1 (2004): 107-16.
- Reus-Smit, Christian. "Human Rights and the Social Construction of Sovereignty." *Review of International Studies* 27, no. 4 (2001): 519-38.
- "Reyes Era El Contacto De Francia Para La Liberación De Betancourt." *La Nación*, 3 March 2008.
- Reyes Posada, Alejandro. "El Derecho De Colombia De Ganar Su Guerra Interna." *El Tiempo*, 4 March 2008.
- Richani, Nazih. "Caudillos and the Crisis of the Colombian State: Fragmented Sovereignty, the War System and the Privatisation of Counterinsurgency in Colombia." *Third World Quarterly* 28, no. 2 (2007): 403-17.
- . *Systems of Violence: The Political Economy of War and Peace in Colombia*. New York: SUNY Press, 2002.
- Romero, Simon. "Leaders of Venezuela and Colombia, Ideological Opposites, Are Tightening Ties." *The New York Times*, 19 October 2007.
- Rosen, Jonathan D. *The Losing War: Plan Colombia and Beyond*. Albany: SUNY Press, 2014.
- Safford, Frank. "The Construction of National States in Latin America, 1820-1890." Chap. 2 In *State and Nation Making in Latin America and Spain: Republics of the Possible*, edited by Miguel A Centeno and Agustin E Ferraro. Cambridge: Cambridge University Press, 2013.
- Safford, Frank, and Marco Palacios. *Colombia: Fragmented Land, Divided Society*. New York: Oxford University Press, 2002.
- Salazar, Hernando. "Vecinos Con Fuertes Lazos Comerciales." *BBC Mundo*, 28 November 2007.
- Saraiva, Miriam Gomes. "The Brazilian Soft Power Tradition." *Current History* 113, no. 760 (2014): 64-69.
- Saskiewicz, Paul E. *The Revolutionary Armed Forces of Colombia - People's Army (Farc-Ep): Marxist-Leninist Insurgency or Criminal Enterprise?* Vol. Master of Arts in National Security Affairs, Monterey Naval Postgraduate School, 2005.
- Saul, Ben. *Defining Terrorism in International Law*. Oxford Monographs in International Law. Oxford: Oxford University Press, 2008.

- Schmidle, Nicholas. "Getting Bin Laden: What Happened That Night in Abbottabad." *The New Yorker*, 8 August 2011.
- Schmidt, Sebastian. "To Order the Minds of Scholars: The Discourse of the Peace of Westphalia in International Relations Literature." *International Studies Quarterly* 55, no. 3 (2011): 601-23.
- Schulte-Bockholt, Alfredo. *The Politics of Organized Crime and the Organized Crime of Politics: A Study in Criminal Power*. Lanham: Lexington Books, 2006.
- "Se Enfría Cita De Mañana Con Ecuador." *El Tiempo*, 14 October 2009.
- Secretariado Nacional de las FARC-EP. "Comunicado Sobre La Muerte Del Camarada Raúl Reyes." 2008.
- . "Quiénes Somos Y Por Qué Luchamos." <http://www.farc-ep.co/nosotros.html>.
- "Sesión De La Oea Permanence En Receso Mientras Se Estudia Posible Resolución Contra Colombia." *El Tiempo*, 3 March 2008.
- Sheehan, Michael. *The Balance of Power: History and Theory*. London: Routledge, 1996.
- Simons, Geoff. *Colombia: A Brutal History*. London: Saqi, 2004.
- Sinclair, Adriana, and Michael Byers. "When Us Scholars Speak of 'Sovereignty', What Do They Mean?." *Political Studies* 55, no. 2 (2007): 318-40.
- Singer, David J, and Melvin Small. *Resort to Arms*. Beverly Hills: Sage, 1982.
- Sorrell, Landen A. *Colombia: U.S. Relations and Issues*. New York: Nova Science Publishers Inc, 2010.
- Spiro, Peter. "The New Sovereignists." *Foreign Affairs* 79, no. 6 (2000).
- Spruyt, Hendrik. *The Sovereign State and Its Competitors*. Princeton: Princeton University Press, 1994.
- Statute of Unasur South American Defense Council*. December 11.
- Stokes, Doug. *America's Other War: Terrorizing Colombia* London: Zed Books, 2004.
- Sturcke, James. "Colombia-Venezuela Relations Head Towards Deep Freeze." *The Guardian*, 27 November 2007.
- "A Superar El Impasse." *El Tiempo*, 17 October 2009.
- The Truth and Reconciliation Commission. *Truth and Reconciliation Commission of South Africa Report - Volume Two*. 1998.
- The White House. "President Bush Honors Presidential Medal of Freedom Recipients ", 2009.

- . "Remarks by President Obama and President Santos of Colombia at Plan Colombia Reception." 2016.
- Thies, Cameron G. "War, Rivalry, and State Building in Latin America." *American Journal of Political Science* 49, no. 3 (2005): 451-65.
- Tickner, Arlene B. "Colombia: U.S. Subordinate, Autonomous Actor, or Something in Between?". In *Latin American and Caribbean Foreign Policy*, edited by Frank O. Mora and Jeanne A.K. Hey. Lanham: Rowman & Littlefield, 2003.
- . "Intervención Por Invitación: Claves De La Política Exterior Colombiana Y De Sus Debilidades Principales." *Colombia Internacional* 65 (2007): 90-111.
- Tilly, Charles. "War Making and State Making as Organised Crime." In *Bringing the State Back In*, edited by P Evans, D Rueschemeyer and T Skocpol. Cambridge: Cambridge University Press, 1985.
- Tokatlian, Juan Gabriel. "Colombia at War: The Search for a Peace Diplomacy." *International Journal of Politics, Culture and Society* 14, no. 2 (2000): 29.
- "Tras 'Jalón De Orejas' Por Una Declaración Hacia Caracas, Uribe Regaña a Araújo Por Imprudencia Contra Quito." *Semana*, 30 March 2007.
- "Unánime Apoyo Al Gobierno Uribe." *El Tiempo*, 3 March 2008.
- United Nations. "Ban Supports the Oas in the Crisis between Colombia and Ecuador." 2008.
- . *Charter of the United Nations*. 1945.
- Uribe Vélez, Álvaro. "Intervención Del Presidente Álvaro Uribe Ante Jefes De Estado Del Grupo De Río." In *XX Cumbre de Jefes de Estado y de Gobierno del Grupo Rio*. Santo Domingo, 2008.
- . *No Hay Causa Perdida*. New York: Celebra, 2012.
- "Us Says It Killed Is Strategist Adnani." *BBC News*, 12 September 2016.
- Vattel, Emmeric de. *The Law of Nations or Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns*. Edited by Joseph Chitty Philadelphia: T. & J.W. Johnson, Law Booksellers, 1853.
- Villar, Oliver, and Drew Cottle. *Cocaine, Death Squads, and the War on Terror: U.S. Imperialism and Class Struggle in Colombia*. United States: Monthly Review Press, 2011.
- Vité, Sylvain. "Typology of Armed Conflicts in International Humanitarian Law: Legal Concepts and Actual Situations." *International Review of the Red Cross* 91, no. 873 (2009).

- Waisberg, Tatiana. "The Colombia-Ecuador Armed Crisis of March 2008: The Practice of Targeted Killing and Incursions against Non-State Actors Harbored at Terrorist Safe Havens in a Third Party State." *Studies in Conflict & Terrorism* 32, no. 6 (2009): 476-88.
- Walker, RBJ. "State Sovereignty and the Articulation of Political Space/Time." *Millennium - Journal of International Studies* 20 no. 3 (1991): 445-61.
- Walsh, Frank M. "Rethinking the Legality of Colombia's Attack on the Farc in Ecuador: A New Paradigm for Balancing Territorial Integrity, Self-Defense and the Duties of Sovereignty." *Pace International Law Review* 21, no. 1 (2009): 24.
- Walzer, Michael. *Arguing About War*. New Haven & London: Yale University Press, 2004.
- . *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. London: Penguin Books, 1978.
- . "The Moral Standing of States: A Response to Four Critics." *Philosophy and Public Affairs* 9, no. 3 (1980): 209-29.
- Weber, C. *Simulating Sovereignty: Intervention, the State and Symbolic Exchange*. Cambridge: Cambridge University Press, 1995.
- Weber, Max. "Politics as Vocation." In *From Max Weber*, edited by H.H. Gerth and C.W. Mills. New York: Routledge and Kegan Paul, 1948.
- Weiffen, Brigitte, Leslie Wehner, and Detlef Nolte. "Overlapping Regional Security Institutions in South America: The Case of Oas and Unasur." *International Area Studies Review* 16, no. 4 (2013): 370-89.
- Wells, Miriam. "Ecuador Battles Farc, 5 Years after Death of Raul Reyes." *InSight Crime*, 28 March 2013.
- Whitman, Jeffrey P. "Just War Theory and the War on Terrorism: A Utilitarian Perspective." *Public Integrity* 9, no. 1 (2007): 23-43.
- Williams, Dan. "Honduras Leaves Key Border Area to Contras and Their Sandinista Foes." *Los Angeles Times*, 7 December 1986.
- Wright, Quincy. *A Study of War*. Chicago: University of Chicago Press, 1942.
- Wright, Robin. "Abu Muhammad Al-Adnani, the Voice of Isis, Is Dead." *The New Yorker*, 30 August 2016.
- . "After the Islamic State." *The New Yorker*, 12 December 2016.
- Yagoub, Mimi. "Peace Deal Signed in Colombia as Threat of Farc Fragmentation Looms Large." *InSight Crime*, 24 November 2016.

- Yamhure, Ernesto. "Los Amiguitos De Los Terroristas." *El Espectador*, 7 March 2008.
- Zacher, Mark W. "The Decaying Pillars of the Westphalian Temple: Implications for International Order and Governance." In *Governance without Government: Order and Change in World Politics*, edited by James N Rosenau and Ernst-Otto Czempiel. Cambridge: Cambridge University Press, 1992.
- Zardari, Asif Ali. "Pakistan Did Its Part." *The Washington Post*, 2 May 2011.
- Zaytsev, D. "Indices of "Stateness" and Governance: Damaging Fallacies and Possibly Optimizing Choices." In *International Conference on Public Policy*. Grenoble, 2013.
- Zeitoun, Mark, Karim Eid-Sabbagh, and Jeremy Loveless. "The Analytical Framework of Water and Armed Conflict: A Focus on the 2006 Summer War between Israel and Lebanon." *Disasters* 38, no. 1 (2014): 22-44.

