

REVELATIONS COLLECTION

# HUMAN RIGHTS IN COLOMBIA

Truths and Lies



**Revelations Collection**  
Human Rights in Colombia  
Truths and Lies

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# CONTENTS

**5** \_\_\_\_\_ Verdad Colombia

**7** WHAT IS HAPPENING IN COLOMBIA

**17** TRUTHS AND LIES

**37** THE CASE OF GENERAL DEL RÍO

**51** THE CASE OF GENERAL FERNANDO MILLÁN PÉREZ

**55** THE TRUTH

**65** THE CASE OF CAPTAIN GERMÁN PATAQUIVA

**69** HUMAN RIGHTS IN COLOMBIA: HOW RESPONSIBLE IS THE STATE?

**70** THE UNITED NATIONS REPORT

**82** THE UNITED STATES EMBASSY PERSPECTIVE

**84** CONCLUSION

**87** HOW IMPARTIAL ARE HUMAN RIGHTS ORGANIZATIONS?

**93** AMNESTY INTERNATIONAL

**95** HUMANS RIGHTS WATCH -AMERICAS

**97** WASHINGTON OFFICE ON LATIN AMERICA (WOLA)

**99** A SENTENCE ISSUED BY THE INTER-AMERICAN COURT OF HUMAN RIGHTS



**VERDAD COLOMBIA** is a federation of 22 non-governmental organizations located in different parts of Colombia. It was founded in 2001, in Bogotá, to defend democracy, the values of freedom, human rights and preservation of the environment. It is affiliated with no political party and does not receive government support.



Photograph: Rodrigo Obregón.

- *These young girls left the town of La Macarena, Meta Department, along with a coffin bearing their mother's body. The woman and six other peasants were murdered two days earlier by a FARC death squad.*

Verdad Colombia has organized a variety of continental forums and meetings on issues such as terrorism, State shortcomings and neo-populism in Latin America, with the participation of eminent writers, essayists, political leaders and former Latin American presidents, both liberals and social democrats. These events have had the support of organizations such as

The Friedrich Naumann Foundation, The Atlas Economic Research Foundation, the Fundación para el Análisis y los Estudios Sociales (FAES), The International Freedom Foundation (IFF), The Inter-American Forum and The Heritage Foundation.

With this publication, the directors of Verdad Colombia have tried, above all, to provide an in-depth look at allegations of human rights violations in Colombia, to verify their justification, and to correct obvious distortions. Hopefully, it will give European journalists, academics and political leaders the facts and information they need for an objective analysis of the situation in Colombia, free of political bias.

# WHAT IS HAPPENING IN COLOMBIA

*Who is to blame  
for the human  
rights violations in  
Colombia?*

There are truths that cannot be denied. Colombia is a country where the most essential human rights, beginning with the right to life, have been violated continually for years on end by illegal armed groups. No other interpretation is possible, considering the 23,013 homicides reported during 2003, along with 3,387 kidnappings for ransom, 121 massacres and nearly 175,270 displaced people, on top of the two million who were already displaced. These are people from the countryside who were forced to abandon their homes for fear of being killed by FARC or ELN guerrillas, or by the United Self-defense Forces of Colombia (AUC), commonly called paramilitary



Photograph: file Magazine, *Cambo*.

groups. Yet, it is also true that kidnapping declined for the first time in 2003, in this case by 22,4%; homicides were down by 22%; massacres by 49% and forced displacement by 49%.

The situation in Colombia is linked to the armed conflict between the Colombian military and rebel groups who, for the last 40 years or more, have mounted an armed struggle to replace the nation's political and economic system with a Marxist-Leninist regime. Conditions were further complicated in the mid-eighties by emergence of the United Self-defense Forces of Colombia, also known as paramilitary groups. Like the guerrillas, they too have ties to the drug traffic and use the same methods as the FARC and the ELN, but to assassinate unionists, Leftists leaders and peasants they believe are involved with guerrilla organizations.

Complaints about human rights violations are usually collected and circulated abroad by non-governmental organizations (NGOs) that have a long history of this activity, not only with respect to Colombia but for other hot spots as well. Generally, the U.S. Department of State, the countries of the European Union, and the mass media echo these complaints, which also are addressed by the Colombian government from the moment its public prosecution and supervisory bodies (the Inspector General's Office, the Prosecutor General's Office and the Office of the Ombudsman) begin to investigate these claims.

The Colombian government is obliged to admit that many crimes go unpunished. Justice is slow to act, bogged down by red tape and overwhelmed by an enormous backlog of cases that prolongs and hampers a decision or verdict. The typical paradox in a country like Colombia is that violence and insecurity exist simultaneously with an overabundance of laws and regulations, judicial instances, interpretations and controversies that usually end up making the State dangerously unworkable.

Alongside this obvious situation is another problem: how to determine objectively, and with the necessary rigor, just who is responsible for the constant human rights violations registered in Colombia. There is absolutely no certainty on this point. Many NGOs that are regarded as credible by the United States government, the governments of the European Union and even the United Nations attribute 77% of the human rights violations in Colombia to the State, and accept only 23% as the work of leftist terrorists. To substantiate this figure, they credit the State with violations committed by paramilitaries, giving the impression that paramilitarism is part of an official policy.

Based on its own studies, the Colombian government says that 84.5 % of the violations (massacres, selective killings, kidnappings, disappearances) are committed by guerrillas (primarily from the FARC and the ELN); 13.9% by the United Self-defense Forces of



Photograph: File.

- *FARC, ELN and AUC attacks cause destruction and death to thousands of Colombians.*

Colombia, also known as paramilitaries, and just 1.6% by official agents (only 4% of the complaints filed with the Prosecutor General's Office involve members of the security forces). This last percentage, which is clearly inadmissible and still susceptible to reduction, could be considered low for military forces during wartime. On the other hand, if paramilitarism were accepted as an instrument of the State, Colombia would be in a league with Sri Lanka, Sudan, North Korea and Iraq under Saddam Hussein on a blacklist of nondemocratic countries that violate human rights.

Although non-governmental organizations generally have more credibility than governments with respect to the information they put out, it is important to scru-

***Although NGO's usually enjoy more credibility than governments, in the Colombian case the validity of their accusations should be examined carefully.***

tinize the origin and validity of many of the complaints about human rights violations in Colombia. Perhaps nowhere in the world is this issue more questioned. As to the opinion of local and international NGOs, there are studies and documents that seem to suggest an attempt at disinformation. This is understood not as a lack of information on cases reported to the authorities, but as a distortion of the facts. These studies, which are usually based on concrete evidence, remind us that the subversion defines its strategy in Colombia as a “combination of all forms of struggle”. In other words, the guerrillas act militarily and on the political, legal and international scene. This being the case, human rights could be used as a weapon of war by taking advantage of the country's legal system to challenge the military actions of senior officers in a court of law.

Even if the accusations prove to be unfounded, the Inspector General, the Prosecutor General and the Ombudsman are obliged, by the constitution, to register and investigate them. The officer who is accused - and there are now more than three thousand individuals in this position - must give a statement, provide evidence, and oftentimes pay a defense lawyer out of his own pocket, while the investigation is underway. Those who have analyzed the so-called political war mounted by the subversion believe the goal is to secure a conviction, dismissal from service, or at least an inhibiting effect intended to avoid combat or

offensive action against the enemy. This is a formal tactic of war, and a very effective one. Before an investigation can be conducted to determine if an accusation is true or false, local NGOs rush in to collect and circulate it throughout the country and internationally. Even if there is only one source, the way accusations of human rights violations are exchanged among NGOs provides for coincidences that make them particularly believable to international human-rights organizations and even to the U.S. Department of State. The impact on the person under investigation is overwhelming. In the eyes of the international community, he is forever accused of having violated someone's human rights, even if his innocence is proven eventually by a criminal court in Colombia. In short, the accusation is publicized, but not the acquittal. Worse yet, the case continues to be used indefinitely as an indication of the violations committed in Colombia.

This does not mean that every officer who is accused is innocent. There are a small percentage of Colombian military personnel who have been investigated and found guilty of violations or complicity with paramilitary groups. The Colombian government declares they are subject to criminal prosecution and mentions cases where officers are either in custody or serving a criminal sentence. More than one may have escaped trial and conviction for human rights violations and, in these cases, NGOs are justified and to be com-

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***Even before an investigation can be conducted, local NGOs sympathetic to Marxist thinking or the “liberation theology” rush to circulate these accusations in and outside the country. However, they never publicize news of acquittals.***

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mended for speaking out against them. Unfortunately, NGOs often mix saints with sinners and must be called on to verify the sources of their information and to scrutinize the complaints they receive.

How feasible is this? Some NGOs, such as Pax Christi, have managed to discover attempts at manipulation and to identify those actually responsible for human rights violations, by investigating cases in Colombia. Their accusations on frightening issues such as kidnappings in Colombia have been reported in Europe, portraying the true terrorist nature of organizations like the FARC. But this is an exception. The accusations leveled by other NGOs are distorted by emotional and ideological bias. They clearly feel the weight of historical events, very real indeed, which recall the many violations (disappearances, assassinations and torture) committed by military personnel over a period of decades, under the cover of fierce military dictatorships in Latin America. This view of the military, which remains embedded in the minds and psyche of academics, journalists and leftist political leaders, somehow makes any accusation against a member of the Colombian military seem credible. This same historical-emotional distortion prompts these NGOs to associate guerrillas in Colombia with anachronistic images of rebel groups and leaders in the sixties, such as Castro and El Ché.

The ideological ingredient or bias is even more dangerous. The fact is that, at least in Colombia, most

NGOs supposedly dedicated to human rights are ideologically aligned with and committed to radical leftist thinking, either Marxist or the so-called theology of liberation. With a broad network of communicating vessels, these organizations find a solid base of support among similar non-governmental organizations based in Europe.

The NGOs run by the clergy have never denied their sympathies with the theology of liberation, which was defined succinctly by Father Aldo J. Büntig as “the dynamic incorporation of Catholicism into the revolutionary process spearheaded by our oppressed peoples.” This profile, which inevitably coincides with guerrilla ideology, at least in terms of the subversion’s objectives, if not its methods, explains the wealth of reports on human rights produced by these organizations and the preferential, if not exclusive way they implicate members of the armed forces and paramilitaries. Only rarely are guerrillas accused of human rights violations, despite their constant and murderous terrorist activity. Equally distorted are the NGOs whose members have ties with the Communist Party, a perfectly legal group that shares the idea of attaining power through a combination of all forms of struggle.

These misguided ingredients demand a more critical and objective analysis of human rights in Colombia on the part of the European mass media, academic

centers, democratic political leaders and intellectuals. The truth must be separated from the lies in the accusations being circulated by NGOs. This book, which is the result of careful research on the principal accusations and attacks leveled in recent years, tries to determine which are based on fact and which are not. If defense of human rights is to have the honest and genuinely supervisory dimension it requires, this is crucial.



Photograph: File Magazine *Cambridge*.

- *Millions of Colombians demonstrate in the streets to protest against the violation of Human Rights by illegal armed groups.*

# TRUTHS AND LIES

*Colombia's internal war intensified in 2002, following the February 20 collapse of three years of formal talks between the government and the country's largest guerrilla group.*

Human Rights Watch World Report 2003

The indication is that guerrilla violence was at a low during the so-called peace talks and their breakdown accelerated the war. However, in 2001, while formal talks were still in progress, there were 24,608 reported assassinations, 4,364 kidnappings, 223 massacres, 1,034 terrorist attacks and 265,000 civilians forcibly displaced by the FARC, the ELN, or the paramilitaries.



Fotograph: File Magazine Cambio.

- *After three years of unsuccessful talks, the country realized that FARC had no real desire for peace.*

The talks ended when the Teófilo Forero Mobil Column of the FARC kidnapped a passenger plane carrying Senator Eduardo Gechem Turbay. This was the last straw. It clearly showed the FARC never wanted peace. The demilitarized zone - 42,000 square kilometers of Colombian territory devoid of military operations and reserved exclusively for the talks - became a base from which the FARC chiefs of staff ran the war in the rest of the country. It was where kidnapped hostages were held, ransoms were paid, terrorist groups were trained under the supervision of IRA agents, and arms were stockpiled. The demilitarized zone also was a sanctuary for growing and processing illegal drugs, and had airstrips from which narcotics were shipped to the United States and other parts of the world.

The end of formal talks did not intensify so-called acts of war, which continued at the same pace.

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*Paramilitary groups operating with the tolerance and often the support of units within Colombia's military were linked to massacres (defined in Colombia as the killing of three or more people at the same place and time), selective killings and death threats. There were numerous and credible reports of joint military-paramilitary operations and the sharing of intelligence and propaganda, including army-generated appeals to guerrillas to turn themselves in. Throughout Colombia, paramilitaries continued to move uniformed and heavily armed troops unhindered past military installations.*

Human Rights Watch World Report 2003

***The fact that uniformed paramilitary troops move unhindered is not because the government tolerates their presence, but because of the country's intricate geography and the absence of security forces in remote areas. The FARC and the ELN do the same.***

This is not entirely accurate. Although there was paramilitary action in 2001, such as the incidents at Chengue (Sucre) and San Carlos (Antioquia), the first of which left 27 dead and the second, 13, these operations were not conducted with the tolerance and support of the Colombian army. Nor were there joint operations between the military and paramilitary groups, or shared intelligence and propaganda, such as calls from the army for guerrillas to surrender. Nor is there any truth to the claim that, *throughout Colombia, paramilitaries continued to move uniformed and heavily armed troops unhindered past military installations*. The truth is that Colombia's complicated terrain and the shortage of law enforcement officials in many parts of the country enables not only paramilitaries but also FARC and ELN guerrillas to move about freely. Some military units in certain areas have had ties with self-defense groups, as revealed by the observatory of the Presidential Program for Human Rights and International Humanitarian Law. The State's prosecutor and the military system of criminal justice have been notified of these incidents.

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*Compared to past years, the government reported more clashes between its troops and paramilitaries, and more arrests of suspected paramilitaries. Yet, paramilitaries appeared more numerous and militarily stronger than ever. They claimed to have over ten thousand armed and trained members, a number not disputed by the government or other sources.*

Human Rights Watch World Report 2003

Photograph: File Magazine *Colombia*.

- *Massacre carried out by so-called paramilitaries (illegal self defense groups).*

Right on the first count, wrong on the second. The Colombian military has fought paramilitaries exactly as they combat other illegal armed groups. Contrary to the suggestion in the preceding paragraph, the increase in paramilitaries is not due to official tolerance, but to guerrilla action and constant desertion from guerrilla organizations, which have added to the ranks of peasant self-defense forces. They likely have ten thousand members, just as the FARC have 17,000 and the ELN has 5,000. However, the government is in no position to confirm or dispute these figures.

President Uribe has always held open the possibility of peace talks with any illegal armed group, on the right or left, with the sole condition that the group cease all terrorist activity. The AUC, the misnamed paramilitaries, accepted the proposal. Neither the FARC nor the ELN have done so. As a result of ne-

gotiations with the government's Peace Commissioner, 1425 men of the Catatumbo Block of the Autodefensas (paramilitaries) under Salvatore Mancuso turned in their weapons on December 10, 2004. Smaller groups had done so some months before. In total, 3113 illegal self defense force combatants have demobilized, and talks continue with other paramilitary groups. This is the largest demobilization of any illegal armed group in the country's history. Many of the leaders of these groups, however, are accused of crimes covered by international law (crimes against humanity) and must remain in a designated area while Congress passes a law to establish appropriate legal measures to deal with their cases.

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*President Álvaro Uribe Vélez took office on 7 August 2002, after winning Colombia's presidential elections on 26 May. Since then, national and international human rights organizations have expressed deep concern over the security strategy adopted by the government, which has proven to be totally inadequate in dealing with the serious humanitarian and human rights crises affecting Colombia, a country that has suffered 40 years of armed conflict between government forces - aided by the paramilitaries - and armed opposition groups. As opposed to dealing with the crisis, this strategy only further aggravates a humanitarian tragedy that is already frightening in and of itself.*

Amnesty International Report 2003

This is a totally biased statement founded on subjective assessments as opposed to facts. Rather than ex-

pressing concern over the 23 thousand assassinations and the 3,387 kidnappings perpetrated last year by illegal armed groups, human rights organizations in Colombia and abroad are troubled by the measures derived from President Uribe's Democratic Security Policy. Thanks to these measures, he obtained an absolute majority of the votes in the 2002 presidential election and there was a subsequent decline in kidnappings and homicides (22.4% and 49%, respectively). Uribe's strategy is to protect the civilian population by strengthening the police, creating a network of informants throughout the country, training "peasant" soldiers, offering rewards for reports of terrorist acts, and implementing a host of other measures that are similar, but much less drastic than those adopted to combat insecurity and terrorism in democratic countries like Spain, France, Great Britain and the United States. Pious use of the term "armed opposition groups" when referring to organizations that destroy entire villages, kidnap elderly citizens, women and children, plant car bombs on crowded streets in major cities, and kill judges, mayors and journalists who do not share their beliefs is a cunning way to detract from their true nature. The report does not say why the defensive measures adopted by the new government, pursuant to the Constitution and the law, are aggravating the human tragedy in Colombia, when in fact, they are containing and reducing it. According to the law, these measures are to be reviewed by Congress and the Constitutional Court.

***Using the term "armed opposition groups" when referring to organizations classified as terrorists by the European Union, as Amnesty International does, capriciously ignores their real nature.***

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*Amnesty International is seriously concerned about a series of measures destined to undermine the solid mechanisms and institutional safeguards for human rights introduced during the last decade, such as the Constitutional Court, the Ombudsman and the municipal representatives.*

Amnesty International Report, 2003

False. The Colombian government has done nothing to eliminate the Constitutional Court or the Office of the Ombudsman. Its proposal to eliminate the municipal ombudsmen and the departmental accounting offices is part of a policy to reduce public spending and bureaucracy. These decisions have nothing to do with human rights. The functions assigned to municipal ombudsmen would be assumed by the Inspector General, who is the maximum authority for overseeing human rights, and the Office of the Ombudsman would continue to perform its duties. In other words, institutional safeguards for human rights would not be undermined.

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*The government's decision to create a network of civilian informants and its proposals to establish a part-time peasant army with 150 thousand members will not only drag the civilian population further into the conflict, but also threatens to reinforce the presence of paramilitary groups in the country.*

Amnesty International Report, 2003

False. These measures are designed to protect civilians and will not drag them into the conflict. The civilian population is the primary victim of guerrilla and

paramilitary actions. Civilians make up the vast majority of those kidnapped for ransom. The same is true of the dead and wounded resulting from attacks on villages and towns. Civilians also make up the two million people who have been displaced by guerrilla and paramilitary action. Illegal armed groups blackmail peasants, ranchers and merchants, and it is civilians who are forcibly recruited by guerrilla and self-defense organizations. The network of informants and the peasant soldiers are intended to protect villages and towns that were defenseless against guerrilla and paramilitary incursions up until only a short time ago, and to protect average citizens from kidnapping, a crime that once threatened everyone. These measures are intended to halt the increase in paramilitary groups, which originated as an illegal way to protect the civilian population, which was left defenseless by weak law enforcement. The network of informants is nothing more than a presidential campaign to encourage citizens to do their duty by reporting crime and those who violate the law. It is a call for the public to help fight crime by denouncing criminals; no one will be armed or encouraged to use violence. It invites law-abiding citizens to report crime and to demand that justice be served. This is how the rule of law, so weakened by vigilante justice, can be reestablished.

***The network of informants is nothing more than a campaign to encourage the community to do its civic duty by reporting criminal activity.***

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*Colombia leads the hemisphere in violations of human rights and international humanitarian law. In 2003, the government claimed the decline in figures for the*

*worst types of political violence as a success. The decline is real, but a closer look shows it was due to a number of factors, such as consolidation of paramilitary control over certain regions. President Alvaro Uribe has failed to break the constant ties between units of the country's security forces and the paramilitaries. He also has failed to bring to justice the perpetrators of crimes against humanity and serious human rights violations. The guerrillas also commit serious violations, including massacres, selective killings and indiscriminate attacks. In 2003, the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP) continued to kidnap civilians, holding them hostage for financial or political gain.*

Human Rights Watch World Report, January 2004

**Is it true that there are frequent violations of Human Rights in Colombia?**

**Yes, but not because of its authorities.**

**The armed organizations they combat are responsible for the bulk of human rights violations in Colombia.**

The country has been embroiled for years in an unconventional war with three illegal armed organizations that are not protected by the authorities, who combat them, but by an intricate geography of mountains and jungle encompassing more than 400 thousand square kilometers of territory with no roads or any real government presence. The horrendous human rights violations perpetrated by these organizations would seem to afford Colombia the leadership attributed to it by Human Rights Watch. However, in the eyes of western political leaders and the media, a statement such as the foregoing, given without clarification, can be misinterpreted. It gives the impression that Colombian authorities, not the organizations they combat, are responsible for most human rights violations in the country.

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*Álvaro Uribe Vélez took office as President of Colombia on August 7, 2002 with widespread voting and an authoritarian platform.*

Report by the International Federation for Human Rights and the World Organization against Torture (WOAT).

This is a biased statement. Authority is one thing; authoritarianism is another. Álvaro Uribe Vélez was elected by an overwhelming majority of votes, having offered Colombians a policy for democratic security that in no way exceeds the bounds of the Colombian constitution. It is a policy designed to place authority at the service of the law and human rights, which have been threatened in many parts of the country, precisely because of no real government presence. The peasants in remote regions of Colombia have been at the mercy of guerrillas or paramilitaries. Both these equally repressive and murderous forces have displaced more than two million people to the major cities in search of protection. The security policy is an attempt to strengthen law enforcement in areas that were once unprotected. It also ensures the rule of law and the exercise of State authority, as opposed to the authority of illegal armed groups, be they leftist or rightwing. In Latin America, talk of “an authoritarian government” brings to mind unpleasant memories of dictators, transgressions and abuse of power. This is not the case with the current democratic administration in Colombia, whose president has an approval rating of more than 80%. This is something no leader has ever achieved.

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***Authoritarianism is one thing, placing authority at the service of law and public safety is another.***

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*The criminal prosecution of the perpetrators of human rights crimes deteriorated markedly as Attorney General (Prosecutor General) Luis Camilo Osorio, who took office in mid-2001, undermined or derailed key cases. His hostility to human rights investigations was evidenced, most notably, by his purge of prosecutors and investigators willing to pursue such cases.*

Human Rights Watch World Report 2003

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*Within days of taking office on July 31, 2001, Attorney General (Prosecutor General) Osorio forced the resignations of the director and former director of the specialized Human Rights Unit. Over the following months, he continued purging the office of officials who had worked on sensitive human rights cases and sent a clear message to those who remained that efforts to prosecute human rights violations committed by army officers would not be welcome. Over a dozen current and former justice officials described Osorio as having damaged morale among prosecutors and investigators and undermined the prospects of achieving justice in key cases.*

*A Wrong Turn: The Colombian Attorney General's Office*  
Human Rights Watch World Report 2002

Not true. Prosecutor General Luis Camilo Osorio has reinforced investigative activity during the current administration by creating 11 regional units with 100 officials assigned exclusively to investigate human rights violations and serious infractions of international humanitarian law. Compared with the former administration, detentions are up by 16%.

Only four of the 41 prosecutors assigned to the Human Rights Unit were relieved of their duties after

the Prosecutor General failed to find clarity in their actions. Upon taking office, every Prosecutor General has exercised the discretionary power as afforded by the State Council to appoint or remove subordinates. The four prosecutors dismissed by Osorio account for only 9.7% of the entire staff of the Human Rights Unit. During the previous administration, 18% of the staff was dismissed.

Four other prosecutors did tender their resignation voluntarily during the first year of Osorio's term. This is not unusual, compared with the voluntary resignations during the previous administration, which accounted for 36% of the entire staff. The figure speaks for itself. The new prosecutors appointed to fill these positions had the necessary academic and professional experience to replace the prosecutors who resigned and those who were dismissed.

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*Whatever the Attorney General's (Prosecutor General's) intentions, the message transmitted through his office is, in the words of one prosecutor: "reduce the attention given to cases involving paramilitary activity."*

A Wrong Turn: The Colombian Attorney General's Office  
Human Rights Watch World Report 2002

Not true. Contrary to these claims, the results achieved by Prosecutor General Osorio reflect an indiscriminate fight against all who violate human rights, be they

members of illegal self-defense groups, subversives, military personnel, government agents or common criminals.



Photograph: File Magazine *Cambio*.

- *Luis Camilo Osorio, Prosecutor General.*

### Decisions against illegal self defense groups

#### Previous Prosecutor General (August 98 - July 31, 2001)

Indictments	258
Plea Agreement	40

#### Current Prosecutor General (August 2001 - July 31, 2004)

Indictments	563
Plea Agreement	90

### Decisions against marxist guerrillas

#### Previous Prosecutor General (August 98 - July 31, 2001)

Indictments	83
Plea Agreement	2

#### Current Prosecutor General (August 2001 - July 31, 2004)

Indictments	505
Plea Agreement	17

Source: Human Rights and International Humanitarian Law Unit, Prosecutor General's Office

As can be seen, under Luis Camilo Osorio, the Prosecutor General's Office has been 118% more active indictments against paramilitaries and 508% more active against guerrillas.

The total number of indictments against each group is similar.

No prosecutor general has been pressured to proceed or cease to proceed against a member of the military. Under no circumstance or investigation has the prosecutor general ever conditioned the investigative efforts of his subordinates.

In response to these claims, Prosecutor General Osorio said: "Human Rights Watch failed in its attempt to portray the truth of this administration. On the contrary, none of what it says reflects the facts. As Prosecutor General, I reject the reports of Human Rights Watch, not only because they are riddled with false, unfounded testimony, but also because they offer a subjective view that departs from the truth."

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*Although the state of emergency is no longer in force, the security forces continue exercising de facto judicial police powers by undertaking joint operations with the Office of the Attorney General (Prosecutor General). In these operations, agents of the Office of the Attorney General (Prosecutor General) have been called upon to sign on the spot arrest or search warrants which are based not on impartial judicial investigations, but on military suspicions often based on information provided by*

*paid military informants. On other occasions, arrests and searches have been carried out without judicial warrants, despite the fact that those affected had not been in flagrante delicto. These arbitrary judicial practices, together with the possible granting of judicial police powers to the armed forces, risks strengthening impunity and exposing human rights defenders and other civilians to arbitrary criminal investigations. These practices risk tarnishing them as subversive and expose them to heightened risk of violent attack, regardless of whether or not these investigations uncover evidence of criminal wrongdoing. New amendments to the proposed legislation to grant the armed forces judicial police powers include the suspension of habeas corpus rights. If approved, this suspension could facilitate acts of torture of those detained by the security forces.*

Amnesty International Report, *November 2003*

False. The country's security forces have never exercised judicial police powers in joint operations with the Office of the Prosecutor General. This is a contradictory claim. Investigations, arrest warrants and the like are the responsibility of the Prosecutor General's Office and there is nothing abusive about operations undertaken with the military to combat terrorism. This occurs in every democratic country and is in keeping with the law. The anti-terrorist legislation approved recently by Congress is a separate matter. It gives the armed forces judicial police powers, in special circumstances and with prior authorization from the Prosecutor General, to detain suspects, interrogate witnesses, carry out raids or searches, and engage in wiretapping.

The anti-terrorist statute has yet to take effect. In a highly controversial decision, the Constitutional Court disallowed the statute alleging procedural errors in the legislative process. In Colombia, many terrorist acts occur in remote areas or jungle regions far from the presence of judicial authorities. These are places where the population is exposed to a variety of abuses at the hands of illegal armed groups, be they FARC or ELN guerrillas, or peasant self-defense forces. It is impossible to compare this situation to circumstances in Europe or the United States, where there is no armed conflict of the proportions found in Colombia and where geography, communications, proximity to municipal areas and urban centers enable judges to act more or less quickly. Anti-terrorist laws in countries like Spain, France, the Netherlands or Ireland are far more severe than the one approved recently in Colombia. The human rights organization that made this claim has yet to speak out against measures that are commonly accepted by the public in first world countries. All of this appears to suggest a prejudice or bias that prompts Amnesty International to condemn in Colombia what is accepted and perfectly logical in other areas where terrorism is also a problem.

***Anti-terrorist laws in Spain, France, Holland and Ireland are far more severe than the one proposed by President Uribe in Colombia.***

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*Under the government of President Uribe, human rights and social activists continue to be killed, “disappeared”, detained, threatened and harassed. Moreover, while expressing an interest in maintaining dialogue with non-governmental organizations*

*(NGOs), in practice, government security forces and other state officials are frequently and increasingly treating human-rights defenders and social activists as subversives, labeling them as such in public statements and targeting them during intelligence and counter-insurgency operations. Numerous activists, trade unionists, journalists and humanitarian workers have been interrogated or arbitrarily detained during attempts to reach people in conflict zones cut off from the rest of the country. During raids carried out in so-called intelligence and counter-insurgency operations, individual personal details and information regarding the involvement of security-force personnel in human rights violations has been seized from social organizations. These attacks against the human rights movement risk undermining its work by ensuring that human rights violations committed by the security force and their paramilitary allies can continue unobserved.*

Amnesty International Report, November 2003

The foregoing is a completely arbitrary and biased claim. Saying that human rights and social activists *continue to be killed, 'disappeared', detained, threatened and harassed* under the Uribe administration is tantamount to blaming the government for acts often committed by organizations such as the AUC or paramilitary groups. Presenting facts this way, without the necessary clarification, could give the impression that judges, journalists, congressmen, presidential candidates, mayors, etc. have been eliminated or detained under the current administration or any other. There have been incidents of this type in Colombia, but they are the work of terrorist organizations like the FARC and the ELN, not the authorities. Here again, there is no men-

tion of acts perpetrated in Colombia by Marxist terrorist organizations, even acts involving flagrant violations of human rights. Instead, when human rights violations are committed by illegal armed groups on the extreme left or right, they are deceptively attributed to the government, even though law enforcement is doing all it can to combat these groups.

The opposite happens when militant organizations used by the subversion because of their ideological orientation or connections are investigated by judicial authorities and subject to searches, questioning or eventual detention of their members. This occurs in Spain with ETA sympathizers, in France with the sympathizers of Corsican terrorist organizations, and in Ireland with undercover agents for the IRA. It also occurred in Italy with the Red Brigades and in Germany with the Baader Meinhof band. To conceal their activities, these individuals can pose as activists, social or community workers, unionists or students, whether real or fictitious. This is an important point to remember. The ideological affinities of so-called human rights organizations whose executive reports tend to reserve most of the criticism for the Uribe administration explain these distortions. This demands a more cautious approach from the mass media, the leaders of political parties and members of congress and parliament in the United States and the European Union, before giving unconditional credit to such reports.

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***Judges, journalists, members of parliament, and social and human-rights activists have been victims of homicide and forced disappearance in Colombia, but not at the hands of the authorities. It is terrorist organizations on the far left and the far right that are responsible for these crimes.***

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*There were reports that the Attorney General's (Prosecutor General's) Office was seeking to block or hinder investigations into human rights violations in which senior military officers were implicated. Prosecutors working on such cases were removed from the investigations or dismissed from their posts, while others faced death threats; at least one was killed. Several high-profile human rights investigations were also dropped with no apparent justification.*

Amnesty International Report, November 2003

Apparent, no doubt, for the authors of this statement, but not for the journalists, prosecutors and investigators who uncovered serious irregularities on the part of officials who had managed to infiltrate institutions like the Prosecutor General's Office, as part of a careful strategy planned and implemented by subversive groups. A lengthy investigation conducted over a period of four to five years by the Prosecutor General's Office, the Inspector General's Office and the military system of criminal justice uncovered false witnesses, faceless witnesses who had been manipulated, trumped up proceedings, and the like. The cases against General Rito Alejo Del Río and General Fernando Millán Pérez are an example, as discussed in the following section. Manipulation of this sort led them to be branded as guilty of aiding and abetting illegal armed groups on the extreme right. They eventually were exonerated of the charges announced to all and sundry by Human Rights Watch and Amnesty International. Both these organizations, which continue to regard the dismissal of prosecutors as an

abuse, violated one of the most important human right under the rule of law; that is, the presumption of innocence until proof of guilt. They have never openly rectified their charges, which were shown to be groundless, but only after the damage was done. Fortunately, more scrupulous NGOs like Pax Christi give due emphasis to the terrible human rights violations perpetrated by Colombian terrorists, as opposed to spreading false accusations against those who fight them.

***Several well-known NGOs have yet to retract the false accusations they leveled against Colombian officers, even after investigations showed their accusations were unfounded.***

# THE CASE OF GENERAL DEL RÍO

Photograph: Luis Fernando Castellón.



• General  
Rito Alejo Del Río.

According to *A Wrong Turn: The Record of the Colombian Attorney General's Office*, which was published in 2002 by Human Rights Watch, the new Prosecutor General, Luis Camilo Osorio, began a purge within 72 hours of his appointment by *demanding the resignations of two high-ranking, veteran officials who had handled some of the institution's most important and complex human rights cases*. A third official felt compelled to resign in response to the Prosecutor General's actions. Accord-

ing to Human Rights Watch, the purge initiated after Osorio asked the director of the Human Rights Unit, Pedro Díaz, and Deputy Attorney General Pablo Elías González to update him on one of the most important and controversial human rights cases investigated by the unit. It involved alleged collaboration between the head of the army's Seventeenth Brigade, General Rito Alejo Del Río, and paramilitaries during the period from 1995 to 1997. Human Rights Watch published the following in this respect.

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*Following widespread and credible reports that General Del Río had ordered troops to support the paramilitaries and was himself in contact with them, the Human Rights Unit opened a preliminary investigation in August 1998. Among the evidence collected were testimonies from eyewitnesses, a local mayor, and three soldiers under Del Río's command, including a former bodyguard and the general's chief of staff, Colonel Carlos Alfonso Velásquez*

*The evidence against Del Río was compelling enough to prompt then-President Andrés Pastrana to cashier him in 1998. The U.S. government also canceled his visa to the United States, reported on the grounds that there was credible evidence implicating him in "international terrorism" and drug trafficking.*

In August 1998, the Human Rights Unit opened an investigation into General Del Río's actions, collecting testimonies from supposed eyewitnesses, a local mayor, and three soldiers who claimed to have been serving under Del Río. One of them claimed to be a

***General Rito Alejo Del Río, a victim of false testimony, was accused of collaborating with paramilitary groups. Discharged from the army and stripped of his visa to the United States, he was declared innocent five years later by the Attorney General's Office, the Prosecutor General's Office and a military criminal court. Guerrilla agents had paid the witness who testified against Del Río.***

former bodyguard; another is Brigade Chief of Staff Colonel Carlos Alfonso Velásquez. It is also true that former President Andrés Pastrana suspended General Del Río in 1998 and that his visa to the United States was cancelled on the grounds of supposed terrorist activities. In Urabá, where General Del Río had served as Commander of the Seventeenth Brigade, this sparked protest among banana companies, the leaders of Sintrainagro (The Farm Workers Union), local peasants and former EPL guerrillas who had rejoined society as part of the Esperanza Paz y Libertad movement (Hope, Peace and Liberty) and had received protection from the military. At a heavily attended ceremony of redress held at the Tequendama Hotel in Bogotá, Alvaro Uribe Vélez, who is now President of Colombia, and Fernando Londoño Hoyos, former Minister of the Interior and Justice, spoke in General Del Río's defense. Both men emphasized the fact that General Del Río had pacified the region by putting an end to massacres perpetrated by the 5<sup>th</sup>, 18<sup>th</sup>, 34<sup>th</sup> and 57<sup>th</sup> fronts of the FARC, mostly against banana workers.

What is the truth behind the accusations leveled against General Del Río by the Human Rights Unit?

The investigation into General Del Río's actions in the northwest banana region of Urabá began in response to statements made by Oswaldo de Jesús Giraldo Yépez, a soldier who claims to have served

with the Seventeen Brigade in 1996 as one of Del Río's bodyguards. Giraldo claims to have seen the General instruct his men to work in conjunction with paramilitaries and, therefore, to have acted as an accomplice to the massacres committed by paramilitaries in Urabá. In his initial statements given under oath, Giraldo swore that Del Río supplied paramilitaries with uniforms and weapons, so they could "offer a large number of enemy casualties."

Moisés Machado Córdoba, a soldier who claimed there was a paramilitary camp located behind the XVII Brigade base, gave similar testimony. According to him, General Del Río let paramilitaries use the firing range at the base for training and supplied them with uniforms, boots and other used material. He also claimed to have overheard a conversation in English between the general and a foreigner "who offered support to finish off the guerrillas."

In an affidavit, Colonel Carlos Alfonso Velásquez, who was the XVII Brigade Chief of Staff for six months, said there were indications that army personnel failed to move against self-defense groups (paramilitaries), *more out of omission than action*. Velásquez textually stated: "General Rito Alejo Del Río seemed reluctant to fight them (the paramilitaries). He also claimed "there was a tendency towards an organizational culture within the brigade that portrayed self-defense

forces as something along the lines of ‘my enemy’s enemy is my friend’. This ethical misconception did nothing less than deprive the army of its legitimacy.”

Gloria Isabel Cuartas Montoya, a former mayor of Apartadó, the principal city in the region, supported Velásquez’s statements. In testimony given under oath, she claimed to agree with Colonel Velásquez’s assessment of the military’s reluctance to engage self-defense forces in combat. Textually, she said: “Because of indirect information and rumors, I always felt and suspected there were alliances with paramilitary groups.”

Such serious accusations by military personnel under General Del Río’s command and by a representative of civil society (a former mayor of Apartadó) were seized on immediately by local and international human rights NGOs and conveyed to the United States Embassy in Bogotá. This confronted the U.S. State Department with an avalanche of coincidental accusations about General Del Río’s performance. Although they appeared to come from parallel investigations, these accusations stemmed from the same source. At the time, the Human Rights Unit at the Prosecutor General’s Office felt they were extremely damaging to the General. Given the proliferation and magnitude of the charges, the U.S. State Department insisted the Pastrana administration retire General Del

Río from service and canceled his visa to the United States because of “terrorist activities”. President Andrés Pastrana immediately met the U.S. demand, as a way to demonstrate that his government had absolutely no interest in having an officer in the armed forces who was suspected of cooperating with paramilitary groups.

These measures were taken against General Del Río before either the Inspector General or the Prosecutor General had completed their investigations. The Inspector General’s Office was the first to announce its conclusions, following a scrupulous five-year investigation that included over one hundred affidavits, depositions, free and spontaneous statements, documentary proof, transferred evidence, and special visits to accumulate a vast store of proof. The following were the findings of the investigation:

The testimony given by soldier Oswaldo de Jesús Giraldo Yépez, in the sense that Del Río had specifically instructed his men to operate in conjunction with paramilitaries, thus aiding their massacres, was discredited by General Norberto Adrada Córdoba, then-Inspector General of the Army, and by every other officer assigned to the XVII Brigade (except Colonel Carlos Alfonso Velásquez). This accusation also was denied by the officers of the Francisco de Paula Vélez 47<sup>th</sup> Infantry Battalion, the Voltígeros 46<sup>th</sup> Battalion

and the Cacique Coyará 11th Anti-guerrilla Battalion. These units are all part of the XVII Brigade. The officers in question mentioned several orders issued by General Rito Alejo del Río in which he outlined strict policies and ordered the troops under his command to combat all perpetrators of violence, including the self-defense groups operating in Urabá. In short, these affidavits and the disciplinary investigations showed Colonel Velásquez's accusations were not true (*pages 17 to 23 of the case file*).

During the course of the Inspector General's investigation, a statement by security chief NCO Jorge Quintana revealed that Giraldo Yépez was never a member of General Del Río's security force, nor had he been near the general. In contrast, a number of Giraldo's supervisors testified that he was an undisciplined soldier who exhibited poor behavior. A report attached to the case file and signed by an official from the Prosecutor General's Office contains a summary of Giraldo's criminal activities, which eventually landed him in jail.

Given what was verified while evidence was being collected, including numerous statements that described Giraldo's testimony as "untrue", "unfounded" or full of "insidious lies", he **eventually retracted all the statements he had made to officials from the Attorney General's Office and the Inspector**

**General's Office.** Giraldo also stated he had not been pressured to retract his testimony.

**“I retract everything and want nothing more to do with this. I do so freely and have not been pressured”** (pages 40-41 of the case file).

What is serious about Giraldo's original statement to officials from the Prosecutor General's Office is that he lied when pressured by one of the prosecutors, Margarita Luna Prada, who worked with the Human Rights Unit. The directors of the Human Rights Unit were accused on various occasions of political bias towards the subversion and irregularities in the way their investigations were conducted. These charges led Prosecutor General Luis Camilo Osorio to dismiss these individuals shortly after he took office.

Textually, Giraldo stated: *I was in jail in Manizales when Margarita Luna Prada flew in. They took me to the prosecutor's office to talk with her and she promised me everything under the sun. She offered to send me to the United States with my whole family if I said things against General Rito Alejo del Río and the military. Seeing as how I was in jail and considering her proposal, I based my statement on that and lied about General Rito Alejo del Río and the army”.*

Giraldo also stated that a prosecutor from Medellín by the name of José Díaz confirmed the offer to send

him out of the country, with his family, if he signed statements against General Del Río, statements that were already in writing. *There were lots of pages I didn't read and I really got enthused with what they said about me leaving the country.*

According to Giraldo's own words, his retraction (whether due to a guilty conscience or to the fact that he was still in jail, with none of the promised benefits, was not well received by then-CTI officials at the Attorney General's Office, nor by *some people from the United Nations who wanted to know if I'd been bribed into retracting. I said no and they told me that if I wanted (to annul my retraction), they would send me to Holland or Sweden.*

In its most recent conclusion, the Attorney General's Office stated that *even if witness Giraldo Yépez had not retracted his statements, his initial incriminating testimony lends no serious credibility to the charges that General Del Río was involved with paramilitaries.*

The Prosecutor General's Office during that period, with Pedro J. Díaz as the head of the Human Rights Unit, was less than objective in its assessment of the accusations and the evidence. Clearly, it was determined to convict not only General Del Río, but other high-ranking army officers as well. Díaz was eventually dismissed when Prosecutor General Osorio discovered this and other serious irregularities in the work

of the people under his supervision. Interestingly, Margarita Luna Prada, the prosecutor who offered Giraldo Yépez a number of attractive benefits, while in jail, in exchange for false testimony against the general, was the same official who eventually issued the warrant for General Del Río's arrest. She now lives in Canada, having sought asylum to avoid being held liable for what turned out to be malicious lies. At the time, the Prosecutor General's Office was, without a doubt, politically and ideologically biased. Between 1996 and 2001, a number of its officials were prompted to benefit the subversion by prosecuting some of the military's most outstanding officers for their efforts against the FARC and the ELN. Using false testimony, it invariably tried to portray these officers as the allies of paramilitary forces. Worse yet, international NGOs and even the U.S. Department of State gave credit to these accusations, without waiting for them to be investigated.

Once the principal accusations against General Del Río had been discredited by the accuser himself, what remained were the incriminating statements by Colonel Carlos Alfonso Velásquez, former Apartadó mayor Gloria Cuartas, and the soldier Moisés Machado Córdoba. The Prosecutor General's Office concluded that Machado Córdoba's testimony lacked credibility for several reasons. First of all, it seems unlikely that a soldier who entered the army in November 1997 could have gained the confidence of his command-

ing officers so quickly, particularly for access to the kind of incriminating information he claimed to possess. No evidence of the military base purported to have been located behind the Seventeenth Brigade was ever found. It also seems unlikely that Machado Córdoba would have overheard a secret conversation in English between General Del Río and a foreigner who was willing to provide the army with suspicious aid against the guerrillas, particularly since neither the soldier nor the General speak English.

As to the testimony of Colonel Velásquez and former mayor Gloria Cuartas, their claim of indications that army units took no action against self-defense groups were refuted, as mentioned earlier, by officers from the XVII Brigade and the Voltígeros, Francisco de Paula Vélez and Cacique Coyará battalions, who referred unanimously to the official reports sent by General Del Río in which he ordered his troops to combat “everyone and anyone who commits violent acts, without exception”. These officers spoke of a falling out between Colonel Velásquez and General Del Río, and Velásquez’s strange attitude towards the subversion. For example, Colonel Alejandro Navas Ramos, who was commander of the Voltígeros Battalion at the time, said that Colonel Velásquez “*did not seem pleased with the operational results achieved against guerrilla groups*”. For his part, Colonel Pedro Alfonso Avendaño testified at the Inspector General’s Office that Velásquez “*showed his disgust with the operational re-*

*sults against FARC guerrillas.” (pages 72 to 75 of the case file).*

General Del Río himself recalled that, when Velásquez was in command of the Seventeenth Brigade, the FARC perpetrated a series of horrendous massacres against banana workers. The one at Osaka Farm is an example. The victims were mostly workers who had left the guerrillas to join a legal political movement known as Esperanza, Paz y Libertad (Hope, Peace and Liberty).

Regardless of whether Velásquez’s statements against his former commanding officer are interpreted as hostility or ill-will towards Del Río or a political bias that prompted Velásquez’s complacency towards the FARC, the Inspector General’s Office had plenty of legal reasons to discard his testimony, as it did with former mayor Gloria Cuartas’s statements, which were personal considerations and judgements about the military’s purported reluctance to engage self-defense groups in combat, but contained no conclusive evidence. “Everything she said about me,” said General Del Río, when justifying the opinion expressed by the Inspector General’s Office, “is supported by expressions such as *I suspect, I believe* or *I felt*. There is no basis to her charges.”

Of course, in her travels abroad as a guest of NGOs that share her position, Gloria Cuartas reiterates her

claims. For his part, General Del Río accuses her of having maintained contact with the FARC's Fifth Front. This is according to statements by eleven FARC deserters who testified under identity protection, but were eventually discovered and killed.

All of this is controversial and has political undertones. Yet, there is one undeniable fact: after a five-year investigation, the Inspector General's Office found no reason to try General Del Río and shelved the case.

Given the evidence that had been collected, the Attorney General decided not to detain the general and has closed the investigation, after obtaining a notarized copy from the Inspector General of the entire process undertaken with respect to the general's actions and other evidence. Obviously, had the Inspector General reached the same conclusion during the course of the investigation as the Prosecutor General, the decision of the latter would be equally acquitting of the charges leveled against Del Río.

Portraying General Del Río as responsible for serious human rights violations or "terrorist activities", without considering the facts, is negligence on the part of NGOs such as Human Rights Watch, Amnesty International, the International Federation for Human Rights (IFHR) and the World Organization against Torture. It is also remiss of the U.S State Department.

Giving credit to accusations from two soldiers who were obviously manipulated, or to the subjective opinions of a resentful subordinate, or a controversial mayor who operates on mere assumptions, without analyzing the findings of investigations conducted in Colombia, is not a defense of human rights, but a violation. Every citizen, whether a civilian or a member of the military, is entitled to the presumption of innocence until the courts have ruled otherwise.

Then-U.S. Assistant Secretary of State for Human Rights, Labor and Democracy Harold Koh, who pressured the Colombian government in 1998 to dismiss General Del Río, was also on the Executive Board of Human Rights Watch, serving as a kind of “judge and party” to the same action. This shows the bias with which the case was handled, in a classic violation of the right to procedural due process, which is a pillar of human rights, the rights violated by their defenders. What was done on the non-governmental side, Koh ratified from his official position.

**General Fernando Millán, who was accused in reports by the U.S. Department of State and Amnesty International of organizing paramilitary groups and discharged from the army by President Andrés Pastrana, was also a victim of false accusations. Three separate investigations exonerated him of all charges. However, his accusers seem to be convinced that a Colombian officer is guilty, even if proven innocent.**

## THE CASE OF GENERAL FERNANDO MILLÁN PÉREZ



Fotografía: Luis Fernando Castellón.

• General Fernando Millán Pérez.

In its 1998 report on human rights practices in Colombia, the U.S. Department of State said the following about Retired Brigadier General Millán Pérez:

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*In August the Prosecutor General for human rights opened a formal investigation of the army's Fifth Brigade commander, Brigadier General Fernando Millán Pérez,*

*to look into allegations that Millán armed and equipped a paramilitary group in Lebrija, Santander department in 1997. The group was believed responsible for at least 11 murders. However, on October 1 the Superior Judicial Council determined that Millán's alleged actions constituted an "act of service," and turned the case over to the military judiciary for prosecution, effectively cutting off the prosecutor's investigation. Millán had denied the charges.*

*Another section of the same report says: On October 1, the Superior Judicial Council determined that Brigadier General Fernando Millán Pérez's alleged organization of a paramilitary group constituted an act of service and therefore turned General Millán's case over to the military judiciary for prosecution (see Section 1.a.). In reaching its decision, the Superior Judicial Council determined that it was not bound by the Constitutional Court's narrow 1997 interpretation of the 1991 constitutional standard in relation to acts of service. The Superior Judicial Council's decision effectively ended the Prosecutor General's investigation into whether General Millán had provided weapons and intelligence to paramilitary groups in Santander department.*

The 1999 report by the U.S. State Department on human rights practices in Colombia says:

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*However, on April 9, President Pastrana formally retired from service Brigadier Generals Fernando Millán Pérez and Rito Alejo del Río; both had links to paramilitary groups. The Government stated only that it "was no longer convenient" for them to continue their military service. The military judiciary announced no new developments during the year in its ongoing investigation of General Millán regarding allegations that he armed and equipped a paramilitary group in Lebrija, Santander department, in 1997. The group was believed responsible for at least 11 killings. In*

*October 1998, the Superior Judicial Council had determined that Millán's alleged actions constituted an act of service and turned the case over to the military judiciary for prosecution, effectively cutting off the prosecutor's investigation. Millán had denied the charges. In June the Attorney General's (Inspector General's) office opened a disciplinary investigation of Millán.*

The State Department adds:

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*In October 1998, the Superior Judicial Council had determined that Millán's alleged actions constituted an act of service and turned the case over to the military judiciary for prosecution, effectively cutting off the prosecutor's investigation (See Section 1.a) In reaching its decision, the CSJ determined that it was not bound by the Constitutional Court's narrow 1997 interpretation of the 1991 constitutional standard of relation to acts of service. The CSJ's decision effectively ended the Prosecutor General's investigation into whether General Millán had provided weapons and intelligence to paramilitary groups in Santander department.*

In its 2000 report, the U.S. State Department reiterates the following:

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*In April 1999, President Pastrana formally retired from service Brigadier Generals Fernando Millán Perez and Rito Alejo del Rio; both had links to paramilitary groups. The Government stated only that it "was no longer convenient" for them to continue their military service. The military judiciary announced no new developments during the year in its ongoing investigation of General Millán regarding allegations that he armed and equipped a paramilitary group in Lebrija, Santander department, in 1997. The group was believed responsible for at least 11 killings. In October*

1998, the Superior Judicial Council had determined that Millán's alleged actions constituted an act of service and turned the case over to the military judiciary for prosecution, effectively cutting off the prosecutor's investigation. Millán had denied the charges. In June 1999, the Attorney General's (Prosecutor General's) office opened a disciplinary investigation of Millán, which still was in progress at year's end.

Adding:

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*In August the Prosecutor General's office opened an investigation against retired Brigadier Generals Millán and Del Río for bribing witnesses to testify falsely against a leading NGO organizer and a labor leader. Human rights groups were subjected to surveillance, harassing phone calls, graffiti campaigns, and threats by paramilitary, guerrilla, and other unidentified groups. At least four human rights activists had been killed as of October; there were three forced disappearances of human rights activists.*

In its 1999 report on Colombia, Human Rights Watch stated:

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*Meanwhile, government investigators launched an investigation of the army officers who set up and supported these associations without government approval. For example, the Las Colonias association in Lebrija, Santander was set up by General Fernando Millán at the Fifth Brigade base he commanded. The association regularly extorted money from residents and allegedly carried out a series of killings, robberies and death threats. Among its members before its dismantlement were several known paramilitaries from the Middle Magdalena region. The army high command prevented prosecutors from questioning Millán, then interposed a jurisdictional dispute, claiming*

*that since Millán was in active service and carrying out his official duties, the case should be tried before a military tribunal. In October, the case, like hundreds before it, was sent to a military tribunal.*

In its 2000 report, Human Rights Watch stated:

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*The government took some steps toward purging the military of suspected human rights abusers. On April 9, President Pastrana cashiered General Rito Alejo del Río and Gen. Fernando Millán, who were both being prosecuted for alleged support for paramilitary groups. At this writing, the Attorney General's (Prosecutor General's) office continued to pursue a case against Del Río for alleged support to paramilitaries who carried out dozens of massacres and selective killings in the Middle Magdalena and Urabá regions. However, a similar case against Millán remained before a military tribunal. Given the long-standing practice of these tribunals, the case was likely to end in impunity. The Attorney General's (Prosecutor General's) Office and the Inspector General's Office, which investigates allegations against government employees, also found evidence implicating soldiers under Millán's direct command as well as police and DAS agents in a 1998 massacre in Barrancabermeja. The massacre had been carried out by paramilitaries who abducted and killed thirty-two people, apparently with the officers' help.*

## THE TRUTH

General FERNANDO MILLÁN PÉREZ commanded the Fifth Brigade in Bucaramanga from December 1996 to December 1998. During that period, the Fifth Brigade was the army's most effective unit in the fight against illegal armed organizations. Millán

managed to eliminate the region's principal ELN leaders in combat. In Bucaramanga, he conducted an intelligence operation that revealed ties between ELN support networks and a number of human rights NGOs found to be channeling international funds to the subversion, particularly from countries in the European Union. For his efforts, the national government awarded Millán the Distinguished Service Medal for Valor, Law and Order for the sixth time, and made him Director of the War College.

However, between 1997 and 1998, allegations that General Millán had organized and equipped a paramilitary group in Lebrija were accepted by the U.S. State Department and human rights NGOs such as Human Rights Watch. This prompted President Andrés Pastrana to order his dismissal from active duty. The Prosecutor General and the Inspector General opened an investigation into these allegations. Their inquiry lasted five years. In the end, the Prosecutor General's Office, the Inspector General's Office and the system of military criminal justice absolved General Millán of all charges. Nevertheless, the U.S. State Department and Human Rights Watch had already accused, tried and convicted him in the eyes of the international community, without giving him a chance to prove his innocence.

What really happened? In December 1996, when General Millán took command of the Fifth Brigade, which

has 120 thousand square kilometers of territory and approximately 130 municipal districts under its jurisdiction, he was confronted with a serious situation. Subversive groups and common criminals had initiated a wave of attacks, kidnappings, killings and extortion in the region. Local poultry farmers, ranchers and residents turned to the military for help. These atrocities were having a serious impact on farming and livestock in this important agroindustrial area.

Although 17 battalions were under orders from the Fifth Brigade to protect the country's oil facilities and the highways to the Caribbean coast and Venezuela, many rural areas were at the mercy of FARC and ELN guerrillas. To address the situation, General Millán encouraged the creation of private security and surveillance services in more than 90 municipal districts under his jurisdiction. Commonly known as CONVIVIR, these groups were entirely legal and were authorized by law during the administration of President Ernesto Samper, and his interior minister Horacio Serpa Uribe. Essentially, they were designed to advise law enforcement of the presence and action of irregular groups in each municipal district.

At meetings in Bucaramanga and other towns in the area under his jurisdiction, General Millán emphatically indicated these groups could have no ties with drug traffickers and were not allowed to use army or police uniforms, or acquire arms reserved for use by

the military. *"I'll shoot anyone who crosses me on this,"* he said at the largest of these meetings. This remark was trumpeted in the regional press and on the radio. The instructions given to civic leaders who were part of the CONVIVIR in each municipal district were con-signed in minutes and documents.

The 90 CONVIVIR created at the time performed their functions, alerting law enforcement to the ac-tions and presence of subversive groups. There was only one exception: the CONVIVIR organized in Lebrija, a busy agricultural town 17 kilometers from Bucaramanga, the capital of the department. Although Luis Antonio Jaimes, a well-regarded poultry farmer who was also president of the Community Action Board headed the group, two of its members began to commit serious crimes and organized a typical para-military force, something Jaimes was unaware of. Retired army sergeant JOSÉ AGUSTÍN CAÑÓN and JESUS VELASCO, an informant for the Ricaurte Battalion, imposed mandatory quotas and taxes on local inhabitants: farmers and merchants alike. They also acquired weapons, performed law-enforcement duties in the smaller villages, and killed peasants they regarded as guerrilla allies or informants. There are numerous pieces of evidence and irrefutable testimo-nies to this fact.

The parish priest in Lebrija and the president of the local Convivir, Luis Jaimes, reported this situation to

the commander of the Antonio Ricaurte Battalion, Lieutenant Colonel Hernando Sánchez Salamanca. At the end of November 1997, Mr. Jaimes went to the Fifth Brigade to inform General Millán that members of the Lebrija Convivir were using their homes to hide weapons and were soliciting money from the civilian population. General Millán immediately issued verbal and written instructions to the Los Güanes Battalion, ordering the detention of those suspected of these crimes. The operation ordered by General Millán was carried out on December 4, 1997 under the code name *Dragón*. The leaders of the group fled when they heard the battalion had arrived in Lebrija. This put an end to their crimes.

Nevertheless, the justice officials who investigated the crimes committed by the paramilitaries in Lebrija decided that the commander of the Ricaurte Battalion, Lieutenant Colonel Hernando Sánchez Salamanca, failed to promptly detain or take action against the group, which claimed to be operating on behalf of the local Convivir.

The killings and other crimes perpetrated in 1997 by the paramilitaries in Lebrija resulted in complaints being filed with the Prosecutor General's Office. Surprisingly, the Human Rights Unit of this agency decided to extend responsibility for these crimes to the head of the Lebrija CONVIVIR - who was the first to report them - and to General Fernando Millán Pérez

and Lieutenant Colonel Hernando Sánchez Salamanca, who were accused of having established and been part of vigilante groups, wrongly called paramilitaries or death squads. This accusation was enough for NGOs to announced these charges to all and sundry. Without waiting for an investigation, the U.S. State Department demanded Millán's immediate dismissal from active duty. President Pastrana complied with this request.

Although General Millán took action against the paramilitaries in Lebrija as soon as he was informed of their crimes, why did the Prosecutor General's Office accuse him of involvement with the group he was trying to combat? Now that he has been cleared of these allegations by three different instances in the justice system, it is obvious that General Millán was a victim of injustice. His was a completely arbitrary situation, considering there was absolutely no basis for initiating an investigation. General Millán believes the false allegations that destroyed his career were the work of Cucuta Regional Prosecutor Ramses Libardo Pinilla, who had jurisdiction over the area where the events occurred. A military operation at Páramo de Berlín, a high plateau located between Bucaramanga and Pamplona, aroused General Millán's suspicions. On that occasion, 15 ELN guerrillas were killed in a brief combat. The dead included Reinaldo Ardila and Rafael Cabrera Lombana, commanders of the Capitán Parmenio and Cáuca Guerrero fronts. Among the

items found in Cabrera Lombana's backpack were five notebooks. One of them, which contained a political analysis and several recommendations, describes Ramsés Libardo Pinilla as an *excellent ally*. A look at the investigations carried out on Pinilla's orders shows a trend towards high-ranking military officers being accused on the basis of dubious testimony.

At the time the Inspector General absolved General Fernando Millán of all charges in the indictment, Colonel Hernando Sánchez Salamanca, commander of the Antonio Ricaurte Battalion, was discharged from the army for negligence in responding to the allegations of paramilitary action in Lebrija and for having allowed his men to loan weapons to the group commanded by Sergeant Agustín Cañón, which was preparing to fight the guerrillas. Police lieutenant Óscar Esteban Hernández Barragán was relieved of his duties for similar reasons.

In 1998, while the Inspector General's Office, the Prosecutor General's Office and the military criminal justice system were investigating the events in Lebrija, General Millán learned something very interesting about his case. An individual by the name of Luis Alfonso Córdoba swore, in an affidavit, that Ana Teresa Bernal, Director of Redepaz (an NGO), and two individuals by the name of Hernando Hernández and Jaime Caicedo, had offered him 1.5 million pesos and a chance to leave the country, if necessary, pro-

vided he accused Millán and General Rito Alejo Del Río of sponsoring vigilante groups (wrongly called paramilitaries). Considering the seriousness of the accusation against him, General Millán felt this was something the authorities should know about.

Córdoba filed his allegation on October 1, 1998 and a district prosecutor assigned to the Human Rights Unit at the Prosecutor General's Office undertook the investigation. Eventually, the Prosecutor General decided there was no basis for Córdoba's claims and accused him of making false accusations. A military intelligence agent by the name of Luis Arturo García Largo was also charged, as were Millán and Del Río.

The investigation into this new charge lasted more than four years. In the end, the Prosecutor General's Office absolved General Millán and General Del Río, saying they had no way of knowing the accusation against Ana Teresa Bernal, Hernández and Caicedo was false. In his decision, Edgar Carvajal Paipa, the prosecutor assigned to the case, *echoed the plea of innocence requested by generals Del Río and Millán*, having found no evidence whatsoever to warrant their prosecution.

Last but not least, the system of military criminal justice concluded there was no reason to try Brigadier General Fernando Millán Pérez in a military court on charges of having instigated paramilitary groups.

In short, three parallel investigations found no reason to doubt Millán's innocence. Nevertheless, in recent reports, Human Rights Watch and the U.S. State Department still refer to him as an officer who "*armed and equipped paramilitary groups in the Santander region of Colombia.*" Neither of these institutions has mentioned the clumsy plot staged against General Millán.

Instead of honoring the standard set forth in the Universal Declaration and Pact on Civil and Political Rights, and in the American Convention, whereby every individual is presumed innocent until proven guilty, Human Rights Watch and the U.S. State Department seem to have adopted an opposite standard or, worse yet, one that considers a Colombian officer guilty until he is able to prove his innocence.

# THE CASE OF CAPTAIN GERMÁN PATAQUIVA

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*Since 1987, a paramilitary group has been operating in the Chucuri region of Santander, between the towns of San Vicente and El Carmen. The same group, which patrols the area in the company of army troops, is responsible for the death of 149 peasants between June 1987 and April 1990. Most of these crimes were committed during operations carried out in conjunction with the military. Officer Pataquiva has been identified repeatedly by local peasants as a prominent member of this paramilitary group and the perpetrator of numerous crimes. The 7<sup>th</sup>, 21<sup>st</sup> and 22<sup>nd</sup> criminal courts and those that deal with law and order have investigated several of these crimes, and Officer Pataquiva was called to testify in 1992. The Attorney General's (Inspector General's) Office initiated disciplinary action in response to these incidents and brought charges against Officer Pataquiva in November 1992.*

(Taken from the book *El Terrorismo de Estado en Colombia*  
(*State Terrorism in Colombia*),  
Ediciones NCOS, 1992 – Vlasfabriekstraat 11 – 1060 Brussels  
D/1992/2793/19)

This is true. Seventeen peasants from San Vicente del Chucurí, the region mentioned in the report, accused Captain Germán Pataquiva of having murdered or “disappeared” a young peasant from the region, after torturing him, hanging him from a tree and burning his feet. The 17 testimonies coincide in this accusation. Charges were brought against Pataquiva by the

Prosecutor General and the Inspector General. On their orders, he was detained at his assigned battalion during the course of the investigation.

What the book omits is the truth revealed by the investigation.

Instead of taking repressive action against the guerrillas and their collaborators in San Vicente and El Carmen de Chucurí, Captain Pataquiva tried to win the support of local peasants by ordering his troops to help repair roads, fences and houses. He told his men the subversion was like a tree with many branches, only one of which was military. “If we cut off that branch, it might grow back,” he said. “We have to find the roots, which could lie with popular support for the guerrillas.” Through his contacts, Captain Pataquiva learned the peasants were unhappy about being forced to donate one day’s work a week to the ELN, as part of so-called “production groups”. Local peasants also were obliged to attend ELN indoctrination courses and, above all, their sons and daughters were recruited by force. No one could protest, and many of these girls became pregnant.

After several months of trying to win the support of the local population, Pataquiva convinced two thousand peasants to go to a local ELN camp run by the “Captain Parmenio” Front. That day, their intention was to ask the commander to let them go about their

lives, without having to fulfil a commitment to the guerrillas. The ELN's response was brutal. The water system in El Carmen de Chucurí was dynamited, bridges on the roads between the town and the capital of the department were blown up, and landmines were planted in fields and stables. There are many wounded children and women in El Carmen.

The accusation by the 17 peasants was unfounded. The truth was something very different. Having conducted a survey to identify the poorest peasants in the region, in order to provide them with a small supply of groceries, Captain Pataquiva came across a poverty-stricken woman whose only son had been recruited by the ELN. He warned her of the serious risks her son faced by serving with the ELN. Discipline within that organization is severe at best. Falling asleep while on guard duty or eating more than the authorized ration of food is enough to warrant a death sentence. "When you hear from your boy, tell him I could offer protection if he has a problem." Pataquiva told to her. And, that is exactly what happened.

In effect, the boy took advantage of his first opportunity to be arrested by the military. He was taken to Captain Pataquiva, who kept his promise by sending him to work with military intelligence in the city of Bucaramanga, as an informant. After Pataquiva had been arrested, his sister came across the address and

telephone number of the boy he supposedly tortured and “disappeared”. Although the prosecutors suspected a set up, the former guerrilla went to their offices, identified himself, and admitted what had happened. Pataquiva was released as a result, and later filed suit against the peasants who had wrongfully accused him. When questioned by prosecutors, they admitted the guerrillas had threatened them with death if they did not sign a statement implicating Pataquiva. ***This is common practice and constitutes the basis for many unfounded accusations leveled by well-known NGOs.*** It goes without saying that Captain Pataquiva withdrew his suit after learning the peasants had accused him under threat of death.



This is the truth not told in *Terrorismo de Estado en Colombia*.



# HUMAN RIGHTS IN COLOMBIA: HOW RESPONSIBLE IS THE STATE?

Well-known NGOs have emphasized the purported responsibility of the Colombian State for human rights violations. Yet, other non-governmental organizations belonging to a federation known as Verdad Colombia maintain that very few members of law enforcement or the military are responsible for abuses of this type. For example, during the past year, the Ombudsman's report on human rights indicated that only 261 of the 9,000 reported cases with a known perpetrator were the work of state agents.

State agents implicated in human rights violations acted on their own, never on behalf of the institutions with which they were associated at the time of the violation. This is a necessary clarification, inasmuch as the international and domestic organizations that oversee human rights usually blame the Colombian State, as if systematic violation of human rights were a state policy. In such cases, the saying "innocent people must often pay for the guilty" simply cannot apply. Those responsible must be tried and convicted.



In the past year, judicial authorities in Colombia have proceeded against several members of the armed forces for their involvement (through action or omission) in specific human rights violations. An army colonel was sentenced to 40 years in prison for the massacre at Mapiripán in the Department of Guaviare. An army major received a 28-year sentence for attempting to assassinate a union leader. Other officials of different ranks are also involved in cases being investigated and tried in ordinary courts. Some of them will be exonerated and others will be convicted, but they all have the right to due process.

Although opinion polls show 80% of Colombians believe the measures adopted as part of President Uribe's security policy are absolutely necessary, a number of human rights organizations disagree. The Colombian government says the latest report by the United Nations High Commissioner for Human Rights underestimates what was accomplished in this respect during the past year.

## THE UNITED NATIONS REPORT

According to the government, the United Nations report does not fully understand the Democratic Security Policy, which is designed to protect each and every Colombian. It questions the legitimacy and objectives of the policy, masks its relevance for guar-

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***In its report on Colombia, Amnesty International does not acknowledge the seriousness of the threat to the country posed by armed organizations that grow thousands of hectares of coca, produce 700 tons of cocaine, and kidnap more than 1,500 civilians each year for millions in revenue.***

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anteeing and protecting human rights, and occasionally gives the impression that it poses a threat to human rights, as opposed to creating ways and means to guarantee the life and liberty of all Colombians. This, however, is contrary to the results of the policy and the perception of those who live in Colombia.

***Colombian society is polarized. Ninety-seven percent of the population supports the country's democratic institutions. Only 3% of the groups on the far left support the guerrillas and their terrorist tactics.***

The government says the UN report does not acknowledge the seriousness of the threat posed to Colombia's institutions and society by illegal armed organizations that use terrorist tactics. Protecting and using more than 100,000 hectares of land to grow enough coca to produce 700 tons of cocaine, kidnapping more than 1,500 civilians during the year, dynamiting 100 bridges, planting landmines, using explosive devices against the civilian population, killing more than 13 mayors and 70 councilmen, and attacking infrastructure that is vital to the country - with 483 electrical transmission towers and 62 communication towers destroyed - were just some of the crimes perpetrated by terrorist groups in Colombia during 2002.

Saying Colombia is a polarized society is simply not true. The vast majority of the population clearly supports the country's democratic institutions, opposes the use of violence, and understands that the persistent violence inflicted by illegal armed groups affects democracy as well as possibilities for social justice.

The following are some of the objectives of President Uribe's Democratic Security Policy:

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*Reinforce and guarantee a constitutional State throughout the nation by strengthening democratic authority, free exercise of the authority of institutions, the rule of law, and the active participation of citizens in matters of common concern.*

(Paragraph 4, Democratic Security Policy)

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*Security is understood as the protection of citizens and democracy by the State, with the supportive cooperation and commitment of society as a whole, based on protection of the rights of all citizens, regardless of gender, race, origin, language, religion or political ideology; the protection of values, the plurality of political debate and democratic institutions; and the solidarity and cooperation of all citizens in the defense of democratic values, expressed not only by exercise of the vote, but also by respect for and encouragement to the civic values surrounding the plurality of political debate, with society assuming an active role in public affairs, and in the defense of the freedom of all.*

(Paragraph 6, Democratic Security Policy)

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*Action taken by the government shall always be within the bounds of the law. Human rights shall be observed rigorously and international humanitarian law strictly adhered to, as stipulated in the Constitution and by law. Any violation or abuse of human rights by a member of law enforcement or any other State agency shall be punished without hesitation through disciplinary or criminal proceedings, as the case may be.*

(Paragraph 24, Democratic Security Policy)

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*The Colombian government says the Democratic Security Policy allowed for a reduction of 33% in massacres during 2003, a decline of 57% in the number of unionists assassinated, and 84% fewer attacks on villages and towns, while guaranteeing control of the highways and all urban areas in the country.*

The substantial decline in human rights violations in Colombia is largely due to the impact of offensive operations mounted by the security forces against illegal armed organizations. The police, who are now stationed in every municipal district, have strengthened the presence of law enforcement throughout the country. Creation of the High Mountain Battalions has been another factor, as has the added volume and effectiveness of air power and the development of sustained operations, all of which have weakened the terrorists.

Despite the claims of NGOs that are determined to find a connection between the so-called paramilitaries and the armed forces, the number of self-defense force members who have been captured is up by 133%, while the number of FARC and ELN guerrillas captured is up by 85%. There has also been an increase in combatants killed. This figure is up by 14% for the guerrillas and 85% for self-defense forces. These results spell greater security for the population and the protection of public property. As an example, attempts to blow-up electrical power transmission towers are down by 32%, and attacks on communications towers, water and sewer system and bridges have declined by 69%, 84% and 67%.

As to the 24 recommendations presented to the Colombian government by the United Nations High Commissioner on Human Rights, the following are of particular interest.

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*6. The High Commissioner calls on the Department of Public Prosecution and senior public service officials to take disciplinary action against any State employees who through their actions or omissions in any way jeopardize the work of human rights defenders.*

Ministry Order 09 of July 8, 2003 contains instructions on protection, support and dialogue with unionists and NGOs. Disciplinary measures will be taken when required.

The Office of the Inspector General sent a letter to the Office of the United Nations High Commissioner for Human Rights on November 7, 2003 concerning the information that is available with respect to this requirement.

Reported cases and accusations to this effect were reviewed in conjunction with the Office of the Inspector General.

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*12. The High Commissioner urges the security forces to fully observe the obligations imposed upon them by international humanitarian law, especially those related to*

*observance of the principles of limitation, distinction, proportionality and the general protection of the civilian population.*

All air operations must be approved the Colombian Air Force Command (FAC). As to protection, the police are now present in every municipality. Continuous training and instruction are being offered in conjunction with the International Committee of the Red Cross (ICRC) to apply IHL principles in the planning and execution of security operations.

According to the last annual report by the Ombudsman, only 261 of the 9,000 reported cases of human rights violations with a known perpetrator are attributed to members of the security forces.

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*15. The High Commissioner calls upon the Government and Congress of the Republic, when adopting policies or drafting legislation, to pay due attention to the obligations assumed by Colombia as a State party to international human rights and international humanitarian instruments. He urges them to take account of the international principles of legality, necessity, proportionality, timeliness and non-discrimination when adopting or applying policies and measures related to security and public order. He calls on them in particular not to introduce any rules in the Colombian legal system that would enable members of the military forces to exercise police or other functions incompatible with the independence of the justice system.*

The Colombian government has said it agrees with the spirit of this recommendation, but not the inter-

pretation that judicial police functions for the military would, in and of themselves, violate international treaties. It has indicated that measures to this effect must coincide with the treaties signed by Colombia and the needs imposed by actual conditions, which have been seriously affected by terrorist acts.

The government has asked Congress to approve a constitutional amendment that would give the country's institutions the tools they need to fight terrorism. One of these is the possibility of creating special judicial police units, which would be comprised of military personnel operating under the direction of the Prosecutor General's Office. These units would perform judicial functions in high-conflict areas where access is difficult. The following are some important points in this respect:

- There are no judicial authorities in many remote parts of the country where the rights of citizens are violated time and again by violent groups.
- This places serious constraints on investigative action by the State.
- Judicial authorities would assess the information gathered by these units.
- They would be supervised and coordinated by the Office of the Prosecutor General.
- Exercise of their faculties would be confined geographically to areas where they are absolutely necessary.

- Their actions would be limited to combating terrorism and crimes against public safety.
- The members of these units would abide by a single set of rules on liability and be removed from military jurisdiction
- This would be a temporary faculty (4 years).
- Like all measures, these faculties would be subject to judicial, disciplinary and political controls.
- The impartiality of judges, the presumption of innocence, the right to question evidence, the speed of a trial, the right to not incriminate oneself, and the existence of appellate procedure or the principle of *non bis in idem* would not be affected.
- An accusation based on collected information or evidence would not constitute a definitive determination of culpability.
- The members of these units would receive technical training.

In short, this ruling is necessary given the current circumstances in Colombia and is consistent with the international treaties of which the State is a party.

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*19. The High Commissioner calls on the Minister of Defense to suspend from duty with immediate effect any members of the security forces involved in serious human rights violations or war crimes, and to inform the judicial and investigative authorities accordingly.*

Decisions stemming from investigations by the Human Rights Unit at the Prosecutor General's Office

led to the suspension of 44 members of the nation's security forces in 2003 (25 from the army, 18 from the national police, and one from the marine infantry). The Ministry of Defense will continue to honor decisions on suspension produced as part of a criminal or disciplinary process.

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*20. The High Commissioner urges the Special Committee on the Conduct of Investigations into Human Rights Violations and Breaches of International Humanitarian Law, chaired by the Vice President of the Republic, to work actively on a selection of representative cases of such violations, and to submit a quarterly report to the President of the Republic, the Attorney General (Prosecutor General), the Procurator General (Inspector General) and the Ombudsman on the progress of such investigations.*

The Special Expediting Committee met on December 4, 2002 to approve the Anti-Impunity Project to be presented to the Government of the Kingdom of the Netherlands. A preliminary selection of 150 cases also was approved on that occasion, as was the invitation to OACNUDH to become a permanent member of the Special Expediting Committee and its work group. The agreement to initiate the Anti-Impunity Project was signed in June 2003 between the governments of Colombia and the Kingdom of the Netherlands.

The work group of the Special Expediting Committee approved a definitive slate of 115 serious human

***In 2003, investigations by the Prosecutor General's Office led to the suspension of 44 members of state security forces. The government does not encourage human rights violations; it condemns them.***

rights cases on July 25, 2003. On October 2, 2003, at the initiative of the Office of the High Commissioner for Human Rights, it approved a selection of ten (10) priority cases to expedite and monitor.

During November and December 2003 eight (8) commissions were ordered by the Inspector General and the Prosecutor General to expedite the priority cases. Another eight (8) commissions were ordered up in January and February. The number of commissions ordered by the Prosecutor General and the Inspector General to address the selected cases, especially those considered a priority, is expected to triple.

The following are the results for November and December 2003:

- 126 court ordered searches
- 54 arrests
- 54 investigations
- 1 extended investigation
- 36 statements
- 14 interviews with informants
- 45 judicial inspections
- 6 exhumations
- 12 identifications in a lineup
- Confiscation of large quantities of military gear, light and heavy weapons, ammunition, communication and transport equipment, computer equip-

ment, documents, cash and psychotropic substances.

- One (1) ruling by the Inspector General's Office requesting the dismissal of an army colonel for having taken part in the La Cabuya massacre. The ruling was subsequently confirmed by the Assistant Inspector General.
- Status of the individuals arrested: former and acting CTI officials, financial and operational commanders of paramilitary groups, police officers, army officers and policemen.

The results for January and February 2004 include:

- 56 court ordered searches
- 25 arrests
- 25 investigations
- 4 interviews with informants
- Verifications
- Confiscation of large quantities of military gear, weapons, ammunition, communication equipment, videos and documents.

Status of the individuals arrested: a paramilitary group commander, paramilitary finance chiefs, hired gunmen and criminal masterminds.

A form to monitor the cases being expedited by the Special Committee was approved by the Project and

the Human Rights-IHL Unit on January 16, 2004. Management and performance indicators are being designed for the Project.

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*21. The High Commissioner calls on the President of the Republic, in his capacity as Head of State and Commander-in-Chief of the security forces, to take all necessary steps to ensure that, independently of any dialogue conducted between the government and paramilitary groups, all links between public officials and members of such groups are severed. It also calls on him to inform the Procurator-General of the Nation and the Ombudsman about the implementation and results of such measures in half-yearly reports*

The Minister of Defense issued permanent Directive No. 15 on September 23, 2003 outlining the policy on combating illegal self-defense groups and imparting instructions to the General Command of the Armed Forces and the National Police. Instruction No. 051 was issued on October 8, 2003 to execute Directive No. 15. In 2003, the number of paramilitaries who were killed was up by 85% compared with 2002; arrests or captures were up by 133%. During the period from January 1 to February 23, 2004, 626 members of self-defense forces were captured and 105 were killed.

## THE UNITED STATES EMBASSY PERSPECTIVE

The following is from an internal memorandum circulated in 2003 by the United States Embassy in Colombia:

*Some discrepancies between (Government of Colombia) GOC and NGO statistics can be explained by differing terminologies and definitions. For example, GOC entities define a massacre as the intentional killing of four or more persons at the same time and place, while NGOs define a massacre as the deaths of three or more persons. The **Colombian Commission of Jurists (CCJ)**, an internationally respected but unapologetically left-leaning NGO that regularly interprets CINEP statistics, defines deaths of combatants in hostilities as human rights violations. Analysis of the CCJ's own published statistics reveals that this definition more than doubled the number of human right violations the CCJ recorded between July 1, 2002 and June 30, 2003.*

More broadly, the Jesuit-founded **Center for Popular Research and Education (CINEP)**, which manages Colombia's largest and most influential database on human rights violations, defines "human rights violations" as crimes that can only be committed by the state or state-sponsored actors, which it presumes to be paramilitaries. As a result, it attributes "human rights violations" only to the government, and no report on human rights violations reflects that distinction. The human rights crimes of guerrillas are cat-

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**According to the U.S. Embassy, the Colombian Commission of Jurists defines deaths of combatants in hostilities as human rights violations. The U.S. Embassy also says that CINEP converted 137 detentions ordered by the authorities into 398 human rights violations.**

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egorized as violations of “international humanitarian law” or common crimes. The Colombian government uses a more common sense definition of human rights violations that encompasses crimes by illegal armed groups, as well as state actors.

On the subject of arbitrary detentions, which increased by 400 percent last year according to CINEP, the embassy report says *CINEP...considers the following to be “arbitrary”: legally-authorized arrests of demonstrators who are occupying government property, arrests of, suspicious persons during urban combat operations, and warrant-based arrests of civic activists and union leaders suspected of supporting guerrillas. Colombian human rights NGOs considered nearly all detentions carried out by military forces in the former rehabilitation zones to be illegitimate, in spite of the fact that such detentions were authorized by law and, unless outstanding arrest warrants were discovered, usually lasted a maximum of 36 hours.*

In some cases, CINEP also publishes numbers that are already double-counted. For example, a CINEP report for April through June, 2002, under the category “human rights violations based on political persecution,” recorded 57 arbitrary detentions by the Department of Administrative Security (DAS), the Colombian state and public forces, 60 by the Prosecutor General’s Corps of Technical Investigators (CTI), 86 by the national police and 85 by the Judicial Police (SIJIN). An examination of specific cases re-

vealed that 57 violations (detentions) reportedly committed separately by DAS, the Colombian State, public forces and the CTI referred to the same 57 detentions. Likewise, 85 “violations” reportedly committed by the police and separately by SIJIN, a branch of the police itself, also referred to the same 85 detentions. Through double counting, 137 purported arbitrary detentions became 398 violations in CINEP’s published report.

The Embassy report contains a typical case in which a violation was knowingly fabricated. *For example, in preparing the 2002 human rights report on Colombia, the Embassy investigated a case widely circulated on the Internet that accused Colombian soldiers of murdering an unarmed, mentally retarded man in a small Colombian village by nearly severing his head with a machete. Based on the testimony of civilian investigators and witnesses, however, we eventually concluded that the victim was mentally sound, was armed with a pistol at the time of his death, and was shot by a Colombian soldier during a struggle.*

## CONCLUSION

All of the foregoing shows the statements and accusations voiced around the world by human rights organizations, respected as they may be, are weak when the information does not come from field work conducted by these organizations, but is limited to claims

by local NGOs whose ideological bias offers little chance of objectivity. In Colombia, the issue of human rights has obviously been manipulated to deprive the government of support, in its fight against terrorism, from the United States and the countries of the European Union, which face the same danger.

The threat to human rights in Colombia comes from a weak State, not from a build-up in the State or exercise of its democratic authority throughout the country, as some NGOs have tried to maintain. Proof of this can be found in the results of President Uribe's Democratic Security Policy during the past year.

### STATISTICS ON THE HUMAN RIGHTS SITUATION AND OPERATIONAL RESULTS ACHIEVED BY LAW ENFORCEMENT

#### COMPARISON BETWEEN 2002 AND 2003

	2002	2003	Change in percentage
Homicides	28.837	23.013	-20%
Murdered Union Activists	121	52	-57%
Murdered Mayors	13	9	-31%
Murdered City Councilmen	80	75	-6%
Murdered Indians	180	164	-9%
Murdered Teachers	79	41	-48%
Massacre Victims	680	423	-37%
Massacre Cases	115	77	-33%



Murdered Journalists	10	7	-43%
Kidnappings	2.986	2.200	-26%
Attacks on Population Centers	32	5	-84%
Attacks on Communication Towers	62	19	-69%
Attacks on Power-transmission Towers	483	326	-32%
Attacks on Oil Pipelines	74	179	141%
Attacks on Bridges	100	33	-67%
Attacks on Water Systems	12	3	-84%
Members of self-defense groups killed by security forces	187	346	85%
Members of self-defense groups captured	1.356	3.166	133%
Subversives killed by security forces	1.690	1.919	14%
Subversives captured by security forces	3.763	6.967	85%



# HOW IMPARTIAL ARE HUMAN RIGHTS ORGANIZATIONS?

A look at the Colombian situation shows some are and some are not. The ones that are, such as Pax Christi, take the trouble to conduct their own investigations in Colombia. Consequently, they are in a better position to determine who is really responsible for human rights violations. In contrast, international NGOs are unreliable when their information comes from local NGOs whose ideology is linked to Marxist-Leninist thinking or the theology of liberation. This bias prompts them to classify the FARC and the ELN as insurgent, rebel or armed opposition groups and to overlook their typically terrorist activities. They prefer to train their sights exclusively on members of the military, blaming them for violations perpetrated by right-wing terrorist organizations such as the United Self-defense Forces of Colombia.

NGOs are national and international in nature. This is an important point to remember. An NGO is international if its membership is multinational. However, its actions are subject to the laws of the country where it was chartered. In other words, it is an organization constituted under national law, but can exert international interference, depending on its by-laws. For ex-



ample, three individuals of different nationalities could establish an international NGO with interests that would be above the national interests of any State.

International NGOs are, therefore, atypical organizations with a strange ideological and financial mix. They frequently receive information from “front” (or facade) organizations, which is not always analyzed and verified in a strict sense. A disturbing fact in the Colombian case is that these informants are part of a strategy defined by the subversion as a “combination of all forms of struggle.” Although concealed, their action is militant. Their accusations are designed to give a false impression of human rights violations, in the hope of neutralizing State action against guerrilla organizations whose ideology and objectives they share. When conveyed to international NGOs, these accusations are circulated widely outside Colombia, where honest European and U.S. journalists and political leaders usually credit them as being true.

Unfortunately, governments, parliaments and multilateral organizations are vulnerable to pressure from biased NGOs and do not bother to find out who runs them, who their members are, or where their funding comes from. No one verifies or controls the information they circulate. No one asks them for proof, much less court verdicts. If, by chance, their allegations do not coincide with the investigations or acquittals, they accuse the country and its judicial

system of complicity with the purported violators of human rights. They are unappealable judges who ignore a fundamental right: the presumption of innocence to which everyone is entitled until found guilty in a legal proceeding.

Even though the Colombian army is subject, like no other, to civilian authority and bears no similarity to the military forces seen under the dictatorships in Chile, Argentina, Uruguay, Brazil and other countries of the continent, which were responsible for horrendous human right violations, many of its officers have been the target of confirmed malicious lies circulated by biased NGOs.

Amnesty International, Human Rights Watch, WOLA (the Washington Office on Latin America), Pax Christi, WOAT (the World Organization against Torture), FEDEFAN (the Latin American Federation of Associations of Families of the Disappeared) and SERPAJAL (Latin American Service, Peace and Justice) are the more well known international NGOs. They all follow the same standard with respect to their accusations. José Miguel Vivanco of Human Rights Watch and Michael Shifter of Inter-American Dialogue are on the Board of the Washington Office on Latin America. Both are prominent leftists who give credit to Colombian NGOs that have close ties with the Communist Party or are inspired by the theology of liberation. The biased impact is double, since

WOLA members, acting on behalf of these specialized organizations, advise U.S. State Department officials and some members of the U.S. Congress on matters related to Colombia.

For more impact and credibility, the strategy used by WOLA, Amnesty International and Human Rights Watch is to publish joint reports. Mrs. Almudena Mazarrasa, the first delegate of the United Nations High Commissioner for Human Rights in Colombia, said the following in this respect.

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*“I am tired of the NGOs that did nothing but criticize my efforts and my opinions. They invariably sought to condemn the actions of the armed forces and the government, as if the State was the only violator of human rights. They lobbied in Geneva for harsh statements from me. I have never felt the AUC are directly associated with the armed forces or exist as part of State policy.”*

*El Espectador*, Colombia, 1999

To remove any shadow of doubt about the partiality of certain NGOs and their impact on U.S. government decisions with respect to Colombia, eminent *Wall Street Journal* columnist María Anastasia O’Grady wrote:

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*“By focusing on Colombia’s armed forces and not the guerrillas they are combating, United States policy is far from neutral. The guerrillas are quite content to turn out*

*as many ‘credible pleas’ as the courts will accept. Involved as it is, the United States expends no time, money or political will to determine which of these pleas are actually ‘credible’. With just one full-time employee in the Human Rights Office at the United States Embassy in Bogotá, the State Department depends largely on what NGOs have to say. And, although many of these non-governmental organizations have openly said they support guerrilla policy and have shown a tendency to recycle accusations that are flawed or already refuted, the United States has not questioned their veracity.”*

*Wall Street Journal Americas, September 2001*

For his part, the renowned French thinker Jean François Revel recently stated:

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*“The rights of man are universal or nonexistent. Invoking them in one case and silencing them in another proves they are being ridiculed and used as political weapons in pursuit of objectives alien to them”.*

There is a strange lack of forcefulness in the press releases and reports of these NGOs when talking about the actions of leftist terrorist groups. For example, their position was not faultfinding in May 2002 when 119 people, mostly women and children, were killed in Bojayá, Chocó by gas cylinder bombs launched by the FARC.

The author of *Esquilando al Lobo* (Shearing the Wolf) and *Colombia, otra Muerte Anunciada* (Colombia: An-

other Death Foretold), Retired General Adolfo Clavijo, said the following about Amnesty International, Human Rights Watch and the Washington Office on Latin America (WOLA) in the first of these books:



- *This woman lost everything in the FARC attack on Bojayá.*

Photograph: File.



- *Destroyed church in Bojayá where 119 people, including women and children were killed by a FARC bomb attack (explosives packed in propane gas canisters).*

## AMNESTY INTERNATIONAL

The organization dates back to 1961 when Peter Benenson, a London lawyer, launched a campaign, “Appeal for Amnesty 1961,” in the *London Observer* to help political prisoners. In 1991, it was consolidated as Amnesty International (AI), which proclaimed itself as a world organization independent of any political party, ideology, economic interest or religious creed. In practice, it does not comply with these principles. Prisoners are the focus of AI activities, but the organization intervenes in the developing countries with reports - sometimes fair and sometimes tendentious - about real or alleged violations of human rights on the part of State agents. Amnesty International acts on the basis of the Universal Declaration of Human Rights and international agreements. It has more than 700,000 members, subscribers and sympathizers in over 150 countries and territories and more than 3,800 work groups on prisoners on the five continents. It maintains a working relationship with the United Nations, UNESCO, the European Council, the Organization of American States (OAS), and the Organization of African Unity. Its operations and activities are financed through subscriptions and donations from AI members around the world.

With respect to Colombia, Amnesty International publishes an annual report that invariably favors the subversive process. This is accomplished in two ways:

by questioning anything to do with security institutions and by subtly or openly shielding the political and armed subversion in Colombia. In 1994, Amnesty International reinforced its annual report on Colombia with paid propaganda in Europe's leading newspapers on purported violations of human rights by the Colombian government. The report that year was one of the most scathing for the country and the furthest from the truth. Apart from its annual reports, the organization also launches harsh attacks against Colombia in the Spanish edition of EDAI (Editorial Amnistía Internacional), which is an AI publication.

Amnesty International does not limit itself to reports. It also has proven to be one of the most persistent NGOs in demanding that certain countries and international organizations impose sanctions on Colombia. In conjunction with other NGOs, it has insisted the United Nations Commission on Human Rights appoint a rapporteur for Colombia. This would be considered a sanction against the country. Furthermore, through its branch in the United States (AIUSA), Amnesty International has demanded the United States "halt all military aid to Colombia until the dubious actions of over a dozen army brigades have been clarified."

*(El Tiempo, December 15/96, page 9-A)*

Amnesty International is disinclined to receive complaints from victims of guerrilla violence and is un-

willing to condemn the criminal actions of guerrilla groups.

### **HUMAN RIGHTS WATCH-AMERICAS**

Formerly known as Americas Watch, this organization is based in Washington D.C. and was founded in 1981 to promote and monitor observance of internationally recognized rights. Its role is to publicize the problems that exist in countries, particularly with respect to violations of human rights. In practice, it supports leftist groups and conducts campaigns to discredit certain governments and their armed forces.

Human Rights Watch-America publishes an annual report on the situation of human rights in Colombia. This document usually departs from actual conditions and demonstrates a proximity to the struggle being waged in Colombia by left-wing extremist organizations. Like Amnesty International, it tries to turn international organizations and the United States government against the Colombian government, due to human rights violations it claims are committed by the army and paramilitary groups. It has been more insistent than any other organization in maintaining that the paramilitaries are part of the Colombian army and, therefore, act in conjunction with the military against the “political opposition” and against “armed opposition groups”. As demonstrated earlier, it gives

special consideration to guerrillas, justifies their actions and, like Amnesty International, rejects complaints against the subversion.

Human Rights Watch does not have an office or agency in Colombia, which is why it never substantiates or determines the veracity of the accusations it publishes from enemies of the State. This is also the reason for the considerable amount of information that is unfounded or does not adhere to the facts. Human Rights Watch fails to acknowledge what the government has accomplished in the field of human rights, nor does it accept any decline in violations perpetrated by State agents. When there are no new episodes, it insists on returning to cases that have been reported and tried, or its version of facts already discredited by judicial authorities in Colombia.

### **WASHINGTON OFFICE ON LATIN AMERICA (WOLA)**

WOLA monitors the practices, political development and policies of the United States in Latin America and the Caribbean, and provides information and analysis on the region to U.S. policy makers and the general public. It is funded by contributions from private foundations, religious organizations and individual donors. In practice, WOLA concentrates on human rights violations perpetrated by State agents,

***Are human-rights organizations impartial? Some are and some are not. It is time the United States and Europe stop regarding everything they say as the Gospel Truth.***

taking a position that favors the subversive intentions of the far left.



Federación Verdad Colombia, a group of more than 20 non-governmental organizations, has published and circulated this report to reinstate the truth about human rights in Colombia, which constitute a highly sensitive issue. This effort is in response to a particular concern. In recent years, disinformation has been the primary political weapon of terrorist groups and their allies. It is part of the strategy they define as a “combination of all forms of struggle”. One of these, perhaps the most effective on the international scene, is to manipulate statistics and reports in a way that conceals their responsibility for horrendous crimes in Colombia and indicts the State, and particularly the military, for purported violations of human rights. This is usually effective, since the First World and especially Europe know little about actual conditions in Colombia. Honest journalists, political leaders, parliamentarians, humanitarian organizations and even governments are deceived. Yet, after so much distorted and unfounded information about the situation in Colombia, finally they have the right and opportunity to learn the truth.



# A SENTENCE ISSUED BY THE INTER-AMERICAN COURT OF HUMAN RIGHTS

(ARGUMENTS QUESTIONING IT)

The Inter-American Court of Human Rights, based in San José de Costa Rica, condemned the Colombian nation for the death of 19 merchants who were assassinated in Magdalena Medio during 1987. Based on evidence presented during the trial, the Court ruled the paramilitary group responsible for the murders had close ties with senior government security officers stationed nearby, who provided them with support and collaboration. The verdict was unanimous and Colombia was ordered to pay 16,600,000,000 pesos (6.5 million dollars) in damages, without benefit of appeal, and to hold a public ceremony with the families of the victims to admit its responsibility and extend an apology. The nation also was ordered to erect a monument and install a plaque with the victims' names, to protect the witnesses who testified at the trial and their families, and to deposit damages awarded to minors in an investment bank, in dollars, within a period of one year.



Prominent Colombian legal experts have contested the sentence with the following arguments:

1. A legal provision dated December 24, 1965 did allow self-defense groups to be formed with members of the civilian population “for use by the government in activities and tasks intended to help restore the situation to normal”. The basis for this provision was the limited presence of security forces in certain parts of the country, coupled with guerrilla incursions, threats and extortion against the peasant population.
2. Under this provision, the Ministry of National Defense could “authorize private use of weapons reserved exclusively for the Armed Forces, when deemed necessary.”
3. However, in 1985, the government began to detect the existence of illegal armed groups alongside the self-defense forces. These illegal groups were involved in “criminal acts, massacres and killings”. This obliged the government to outlaw all self-defense organizations in 1989 and to pursue them as it does opposite groups, such as the FARC and the ELN. So, in no way can their actions, such as the massacre of those 19 merchants, be attributed to the government.
4. Those who planned and carried out the massacre are members of illegal groups, not government security

forces. Several have been identified, arrested and convicted. Two paramilitary leaders, Henry Pérez and his father Gonzalo, who were killed in 1991, were identified as having helped to plan the massacre. Henry Pérez's wife was arrested. Six of those who actually did the killing were convicted and imprisoned. Marceliano Panesso Ocampo, Waldo Patiño Garcia, Nelson Lesmes Leguizamon and Alfonso Baquero Agudelo, alias Vladimir, were convicted of homicide, and Carlos Alberto Yepes Londoño and Diego Viafara Salinas were convicted as accomplices to the crime.

5. In Colombia, like anywhere else in the world, the government cannot be held responsible for illegal use of a weapon for which the owner has a license granted by the authorities.
6. If a legal precedent of this sort were to be established, the nation would be obliged to respond for any and all damage inflicted by institutions or individuals who are authorized to perform certain activities. This includes crimes or irregularities committed by private security guards, surgeons, lawyers, drivers or any other individual licensed to carry a weapon.
7. The officers and noncommissioned men who were accused by several NGOs of having instigated the massacre of those 19 merchants were acquitted when the investigation showed they were performing duties in

other regions at the time of the crime, and were assigned to other units. General Farouk Yanine Díaz is a case in point. He had been the head of the Military Academy for a year and had no troops under his command. The Military Academy is located 400 kilometers from the scene of the crime. The verdict in criminal proceedings was confirmed on appeal and was not reversed.

8. It is difficult to understand how the nation can be held liable for this massacre. The legal framework afforded to self-defense groups in 1965 was not extended to the so-called paramilitary groups twenty years later, and it was never proven that the weapons used in the killings had been supplied by the armed forces, either at the time or years earlier.