

COLOMBIA

Selected Cases for Campaigning Against Human Rights Violations

JOSUÉ GIRALDO CARDONA

On 13 October 1996, Josué Giraldo Cardona, President of the Comité Cívico por los Derechos Humanos del Meta, Meta Civic Human Rights Committee, and an activist with the Unión Patriótica, Patriotic Union Party, was shot dead outside his home.

Josué Giraldo was in front of his home in Villavicencio, department of Meta, with his two daughters, aged three and five, and a friend, when an unidentified gunman approached him and opened fire. Josué Giraldo began to run away but was wounded and fell to the ground. The gunman then shot him several times, killing him, before fleeing on

a motorcycle driven by an accomplice.

The Meta Civic Human Rights was founded in December 1991 to investigate human rights violations in the department of Meta. Six months after it was founded, members began to be victims of threats and intimidation. In 1992 four of the Committee's leading members were gunned down and a health clinic associated with the Committee was forced to close after a series of death threats were made. In its second year the organization had to face continuing threats and the "disappearance" of three of its members. By February 1995 the Committee, which four years previously represented 32 social organizations, had only seven member organizations. The Meta Committee issued a report in March 1995 on the human rights situation in the department of Meta in which it denounced that

human rights violations against members of the Committee had been carried out by paramilitary forces operating together with the security forces. Josué Giraldo had repeatedly denounced to the *Fiscalía General de la Nación*, Office of the Attorney General, threats made by individuals travelling in vehicles belonging to the army's *VII Brigada*, VII Brigade of the Colombian Army who he alleged kept him under constant surveillance.

In February 1995 Josué Giraldo spoke at a conference on the human rights situation in Colombia held in the European Parliament buildings in Brussels and denounced the links between the security forces and paramilitary groups.

Throughout 1995 threats and intimidation against Meta Committee members increased: “*Hola perros: les voy a matar a todos. Les voy a poner una bomba... . Les voy a quebrar, malditos perros*”, “You swine: I’m going to kill you all. I’m going to bomb you... . I’m going to destroy you, you dirty swine”.

On-going threats and intimidation against members of the Committee led it to close its office in the departmental capital Villavicencio in April 1995 and to continue its human rights work from the capital, Bogotá. Threats against its members continued.

In August 1995, a Commission composed of representatives of the government and non-governmental human rights organizations (NGOs), including the Meta Civic Human Rights Committee, was established to document violations of human rights and humanitarian

law in Meta department since 1985; to analyse the causes of political violence in the region; to make recommendations to the relevant judicial and governmental institutions on ways to overcome impunity in the investigations, and to ensure human rights workers would have some protection whilst carrying out their work. The Commission was set up under the auspices of the German Embassy in Bogotá. However, in March 1996, the Meta Civic Human Rights Committee and other NGOs announced their withdrawal from the Commission accusing the government of failure to fulfil its commitments. The decision was taken at a time when threats against members of the Meta Civic Human Rights Committee were increasing and Josué Giraldo had been forced to leave the country temporarily for fear for his safety. He returned to Colombia after several weeks and, because of renewed threats against his life in November 1995, the Inter-American Commission on Human Rights of the Organization of American States (OAS) requested the Colombian Government take special measures to guarantee his safety and that of other members of the Meta Committee.

Despite the repeated requests to the Colombian Government by the international community to protect the life of Josué Giraldo and other members of the Meta Civic Committee, no real effort was made to investigate the source of the constant threats and harassment, although Josué Giraldo was assigned a body-guard. Amnesty International believes that if the Colombian authorities had ensured that those responsible for previous human rights violations and threats against members of the Meta Civic Committee had been brought to justice, the killing of Josué Giraldo might have been prevented.

Josué Giraldo was also a victim of death threats as a result of his activism for the legal opposition *Unión Patriótica*, Patriotic Union Party. Members of the UP have frequently been targeted for death threats and other human rights violations since the party's formation in 1985. Colombian human rights organizations estimate that over 2,500 UP activists (600 of them in the department of Meta) have been killed.

Although the Colombian Government has condemned the killing of Josué Giraldo and a criminal investigation is being conducted by the *Unidad Nacional de Derechos Humanos de la Fiscalía General de la Nación*, National Human Rights Investigation Unit of the Office of the Attorney General, little progress has been made in identifying and bringing those responsible to justice.

On 28 October 1996, the Inter-American Court on Human Rights of the OAS issued a resolution requiring the Colombian Government to guarantee the safety of the members of Josué Giraldo's family and of the Meta Civic Human Rights Committee and to investigate his killing and other human rights violations against the members of the Committee. The IACHR said that the most effective mechanism the authorities could take to guarantee the safety of members of the Committee was to dismantle criminal structures operating in the department of Meta. Despite the Inter-American Court's resolution, threats against members of the Committee continued. In February and November 1997, the Inter-American Court issued further resolutions reiterating its calls on the Colombian Government to take

measures to guarantee the safety of members of the Committee and to ensure that those responsible for the killing of Josué Giraldo be brought to justice.

President of Colombia:

Señor Presidente Ernesto
Samper Pizano
Presidente de la
República
Palacio de Nariño
Carrera 8 No. 7-26
Santafé de Bogotá,
Colombia

Salutation:

Exce
lentísimo
Sr.
Presidente/
Dear
President
Samper

Minister of the Interior:

Dr. Alonso López
Caballero
Ministro del Interior
Ministerio del Interior
Carrera 8, No.8-09, Piso 2

1. Underline that the killing of Josué Giraldo provides an example of the constant danger human defenders face in carrying out their work; use this case to illustrate the issue of impunity, the failure to bring those responsible for his killing and of other human rights violations against members of the Meta Human Rights Committee to justice.

2. Please write to President Samper; the Attorney General; the Minister of the Interior and the Minister of Defence:

- expressing concern at the killing of Josué Giraldo and other human rights violations against the members of the Meta Human Rights Committee;
- expressing concern that almost two years after the killing those responsible have not been brought to justice and urging that full and impartial investigations into the killing be advanced, that the results be made public and those responsible brought to justice;
- expressing concern at the failure by the authorities to bring those responsible for human rights violations against the Meta Human Rights Committee to justice;
- urging that all measures deemed appropriate by Josué Giraldo's family and other members of the Meta Human Rights Committee are taken to guarantee their safety;

3. Write to/lobby your own government and/or political representatives:

- using the case to illustrate:
 - the constant danger faced by human rights defenders in Colombia to carry out their legitimate work;
 - the failure of the Colombian Government in bringing those responsible for human rights violations against human rights defenders and against UP activists to justice.

- underline that measures to end impunity and to guarantee the safety of human rights defenders are in line with recommendations made by the United Nations and the IACHR;
- urge your own government to monitor criminal investigations into the killing of Josué Giraldo and to ensure that all those responsible are brought to justice.

Santafé de Bogotá

COLOMBIA

Salutation: Sr. Ministro/Dear Minister

Minister of Defence:

Dr. Gilberto Echeverri Mejía
Ministro de Defensa Nacional
Ministerio de Defensa Nacional
Avenida Eldorado CAN - Carrera 52
Santafé de Bogotá,
COLOMBIA

Salutation: Sr. Ministro/Dear Minister

Attorney General:

Dr. Alfonso Gómez Méndez
Fiscal General de la Nación
Fiscalía General de la Nación Diagonal 22B
5201
Apartado Aéreo 29855
Santafé de Bogotá
COLOMBIA

Salutation: Estimado Dr./Dear Dr.

Please send copies of your correspondence to the Colombian Embassy in your country.

In correspondence/contacts with the Colombian authorities acknowledge that guerrilla forces in Colombia have violated international humanitarian law, but underline that such abuses can in no way justify human rights violations by the Colombian security forces and their paramilitary allies nor justify failure by the authorities to ensure that those responsible for human rights violations to justice.

Please send copies of your correspondence to:

Intercongregational Commission for Justice and Peace: Comisión Intercongregacional de Justicia y Paz,
AA 31861, Santafé de Bogotá, Colombia.

"DISAPPEARANCE" OF NYDIA ERIKA BAUTISTA DE ARELLANA

Nydia Erika Bautista de Arellana was abducted on 30 August 1987 soon after leaving her parent's house in the Casablanca district of Bogotá. She had just said goodbye to a friend at a bus-stop when a group of armed men wearing civilian clothes who were travelling in a vehicle forcibly abducted her.

Nydia Erika Bautista was 32 at the time of her "disappearance" and had been a student activist and member of the *Movimiento 19 de Abril* (M-19), 19 April Movement guerrilla organization. On 25 May 1986, Nydia Erika Bautista was detained in Cali, department of Valle del Cauca, by a military unit belonging to the *III Brigada*, III Brigade. During her three-week detention she was reported to have been kept *incomunicado* and tortured. She was released after signing a statement saying that she had been well-treated during her detention. Immediately prior to and after Nydia Erika's "disappearance" several other M-19 activists, including Cristobal Triana a friend of Nydia Erika, "disappeared".

In the course of investigations, testimony given revealed that Nydia Erika was taken to a ranch where she was held two days and then taken to the Quebradablanca area of the municipality of Guayatebal where she was bound and killed with one shot to the head.

On 22 January 1991, Sergeant Bernardo Alfonso Garzón Garzón who had been attached to the *Batallón de Inteligencia y Contrainteligencia "Charry Solano"*, "Charry Solano" Intelligence and Counterintelligence Battalion of the Colombian Army, at the time of Nydia Erika's abduction, testified to the *Procuraduría General de la Nación*, Office of the Procurator General, that the *Unidad de Operaciones Especializadas*, Special Operations Unit of the "Charry Solano Battalion" had been responsible for the "disappearance" of Nydia Erika Bautista.

Sergeant Garzón Garzón had reportedly deserted from the army and fearing for his safety he had reported to the Office of the Procurator General. His testimony included the names of those who had planned and carried out the torture, "disappearance" and murder of Nydia Erika Bautista, he stated that the "disappearance" was carried out with the knowledge and approval of then army Colonel Álvaro Velandia Hurtado then attached to the Charry Solano Battalion. In his testimony

Sergeant Garzón Garzón gave information as to the exact whereabouts of the common grave in which Nydia Erika's corpse was found.

A corpse found on 12 September 1987 in the municipality of Guayatebal, department of Cundinamarca, was exhumed by the authorities on 26 July 1990. Forensic tests found the corpse to be the remains of Nydia Erika Bautista.

Disciplinary Investigations

On 6 July 1995 the *Procurador Delegado por la Defensa de los Derechos Humanos*, Procurator-Delegate for the Defence of Human Rights, Hernando Valencia Villa, announced the conclusions of a disciplinary investigation into the "disappearance", torture and murder of Nydia Erika Bautista in 1987 and called for the dismissal from the armed forces of Brigadier-General Alvaro Hernán Velandia Hurtado and an army sergeant.

The Procurator-Delegate concluded that Brigadier-General Velandia, who at the time was a colonel and commander of the army's *Comando Operativo de Inteligencia y Contrainteligencia del Batallón "Charry Solano"* - Operation Intelligence and Counterintelligence Command of the "Charry Solano" Battalion, was fully aware of the detention and "disappearance" of Nydia Érika Bautista by men under his command and had the "responsibility, the authority and the opportunity to prevent this crime against humanity from taking place." *On 1 September 1995, the Procurator Delegate for Human Rights resigned his post and left the country after he had received repeated death threats.*

On 11 September 1995, President Ernesto Samper Pizano issued Decree No.1504, "Por el cual se separa en forma absoluta de las Fuerzas Militares a un Oficial General del Ejército" - "By which a General of the Army is definitively dismissed from the Army".

The presidential decree to dismiss the Brigadier-General represents the first time in Colombian history that a serving general has been dismissed for human rights violations. In the exceptional cases where members of the armed forces are held accountable for extrajudicial executions,

"disappearances" and torture those sanctioned are generally low-ranking personnel. Until now, commanders responsible for giving the orders have repeatedly escaped accountability.

The presidential decree was issued despite the Brigadier-General's continued efforts to prevent the Procurator-Delegate for Human Rights' resolution from being implemented by attempting to invalidate it. In his efforts to prevent his dismissal Brigadier-General Velandia presented at least four criminal denunciations, four petitions of *Tutela* (a petition presented to the courts to seek rapid redress if they believe their constitutional rights are in danger or being violated), four legal challenges and two disciplinary actions against the Procurator-Delegate's ruling. On 20 July 1997, the *Tribunal Contencioso Administrativo del Valle del Cauca*, Administrative Court of the Department of Valle del Cauca, rejected a legal appeal presented by former Brigadier-General Velandia in 1995 to secure the annulment of the Procurator-Delegate for Human Rights' July 1995 ruling, in order to secure his full reinstatement in the army. The former brigadier-general's efforts to secure his reinstatement continue.

The presidential decree was issued following pressure from national and international non-governmental human rights organizations. However, the dismissal did not take place till after the Brigadier-General had been awarded a military decoration at a ceremony on 4 August 1995.

Subsequent to the dismissal, members of the security forces placed pressure on Congress to secure the reinstatement of the brigadier-general. A plenary session of Congress was convened on 11 October 1995 to discuss the dismissal of the former general. During the session two documents were distributed by individuals accompanying the former general. The documents referred to the work of human rights organizations as being part of a "*guerra jurídica*" "judicial war", which "*busca el descrédito de la justicia penal militar y del Estado colombiano en el exterior*", "looks to discredit military criminal justice and the Colombian State internationally".

Reprisals

In the aftermath of the Brigadier General's dismissal threats against human rights activists increased. Yanette Bautista, Nydia Erika's sister, and a leading member of the *Asociación de Familiares de Detenidos-Desaparecidos - Colombia*, ASFADDES, Colombian Association of the Families of the Detained-Disappeared, who has played a prominent role in denouncing the impunity which has protected those responsible for the "disappearance" of Nydia Erika Bautista received numerous death threats, together with members of her family and other ASFADDES workers. In 1997 Yanette Bautista and several members of her family left the country as a result of continuous threats and harassment.

Civil Suit for Compensation

On 22 June 1995 the Sección Tercera del Tribunal Administrativo de Cundinamarca - Third Chamber of the Administrative Tribunal of Cundinamarca, acknowledged that the Colombian State was responsible for the death of Nydia Érika Bautista and ordered the relatives be compensated.

International Investigations

In 1993 Nydia Erika's family presented the case of her "disappearance" to the UN Human Rights Committee. On 27 October 1995 the UN Human Rights Committee concluded that the Colombian State was responsible for the "disappearance" and killing of Nydia Erika Bautista and that she had been tortured after her disappearance. The UN Human Rights Committee called on the Colombian State to accelerate criminal proceedings to ensure that those responsible for the abduction, torture and killing of Nydia Erika be prosecuted and brought before the courts without delay.

Criminal Investigations

Despite the evidence submitted by the sergeant and other evidence, advances in judicial investigations have been extremely slow.

In November 1995 criminal investigations were assigned to the jurisdiction of the *Unidad de Derechos Humanos de la Fiscalía General de la Nación*, Human Rights Unit of the Office of the

Attorney General. Under the jurisdiction of the Human Rights Unit criminal investigations did finally advance and resulted, by November 1996, in the arrest of three low-ranking officers attached to the *Brigada XX* - XX Brigade¹.

On 10 September 1996, the then commander of the XX Brigade, Colonel Bernardo Ruiz Silva, claimed jurisdiction over the investigations into the "disappearance" of Nydia Erika Bautista. The *Corte Suprema de Judicatura*, Superior Judicial Council ruled in favour of the case being passed to the jurisdiction of the Military Criminal Justice System on 2 December 1996.

With the transferral of the case to military jurisdiction the anonymity of witnesses who had testified before civilian judicial officials was lifted. Subsequently fears for the safety of several witnesses increased. In December 1996, one witness, Yolanda Rodríguez, saw unidentified individuals outside the house where she lived with her father. As a result she went into hiding towards the end of December 1996. On 13 January 1997, Yolanda's father was run down and seriously injured by a taxi-cab with no licence plates or road permit. On 15 May, in a letter to the Office of the Attorney General, Yolanda Rodríguez denounced being victim to frequent anonymous telephone calls late at night. Yolanda Rodríguez was a friend of Nydia Erika Bautista and Cristóbal Triana. Cristóbal Triana was also an M-19 activist who "disappeared" on 28 August 1987 two days before Nydia Erika's "disappearance".

Witness under Pressure

On 20 September 1996, Sergeant Bernardo Alfonso Garzón Garzón, (detained on an unrelated charge), retracted statements he had made in 1991 and 1994 to the Office of the Procurator General and Office of the Attorney General before the *Juez de la Brigada XX*, XX Brigade's Judge.

In retracting his earlier statement, Sergeant Garzón Garzón reportedly stated that they had been false. He also accused the then *Procurador Delegado para los Derechos Humanos*, Procurator Delegate for Human Rights and officials of the Office of the Attorney General of forcing him to sign a testimony they had prepared and which he had not read.

¹ The *Batallón de Inteligencia y Contrainteligencia "Charry Solano"* became the XX Brigade.

On 9 September 1997, the military penal justice system exonerated former Brigadier-General Velandia and excluded him from criminal investigations into the "disappearance" of Nydia Erika Bautista. This ruling was made even though criminal investigations should have been automatically transferred to the civilian justice system following the Constitutional Court's decision to exclude all cases of human rights violation from military courts in August 1997. According to the last information received by Amnesty International, former Brigadier-General Álvaro Velandia Hurtado subsequent to his dismissal was working as a CONVIVIR groups legal consultant².

WHAT YOU CAN DO:

² *Asociaciones Comunitarias de Vigilancia Rural*, CONVIVIR, Rural Vigilante Associations were supposedly created to provide local intelligence to the security forces. CONVIVIR have now been given a new name Amnesty International has expressed its serious concern that these groups are not subject to adequate controls by the authorities and that they could therefore begin to operate in a similar manner to illegal paramilitary groups allied to the security forces. Several have been implicated in serious human rights violations. The United Nations has also expressed serious concern at the creation of CONVIVIR groups and has recommended that the decree law which established them be repealed.

President of Colombia:

Señor Presidente Ernesto Samper
Pizano
Presidente de la República
Palacio de Nariño
Carrera 8 No. 7-26
Santafé de Bogotá, Colombia

Salutation: Excelentísimo
Sr.
Presidente/Dea
r President
Samper

Minister of the Interior:

Dr. Alonso López Caballero
Ministerio del Interior
Ministerio del Interior
Carrera 8, No.8-09, Piso 2
Santafé de Bogotá
COLOMBIA

Salutation: Sr.
Ministro/Dear
Minister

Minister of Defence:
Dr. Gilberto Echeverri Mejía
Ministerio de Defensa Nacional
Ministerio de Defensa Nacional
Avenida Eldorado CAN - Carrera 52
Santafé de Bogotá,
COLOMBIA

Salutation: Sr. Ministro/Dear Minister

1. Use this case to illustrate the issue of impunity, the failure, in this case to bring those responsible to justice and the failure of the authorities to ensure that recommendations of the Office of the Procurator General and the Delegate were not acted on immediately, rather that it was only after intense national and international pressure that Brigadier General Velandia was dismissed.

2. Please write to President Samper; the Attorney General; the Minister of the Interior and the Minister of Defence:

- expressing concern that ten years after the "disappearances" those responsible have not been brought to justice and urging that full and impartial investigations into the "disappearances" be advanced, that the results be made public and those responsible brought to justice;
- expressing concern that jurisdiction for criminal investigations into the role of members of the security forces have been passed on to the military penal justice system. The military penal justice system has guaranteed virtually complete impunity for members of the security forces responsible for human rights violations;
- urging that in the light of the Constitutional Court's ruling that cases of human rights violations should be handled by military courts, the authorities ensure that all criminal investigations are submitted to the civilian justice system;
- expressing concern that the military penal justice system has exonerated former Brigadier-General Velandia despite the Constitutional Court's ruling and that therefore this exoneration is illegal;
- urging that all measures deemed appropriate by Nydia Erika's family and witnesses are taken to ensure their safety;
- expressing concern that all members of the security forces implicated in human rights violations should be immediately suspended.

3. Write to/lobby your own government and/or political representatives:

- using the case to illustrate:
 - the impunity which members of the security forces responsible for human rights violations frequently enjoy;
- underline that measures to end impunity in this case would be in line with recommendations made by the United Nations and the IACHR; to tackle impunity;
- expressing concern that investigations into the role of members of the armed forces were transferred to the military justice system which has consistently guaranteed impunity in cases of human rights violations;
- express your concern that your own government monitor criminal investigations into the "disappearance" of Nydia Erika Bautista and ensure that all those responsible are brought to justice.

Attorney General:

Dr. Alfonso Gómez Méndez
Fiscal General de la Nación

Fiscalía General de la Nación Diagonal 22B
5201
Apartado Aéreo 29855
Santafé de Bogotá

COLOMBIA

Salutation: Estimado Dr./Dear Dr.

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Please send copies of your correspondence to:

Colombian Association of Relatives of the "Disappeared":
Señores, ASFADDES, AA 011446, Santafé de Bogotá, Colombia.

MASSACRE OF PAEZ INDIANS

20 Paez indigenous people were killed on 16 December 1991 in a joint paramilitary/police operation. The victims were members of an indigenous community which had been occupying a ranch called "El Nilo" near the town of Caloto in Cauca department in southern Colombia.

On the evening of 16 December about 60 armed and hooded men burst into a building where members of the Paez indigenous community was holding a meeting and killed 20 people. Those killed included women and children. In the months preceding the massacre, the Paez Indians had reported to the regional office of the *Procuraduría General de la Nación*, Office of the Procurator General, and the Mayor of Caloto that they were being intimidated, harassed and threatened by representatives of the new owner of the "El Nilo" ranch, Luis Alberto Bernal Seijas, who was rumoured to be

involved in drug-trafficking.

Following the massacre, official investigations were opened by judicial authorities and the Office of the Procurator General. In December 1991, then President Gaviria announced: "*se hallarán los responsables de esta barbarie*", "those responsible for this barbarous act will be found" and went on to state that those responsible would be punished. Amnesty International received an interim report prepared by the *Unidad Especializada de Investigaciones de la Procuraduría General de la Nación*, Special Investigations Unit of the Procurator General's Office in October 1992 which stated that although it had not yet been possible to establish motives for the massacre, strong evidence had emerged of the responsibility of named national police officials in the massacre, including the local police commander, Major Jorge Enrique Durán Arguelles, and the anti-narcotics police commander, Captain Fabio Alejandro Castañeda Mateus.

In a sworn testimony, one witness claimed that approximately 18 police agents, including the captain, participated in the massacre, together with the civilians. On arrival at "El Nilo", gunmen split up into three groups to locate the Paez community, most of whom were gathered in a meeting. The witness then described how the police captain gave orders to the armed men and how he and the men under his command, together with the leader of the civilian gunmen, then shot the indigenous people dead.

Disciplinary Investigations

Despite strong *prima facie* evidence implicating police agents in these killings, the *Procuradora Delegada para los Derechos Humanos*, Procurator Delegate for Human Rights, ruled on 21 July 1993 that charges should be dropped against the two police officers who had been accused of being the actual perpetrators of the massacre of the Paez Indians. In her ruling, the Procurator Delegate for Human Rights said that incriminatory statements were inconsistent and declarations had been received indicating that the police officers accused were at the District Police station in Santander de Quilichao, Cauca, at the time of the massacre. The Office of the Procurator General concluded that ballistic evidence had shown that police weapons had not been used in the massacre.

One month after charges were dropped, Dr. Jaime Córdoba Triviño, the then *Defensor del Pueblo*, People's Defender, formally requested the Office of the Procurator General to reconsider the 21 July ruling. Dr. Córdoba Triviño questioned the fact that the Procurator Delegate dismissed witnesses' testimonies simply on the grounds that they did not fully coincide. Dr. Córdoba also criticized the fact the Procurator Delegate had not taken into account those testimonies which stated that those implicated in the massacre had left Santander de Quilichao for Caloto shortly before the massacre. With regard to the Procurator Delegate's findings on ballistics evidence, the People's Defender questioned the fact that the Office of the Procurator General had only taken into account the police technical report and ignored a report filed by the Special Investigations Unit (of the Office of the Procurator General) which suggested irregularities in the handling of the ballistics evidence.

In December 1993, following a hunger strike by Paez Indian leaders, the *Fiscalía General de la Nación*, Office of the Attorney General and the Office of the Procurator General committed themselves to ensuring that the massacre was fully investigated. Shortly after, however, the *Corporación Colectivo de Abogados*, Lawyer's Collective which is representing the families of the Paez victims, was informed that the request of the People's Defender to revoke the exoneration of the two police officers had been rejected.

On 14 August 1996, the *Consejería Presidencial de Derechos Humanos*, Office of the Presidential Advisor on Human Rights and the Ministry of Interior, again called on the

Office of the Procurator General to revoke its ruling of July 1993. On 30 September 1997, the Procurator General informed the *Comité de Impulso a la Administración de la Justicia en los casos de Los Uvos, Caloto y Villatina*, the Committee for the Advancement of the Administration of Justice in the Los Uvos, Caloto and Villatina cases (see below), that since more than five years had lapsed since the massacre, it was not possible to initiate any further disciplinary action³.

Criminal Investigations

In May 1994 the *Fiscal Regional*, Regional Attorney in Cali, charged with conducting criminal investigations into the case, ordered the detention of a number of civilians implicated in the massacre and the continued investigation into the role of the two police officers in the massacre. Seven civilians, both paramilitaries and drug-traffickers who participated in the massacre, have been sentenced to 30 years' imprisonment, including the landowner, Luis Alberto Bernal, who has since died. Some of these sentences are being appealed.

Criminal investigations against the two police agents progressed much more slowly and the two police agents remained in active service for several years after the massacre.

On 4 September 1996 the *Unidad de Derechos Humanos de la Fiscalía General de la Nación*, Human Rights Investigations Unit of the Office of the Attorney General, issued an arrest warrant for Major Durán Arguelles and Captain Castañeda Mateus for their part in the massacre. The case fell within the jurisdiction of the *Juzgado Regional*

³ Five years is the time period permitted for the completion of disciplinary investigations into crimes of murder.

de Cali, Regional Court of Cali, which decided on 10 March 1997 that the case fell under the jurisdiction of the military penal justice system. This ruling was appealed by the Office of the Procurator General and the *Fiscalía General's* Human Rights Unit.

On 23 September 1997, the *Juzgado de Primera Instancia de la Inspección General de la Policía Nacional*, First Court of Appeal of the Inspectorate General of the Colombian Police, rejected appeals to re-transfer jurisdiction over the case against the two police officers to the civilian justice system. The decision to retain the investigation in the military justice system was taken despite a ruling by the *Corte Constitucional*, Constitutional Court in August 1997 that crimes against humanity, including extrajudicial executions, could not be considered "acts of service" and should therefore be excluded from military jurisdiction.

The Constitutional Court had ruled that its sentence granting jurisdiction over cases of human rights violation to the civilian justice system "will only be applied in cases which are on-going and in which sentence has not been passed must be sent to the civilian justice system".

In justifying the fact that the case against the two police officers should continue to be handled by the military penal justice system the First Court of Appeal of the Inspectorate General of the Colombian Police ruled that "the criminal act attributed to the two officers derives from officials act which are appropriate acts of service". The military justice system also ruled on 23 September that the criminal

case brought against Captain Castañeda, who at the time was the only police officer in detention, was null and void and ordered his release.

Amnesty International is concerned that the military justice system's retention of this case is in flagrant contempt of the jurisprudence established by the Constitutional Court.

At the International Level

The case of the Paez Indian massacre was submitted to the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) in December 1992. In October 1995, an agreement was reached between the IACHR and the Colombian Government to create a Committee to investigate this massacre and two others under consideration by the IACHR.

In February 1996, the *Comité de Impulso a la Administración de la Justicia en los casos de Los Uvos, Caloto y Villatina*, the Committee for the Advancement of the Administration of Justice in the Los Uvos, Caloto and Villatina cases⁴, presented its report to the 91st session of the IACHR. The report recommended that the Colombian Government ensure that those responsible be brought to justice and that the victims families be compensated. In its resolution of 16 October 1997 the IACHR endorsed several recommendations made by a committee set up to follow-up on the work of the *Comité de Impulso*, including the recommendation that these human rights violation cases be handled by the civilian justice system in line with the Colombian Constitutional Court's ruling.

It is of concern that the Colombian Government has failed to ensure that jurisdiction for judicial investigations into the Paez Massacre be returned to the jurisdiction of the civilian justice system in line with IACHR recommendations and the Constitutional Court's ruling.

⁴ The *Comité de Impulso* was a committee made up of non-governmental human rights organizations the Colombian State and the IACHR to oversee advances into investigations into the Paez Indian Massacre in El Nilo, the killings of 10 youngsters in the Villatina district of Medellín in November 1992 and the Los Uvos Massacre of seventeen people in the department of Cauca in April 1991.

Amnesty International is also concerned by death threats received by members of the Lawyers' Collective currently representing the Paez Indians and the assassination of several others.

In January 1992 two lawyers, Carlos Edgar Torres and Rodolfo Nieves and an anthropologist who had been investigating the massacre were assassinated in Cali. Later, on 29 May 1992, Oscar Elías López legal adviser to the *Consejo Regional Indígena del Cauca* - Regional Indigenous Council of Cauca (CRIC), who was officially representing the Paez community was assassinated in Santander de Quilichao. Before his death he had reportedly received death threats. In August 1993, Dr. Rafael Barrios Mendívil, then President of the Lawyers' Collective, was subjected to harassment and telephone threats apparently as a result of his work on behalf of the Paez indigenous people and members of the Lawyer's Collective have continued to be the victim of threats as a result of their work on this case. In recent months paramilitary groups have been reported to be patrolling around the El Nilo ranch.

In its resolution of 16 October 1997, the IACHR called on the Colombian authorities to take effective measures to guarantee the security of CRIC members, indigenous leaders and their legal representatives and to investigate death threats denounced by the CRIC and bring those responsible to justice.

WHAT YOU CAN DO:

1. Use the case to illustrate the links between the security forces and paramilitary groups. Underline the fact that, despite the Constitutional Court's ruling that cases of human rights violations be handled by civilian courts, military courts have retained jurisdiction over this case. Make clear that the OAS have both recommended that human rights cases should not be handled by military courts, which have been instrumental in guaranteeing the impunity of members of the security forces responsible for human rights.

2. Please write to President Samper, the Attorney General, the Minister of the Interior and the Minister of Foreign Affairs:

- expressing concern that all those responsible for the Paez Massacre have not been brought to justice and urging that full and impartial investigations into the killings are advanced, that the results be made public and all those responsible be brought to justice, in line with IACHR recommendations;
- expressing concern for the continued safety of the Paez Indian community and urging that all measures deemed appropriate by the community itself are undertaken to guarantee their safety;
- urge that the Colombian Government take action to ensure that the Constitutional Court's ruling that all cases of human rights violation be handled by civilian courts be respected.
- expressing concern at continued threats and human rights violations against human rights workers representing the indigenous community and urging that all measures deemed appropriate by the community under threat are taken to guarantee their safety.

3. Write to/lobby your own government and/or political representatives:

- using this case to illustrate:

the links between the security forces and paramilitary forces.

the failure of the authorities to tackle impunity.

- urge your government to publicly acknowledge the links between paramilitary forces and the security forces and to monitor efforts to dismantle paramilitary groups in line with OAS and UN recommendations;
- urge your government to monitor progress into criminal investigations into the Paez Indian Massacre and ensure that all those responsible are brought to justice;
- urge your government to provide support to the Colombian authorities in providing witness protection and undertaking measures to guarantee the safety of relatives;
- urge your government to keep you informed of the efforts it is making.

If you live in an OAS member state:

- urge your government to closely monitor the implementation of the recommendations, to bring those responsible for the Paez Indian massacre to justice, made by the IACHR and urge your government to use its good offices to ensure other OAS member States are also acting accordingly.

President of Colombia:

Señor Presidente Ernesto Samper Pizano
 Presidente de la República
 Palacio de Nariño
 Carrera 8 No. 7-26
 Santafé de Bogotá, Colombia

Salutation: Excelentísimo Sr.
 Presidente/Dear President
 Samper

Minister of Defence:

Dr. Gilberto Echeverri Mejía
 Ministro de Defensa Nacional
 Ministerio de Defensa Nacional
 Avenida Eldorado CAN - Carrera 52
 Santafé de Bogotá,
 COLOMBIA

Salutation: Sr. Ministro/Dear Minister

Minister of the Interior:

Dr. Alonso López Caballero
 Ministro del Interior
 Ministerio del Interior
 Carrera 8, No.8-09, Piso 2
 Santafé de Bogotá
 COLOMBIA

Salutation: Sr. Ministro/Dear Minister

Attorney General:

Dr. Alfonso Gómez Méndez
 Fiscal General de la Nación
 Fiscalía General de la Nación Diagonal 22B
 5201
 Apartado Aéreo 29855
 Santafé de Bogotá
 COLOMBIA

Salutation: Estimado Dr./Dear Dr.

Please send copies of your correspondence to the Colombian Embassy in your country.

In correspondence/contacts with the Colombian authorities acknowledge that guerrilla forces in Colombia have violated international humanitarian law, but underline that such abuses can in no way justify human rights violations by the Colombian security forces and their paramilitary allies nor justify failure by the authorities to ensure that those responsible for human rights violations to justice.

Please send copies of your correspondence to:

Lawyers' Association:

Corporación Colectivo de Abogados, AA 44456, Santafé de Bogotá, Colombia.

THE "DISAPPEARANCE" OF JORGE IVAN ALARCÓN Y EDGAR MONSALVE

"We do not want to be seen as "martyrs" or to seek pity or bodyguards. We are only LOOKING for the truth and working so that the "DISAPPEARANCE" OF THE TWO STUDENTS does not remain just like any other case in Colombia which remains forgotten by the authorities whose responsibility it is to investigate them".

Luis Gonzalo Sánchez Restrepo, Jorge Iván's uncle writing to Amnesty International in May 1996.

Jorge Ivan Alarcón Sánchez and Edgar Monsalve were last seen on 6 May 1995, when they were driven away in a vehicle by police agents in the municipality of San Antonio de Prado, department of Antioquia.

On 6 May Jorge Ivan Alarcón Sánchez left his home in the Andalucía district of the municipality of Envigadó, department of Antioquia, to go to the University of Antioquia where he studied mechanical engineering. He left the university at 9am and went to the municipality of Itaguí where he met Edgar Monsalve. Both caught a bus to El Morro de San Antonio de Prado, also known as El Valle del Silencio. They were seen on the bus by a female friend.

On 4 May an armed confrontation had reportedly taken place between guerrillas operating in the region and the army during which five people were killed. The area was subsequently heavily militarized. On 6 May police units from the municipalities of Angelópolis, San Antonio de Prado and Armenia-Mantequilla were dispatched to the El Silencio ranch to retrieve the bodies of guerrillas who had been killed.

The two students were detained by police agents and taken to the San Antonio Prado police station. Reportedly the police from the municipality of Angelópolis were seen handing over the two students to police agents from the municipality of Armenia-Mantequilla under the command of a police corporal in the San Antonio de Prado park. The two students were then reportedly taken in a civilian vehicle to the community of La Herradura in the municipality of Titiribí where they were believed to have been handed over to paramilitary forces under the command of a local landowner at approximately 1:00am on 7 May.

In response to letters written by members of Amnesty International expressing concern at the "disappearance" of Jorge Ivan Alarcón and Edgar Monsalve, the Police Commander of the department of Antioquia, Colonel Guillermo Vega Carrillo, confirmed that members of the

Armenia-Mantequilla municipality police had detained the two students. He stated that the police corporal had decided to take the two students to:

"... the Armenia-Mantequilla police station in order to enquire into their presence in the vicinity of the "El Silencio" Ranch ... when they came across a man and a woman in a dark green Nissan pick-up truck the corporal asked them where they were heading [the two youths] boarded the said vehicle at around 10:00pm which was heading to the municipality of Titiribí and the patrol returned to its place of work".

Reprisals against relatives

Members of the security forces and paramilitary group members responsible for human rights violations have often threatened or intimidated relatives of victims and others attempting to investigate the truth, in order to ensure that investigations do not progress. Often perpetrators of human rights violations commit further serious human rights violations in order to protect their impunity.

The two men's families officially denounced their "disappearance" to the authorities on 6 May 1995. Luis Gonzalo Sánchez Restrepo, Jorge Iván's uncle subsequently received several anonymous telephone calls warning him that if he continued his efforts to discover the whereabouts of Jorge Iván Alarcón Sánchez and Edgar Monsalve Pulgarín and the identification of those responsible for their "disappearance", he would be killed.

In June 1995 Luis Gonzalo Sánchez accused police agents of confiscating 25,000 leaflets with photographs of the two students at the Olaya Herrera Airport. The family had intended the leaflets to be dropped in the area where the two students "disappeared".

Luis Gonzalo Sánchez informed Amnesty International that he had begun to hear rumours in January 1996 which linked him to guerrilla groups. In March 1996 he was reportedly the victim of an attempt to frame him as belonging to a subversive group after an army patrol allegedly discovered weapons on his ranch. Following this episode, death threats against Luis Gonzalo Sánchez and his family intensified.

Lawyers acting on behalf of the families of Jorge Iván Alarcón and Edgar Monsalve have also been intimidated.

Criminal Investigations

In October 1995 it was reported that 19 members of the "La Escopeta" paramilitary group had been arrested under the orders of the *Fiscalía General de la Nación*, charged with the formation of illegal paramilitary groups. Reportedly the "La Escopeta" paramilitary group was implicated in

over 100 killings in the municipality of Armenia and neighbouring municipalities and in the "disappearance" of the two students.

Amongst those arrested was the mayor of Armenia-Mantequilla, and the police inspector of the municipality of La Albania de Titiribí. Subsequently arrest warrants were issued for several other supposed members of the paramilitary group. In late 1995 arrest warrants were issued against a former senator, and several others alleged to belong to the paramilitary group implicated in the "disappearance" of the two students, including a police corporal.

By mid-1996 arrest warrants had been issued against at least 37 people all under investigation for formation of a paramilitary group.

In March 1996 the military justice system claimed jurisdiction over the criminal investigations into the responsibility of a police corporal an army lieutenant and another police agent for their direct or indirect participation in operations carried out by the "La Escopeta" paramilitary group. In June 1996 charges against the police corporal, the other police agent and the army lieutenant were dropped and they were released.

Investigations into the criminal responsibility of detained civilians under the jurisdiction of the civilian justice system focussed on their membership of a paramilitary group. There is concern that criminal investigations have not individualized responsibility for human rights violations reportedly undertaken by the paramilitary group, including the "disappearance" Jorge Ivan Alarcón and Edgar Monsalve.

In June 1997 it was reported that the *Fiscalía General* had released the mayor of Armenia-Mantequilla and five others who had been detained. Whilst arrest warrants against five other alleged paramilitary group members were withdrawn.

On 24 June 1997 at 10:15pm a bomb exploded in the building in which the Medellín office of the *Asociación de Familiares de Detenidos Desaparecidos - Colombia* (ASFADDES), Colombian Association of Families of the Detained-Disappeared is located. All the documents on human rights violation cases kept in the office were destroyed. ASFADDES has been actively campaigning on the case of the "disappearances" of the two students and had repeatedly denounced the failure to bring those implicated to justice.

WHAT YOU CAN DO:

President of Colombia:

Señor Presidente Ernesto Samper
Pizano
Presidente de la República
Palacio de Nariño
Carrera 8 No. 7-26
Santafé de Bogotá, Colombia

Salutation: Excelentísimo
Sr.
Presidente/Dea
r President
Samper

Minister of the Interior:

Dr. Alonso López Caballero
Ministero del Interior
Ministerio del Interior
Carrera 8, No.8-09, Piso 2
Santafé de Bogotá
COLOMBIA

Salutation: Sr.
Ministro/Dear
Minister

Attorney General:

Dr. Alfonso Gómez Méndez
Fiscal General de la Nación
Fiscalía General de la Nación Diagonal 22B
5201
Apartado Aéreo 29855
Santafé de Bogotá
COLOMBIA

Salutation: Estimado Dr./Dear Dr.

1. Use this case to illustrate the issue of impunity, the failure to bring those responsible for "disappearances" to justice and to illustrate the links between the security forces and paramilitary contacts with local politicians, authorities.

2. Please write to President Samper; the Attorney General; the Minister of the Interior and the Minister of Foreign Affairs:

- expressing concern that all those responsible for the "disappearances" have not been brought to justice, urging that full and impartial investigations into the "disappearances" be advanced, that the results be made public and those responsible brought to justice;
- urging that all measures deemed appropriate by the relatives of the victims and human rights defenders working with them are taken to guarantee their safety;

Investigations into the case have revealed that the "disappearances" were undertaken in a joint paramilitary/police operation, you should also use this case to:

- urge the Colombian Government to dismantle paramilitary groups and bring those members responsible for human rights violations, together with those members of the security forces responsible for their training and operating in unison with illegal paramilitary groups to justice.

3. Write to/lobby your own government and/or political representatives:

- using the case to illustrate:

the impunity which members of the security forces responsible for human rights violations frequently enjoy;

the links between the security forces and paramilitary groups. Underline that the failure to complete criminal investigations and all those responsible for the "disappearances" brought to justice, have ensured that paramilitary groups have been able to continue to operate in the Antioquia department and have continued to commit human rights violations with the collaboration of the security forces.

- underline that measures to end impunity in this case and ensure that paramilitary group members brought to justice would be in line with recommendations made by the United Nations and the Inter-American Commission to tackle impunity and dismantle paramilitary groups.

- urge your own government to monitor criminal investigations into the "disappearances" and to bring those responsible for paramilitary groups in Antioquia department.

Minister of Foreign Relations:

Dra. María Emma Mejía
Ministero de Relaciones Exteriores
Ministerio de Relaciones Exteriores
Palacio San Carlos
Santafé de Bogotá
COLOMBIA

Salutation: Sra. Ministra/Dear Minister

Please send copies of your correspondence to the Colombian Embassy in your country.

In correspondence/contacts with the Colombian authorities acknowledge that guerrilla forces in Colombia have violated international humanitarian law, but underline that such abuses can in no way justify human rights violations by the Colombian security forces and their paramilitary allies nor justify failure by the authorities to ensure that those responsible for human rights violations are brought to justice.

Please send copies of your correspondence to:

Colombian Association of Relatives of the "Disappeared": Señores, ASFADDES, AA 011446, Santafé de Bogotá, Colombia.

THE VILLATINA MASSACRE

Jovanny Alberto Vallejo Restrepo, age 15

Oscar Andrés Ortiz Toro, age 17

Ricardo Alexander Hernández, age 17

Marlon Alberto Alvarez, age 17

Mauricio Antonio Ramírez Higuíta, age 24

Johny Alexander Cardona Ramírez, age 17

Angel Alberto Barón Miranda, age 17

Geovanny Alberto Valero, age 8

Nelson Duván Florez Villa, age 17

Johanna Mazo Ramírez, age 8

".... youngsters who were committed to their community, with dreams and hopes, with illusions and a fighting spirit for life".

Description of seven of the murdered children who were members of the religious youth organization *Caminantes del Futuro* (Builders of the Future).

In the early evening of 15 November 1992, twelve men with automatic rifles travelling in three cars entered the poor neighbourhood of Villatina on the outskirts of Medellín. They pulled up near a group of youngsters who were listening to music on a street corner. The gunmen got out of the vehicles; some of the youngsters tried to show them their identity documents but the gunmen ordered the youngsters to lie on the ground and then opened fire. Nine children aged 17 and under and a youth of 24 were killed. The youngest victims were a boy and a girl aged eight. Seven of the victims were members of a young people's Christian organization, *Caminantes del Futuro*, Builders of the Future.

The massacre in Villatina took place only hours after two police agents were shot dead in the centre of Medellín. However, the youngsters killed on 15 November were, as many other victims, apparent random targets of police revenge.

Several of the youngsters tried to protect 8-year-old Johanna Mazo and witnesses stated that when one of the killers tried to stop the child being killed, another gunman replied: "*Cómo vamos a dejar vivos a esta manada de hijueputas si ellos son los que nos están matando?*", "How can we let this bunch of sons-of-bitches live if they are the ones who are killing us?"

An army patrol alerted by the gunfire arrived on the scene. There was an exchange of gunfire but none of the gunmen were captured.

According to the *Procuraduría General de la Nación*, Office of the Procurator General, radio news programs on the day of the massacre reported that nine "contract killers" had been killed by the police in the Villatina district.

On 31 December 1992, another group of masked gunmen entered the Villatina district. The local inhabitants alerted the armed forces and an army patrol appeared on the scene. An armed confrontation followed; two of the gunmen were injured during the confrontation and they were all captured. Reportedly the masked men then identified themselves as members of the *Policía Metropolitana*, Metropolitan Police; the gunmen then removed their masks and

witnesses reportedly recognized several of the gunmen as being amongst those who had perpetrated the 15 November massacre.

Nelson Duván Florez Villa reportedly told his aunt, before he died, that he had recognized various members of the F2 - police intelligence amongst the perpetrators of the massacre. His uncle had been a member of the F2 and had frequently come home with other members of the police body.

Members of the security forces and paramilitary group members responsible for human rights violations have often threatened or intimidated relatives of victims and others attempting to investigate the truth, in order to ensure that investigations do not progress. Often perpetrators of human rights violations commit further serious human rights violations in order to protect their impunity.

Shortly after the youngsters' funerals were held, the mothers of the victims were summoned to a meeting with several men who identified themselves as F2 agents. The men interrogated the mothers on the massacre and on why F2 agents had been accused of carrying out the massacre.

Following the armed confrontation between the gunmen and the army patrol, the bullet cartridges found on the scene were sent to the *Industria Militar* (INDUMIL), Military Industry for examination. The cartridges were found to have been part of consignments to the armed forces and the National Police.

Villatina is a poor neighbourhood on the eastern side of Medellín. This city faces problems similar to those of other Colombian urban centres, with large sprawling shanty-towns swollen by those fleeing violence and poverty in rural areas. In the shanty-towns poverty and unemployment leave youngsters with few alternatives. Many join street gangs and become involved in petty crime or organized crime linked to the drug trade.

In response to the wave of urban juvenile crime, local authorities and business interests have targeted youngsters, suspected for their involvement in petty crime, for murder by "death squads". "Social cleansing" as it has become known, also targets vagrants, drug addicts, homosexuals, street-children and other socially marginalized groups.

The massacre took place at a time when members of the Metropolitan Police had been the target of numerous killings committed by organized criminal gangs. The killings of youngsters in poor areas of Medellín reportedly coincided with a number of killings of police agents who had been killed in the same districts. Youngsters living in the areas in which police agents had been killed were targeted because it was assumed that these were the same areas in which the police killers lived. Several police agents had been killed in the Villatina area.

International Investigations

The case of the Villatina Massacre was submitted to the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) when national investigations failed to make any progress.

In February 1996, the *Comité de Impulso a la Administración de la Justicia en los casos de Los Uvos, Caloto y Villatina*, the Committee for the Advancement of the Administration of Justice in the Los Uvos, Caloto and Villatina cases⁵, presented its report to the 91st session of the IACHR. The report recommended that the Colombian Government ensure that those responsible for the Villatina massacre be brought to justice and that the victims families be compensated. In its resolution of 16 October 1997 the IACHR endorsed several recommendations made to it by a committee set up to follow-up on the work of the *Comité de Impulso*, including the recommendation that these human rights violation cases be handled by the country's civilian justice system, in line with the Colombian Constitutional Court's ruling of 5 August 1997 excluding cases of human rights violation from military courts.

Disciplinary Investigations

On 8 August 1997, the *Procuraduría General de la Nación* dismissed three police agents for their part in the massacre.

To date the relatives of the victims have not received state compensation. The *Comité de Impulso's* report had concluded that state agents were responsible for the massacre. However, the Ministry of Defence has refused as yet to pay compensation on the basis that there has been no penal or disciplinary sentence against members of the security forces for participating in the massacre. The Ministry of Defence to date is only willing to accept that police agents may have, at most, been responsible for failing to fulfil their duties (*omisión*).

Criminal Investigations

Judicial investigations have now been assumed by the *Unidad Nacional de Derechos Humanos de la Fiscalía General de la Nación*, Human Rights Investigations Unit of the Office of the Attorney General, a welcome step in-so-far that this Unit has made important advances in judicial investigations into other well-known cases of human rights violation. Criminal investigations finally seem to be advancing. In February 1998 two

⁵ The *Comité de Impulso* was a committee made up of non-governmental human rights organizations the Colombian State and the IACHR to oversee advances into investigations into the Paez Indian Massacre in El Nilo, the killings of 10 youngsters in the Villatina district of Medellín in November 1992 and the Los Uvos Massacre of seventeen people in the department of Cauca in April 1991.

of the police agents who had previously been dismissed were detained on the orders of the Human Rights Investigations Unit.

The fact these criminal investigations into the Villatina massacre have not been completed over five years later provides clear illustration of how impunity is often guaranteed by the failure of the authorities to ensure advances into investigations of human rights violations.

1. Use this case to illustrate the issue of impunity; the failure, several years on, to bring those responsible to justice.

2. Please write to President Samper; the Attorney General; the Minister of the Interior and the Minister of Foreign Affairs:

- expressing concern at the failure of the authorities to ensure that all those responsible for the Villatina Massacre are brought to justice despite the fact that over five years have passed;
- urging that full and impartial investigations into the massacre be advanced, that the results be made public and those responsible brought to justice;
- urging that all measures are taken to guarantee the safety of relatives of the victims and witnesses.

3. Write to/lobby your own government and/or political representatives:

- using the case to illustrate:

the failure of the Colombian Government to ensure that those responsible for human rights violations are brought to justice;

President of Colombia:

Señor Presidente Ernesto Samper
Pizano
Presidente de la República
Palacio de Nariño
Carrera 8 No. 7-26
Santafé de Bogotá, Colombia

Salutation: Excelentísimo
Sr.
Presidente/Deputado
r President
Samper

- underline that measures to end impunity in this case would be in line with recommendations made by the United Nations and the IACHR;
- express your concern that your own government monitor criminal investigations into the Villatina Massacre and ensure that all those responsible are brought to justice;
- urge your government to keep you informed of the efforts it is making.

If you live in an OAS member state:

You can underline in contacts with your government/.political representatives that advancing criminal investigations into the Villatina Massacre would be in line with the IACHR's recommendation to the Colombian State to continue investigations into the killings and urge your government to encourage other OAS member states to monitor the Colombian State's efforts to implement the IACHR's recommendations.

Dra. María Emma Mejía
Ministro de Relaciones Exteriores
Ministerio de Relaciones Exteriores

Minister of Foreign Relations:

Palacio San Carlos
Santafé de Bogotá
COLOMBIA

Salutation: Sra. Ministra/Dear
Minister

Attorney General:

Dr. Alfonso Gómez Méndez
Fiscal General de la Nación
Fiscalía General de la Nación Diagonal 22B
5201

Apartado Aéreo 29855
Santafé de Bogotá
COLOMBIA

Salutation: Estimado Dr./Dear Dr.

Please send copies of your correspondence to the Colombian Embassy in your country.

In correspondence/contacts with the Colombian authorities acknowledge that guerrilla forces in Colombia have violated international humanitarian law, but underline that such abuses can in no way justify human rights violations by the Colombian security forces and their paramilitary allies nor justify failure by the authorities to ensure that those responsible for human rights violations to justice.

Please send copies of correspondence to:

Lawyers' Association: Corporación Colectivo de Abogados, AA 44456, Santafé de Bogotá, Colombia.

THE PUERTO PATIÑO MASSACRE

At midnight on 15 January 1995, a group of 40 men carrying short and long-range automatic weapons, some wearing armed forces-issue uniforms and others in plain-clothes, entered the village of Puerto Patiño in the municipality of Aguachica, department of Cesar. They went to two bars, La Guapachosa and Los Charcos, and ordered everyone inside to lie face down. The gunmen called out the names of nine men: **Jesús Roperó N.**; **John Hoymar Beltrán Galván**, **Libardo Montalvo Pérez**, 28 years old; **Miguel Angel Cáceres Padilla**, 28 years old; **Fernando López Osorio**, 28 years old; **Giovanny Guzmán Pérez**, **Lorenzo Padilla**, **José Trinidad Galván** and **Luis Alberto Reyes Rodríguez** from a list in their possession and took them aside. They forced the men to board two lorries they had parked outside the bars and drove off towards the surrounding mountains.

At approximately 5:00am the bodies of Giovanni Guzmán and Lorenzo Padilla were found near the Viuda Blanca Farm. Several hours later the body of Fernando López Osorio was found and the remaining five were later found in a stream near to the community of Los Angeles, municipality of Aguachica. Luis Alberto Reyes Rodríguez was released several hours after the abduction.

The massacre of Puerto Patiño was one of the few human rights atrocities which was subject to serious investigation by police authorities.

On 6 February 1995, the commander of police in Aguachica, in a statement to the *Dirección de Policía Judicial e Investigación* (DIJIN), Judicial and Investigative Police Authority, stated that intelligence reports pointed to the fact that the paramilitary groups operating in Aguachica presumed to be responsible for the Puerto Patiño massacre and other serious human rights violations, were sponsored by the armed forces, in particular by the commander of the Aguachica Military Base, Major Jorge Alberto Lázaro Vergel. According to the police commander, Major Lázaro had told him of his involvement in paramilitary activity in the region. The major told him in the presence of an officer from the *Departamento Administrativo de Seguridad* (DAS), Civilian Security Department, that he had a list of suspects including local government officials, who were to be located and possibly killed by paramilitary forces.

The Judicial Police's investigation concluded that paramilitary groups operating in the area of Aguachica were sponsored by local landowners and operated under the command of the commander of the Aguachica Military Base. The report also concluded that members of the Morrison Military Base and the *Unidad Antisecuestro y Extorsión* (UNASE), Anti-kidnapping and Extortion Unit, participated directly in paramilitary operations under the coordination of Major Lázaro.

The investigation concluded that two or three of those who were killed in the Puerto Patiño massacre may have had some contact with guerrilla forces since they were fishermen and may have transported guerrillas in their boats along the river Patiño or lodged them in their houses. The other victims, according to the report, were killed to increase the psychological impact of the massacre on the local community and in this way to increase extortion payments to paramilitary groups. Paramilitary groups in the region, the report stated, charged local farmers protection money, those who failed to pay would have to leave the region or be killed. Paramilitary activity therefore was aimed not only to combat guerrilla influence in the region but also to further the interests of powerful landowners and drug-traffickers in the region.

The report concluded that the Puerto Patiño massacre had been carried out by a paramilitary group called *Los Masetos*:

"... with the support of members of the armed forces under the command of army Major Jorge Roberto Lázaro Vergel, commander of the Aguachica Military Base and,

Mr Roberto Prada, both of whom participate directly in the different activities and operations carried out by this group. This situation has resulted from the rapid advance of guerrilla groups in the area and the poverty of its inhabitants who in order to survive are forced to join the ranks of one of the two sides (guerrillas, paramilitaries)".

In an interview on 21 October 1995 with Lieutenant Colonel José Domingo García García, who replaced Major Lázaro as commander of the Aguachica Military Base, Amnesty International was told that, although the *Fiscalía* had issued orders for the capture of paramilitary leaders, it had not been possible to carry out the detentions since the paramilitary had army infiltrators who kept them informed of military operations and that furthermore, it had not been possible to locate paramilitary leader Roberto Prada. The commander of the Aguachica Military Base played down accusations of paramilitary/military links in the region by claiming that such allegations were part of a guerrilla campaign to discredit the armed forces.

Major Lázaro was arrested on 17 March 1995 after a warrant was issued against him by the Barranquilla branch of the *Fiscalía General de la Nación*, Office of the Attorney-General, and held in detention in the barracks of the V Brigade. However, he was subsequently released when the court failed to bring him to trial within the time allowed by Colombian legislation. In March 1998, the *Procuraduría General de la Nación* called for the dismissal of Major Lázaro. Roberto Prada was arrested in July 1996 and remains in prison pending trial on charges of homicide and the formation of paramilitary groups.

WHAT YOU CAN DO:

President of Colombia:

Señor Presidente Ernesto Samper Pizano
Presidente de la República
Palacio de Nariño
Carrera 8 No. 7-26
Santafé de Bogotá,
COLOMBIA

Salutation: Excelentísimo Sr. Presidente/Dear President Samper

Minister of the Interior:

Dr. Alonso López Caballero
Ministro del Interior
Ministerio del Interior
Carrera 8, No.8-09, Piso 2
Santafé de Bogotá
COLOMBIA

Salutation: Sr. Ministro/Dear Minister

Minister of Defence:

Dr. Gilberto Echeverri Mejía
Ministro de Defensa Nacional
Ministerio de Defensa Nacional
Avenida Eldorado CAN - Carrera 52
Santafé de Bogotá,

Attorney General:

Dr. Alfonso Gómez Méndez
Fiscal General de la Nación
Fiscalía General de la Nación Diagonal 22B
5201
Apartado Aéreo 29855

1. Use the case to illustrate the links between the armed and security forces and paramilitary groups.

2. Please write to President Samper; the Attorney General; the Minister of the Interior and the Minister of Defence:

- welcoming advances in disciplinary investigations but expressing concern that those responsible for the massacre have not been brought to justice and urging that full and impartial investigations into the Puerto Patiño massacre be advanced, that the results be made public and those responsible brought to justice;
- expressing concern that paramilitary activity in the south of Cesar department continues and since the massacre has continued to spread;

- expressing concern that continued and spreading paramilitary activity in the region illustrates the need to take effective action to dismantle paramilitary groups;

- urge the Colombian Government to dismantle paramilitary groups and bring those members responsible for human rights violations, together with those members of the security forces responsible for their training and operating in unison with illegal paramilitary groups to justice.

3. Write to/lobby your own government and/or political representatives:

- using the case to illustrate:

the links between the security forces and paramilitary groups. Underline that the failure to bring those responsible to justice that criminal investigations into the Puerto Patiño massacre are completed and to bring those responsible to justice have helped ensure that paramilitary groups have been able to continue to operate in the south of Cesar department and to continue to commit human rights violations. Underline the collaboration of the security forces in the region

- underline that measures to end impunity in this case and ensure that paramilitary group members brought to justice would be in line with recommendations made by the UN and the IACHR to end impunity and dismantle paramilitary groups;

- express your concern that your own government monitor criminal investigations into the Puerto Patiño massacre and to dismantle paramilitary groups in the south of Cesar department.

COLOMBIA

Salutation: Sr. Ministro/Dear Minister

Santafé de Bogotá

COLOMBIA

Salutation: Estimado Dr./Dear Dr.

Please send copies of your correspondence to the Colombian Embassy in your country.

In correspondence/contacts with the Colombian authorities acknowledge that guerrilla forces in Colombia have violated international humanitarian law, but underline that such abuses can in no way justify human rights violations by the Colombian security forces and their paramilitary allies nor justify failure by the authorities to ensure that those responsible for human rights violations to justice.

Please send copies of your correspondence to:

Alternative Legal Association: MINGA, AA 40303, Santafé de Bogotá, Colombia.

"DISAPPEARANCE" OF ISIDRO CABALLERO DELGADO AND MARÍA DEL CARMEN SANTANA

"The only responses I have received to the struggle I undertook to search for my husband are death threats and persecution".

María Nodelia Parra Rodríguez, wife of Isidro Caballero Delgado.

Isidro Caballero Delgado and María del Carmen Santana were detained by army personnel at about 4 pm on 7 February 1989 in the northern Colombian department of Cesar. Both are thought to have been subsequently killed. Their bodies have never been found.

According to eye-witnesses they were detained by members of the Colombian Army's *V Brigada*, V Brigade, from the Morrison Military Base situated north of the town of San Martín, department of Cesar. A former soldier subsequently admitted his role in abducting and killing them. However, the military authorities denied the arrests and none of those responsible has been brought to justice.

Isidro was 31 years old and had just become the father of a son, Iván Andrés, at the time of his "disappearance".

Isidro Caballero was a teacher active in the *Sindicato de Educadores de Santander* (SES), Santander Teachers' Union, which is affiliated to the *Unión Sindical de Trabajadores de Santander* (USITRAS), Santander Department United Worker's Union and the *Federación Colombiana de Educadores* (FECODE), Colombian Teacher's Federation. He had helped to organize a strike in north-west Colombia in June 1987 in protest against the military presence there, calling for respect for human rights and land rights. Following the strike several trade union leaders were killed or "disappeared". In 1988, Isidro became involved in the M-19's⁶ *Comité Regional de Diálogo*, Regional Committee for Dialogue which was seeking a political solution to armed conflict.

⁶ The guerrilla group has now become a legally recognized political party, the Alianza Democrática - M-19, M-19 Democratic Alliance.

On the day they were detained, Isidro Caballero and María del Carmen Santana travelled to Guaduas hamlet, in the municipality of San Alberto, department of Cesar, to discuss the participation of peasant farmers at a forthcoming meeting which they were preparing. A few metres from a house they had visited, they were arrested by a military patrol. Several people witnessed and have testified to their detention by the military patrol.

Despite the efforts of Isidro's wife, María Nodelia Parra to trace him, the military authorities have persistently denied his detention.

On 23 February 1989 a criminal investigation was opened into the "disappearances" before the *Juzgado Segundo de Instrucción Criminal Ambulante*, Second Ambulatory Criminal Investigating Judge.

One witness identified two members of the army patrol involved in the abduction of Isidro Caballero and María del Carmen. Despite the existence of this evidence, formal proceedings were not started until August 1989. Four members of the patrol were arrested on 22 August 1989 and all of them formally linked to the case following questioning. In September 1990, the four were acquitted despite strong *prima facie* evidence against them.

A former soldier who testified that he had continued to collaborate with the army as a civilian informant confirmed that he had been involved in the killing of Isidro Caballero and María del Carmen Santana and gave the names of three of the four suspects originally arrested in connection with the "disappearances". He stated that they had all belonged to a special unit operating in the area under the command of the *V Brigada*, V Brigade. He stated that Isidro Caballero and María del Carmen had been killed by the group on 9 February 1989 and that they had been buried in a common grave in Guaduas.

The ruling was not appealed partly because María Nodelia Parra and her lawyer were receiving death threats. Witnesses had also received death threats and some had been forced to leave the area. On 12 June 1990, the *Juez Segundo de Orden Público de Valledupar*, Second Public Order Judge of Valledupar, reported to the *Departamento Administrativo de Seguridad* (DAS), Civilian Security Department (civilian intelligence service) that he had received death threats from one of those implicated in the "disappearance". The criminal case was closed in the civilian justice system on 3 October 1990.

Although a criminal investigation before the military courts was opened in February 1989, on 6 June 1989 military courts ordered the investigation to be closed and archived.

Following the closure of military and civilian justice investigations in Colombia, María Nodelia Parra, presented the case of the "disappearance" of Isidro Caballero and María del Carmen Santana, to the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) in 1990.

In September 1991 the IACHR ruled that the Colombian Government was responsible for the abduction and "disappearance" of Isidro Caballero and María del Carmen. It called on the Colombian authorities to investigate the case, punish those responsible and compensate the family. In February 1992 the IACHR submitted the case to the Inter-American Court of Human Rights; the first time the Colombian Government had been taken before the Court. The OAS made it clear that it was not satisfied with the steps taken by the Colombian authorities to investigate the "disappearances" and to punish those responsible.

In March 1992 criminal investigations were reopened following the testimony of a member of the *Fiscalía General de la Nación*, Office of the Attorney General, who stated that in an interview he had conducted, one of the members of the military patrol, Gonzalo Arias Alturo, had testified to his own participation and that of other members of a military patrol in the "disappearances".

In May 1995, the *Fiscalía Regional de Barranquilla*, Barranquilla Regional Office of the Attorney General, issued an arrest warrant against Gonzalo Arias Alturo. In his testimony to judicial officials he had claimed that a meeting was held in the Morrison Base attended by military personnel, including an army captain, and the then owner of the Riverandia Ranch located in the municipality of San Alberto, at which Isidro Caballero's abduction was discussed. He further stated that following their detention Isidro Caballero and María del Carmen were handed over by the military patrol to paramilitaries operating on the Riverandia Ranch where he believed they were tortured, shot dead and buried.

In its ruling of 8 December 1995, the Inter-American Court of Human Rights found the Colombian State responsible for the "disappearance" of Isidro Caballero and María del Carmen; that the Colombian authorities should continue criminal investigations into the "disappearances", and that the Colombian State compensate the families of the victims. María Nodelia Parra has received compensation but other members of Isidro Caballero's family have still not received compensation. To date it has not been possible to compensate relatives of María del Carmen Santana who have not been traced.

The reopening of criminal investigations by the civilian justice system prompted the military justice system to claim jurisdiction over the investigations even though the Inter-American Commission on Human Rights had recommended that the case be handled by civilian not military jurisdiction. In July 1997, a landmark ruling, was made by *the Consejo Superior de la*

Judicatura, Superior Judicial Court, decided that in the case of the "disappearance" of Isidro Caballero Delgado and María del Carmen Santana. The *Consejo Superior* ruled that criminal investigations against eight members of the armed forces implicated should continue under the jurisdiction of the civilian justice system since kidnapping, torture and murder could not be considered an "act of service" and should not, therefore, fall under the military justice system.

However, the *Consejo Superior* ruled that the case against the Commander of the V Brigade at the time of the "disappearances" of Isidro Caballero and María del Carmen, should be handled by military court as a result of a lack of evidence linking him to the "disappearances". This decision was taken despite the testimony given by a former paramilitary member Alonso de Jesús Baquero Agudelo to the *Fiscalía General de la Nación* on 19 April 1996 affirming that the commander had ordered paramilitary groups operating in the V Brigade's area of operation to commit selective killings:

"... that we should not commit massacres but selective killings, that we should only kill the leader the guerrilla had in every region because in that way it was easier to contain the scandal and that he [the general] was able to support our organization with weapons, munitions, as long as things were done as he ordered" (Quoted in the *Consejo Superior de la Judicatura's* ruling of July 1997).

WHAT YOU CAN DO:

To date no one has been sentenced in relation with the "disappearances" of Isidro Caballero and María del Carmen although at least eight people are under criminal investigation. At the time of writing Gonzalo Arias Alturo was the only person implicated in the "disappearances" in detention. Criminal investigations are currently being undertaken by the *Unidad Nacional de Derechos Humanos de la Fiscalía General de la Nación*, Human Rights Investigations Unit of the Office of the Attorney General, a welcome step in so far that this Unit has made important advances in judicial investigations into well-known cases of human rights violation.

President of Colombia:

Señor Presidente Ernesto Samper Pizano
 Presidente de la República
 Palacio de Nariño
 Carrera 8 No. 7-26
 Santafé de Bogotá, Colombia

Salutation: Excelentísimo Sr. Presidente/Dea r President Samper

Minister of the Interior:

1. Underline that this case provides an example of the constant danger political activists face in carrying out their work; use this case to illustrate the issue of impunity, the failure, in this case to bring those responsible to justice;

2. Please write to President Samper; the Attorney General; the Minister of the Interior and the Minister of Foreign Affairs:

- expressing concern that nine years after the "disappearances" those responsible have not been brought to justice and urging that full and impartial investigations into the "disappearances" be advanced, and results be made public;
- urging that all measures deemed appropriate by Isidro Caballero and María del Carmen's family be taken to guarantee their safety;

Investigations into the case have revealed that the "disappearances" were undertaken in a joint paramilitary/military operation, you should also use this case to:

- urge the Colombian Government to dismantle paramilitary groups and bring those members responsible for human rights violations, together with those members of the security forces responsible for setting up, training and operating in unison with illegal paramilitary groups to justice.

3. Write to/lobby your own government and/or political representatives:

- using the case to illustrate:

the impunity which members of the security forces responsible for human rights violations frequently enjoy;

the links between the security forces and paramilitary groups. Underline that the failure to complete criminal investigations and all those responsible for the "disappearances" brought to justice have ensured that paramilitary groups have been able to continue to operate in the south of Cesar department and have continued to commit human rights violations with the collaboration of the security forces.

- underline that measures to end impunity in this case and ensure that paramilitary group members brought to justice would be in line with recommendations made by the UN and the IACHR of the OAS;
- express your concern that your own government monitor criminal investigations into the "disappearances" and to dismantle paramilitary groups in the south of Cesar department.

If you live in a country which belongs to the OAS:

- you should ask your government to use its good offices to ensure that all other member states implement the recommendations made by the Inter-American Court of Human Rights to ensure that the relatives of the victims receive compensation; to ensure that investigations to locate their whereabouts are continued and to bring all those responsible to justice. Urge your government to keep you informed of the efforts it is making in this respect.

Dr. Alonso López Caballero

Ministro del Interior
 Ministerio del Interior
 Carrera 8, No.8-09, Piso 2
 Santafé de Bogotá
 COLOMBIA

Salutation: Sr. Ministro/Dear Minister

Attorney General:

Dr. Alfonso Gómez Méndez
 Fiscal General de la Nación
 Fiscalía General de la Nación Diagonal 22B
 5201
 Apartado Aéreo 29855

Please send copies of your correspondence to the Colombian Embassy in your country.

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Please send copies of your correspondence to:

Colombian Commission of Jurists:

Comisión Colombiana de Juristas, AA 58533, Santafé de Bogotá, Colombia.

Santafé de Bogotá

COLOMBIA

Salutation: Estimado Dr./Dear Dr.

Minister of Foreign Relations:

Dra. María Emma Mejía
 Ministro de Relaciones Exteriores
 Ministerio de Relaciones Exteriores
 Palacio San Carlos
 Santafé de Bogotá
 COLOMBIA

Salutation: Sra. Ministra/Dear Minister

