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# Colombia

## Fear and Intimidation: The dangers of human rights work



Banner made during the forum held in July 2006 of The National Movement of Victims of State Crimes. © Movimiento Nacional de Víctimas de Crímenes de Estado

### Introduction

Human rights defenders are crucial actors in the struggle for political, social and economic rights. Their position at the forefront of defending and promoting human rights often puts them at particular risk of attack and intimidation, especially in the context of an internal armed conflict like that of Colombia. While Colombia has seen a reduction in certain kinds of violence in recent years, attacks on human rights defenders have continued. The aim of those carrying out the attacks and intimidation seems clear – to create a climate of fear which will deter other human rights defenders from continuing their work. Many human rights defenders

in Colombia receive threats so regularly they have almost come to consider this part of their work. The vast majority of threats and attacks are allegedly committed by the security forces and their paramilitary allies, but Amnesty International has also received some reports of abuses committed by members of the guerrilla.

**Human rights defenders – who are they?** Human rights defenders are all those men and women whose actions -- individual or collective -- contribute to the effective elimination of all violations of fundamental rights.

**What international obligations do states have to protect human rights defenders?**

In December 1998 the United Nations (UN) General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the Declaration on Human Rights Defenders). The Declaration is a set of principles based on legal standards enshrined in international human rights law.

The Declaration sets out the rights of human rights defenders and the specific freedoms and activities which are fundamental to their work. These include the right to know, seek, obtain and receive information about human rights and fundamental freedoms; the right to participate in peaceful activities against violations of human rights; the right to criticize and complain when governments fail to comply with human rights standards; and the right to make proposals for improvement.

The governments of the Americas have recognized the importance of individuals, groups and non-governmental organizations that promote human rights in several resolutions. The most recent resolution regarding human rights defenders was adopted by the Organization of American States (OAS) in June 2006.<sup>1</sup>

As a member of the UN and the OAS, Colombia has voluntarily undertaken a legal commitment to uphold the provisions set out in numerous international and regional human rights treaties. In addition, the supremacy of international treaties over all domestic law has been established in the Colombian Constitution.<sup>2</sup>

Álvaro Uribe Vélez took office as President for a second term on 7 August 2006, after winning the elections of 28 May 2006. In June 2002, before taking office the first time, he met with civil society organizations to discuss human rights issues including the situation of human rights defenders. He promised to open a dialogue between these organizations and the

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<sup>1</sup> Human Rights Defenders: Support for the individuals, groups and organizations of civil society working to promote and protect human rights in the Americas. G/RES. 2177 (XXXVI-O/06), 2006.

<sup>2</sup> Article 93, para 1 of the Constitution of Colombia states: *International treaties and agreements ratified by the Congress that recognize human rights and that prohibit their limitation in states of emergency, have priority domestically. The rights and duties mentioned in this Charter will be implemented in accordance with international treaties on human rights ratified by Colombia.*

Ministries of the Interior, Justice and Defence on how to ensure effective protection for defenders under threat and how to deal with collusion between state actors and paramilitary groups. Many human rights defenders feel that these promises have not been kept. As well as the attacks and threats documented in this report defenders have also been verbally attacked in public by the President himself and other high-ranking government and state officials who have labelled them “subversive”.

Generalized public statements that undermine the legitimacy of human rights defenders have undercut measures taken by the government to improve their protection. In fact such statements have given indirect approval to the security forces to target human rights defenders and community leaders during intelligence and counter-insurgency operations.

Human rights defenders have been subjected to detention and arbitrary legal proceedings designed to discredit their work. Such proceedings, which are often given considerable publicity in the media, have also had the effect of assisting paramilitary groups to single out defenders for attack. Amnesty International has documented several cases where defenders have been threatened or attacked by paramilitary groups after having been released and cleared of unfounded criminal charges. In some cases human rights defenders have been killed shortly after their release.

Amnesty International considers that there is a coordinated strategy by the security forces and paramilitary groups to undermine human rights defenders by discrediting the legitimacy of their work and through intimidation and attacks. As this report shows, defenders working at a local level are often at even greater risk.

The deep hostility shown by members of the security forces and their paramilitary allies towards human rights defenders and their belief that human rights activities are synonymous with guerrilla activities has been documented by Amnesty International in previous reports on the situation of human rights defenders in Colombia. This hostility persists and continues to result in intimidation, harassment and attacks.<sup>3</sup> The government must take tough measures to combat impunity for crimes committed against human rights defenders and challenge the hostility towards their work amongst members of the security forces, if protection is to be effective.

The information in this report is based on research by Amnesty International carried out between 2002 and early-2006. Amnesty International delegates visited Colombia in April 2004 and February 2006 to gather information. They met representatives from a range of organizations and institutions including the Office of the Procurator General<sup>4</sup>, the Office of the Attorney General,<sup>5</sup> the Office of the Protection Programme of the Ministry of the Interior and Justice, non-governmental organizations (NGOs), and individual human rights defenders who have been victims of human rights violations.

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<sup>3</sup> See Colombia: *Protection of human rights defenders: One step forward, three steps back*, (AI Index: AMR 23/022/2000).

<sup>4</sup> The role of the Office of the Procurator General is to carry out disciplinary investigations into allegations of misconduct, including human rights violations, by public officials, such as members of the security forces.

<sup>5</sup> The Office of the Attorney General (*Fiscalía General de la Nación*) was set up by the 1991 Constitution to investigate and prosecute all crimes committed in Colombia, including human rights violations and abuses.

Amnesty International has produced a number of reports on the situation of human rights defenders in Colombia in the past decade.<sup>6</sup> This report brings this research up to date. It details how human rights defenders in Colombia continue to be exposed to threats, killings and unfounded criminal investigations. It shows how government representatives and public servants continue to make defamatory statements about human rights defenders' work, seeking to undermine its legitimacy. It highlights how surveillance by the police and the security forces, arbitrary detention and unfounded criminal investigations are used to intimidate human rights defenders. It also exposes the link between these arbitrary proceedings and subsequent attacks and threats by paramilitary forces. The report ends with a series of recommendations to the Colombian government and the international community to ensure that the right to defend human rights in Colombia is respected and that those responsible for violating the rights of human rights defenders are brought to justice.

## **Chapter 1: Human rights defenders and the armed conflict**

Civilians have been the main victims of Colombia's long-running internal armed conflict between the security forces and their paramilitary allies on the one side and guerrilla forces on the other. Human rights violations and breaches of international humanitarian law have been perpetrated by all the parties to the conflict. In the last 20 years the conflict has cost the lives of at least 70,000 people, the vast majority of them civilians playing no part in the hostilities. More than 3 million people have been internally displaced and many have "disappeared".

The Colombian security forces have over time adopted a counter-insurgency strategy which has primarily focused on undermining what they perceive to be the civilian population's support for guerrilla groups. This counter-insurgency strategy frequently views civilians in conflict areas not as the victims of guerrilla groups but as part of the enemy. This has led to the systematic abuse and stigmatization of groups deemed to be "sympathetic" to guerrilla groups, such as human rights defenders, peasant farmer leaders, trade unionists, community representatives, and civilian communities living in areas deemed to be of military or economic importance.

Guerrilla forces are also responsible for repeated and widespread infractions of international humanitarian law, including the arbitrary killing of those they consider to be siding with their enemies, kidnapping and hostage-taking, sexual abuses and other forms of violence against women, and indiscriminate and disproportionate attacks against military targets which have

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<sup>6</sup> *Colombia: Protection of human rights defenders: "One step forward, three steps back"; "Enough is enough!" - Repression of human rights defenders*, (AI Index: AMR 23/048/1999, AMR: 23/016/1999 and AMR 23/021/1999); and *Colombia: Human rights defenders under increasing attack* (AI Index: AMR 23/017/1998).

frequently resulted in civilian casualties. Guerrilla forces have also killed those they consider to oppose their interests including human rights defenders.

Impunity remains a major obstacle in Colombia. Perpetrators of human rights violations know that they will not be brought to justice, despite strong evidence. Their continued presence in communities sends a clear signal that demanding justice and respect for human rights will be a difficult and often dangerous struggle.

The security forces have tried to improve their human rights image by letting their paramilitary allies commit human rights violations and then denying that the paramilitaries are operating with their acquiescence, support or sometimes direct coordination.

Shortly after Álvaro Uribe Vélez took office as president in August 2002 he introduced new hard-line security measures, the so-called Democratic Security Policy<sup>7</sup>. This security strategy has made the civilian population even more vulnerable to abuses from illegal armed groups and the security forces. Through mechanisms such as the network of informants and the army of peasant soldiers, the distinction between civilians and combatants has been blurred, thus placing them at greater risk of being dragged into the conflict.

The internal armed conflict has repercussions for the whole of Colombian society, but those most affected are marginalized communities whose voices are rarely heard: Afro-descendant and indigenous communities, peasant and shantytown dwellers on the outskirts of cities, many of whom are already displaced from their original homes.

These groups have increasingly organized themselves and refused to become mere figures in statistics of the killed or “disappeared”. As larger parts of the population have become aware of their rights they have made their voices heard and articulated their demands. In Colombia, many of these local grass-roots organizations have been able to grow with the support of and in cooperation with already established NGOs working with human rights at a national level. National organizations depend on the information passed to them by local grass-roots organizations in rural areas. Local organizations can benefit from the support national organizations can afford them by making human rights abuses public both nationally and internationally and pursuing cases within the national justice system or international bodies.

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<sup>7</sup> The Democratic Security Policy, introduced by the government of President Alvaro Uribe, has sought to recover territory from guerrilla control by strengthening the armed forces and increasing the number of military and police personnel to ensure their presence in all areas of Colombia. While it has improved security in some regions, especially on the main highways, it has made communities, notably in areas under military dispute, more vulnerable by introducing measures which threaten to force civilians further into the conflict or encouraging the security forces to play a more active role in coordinating the arrests of those they accuse of being subversive.

### **Demobilization of paramilitary groups<sup>8</sup>**

Soon after President Álvaro Uribe took office in 2002 he began peace talks with the paramilitaries. In contrast to previous talks with guerrilla groups there has been virtually no involvement of Colombian civil society or the international community in these talks, with the exception of the OAS. This reflects the deep-rooted scepticism and concern of civil society and most foreign governments with the process.

The legal framework set up to govern the demobilization process has been heavily criticized both by national and international human rights organizations as well as by international organizations, such as the Office of the UN High Commissioner for Human Rights and the Inter-American Commission on Human Rights (IACHR) of the OAS, because it does not comply with international standards on the right of victims to truth, justice and reparation and exacerbates Colombia's endemic problem of impunity.<sup>9</sup>

Media reports suggest that over 30,000 paramilitaries have demobilized. However, paramilitaries in supposedly demobilized areas continue to operate, often under new names, and to commit violations. There is also strong evidence of continued links between paramilitaries and the security forces. There were also fears that government policies designed to reintegrate members of illegal armed groups into civilian life risked "recycling" them into the conflict.

On 19 May 2006, Colombia's Constitutional Court declared many of the central tenets of the Justice and Peace Law unconstitutional. The legislation was approved in 2005 with the aim of facilitating the supposed demobilization of army-backed paramilitaries. Amnesty International is concerned that the overall legal framework for the demobilization of illegal armed groups, including the Justice and Peace Law, still fails to conform to international human rights standards on the right to truth, justice and reparation. Media reports during the month of June 2006, suggest that the Colombian government is attempting to promulgate a decree which would effectively undermine any improvements to the law brought about by the Constitutional Court's ruling.

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<sup>8</sup> For more information on the demobilization process see *Colombia, Paramilitaries in Medellín; demobilization or legalization* (AI Index: AMR 23/019/2005).

<sup>9</sup> Most paramilitaries and guerrillas who have demobilized have done so on the basis of Decree 128 of 2003 which grants legal and economic benefits to members of armed groups who have demobilized. These benefits include "pardons, conditional suspension of the execution of a sentence, a cessation of procedure, a resolution of preclusion of the investigation or a resolution of dismissal". It excludes from these benefits those "who are being processed or have been condemned for crimes which according to the Constitution, the law or international treaties signed and ratified by Colombia cannot receive such benefits". On 22 July 2005, the Justice and Peace Law was ratified. This applies to those who are under investigation or have been sentenced for human rights abuses. Given the high levels of impunity in Colombia most paramilitaries and guerrillas are not under investigation for such offences.



## Chapter 2: Threats against human rights defenders

The process of demobilizing paramilitary groups and its impact on the human rights situation has been at the top of the political agenda in Colombia for several years. Human rights defenders have demanded an end to impunity for human rights abuses committed during the armed conflict. They have documented and publicized cases and pursued justice through the courts. Many of those demanding and campaigning for justice have been threatened and attacked in an effort to silence them and protect those responsible for human rights abuses.

The state has an obligation to investigate threats and attacks against human rights defenders, but in Colombia such investigations rarely result in perpetrators being brought to justice. The state's failure to fulfil this obligation is in itself another form of harassment.

The official demobilization process for members of paramilitary and guerrilla groups began in 2003 and, according to the government will lead to the complete demobilization of paramilitaries sometime in 2006. Despite this, Amnesty International has noted with grave concern that human rights organizations and individual human rights defenders continue to receive threats from paramilitary groups. Since the beginning of 2006, and especially during the election campaign, most large human rights organizations working at a national level received threats signed by groups describing themselves as "new" paramilitary groups.

Paramilitary groups use a variety of methods to threaten members of human rights organizations and defenders. Whatever the threats, the purpose is clear: they are trying to silence defenders and force them to stop their vital work. Sometimes threats are made in the public arena – for example e-mails have been copied to the press by the paramilitary group or defenders taking part in radio programmes have received telephone threats. Sometimes threats are delivered by a messenger and human rights defenders frequently report that they are being followed or that their homes or offices are under surveillance.

### Human rights defenders working at a national level

**Iván Cepeda**, a founding member of the Manuel Cepeda Foundation (Fundación Manuel Cepeda), a human rights organization, received a death threat by e-mail on 30 April 2006. The threat was signed by a new paramilitary group calling itself the New Generation of Peasant Self-Defence (Autodefensas Campesinas Nueva Generación,). It read: "The reason for our existence is more valid than before, the defence of liberty and Colombian democracy... until the last rifle belonging to the guerrillas, oppressors of the Colombian people, is put down we will continue in arms, combating the guerrillas utilizing all the means we have at our disposal."

Meanwhile, Iván Cepeda's driver, Embarth Barrios Guzmán, reported that he had seen a white truck parked in front of his own house several times. The men in the truck took steps to conceal their faces whenever anyone left the house. On 24 May 2006, Embarth Barrios Guzmán received a death threat over the telephone saying that they would kill him "for working for a guerrilla member". On 25 May 2006, Embarth Barrios Guzmán again noted two

unknown vehicles outside his house and managed to write down the registration number of one of them. The police confirmed that the registration number corresponded to that of a vehicle belonging to a state body, but gave no further details.



**The National Movement of Victims of State Crimes, during a forum held in July 2006.**

© **Movimiento Nacional de Víctimas de Crímenes de Estado**

The Manuel Cepeda Foundation plays an important role within the National Movement of Victims of State Crimes, a coalition of NGOs that campaign against impunity for human rights violations committed by state actors and their paramilitary allies. Together with many human rights defenders and organizations in Colombia they have criticized the approval of the Justice and Peace Law that establishes a legal framework for the demobilization process.

On 8 May 2006, the “**José Alvear Restrepo Lawyer’s Collective**” (Corporación Colectivo de Abogados “José Alvear Restrepo”), which offers legal defence to victims of human rights violations, received an e-mail warning them to abandon their human rights work or suffer grave consequences.

The message was sent to them from an address which included the phrase “*Colombia Libre*”, the name used by the United Self-Defence Groups of Colombia (Autodefensas Unidas de Colombia, AUC), the paramilitary umbrella organization, on their website. Copies of the threat were also sent to several other organizations. The e-mail warned that its authors would “make the international community see that you are nothing but protectors of terrorists, fomenters of terrorism on a grand scale”.

The Collective is working on several high-profile cases in which senior members of the army have been implicated and has also actively criticized the Justice and Peace Law and the demobilization process. As a result of their work, members of the Collective have repeatedly been subjected to paramilitary death threats and criticism by government officials.

The Advisory Committee for Human Rights and Displacement (Consultoría para los Derechos Humanos y el Desplazamiento, **CODHES**) is an organization that works with communities forcibly displaced by the armed conflict. On 20 May 2006, it was one of 20 human rights organizations that received a threatening e-mail from a group calling itself Colombia Free of Communists (Colombia Libre de Comunistas). The message labelled its recipients communists and supporters of left-wing guerrilla organizations and warned: “We

are going to continue in power... along with the legitimate Colombian armed forces clearing our countryside and cities of grovellers like you." The statement went on to warn human rights defenders to "stop coming here and fucking around with your issue of human rights, education, inequality, and all those things that you have invented because here what we have is work to do...Clear our land of these unproductive elements...You are all warned, we know where you are".

There are reports that the same group sent a further death threat to CODHES and another 25 organizations on 24 May 2006. That e-mail claimed to be from an armed group "on the war path" against people who did not want the present government to continue in power.

## Human rights defenders working at a regional level

Human rights defenders working at a regional level are often the only people on the ground who speak out publicly about human rights abuses and public policies which contravene human rights standards. It is through their work that human rights abuses committed outside Bogotá and in the countryside come to public attention. Their work is vital. However, public officials, members of the security forces and paramilitaries who would rather not see injustice and abuses exposed have labelled them subversives and linked them to the guerrilla movement.

Human rights defenders working in the city of Barrancabermeja and other parts of the Department of Santander have consistently been targeted for attack in previous years. Many have paid with their lives. Nevertheless, despite the risks involved, they have refused to be silenced.

### Department of Santander

The Regional Human Rights Corporation (Corporación Regional para la Defensa de los Derechos Humanos, **CREDHOS**) documents and publicizes the severe human rights crisis in Barrancabermeja and other localities in Santander department. Many of the human rights violations CREDHOS exposes are committed by members of paramilitary groups. Despite phased demobilization programmes in December 2005 and in January, February and March 2006, human rights violations by paramilitary groups in Barrancabermeja continue. Many CREDHOS members have been threatened because of their work; and some have had to leave Barrancabermeja in fear of their lives.<sup>10</sup>

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<sup>10</sup> See for example; *Colombia: Further information on fear for safety: Monica Madero Vergeland CREDHOS members* (AI Index: AMR 23/067/2000), *Colombia: Further information on Fear for safety, Pablo Javier Arenales, José Guillermo Larios, Yaneth Rubio Rodríguez* (AI Index: AMR 23/103/2002), *Colombia: Further information on Fear for safety, Pablo Javier Arenales, José Guillermo Larios, Yaneth Rubio Rodríguez* (AI Index: AMR 23/027/2002), *Colombia: Fear for Safety / Death Threats - Members of Credhos, human rights organizations; Members of Asfaddes, and other human rights defenders in the Magdalena Medio region* (AI Index:

On 24 May 2005, two armed men on a motorbike approached a student whom they believed to be Georgina Morales, a member of the CREDHOS youth group. When the men realized their mistake, they told the classmate to tell Georgina Morales that she should leave Barrancabermeja within three days. This was apparently the second attempted attack on Georgina Morales.

David Ravelo Crespo, Secretary General of CREDHOS, reportedly received a number of telephone death threats at the CREDHOS office during May 2005. On 31 May 2005, a man called the office of CREDHOS saying that David Ravelo Crespo would be killed. At the time of that call, he was in hiding in Bogotá as he feared for his safety. He had reportedly been followed by suspected members of army-backed paramilitary groups operating in Barrancabermeja.<sup>11</sup>

According to reports, a paramilitary “death list” has been circulating in Barrancabermeja since the end of 2005. The list reportedly includes the names of many long-standing human rights defenders, trade unionists, journalists and other social and political leaders in Barrancabermeja who have spoken out over the years against paramilitary activities.

In April 2006, CREDHOS reported that they had been notified that David Crespo and two other CREDHOS members would be killed by a group of hired assassins.

### **Department of Meta**

The local human rights committee in the community of Puerto Toledo, the municipality of Puerto Rico, Meta department, has worked together with national human rights organizations to expose serious human rights violations.

Paramilitaries reportedly entered the community of Puerto Toledo on at least two occasions in January 2006 specifically demanding to know the whereabouts of members of the local human rights committee. On the first occasion, during the morning of 4 January 2006, paramilitary groups entered the community apparently without difficulty despite a heavy military presence a short distance away.<sup>12</sup>

On 27 January 2006, at approximately 7:30am, several paramilitaries travelling on four motorcycles reportedly re-entered the community asking again about the whereabouts of Abel Gil Martínez, a community leader and member of the local human rights committee. They also demanded information about other human rights defenders: "Where are the members of the human rights commission of the community councils? Tell them to show their faces, if

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AMR 23/080/2000), *Colombia: Further information on fear for safety* (AI Index: AMR 23/035/2001) and *Colombia: Further Information on Fear for safety/ Death threats* (AI Index: AMR 23/016/2004).

<sup>11</sup> For more information see *Urgent Action Colombia: Fear for Safety/Death Threats, David Ravelo Crespo, Georgina Morales and other members of CREDHOS* (AI Index: AMR 23/018/2005).

<sup>12</sup> According information received, troops belonging to the “Héroes de Barbacoas” Counterinsurgency Battalion No.42 had been positioned in the community until 3 of January, 2006. At around midday on 3 January 2006, troops belonging to the “Héroes de Santuario” Counterinsurgency Battalion No. 40 also entered the community.

they have nothing to hide there is nothing to fear, why don't they show themselves?" By the evening more than 100 paramilitaries had entered the village while other paramilitaries surrounded the community. It is of concern that paramilitaries were able to enter and surround the community despite the reported presence of units of two counterinsurgency battalions a short distance away.

In late 2005 and early 2006 the committee reported on numerous killings and "disappearances" that had reportedly taken place in the municipalities of Puerto Rico, Puerto Lleras and Vistahermosa. These human rights violations were allegedly committed by paramilitaries working with security force units operating within the Plan Patriota, a military offensive against the guerrilla movement conducted with US military advisers.

The cases described here highlight the widespread and persistent threats made against human rights defenders who dare to criticize the demobilization process and challenge impunity for violations committed during armed conflict. The extent of the problem is such that it cannot be resolved simply by granting human rights defenders protection within the Ministry of the Interior's Protection Programme. In order to stop the harassment and intimidation of human rights defenders the authorities must go to the heart of the problem and combat impunity. Ensuring that such human rights violations are properly investigated is a key element in supporting and encouraging the work of human rights defenders.

### **Chapter 3: Unfounded investigations against human rights defenders**

Human rights defenders are at the forefront of strengthening the rule of law, protecting the rights of the individual and demanding efficient judicial investigations and proceedings. Paradoxically, the principle line of defence for human rights defenders -- the law and the judicial system-- can also be misused to harass and intimidate human rights defenders by starting unfounded criminal investigations against them.

The authorities appear to be misusing the law by opening investigations on spurious or unsubstantiated charges against human rights defenders in order to stigmatize and harass human rights defenders and prevent them from carrying out their work. Those under investigation or in detention have frequently been presented in the media as "subversives" or as supporters of subversive groups. These practices can seriously affect the ability of defenders to carry out their work by compelling them to focus on defending themselves against criminal charges. This is especially true of human rights defenders working in small grass-roots organizations at the local level.

Potentially spurious criminal charges which are widely publicized can both undermine the credibility of the work of human rights defenders and put them at risk of physical attack by paramilitary groups. Amnesty International is concerned that the judicial investigations

carried out against defenders are part of a strategy to silence and discredit them and distract attention from their exposure of human rights violations.

Under international law governments have an obligation to protect human rights defenders. This obligation relates not only to physical attacks and other types of harassment, but also involves a duty to take effective action to ensure that state agents act within the rule of law.



**Justicia y Paz logo. © Private**

The Inter-ecclesiastical Justice and Peace Commission (Comisión Intereclesial de Justicia y Paz, **Justice and Peace**) is an organization which provides legal advice, files legal complaints and documents human rights violations. Their direct work with local communities on issues such as internal displacement, impunity and indigenous and Afro-descendent communities' rights has led to them being labelled subversives by those who do not want information on human rights abuses to come to light. Several members of the organization have been accused of "corruption" and "rebellion" in judicial proceedings which are believed to be seriously flawed and unsubstantiated.

In August 2003, the then commander of the Armed Forces, General Jorge Enrique Mora Rangel made public that several members of Justice and Peace were the subject of judicial investigations. During the press conference statements were made implying that Justice and Peace supported guerrilla organizations. They were further accused of stealing government funds earmarked for the building of houses for forcibly displaced people returning to the Cacarica river basin in Riosucio municipality, department of Chocó, who had been displaced in 1997. Members of the press were allegedly given judicial documents not in the public domain from the case file to which only the attorney and those accused should have access. This press conference took place shortly after a decision by the Constitutional Court allowing Justice and Peace to participate in judicial proceedings investigating over 200 human rights violations allegedly committed by paramilitaries and the XVII Brigade of the army in 1997 and 1998 in the departments of Chocó and Antioquia.

Justice and Peace were not informed about the investigations opened against them and their members in August 2003. This was only confirmed by the authorities after the IACHR intervened. Justice and Peace have been given only limited information about the accusations against them, making it difficult to prepare an adequate defence.

The criminal investigations initiated against Justice and Peace in 2003 were closed in November 2004, partly because the procedures were found to be arbitrary where witnesses acknowledged that they had been paid to give false testimonies. However further investigations and detention orders issued against members of Justice and Peace have come to light. In February 2006, Justice and Peace declared that they were aware of investigations and arrest orders against more than 20 of their members. Among Justice and Peace members under criminal investigation were leaders from the Afro-descendant communities of Curvaradó and Jiguamiandó, in Chocó department.

Amnesty International is concerned that new investigations opened against Justice and Peace members are also based on questionable accusations. According to information received, one witness statement has been used in several legal proceedings, the first time within the investigation that was initiated in 2003 that was later closed. Some of the informers declaring against Justice and Peace allegedly have economic interest in the developments of African Palm projects in the Jiguamiandó and Curvaradó river basins.

On 15 August 2005, Amnesty International received information indicating that a paramilitary group was being prepared to kill leaders of the Jiguamiandó and Curvaradó communities and members of Justice and Peace if judicial proceedings did not succeed.



Hermes Vallejo Jiménez -- a peasant farmer leader in the department of Tolima and one of the founders of the Association of Medium and Small Farmers of Tolima Department (Asociación de Pequeños y Medianos Agricultores de Tolima, ASOPEMA), was detained in Bogotá on 13 August 2003 by the security forces. His arrest was part of a coordinated series of mass arrests in the municipalities of Villahermosa, Libano and Falán in the department of Tolima.

**Hermes Vallejo, peasant farmer leader from the Department of Tolima, giving a community talk. © Private**

He was accused of being a member of a guerrilla group and remained in detention for over a year until a court declared the charges against him unfounded and released him on bail.

Hermes Vallejo was detained on the basis of statements made by two former alleged guerrilla members. The information they provided was accepted as evidence despite evident inaccuracies and a lack of detailed information about his alleged criminal activities. One of those who testified against Hermes Vallejo reportedly made it clear in his testimony that his information was taken from military intelligence reports. The court examining the case against Hermes Vallejo and several others established that the other informant had also been given access to allegations made in intelligence documents.

Disciplinary investigations carried out by the Procurator General uncovered evidence that the two witnesses who testified against Hermes Vallejo were offered money and support to secure their certificates of reinsertation into civilian life in return for making statements against several individuals. Although disciplinary investigations do not appear to have established that this happened specifically in the case of Hermes Vallejo, the findings of the disciplinary investigations call into question the validity and reliability of the testimonies provided by the two informants. On 26 October 2004 the court examining the case declared the charges against Hermes Vallejo unfounded and released him on bail. At the time of writing an appeal by the prosecution in the case was before the courts. Fears that he might be attacked by paramilitary groups if he returns to the department of Tolima have forced Hermes Vallejo to remain internally displaced far from his home and work.

**Luis Torres**, a human rights defender from the community of El Salado in the municipality of El Carmen de Bolívar, department of Bolívar, was arrested on 26 May 2005 by officials of the Attorney General's Office and its Technical Investigations Unit. He was accused of rebellion and belonging to the Fuerzas Armadas Revolucionarias de Colombia (FARC) guerrilla group.

According to reports, the only evidence against Luis Torres was the testimony of a former member of the FARC who was participating in the state reinsertion programme. According to the informant, Luis Torres reportedly gave information to the FARC which resulted in an attack which left two members of his community dead and one permanently disabled. Luis Torres denied the charges, stating that Alfonso Mena, one of the two people allegedly killed, was in fact still alive and that the injured man had been hurt in a riding accident several years earlier. On 3 June 2005, Alfonso Mena reportedly went to see the Office of the Attorney General to testify and on 8 June Luis Torres was conditionally released. However, the investigation remains open despite the obvious flaws in the evidence.

As president of the Association of People Displaced from the Community in the village of El Salado (Asociación de Desplazados de la comunidad del corregimiento de El Salado, ASODESBOL), Luis Torres has represented his community before the authorities about two massacres carried out by paramilitary groups and regarding the conditions for the safe return to El Salado of community members who had fled following threats from the FARC.<sup>13</sup>

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<sup>13</sup> Paramilitary groups had entered the community on 23 March 1997; five people were killed and one person "disappeared". In February 2000, paramilitary groups entered the community and during three days allegedly raped members of the community; 100 people were reportedly killed or "disappeared". Community members and



After his release in June 2005, Luis Torres was forced to leave Cartagena thus becoming internally displaced a second time. He has continued his human rights work, but has resigned his Presidency of ASODESBOL because he feels he cannot continue to represent his community while he is unable to live there.

On 21 August 2003, 42 people including **José Murillo Tobo**, president of the “Joel Sierra” Regional Human Rights Committee (Comité Regional de Derechos Humanos “Joel Sierra”) and a beneficiary of precautionary measures of the IACHR, were detained by members of the XVIII Brigade and agents of the Office of the Attorney General.

Shortly before the arrest of José Murillo Tobo, the “Joel Sierra” Regional Human Rights Committee revealed that paramilitaries were operating in collusion with the security forces in Saravena Municipality, Arauca Department and exposed a spate of human rights violations in the department by paramilitaries and members of the security forces acting either together or separately. The circumstances of the arrest raise concerns that the evidence against José Murillo Tobo was based on military intelligence and information provided by paid informants. Evidence in the case included the testimonies of four witnesses who were believed to be former members of illegal armed groups benefiting from the government’s reinsertion programme under Decree 128.

**Príncipe Gabriel González** -- a member of Political Prisoners Solidarity Committee (Comité de Solidaridad con los Presos Políticos, CSPP) in the city of Bucaramanga, Santander Department -- was detained in the city of Pamplona Norte de Santander Department on 4 January 2006. He was accused of rebellion and taken to Bucaramanga. His detention was based on the witness statements of two informants and information from security force intelligence reports.

The main witness against him was allegedly a former member of a guerrilla group. In an identity parade he identified Príncipe Gabriel González as an alleged FARC commander. Although he claimed to have seen him at least seven times, the witness was unable to provide a physical description in either of the two witness statements given before Príncipe Gabriel González was detained. The second statement used in evidence was also allegedly given by a demobilized member of a guerrilla group. In January 2005, that witness went to the CSPP offices to confess that she had given a witness statement against Príncipe Gabriel González under duress from members of the police and the Technical Investigations Unit in Bucaramanga. Amnesty International is also concerned that the intelligence reports on Príncipe Gabriel González reportedly refer to his human rights work as “criminal activities”.

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human rights activists from El Salado have also been targeted by FARC. On 12 December 2003, Luis Torres informed the regional human rights ombudsman that community members had been warned FARC would enter the community if they didn’t leave before 14 December 2003.

Before his detention Príncipe Gabriel González had received threats by the paramilitaries on several occasions and had reported being under surveillance by unidentified men.<sup>14</sup> He had reported the threats and was under a protection scheme.

These and other cases of detention suggest that the authorities are using criminal charges of rebellion to silence and stigmatize human rights defenders. Not only has their detention physically prevented them from continuing their work, in many cases the stigma continues after their release, sometimes because the cases against them have remained open. Many have also had their names published in the local media and have been presented as members of guerrilla groups in the public eye. This can affect their credibility within their community and deter people from participating in activities organized by them for fear of being associated with the guerrilla movement. Many human rights defenders fear that the accusations against them and the publicity attracted have singled them out and put them at increased risk of attack by paramilitary groups.

## **Chapter 4: Killings of human rights defenders**

The conflict in Colombia remains at a critical level and all the parties have been responsible for war crimes, crimes against humanity or other crimes under international law, including killings, “disappearances”, torture, and kidnapping. While the numbers of killings and kidnappings of civilians have fallen in some parts of the country, human rights defenders and other groups active in the public debate on human rights or in exposing human rights violations continue to be targeted.

The following cases show how human rights defenders in Colombia are paying for their commitment to human rights with their lives. Many of those who have been killed had been subjected to threats, intimidation, continuous surveillance and fabricated criminal charges. Some were the subject of government protection measures.

Human rights defenders, who challenge impunity for violations by exposing the links between paramilitaries and the security forces are at particular risk.

**Alfredo Correa**, a well-known university professor, was killed on 17 September 2004 in Barranquilla, Atlántico department. He was shot together with his bodyguard, Eduardo Ochoa, at 2:20pm outside a supermarket close to his home. Witnesses reported that they were shot by two gunmen travelling on a high-speed motorcycle who were believed to be members of a paramilitary group. Eduardo Ochoa died immediately; Alfredo Correa died a short while later in hospital.

A week before he was killed he had presented a study on the human rights crisis facing many internally displaced people in the Atlántico and Bolívar Departments. The study had been

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<sup>14</sup> Príncipe Gabriel González had reported to have received threats by the paramilitary group AUC on 25 February 2003 and 15 June 2005. Due to his difficult security situation Príncipe Gabriel González decided to leave Bucaramanga for five months in 2005.

presented during a public event where he also had criticized the government's failure to provide internally displaced people with the security to which they are entitled.

Earlier in the year, on 17 June 2004, Alfredo Correa had been detained by the civilian intelligence service (Departamento Administrativo de Seguridad, DAS) and taken to Cartagena, accused of rebellion. The judicial investigation against him was reportedly based on information from three paid demobilized guerrilla informants who claimed that he was a FARC leader and that he had met the Venezuelan President to set up a branch of the FARC in Venezuela. Alfredo Correa was released a month later after his lawyer showed that the witness statements used against him were "cloned" testimonies which had already been used against another person; all that had changed was the name of the accused<sup>15</sup>.

In April 2006, a former high-ranking DAS official, who was arrested in January 2005 and charged with corruption, reported that he had uncovered information which indicated that the DAS had provided a list with the names of human rights defenders, trade union leaders, university professors and students to commanders of the North Bloc (Bloque Norte) of the AUC to be killed. Reportedly Alfredo Correa's name had been on that list. The weekly magazine *Semana* and other Colombian magazines claim to have been able to verify this information with other sources<sup>16</sup>. They also report that several of those whose names allegedly appear on the "death list" were killed and that most of them had received death threats or been detained by the authorities. According to the DAS official Zully Codina Pérez, a hospital nurse in Santa Marta, department of Magdalena, had been killed in November 2003 by DAS agents and members of the AUC under orders from paramilitary commander "Jorge 40". Reportedly she had previously been detained by the security forces and subsequently released.

### **Peasant farmers and Peace Communities**

Many peasant farmers and Afro-descendant communities have responded to the attacks from all parties to the conflict. They have demanded that the parties respect their right not to be drawn into the conflict and their rights to protection as civilians. They refuse to bear arms or to provide information or logistical support to either side in the conflict and do not want either party to the conflict to enter the boundaries of their communities. Some have called themselves peace communities.<sup>17</sup>

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<sup>15</sup> According to the defence lawyer the written witness statements had exactly the same wording with even the same spelling errors. The case file stated that two of the three alleged demobilized guerrilla members who testified against Alfredo Correa could not be identified.

<sup>16</sup> "Exclusive interview with Rafael Garcia", *Semana*, 8 April 2006, [http://www.semana.com.co/wf\\_InfoArticuloNormal.aspx?IdArt=93812](http://www.semana.com.co/wf_InfoArticuloNormal.aspx?IdArt=93812)

<sup>17</sup> For more information on the peace communities see *Colombia: Return to Hope* (AI Index: AMR 23/23/003).

However, President Uribe has refused to accept their arguments claiming that “nobody can be neutral in the state’s fight against criminality”.<sup>18</sup> The government’s security policy has relied on the direct involvement of the civilian population in the conflict whether as “peasant soldiers”<sup>19</sup> or paid informants.<sup>20</sup> Those who refuse to accept this direct involvement and continue to expose human rights violations and criticize government policies have been accused of collaborating with guerrilla groups. Local leaders and elected representatives of Peace Communities, and other similar communities, have been singled out for condemnation and targeted in direct attacks.

### **Afro-descendant communities in Jiguamiandó and Curvaradó**

Afro-descendant communities of the Jiguamiandó and Curvaradó River Basins have faced numerous human rights violations at the hands of the security forces and their paramilitary allies. Several members of these communities have also been killed by guerrilla forces.

In early 1997, several thousand people living in the north of Chocó department were forcibly displaced in the wake of a joint military-paramilitary offensive in the region.<sup>21</sup> Subsequently many of those who had been displaced returned and managed to secure collective land rights for some 100,000 hectares in the Curvaradó and Jiguamiandó river systems.

Since their return, the communities have faced repeated death threats and human rights violations by paramilitary forces operating in collusion with the security forces. These human rights violations have coincided with the plantation of African palm by companies on land for which the communities hold collective land titles.

IACHR has pointed out that the plantation of African palm by companies on lands belonging to the Curvaradó and Jiguamiandó communities has relied on the help of the “armed protection of the Army’s Seventeenth Brigade and armed civilians in their factories and seed banks”.<sup>22</sup>

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<sup>18</sup> Quote from a letter sent by President Uribe to Amnesty International, dated 16 October 2002.

<sup>19</sup> In 2002 as part of its Democratic Security Policy, Uribe’s government declared that it would create an army of peasant soldiers. These soldiers would be recruited to operate in areas near or in their own communities. Amnesty International has raised concerns that this risks militarizing both family and community life in the areas where peasant soldiers are recruited. For more information on peasant soldiers see Amnesty International’s report, *A laboratory of war, repression and violence in Arauca* (AI Index: AMR 21/004/2004).

<sup>20</sup> The creation of a network of informants is another measure taken as part of the government’s Democratic Security Policy. In several court proceedings it has been revealed that these informants have been paid and trained by the security forces or the intelligence services to testify against social activists and human rights defenders. For more information on informants see Amnesty International’s report, *A laboratory of war, repression and violence in Arauca* (AI Index: AMR 21/004/2004).

<sup>21</sup> The Chocó department is situated on the Pacific coast and is one of the poorest departments in Colombia with a high proportion of Afro-descendant population.

<sup>22</sup> See Order of the Inter-American court of human rights, 6 March 2003, para 2e.

**Orlando Valencia**, a human rights activist from Curvaradó River Basin community in the department of Chocó, was detained by police on 15 October 2005 in Belén de Bajira. He was travelling with nine other members of his community, a lawyer from Justice and Peace and an observer from the Canadian organization the Colombia Solidarity and Accompaniment Project (PASC) when the group was stopped by the police at approximately 9am. According to witnesses a vehicle with three known paramilitaries was seen close to the place where the police stopped the group. By 12.30pm all had been released; but were followed by known paramilitaries. Orlando Valencia was stopped by two paramilitaries on a motorcycle who ordered him to get onto the motorcycle saying “let’s go or we’ll finish you off here”. They drove off on the road leading to the municipality of Chigorodó, in the neighbouring department of Antioquia. On 24 October 2005, the body of Orlando Valencia was found in the León River, 30 minutes by road from the municipality of Chirigorodó. He had been shot in the forehead and his wrists had ligature marks.



Orlando Valencia was one of the leaders of the Afro-descendant communities who were fighting for their collective rights,<sup>23</sup> demanding land rights, highlighting environmental problems on the African palm plantations, and calling on the authorities to respect the Afro-descendant communities’ rights as civilians in the armed conflict. He had publicly campaigned against alleged illegal occupation of collective land belonging to Jiguamiandó and Curvaradó River Basin communities for the plantation of African palm by powerful economic sectors with the help of paramilitary groups.

**Orlando Valencia, human rights activists from Curvaradó, killed in October 2005 by reported paramilitaries. © Red EcuMénica de Colombia**

On 17 February 2006, the Judicial Police captured a known paramilitary for his alleged role in the killing of Orlando Valencia. He had reportedly worked with African palm companies operating in the region. It is of concern that although this paramilitary was reported to be in constant contact with the security forces and an arrest warrant had been issued on 15 December 2005, he was not arrested immediately.

Community leaders and others in Curvaradó and Jiguamiandó who have spoken out in support of the struggle by these communities for their land rights and protested against

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<sup>23</sup> Constitutional reform in 1991 recognized the collective ownership of land of Afro-descendants. Act No. 70 of 1993 details further rights for Afro-descendants with regards to culture, land and participation in decision making.

companies that plant African palm on their collective land without their permission have received threats and have been criticized publicly by state officials. Several had false charges laid against them (see Chapter 3). The IACHR and Colombian state officials have acknowledged the link between the threats against these communities and the illegal development of African palm. However, criminal investigations into human rights violations committed against members of the Jiguamiandó, Curvaradó and other communities claiming their right not to be drawn into the conflict, including Cacarica (Chocó Department) and San José de Apartadó (Antioquia Department), have made little progress. Instead, potentially questionable criminal proceedings against members of these communities have advanced.

#### **The Peace Community of San José de Apartadó<sup>24</sup>**

The Peace Community of San José de Apartadó was created in 1997. The security forces and their paramilitary allies, and the FARC guerrilla forces have each accused the community of cooperating with their enemies. Since the Peace Community was created, over 160 of its members have been killed or have "disappeared", the vast majority by members of the security forces and their paramilitaries allies, the remainder by the FARC guerrilla.

The present government has repeatedly refused to uphold the right of civilians not to be drawn into the conflict and has actively sought to involve the civilian population in military or intelligence operations. On 20 March 2005, shortly after the killing of community leader Luis Eduardo Guerra (see below), President Uribe accused some San José de Apartadó Peace Community leaders of having links with the FARC and of seeking to obstruct justice.

The Inter-American Court of Human Rights of the OAS has called on the Colombian authorities to take appropriate measures to guarantee the safety of inhabitants of the Peace Community, most recently in a resolution of 15 March 2005, but this appears to have been ignored.

**Luis Eduardo Guerra**, a community leader in the San José de Apartadó Peace Community who campaigned for his community's right not to be drawn in to the armed conflict, and his family were abducted and killed on 21 February 2005.

On the day of the killing Eduardo Guerra was harvesting cocoa beans on his farm with his partner, Bellanyra Areiza Guzmán, his 11-year-old son, Deiner Andrés Guerra, and a witness who does not wish to be identified. At about 11.00am, a group of armed men who allegedly identified themselves as members of the Colombian army appeared and abducted Eduardo Guerra and his family. The fourth person reportedly escaped. The following day he went to look for Eduardo Guerra and found traces of blood in the farmhouse and human remains outside it and reported this to the authorities. On 25 February 2005, officials from the Attorney General's Office and Procurator General's Office travelled to the area to investigate.

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<sup>24</sup> For more information on the history of the Peace Community of San José de Apartadó see *Colombia: Return to Hope* (AI Index: AMR 23/23/00).

Five dismembered bodies were reportedly found in two graves near the farmhouse. Another grave containing the bodies of Luis Eduardo Guerra, Bellanyra Areiza Guzmán and Deiner Andrés Guerra was reportedly found between Mulatos and La Resbalosa areas, which also belong to the Peace Community.

According to witnesses, members of the XVII Brigade of the Colombian army had been in the Mulatos area since 21 February 2005 – the date on which Luis Eduardo Guerra was allegedly killed. In April 2005, an officer of the XVII Brigade told Amnesty International that there were no troops within two days' travel of the area when the killings took place on 22 February 2005. However, information provided by the army to Amnesty International contradicts this by stating that on 21 February 2005 there were some troops in the Bellavista area of San José de Apartadó.

There has been no substantial progress in the investigations into these and other killings of members of the San José de Apartadó Peace Community despite the appointment of a special commission to investigate all human rights violations committed against the community. Amnesty International is also concerned at reports that the military justice system is carrying out a parallel investigation into the killings, despite suggestions last year that the case was being handled exclusively by the civilian justice system. The military justice system has repeatedly guaranteed the impunity of security force personnel accused of human rights violations even when there is strong prima facie evidence against them.

Over the years, high-ranking public officials have repeatedly accused the Peace Community and its leaders of collaborating with guerrilla groups. The XVII Brigade has allegedly sought to put pressure on members of the community to provide false testimonies against community leaders who have had apparently fabricated criminal proceedings brought against them. On 15 April 2004, the Constitutional Court accepted a writ of protection of fundamental rights on behalf of the Peace Community.

The Inter-American Court of Human Rights has adopted provisional measures on behalf of the communities of Jiguamiandó and Curvaradó and the San José de Apartadó Peace Community. The Court has called on the Colombian government to adopt effective measures to protect the communities and their leaders. Despite this, human rights violations against them have continued.

The work of human rights defenders in conflict zones and areas of strategic economic and military interest is vital to ensure that information about human rights violations committed in these areas are brought to public attention. They are often the only source of information regarding the human rights situation in remote areas of the country. Amnesty International is deeply concerned at the failure of the Colombian authorities to investigate attacks against communities and their leaders and bring to justice those responsible. This is especially worrying in cases where there is reason to believe that members of the armed forces or the police have been involved in crimes committed against human rights defenders. Even if

human rights violations are not part of official government policy, the government becomes complicit if it fails to take effective measures to prevent or to investigate them.



**Teresa Yarce, killed by a reported paramilitary in October 2004. © Private**

**Teresa Yarce** -- an active member of the Women's Association of Las Independencias, (Asociación de Mujeres de Las Independencias, AMI) -- was shot dead on 6 October 2004 in Comuna 13, a poor district of Medellín, Department of Antioquia. According to witnesses, the man who shot her lived in a neighbouring area and was a known member of a paramilitary group. About three hours after Teresa Yarce was shot, a known paramilitary approached another AMI member who had witnessed the shooting. He told her that the paramilitaries were celebrating and threatened to kill her and another AMI member who had previously been detained with Teresa Yarce in 2002.

AMI is part of a network of women's organizations working for peace. Together with other AMI members, Teresa Yarce was working to promote human rights, encouraging people to report human rights violations, to campaign against the militarization of the area and increasing paramilitary control over their local neighbourhood. She had also exposed cases of corruption by authorities in the local municipality.

Since 2002 Teresa Yarce and other AMI members had received repeated death threats. On 12 November 2002, Teresa Yarce was detained together with two other members of AMI and accused of rebellion. Her detention came only four days after she had participated in a meeting with the municipal government about human rights violations committed by the security forces and paramilitary groups. She was released after nine days due to lack of evidence and the criminal investigation against her was closed in February 2003.

**María Lucero Henao** was shot and killed on 6 February 2004. On that evening, armed men allegedly belonging to the paramilitary group Centauros Bloc (Bloque Centauros) abducted María Lucero and her 16-year-old son from their home. Her mother and other children followed the group and tried to intervene, but were forced by the paramilitaries to return home. A couple of minutes later María Lucero's family heard gunshots, but they did not dare to leave the house until dawn. They found the bodies of Mara Lucero and her son, Yamid Daniel, on the outskirts of the village.

María Lucero was President of the local communal action council (Junta Acción Comunal) in the Puerto Esperanza area, El Castillo Municipality, Department of Meta. Most families in her community had fled after the incursion of paramilitaries on 2 August 2001. Since then María Lucero had defended the rights of those who had remained in the community. She had met



with diplomatic delegations, representatives from the Office of the UN High Commissioner of Human Rights in Colombia and the national human rights ombudsman to report human rights violations allegedly committed by the paramilitaries against community members.

She had received death threats on two occasions and survived a previous attempt on her life. On one occasion her family told her that someone had come looking for her, but they had not opened the door. Shortly afterwards, several men, allegedly known members of paramilitary groups, had parked a lorry outside her home and played loud music. One of them told her: “We won’t kill you this time, because they still haven’t ordered us to do so”.

According to information received by Amnesty International, the investigations into the killings have not progressed: no one has been held accountable for the killings, despite the fact that those who abducted María Lucero and her son have been identified by witnesses and are regularly seen in the area.

## **Chapter 5: Protection for human rights defenders in Colombia**

### **The Ministry of the Interior and Justice’s Protection Programme**

As a result of strong national and international pressure the Colombian authorities have been forced to take concrete actions to protect human rights defenders against the extreme dangers they have faced. To this end, several programmes administered by the Ministry of the Interior and Justice have been set up. The concrete protection measures covered by these programmes can include security guards, bullet-proof jackets, communication equipment and special protective transport. Such measures are vital for those facing immediate danger. However human rights defenders have raised a number of concerns regarding the implementation of these programmes, many of which were highlighted in an official evaluation in 2002. Amnesty International’s research suggests that several of the problems identified in 2002 persist.

Among the key concerns are the slow and bureaucratic process for applying for protection and the involvement of the DAS in assessing whether a human rights defender requires protection. In recent years, former intelligence service employees have alleged that there was collusion between DAS and paramilitary groups, including providing paramilitary groups with detailed personal information about human rights defenders and social activists and creating “death lists” that were subsequently passed to paramilitary groups. Furthermore DAS agents have been implicated in human rights violations in the past.

Above all human rights defenders have questioned the effectiveness of the measures when so many human rights defenders and trade unionists continue to be killed. Amnesty

International's research suggests that the fundamental issue remains the lack of political determination on the part of the authorities to stop impunity for crimes against human rights defenders and to identify and bring to justice those who carry out attacks. Effective protection for human rights defenders must be based on a coherent and comprehensive state policy that recognizes the legitimacy of the work of human rights defenders.

## **Government actions and policies**

Since 1997 a number of directives have been issued by successive Colombian governments which formally recognize the work of human rights defenders.<sup>25</sup> The directives were intended to prevent public officials from making statements which generate a climate of hostility or question the legitimacy of the work of human rights defenders.

These directives sent a message about the importance the President and Ministers attached to the work of human rights defenders. However this message was significantly weakened by the fact that the directives made no mention of any sanctions which would be applied to officials who made hostile statements about human rights defenders.

The government of President Uribe has stated that directives issued by previous administrations are still in force, but to Amnesty International's knowledge no measures have been taken to enforce them. On the contrary, they have been contradicted by several negative statements made by President Álvaro Uribe and other senior public officials. A lack of political commitment to enforce them rigorously, has meant that the directives have had little impact and public officials continue to make regular, unsubstantiated, public accusations intended to undermine the legitimacy of the work of human rights defenders.

At the highest level officials have made statements which stand in stark contrast to the formal government policy of supporting human rights defenders. A widely publicized example of this occurred in September 2003 when during a public ceremony to inaugurate the new Commander of the Armed Forces, President Álvaro Uribe described some government critics as "hack politicians in the service of terrorism". He went on to state: "Every time a security policy to combat terrorism is launched in Colombia, when the terrorists begin to feel weakened, they immediately send their spokespersons to talk about human rights."<sup>26</sup>

In February 2004 during the Foreign Affairs Commission of the European Parliament, President Álvaro Uribe accused a member of the José Alvear Restrepo Lawyer's Collective

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<sup>25</sup> In total three presidential and one ministerial directives have been issued: Presidential Directive 011 in 1997; Presidential Directive 07 concerning "Support, communication and cooperation of the State with human rights organizations" in 1999; Presidential Directive 07 concerning "Support, communication and cooperation of the State with organizations that carry out humanitarian work in 2001; and Ministerial Directive 9 on national defence policies concerning protection of the human rights of trade unionists and human rights defenders in 2003.

<sup>26</sup> Presidential Speech published by *El Tiempo*, 9 September 2003, and on the website of the Office of the President <http://www.presidencia.gov.co/discursos/framdis.htm>.

who was at the meeting of hiding behind his human rights work in order to defend the guerrillas.

Several Colombian human rights organizations took legal action in response to these statements. They filed writs on the protection of fundamental rights before the Constitutional Court. In November 2004 the Court ruled that the President and other official representatives should refrain from making public statements that could violate fundamental rights. Public officials have an obligation to safeguard these rights and their public statements should, therefore, be reasonable and based on fact and should not expose groups at risk, such as human rights defenders, to increased danger. The Court stated that the work of human rights defenders is legitimate and of particular importance for upholding the rule of law.<sup>27</sup>

However, this ruling by the Constitutional Court has not prevented President Álvaro Uribe and other state officials from making further public accusations. Senior public representatives have continued to present critics of the government's security policy as allies of the guerrilla movement.

Human rights defenders have been requesting a public campaign to promote the value and importance of human rights work. In December 2005, Amnesty International learned of a government information campaign aimed at raising the profile of the work of trade unionists, journalists and human rights defenders. Campaign slogans reportedly included "Defend the human rights defender" and "Human Rights, the best plan". The campaign was to be advertised through different media outlets and reportedly included 110 newsletters, reports, and profiles taken from 12 departments that were meant to highlight various success stories regarding the protection of human rights. The campaign was to include three television commercials on 14 channels.

However, little information seems to be available on the campaign and it has not been widely covered. Although the television commercials are apparently broadcast, they appear infrequently and have reportedly not been supported by radio broadcasts, newsletters or other reports as promised. On their own these commercials are unlikely to have much of an impact. Real improvements in the protection of human rights defenders must include a thorough review of the messages which are transmitted by the authorities, including presidential speeches and other public statements, and a sustained political commitment to ensure the work of human rights defenders is supported rather than undermined.

## **Military intelligence files**

Human rights defenders have repeatedly requested a thorough revision of intelligence information held in military archives that might contain biased or misleading information about them. Information from such files has frequently been used as evidence in connection with spurious criminal charges against human rights defenders, as demonstrated by some of the cases outlined in this report.

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<sup>27</sup> Sentence of the Constitutional Court, sala 6 de revision, T-1191/04, 25 November 2004.

In 1998 the Colombian authorities committed themselves to a revision of these files and in August 1999 they stated that the Procurator General had completed the examination and handed the information to the Vice-President. However, despite repeated calls from human rights defenders in Colombia, from international organizations, including Amnesty International and from international bodies such as the UN High Commissioner for Human Rights, the government has not reported on the outcome of this examination. It has also failed to regulate the use of the information in the files and to set up regular reviews.

## Chapter 6: International response

The UN and the Inter-American system for the promotion and protection of human rights have repeatedly expressed concern that the situation for human rights defenders in Colombia is not improving.<sup>28</sup>

In its annual report for 2005 the IACHR expressed regret that the Colombian authorities were continuing to publicly discredit human rights defenders. The Commission specifically mentioned the statements made by the President accusing leaders of the Peace Community of San José de Apartadó of assisting guerrilla movements (see Chapter 4). It reiterated how important it was that public officials refrain from making accusations about human rights defenders which put them at even greater risk of attack. The Commission highlighted how in Colombia generalized unsubstantiated accusations made against human rights defenders and their organizations had been followed by increased harassment and threats and called on the government to give explicit instructions to its officials and to discipline those who failed to follow those instructions.<sup>29</sup>

The UN Special Representative on Human Rights Defenders, Ms. Hina Jilani, also expressed her gravest concern about the increase in public statements by public officials stigmatizing human rights defenders as “enemies”. She pointed out that such statements increase the risk of attack by paramilitaries and of arrests and raids by national security forces. She also criticized aspects of the government’s Democratic Security Policy, in particular the use of paid informants and the blurring of the distinction between civilians and combatants which exposes civilians, and in particular human rights defenders, to unacceptable levels of risk.<sup>30</sup> The Policy has involved mass arrests and large-scale raids and has led to the detention of members of NGOs as well as raids on their offices, hampering their ability to carry out their

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<sup>28</sup> See, for example, *Promotion and protection of human rights: human rights defenders*, (Promotion and protection of human rights: human rights defenders), Report of the Special Representative of the Secretary-General, Hina Jilani, Addendum, “Summary of cases transmitted to Governments and replies received”, E/CN.4/2005/101, Add. 1, para 210; and the *Annual Report of the Inter-American Commission for Human Rights*, OEA/Ser.L/V/II.124, Doc. 5, 2006, “Chapter V, Human rights developments in the region”, para 32.

<sup>29</sup> Annual report , paragraph 34-36, Inter-American commission on human rights, 2005, <http://www.cidh.org/annualrep/2005eng/chap.4.htm#COLOMBIA>

<sup>30</sup> *Promotion and protection of human rights: human rights defenders*, para 206.

work.<sup>31</sup> She also highlighted the need to dismantle ties between the paramilitaries and public servants and raised the issue of verbal attacks on the credibility of defenders.<sup>32</sup>

The UN High Commissioner for Human Rights has also highlighted the difficult situation facing human rights defenders in Colombia. In particular she has drawn attention to the continued threats and killings; arbitrary detention and charges based on questionable statements by informants; and the negative effects of public statements by public servants which question the legitimacy of human rights defenders' work.<sup>33</sup> She has also expressed concern about reports of threats against human rights defenders where the perpetrators seem to have had a great deal of information about their victims<sup>34</sup> and where the defenders had questioned negotiations with the paramilitary groups or the implementation of the Democratic Security Policy or had links to the Movement of Victims of State Crimes.<sup>35</sup>

The UN High Commissioner for Human Rights, Ms. Louise Arbour, has also reminded the Colombian government of its promises to review Ministry of Defence intelligence files on human rights defenders, signalling that no concrete advances have been recorded, no criteria or parameters for recording information have been identified and no guidelines have been established on how long the information can be kept.<sup>36</sup> She recommended that the government promote legislation to regulate the use of military intelligence files, including a pertinent procedure for their annual review by the Procurator General's Office, in order to exclude erroneous or tendentious data on human rights defenders from the records.<sup>37</sup>

## **Chapter 7: Conclusions and recommendations**

Despite various support and protection programmes, human rights defenders in Colombia continue to be threatened, intimidated and attacked. The persistence and extent of these abuses are a clear indication that there is a lack of political determination to ensure that human rights defenders can carry out their work in safety. An environment supportive of human rights defenders can only be created where their work has the firm backing of the authorities and where measures are taken to end impunity and bring to justice those who carry out attacks against human rights defenders.

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<sup>31</sup> *Promotion and protection of human rights: human rights defenders*, para 209.

<sup>32</sup> *Promotion and protection of human rights: human rights defenders*, para 212.

<sup>33</sup> *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2006/009, Annex 4, 2006, paras 2 and 4.

<sup>34</sup> *Report of the High Commissioner for Human Rights*, footnote 33.

<sup>35</sup> *Report of the High Commissioner for Human Rights*, Annex 4, para 3.

<sup>36</sup> *Report of the High Commissioner for Human Rights*, para 102.

<sup>37</sup> *Report of the High Commissioner for Human Rights*, recommendation 6.

The programme for the protection of human rights defenders administered by the Ministry of the Interior and Justice has concentrated on immediate protection measures. It is not designed to have a long-term impact or to change the basic conditions in which human rights defenders work.

Directives have been issued urging civil servants to support and respect the work of human rights defenders. But the President himself has flouted these directives in repeated public statements where he has accused human rights defenders of being associated with the guerrilla movement. Any value the directives may have had has been eroded by these statements and the lack of any sanctions against those who flout the directives.

These public statements are even more worrying given the deep-rooted hostility of members of the security forces and their paramilitary allies towards human rights defenders and their belief that human rights activities are synonymous with guerrilla activities. Amnesty International is concerned about the connection between public statements that associate human rights defenders with terrorists and the threats, raids and unjustified detention faced by human rights defenders.

The state has an obligation to ensure that human rights defenders can carry out their work freely, without interference or fear of threats, retaliation or discrimination. As part of the actions necessary to guarantee this right, President Uribe and his government should publicly show a firm commitment to support the legitimate activities of human rights defenders working both within larger national human rights organizations as well as those who are active in grass-roots organizations or their own communities.

Amnesty International acknowledges the importance of practical measures to ensure immediate physical protection for human rights defenders in Colombia. However, these measures, presidential decrees and directives in support of human rights defenders are not enough in themselves. Real improvements in the situation for human rights defenders cannot be achieved unless those who commit, order and plan attacks against them are brought to justice. As this report shows, the Colombian government is consistently failing to fulfil its international and domestic obligations to ensure full and proper investigations into violations and threats against human rights defenders, to bring to justice those responsible and to provide reparation for the victims.

Amnesty International is concerned about the use of unfounded criminal charges against human rights defenders. Such charges and accusations appear to be intended to punish human rights defenders for their work, but also divert time and resources away from ongoing human rights work because defenders are either detained or involved in clearing themselves of the charges laid. In several of the cases reviewed by Amnesty International, criminal investigations against the human rights defenders have remained open after their release for longer than the period allowed by law, even in the absence of any credible evidence.

Often human rights defenders are presented as criminals and members of guerrilla groups so that even when they have been cleared of all charges, their reputation remains tarnished. This public profile paves the way for paramilitary groups to single them out for attack.

It is vital that the authorities ensure that legal safeguards with regard to due process are upheld. Statements by paid informants should not be accepted as the sole basis for initiating legal proceedings against human rights defenders. The admission of information from military intelligence files as evidence must also be regulated and the information gathered in such files should be reviewed annually to ensure that they do not contain erroneous or biased information.

As President Uribe embarks on his second term of office his government has a second chance to exercise a firm hand to guarantee the security of human rights defenders and safe conditions for human rights defenders to carry out their legitimate work.

## **Recommendations**

Amnesty International urges the Colombian government to fulfil its obligation to protect human rights defenders by adopting and implementing the following:

### **Ensure public recognition of human rights defenders' work**

1. Reconfirm in public their commitment to ensure protection for human rights defenders and stop making public statements which question the legitimate work of human rights defenders, such as equating their work with support for guerrilla groups.
2. Inform public officials at all levels of their obligation to respect and protect human rights and to collaborate fully with and facilitate the work of human rights defenders.
3. Take effective measures to ensure that all public servants, including members of the security forces, recognize the legitimacy of the work of human rights defenders and that those responsible for making unfounded or unsubstantiated allegations are subject to the appropriate sanctions.

### **Adopt effective measures to prevent threats, attacks and killings of human rights defenders**

4. Ensure that exhaustive and impartial investigations are conducted into human rights violations against human rights defenders, that those responsible are brought to justice and that the victims or their relatives are provided with reparation. The results of such investigations should be made public.
5. Ensure that the perpetrators of human rights violations against human rights defenders do not benefit from any legal measures exempting them from criminal prosecution or conviction. Legislative measures that prevent full and conclusive investigations into the cases of violations against human rights defenders, such as the Justice and Peace Law and Decree 128, should be repealed.
6. Ensure that members of the security forces under formal investigation for human rights violations are immediately suspended from active service until investigations have concluded.
7. Ensure that the demobilization of paramilitary groups is carried out effectively and that paramilitary groups that operate with the complicity or acquiescence of the security forces are disbanded, disarmed and prosecuted.
8. Improve the functioning of government programmes to ensure protection for the physical integrity of human rights defenders. Measures to make the programmes more effective and less bureaucratic should be discussed with representatives for human rights defenders and other relevant groups. All measures to protect human rights defenders should be agreed with the human rights defenders concerned.



9. Ensure the full implementation of international recommendations and resolutions regarding human rights defenders by the Inter-American human rights system and the UN. Appropriate measures should be taken to monitor implementation.

**Recommendations to prevent human rights defenders from being arbitrarily detained or subjected to unfounded criminal charges**

10. Adopt legislation to regulate the use of military intelligence files. Establish procedures for the annual revision of such files by the Procurator General's Office. Human rights defenders should be involved in drawing up criteria and parameters to ensure that erroneous or tendentious data on human rights defenders and organizations is excluded from the records.
11. Take effective action to investigate state officials who abuse the criminal justice system to the detriment of members of human rights and social organizations in order to harass them or curtail their legitimate activities for the defence of human rights and fundamental freedoms. Ensure that human rights defenders have equal access to the law and that judicial investigations and proceedings against them are conducted in accordance with international fair trial standards as set out by the American Declaration of the Rights and Duties of Man, the American Convention on the Human Rights and the International Covenant on Political and Civil Rights.
12. Publicly agree to a request by the UN Working Group on Arbitrary Detention to visit Colombia.

**Recommendations to the international community**

13. Assist the Colombian government in its efforts to improve protection programmes and other measures to prevent threats and attacks against human rights defenders. Make it clear that the UN Declaration on Human Rights Defenders calls not only for practical protection measures but also for comprehensive measures aimed at preventing violations and addressing the root causes of violations.
14. Urge the Colombian government to fully implement recommendations made by the UN Special Representative on Human Rights Defenders, the UN High Commissioner for Human Rights, and the Inter-American human rights system.
15. In their relations with the Colombian government, express concern about its failure to prevent, prosecute and punish human rights abuses against human rights defenders.
16. Provide support and legitimacy to human rights defenders to enable them to carry out their work without fear.