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Colombia

Political violence in Colombia: myth and reality

Back cover

In Colombia the military literally get away with murder. Army counter-insurgency strategy, honed in 40 years of conflict with guerrillas, is the backdrop to massacre upon massacre. Widespread human rights violations go unpunished.

Since 1986, over 20,000 people have died in political violence. Many died in confrontations between guerrillas and government forces. But most were peasant farmers in conflict zones.

The government blames most political violence on drug-trafficking organizations and guerrilla forces. Drug-traffickers and guerrillas have committed grave abuses. But evidence drawn from thousands of cases, and the chilling statistics of political murder, shows that the security forces and their paramilitary allies are responsible for most killings.

In this report, Amnesty International describes the human rights violations carried out with impunity. The report also traces the development of the paramilitary forces from the army's network of village 'self-defence' groups to a powerful killing machine.

Successive governments have promised to restore respect for human rights. These promises have been broken. Until the government finds the political will to fulfil past promises, human rights violations will continue.

## CHAPTER 1

Human rights violations in Colombia occur against a background of more than four decades of violent political conflict between armed opposition groups and the state. Guerrilla groups emerged in the 1950s, during the period known as La Violencia, a virtual civil war which erupted out of long-standing conflict between the Liberal and the Conservative parties. It claimed the lives of an estimated 200,000 people between 1948 and 1957. During the conflict, armed groups linked to the Liberal and Communist Parties were driven into remote and inaccessible parts of the country. These armed groups were the nucleus of the major armed opposition movement over the past 40 years which was consolidated in 1966 as the Revolutionary Armed Forces of Colombia (FARC). The FARC is the largest guerrilla organization with an estimated 6,000 combatants. Other guerrilla groups with left-wing political programs, formed during the 1960s and 1970s, include the National Liberation Army (ELN), the Popular Liberation Army (EPL), the Quintín Lame indigenous organization, and the 19 April Movement (M-19).

Due to the fragility of state control, guerrilla forces created extensive strongholds in many areas of the country where they effectively determined local government policies and exercised significant control over the local population. These guerrilla organizations frequently attacked the rural estates of wealthy landowners: extortion and kidnapping became common practices in rural areas. Until the late 1970s, military operations against the guerrillas in rural areas escalated only gradually.

## Pervasive violence

Colombia has one of the highest murder rates in the world; for some years murder has been the principal cause of death of adult males. The murder rate has climbed steadily, by about four per cent annually, for several years. In 1992, 28,237 murders were registered, of which 102 incidents were recorded as massacres in which four or more people died.

The violence has many causes and a variety of actors. Only a relatively small

percentage of the killings are believed to be politically motivated, some 15 per cent according to the Presidential Human Rights Adviser. Statistics produced by non-governmental organizations give a similar picture. For the past five years, according to the Andean Commission of Jurists (Colombia Section)<sup>1</sup>, a daily average of 10 people have been killed in politically motivated violence. Of these, five are assassinated, four die in armed conflict (including guerrillas, members of the security forces and unarmed civilians), and one is killed in "social cleansing" operations. In 1992 the Andean Commission recorded 4,434 politically motivated killings: 2,178 were political assassinations, 1,560 were deaths in combat, 505 were "social cleansing" killings. The percentage of politically motivated killings has been rising, from about one per cent of all killings in the 1970s to more than 16 per cent in 1992. Between 1986 and 1993, over 20,000 people died in political violence.

Political killings and "disappearances" are inextricably linked. Over 1,500 people are believed to have "disappeared" after detention by the security forces between 1978 and 1992. Many were probably killed soon after detention and their bodies disposed of in secret. Whether death comes swiftly or follows long periods of torture may depend on whether the victim is thought to possess information of use to the intelligence services. Victims of extrajudicial execution whose bodies are found have frequently been killed within hours of capture. Although they have often been severely tortured, this does not appear to be a means of extracting information; survivors have said that they were tortured without interrogation. The ritualistic brutality with which victims are killed appears intended both to punish and to terrorize others.

Drug-trafficking organizations have resorted to violent crime in their battle against the state, killing leading politicians, journalists, police, judicial officials and anyone else who opposes them. They have also carried out indiscriminate bomb attacks in major cities, killing and injuring hundreds of civilians. Their activities have undoubtedly contributed to the dramatic recent increase in political violence. However, the perception of drug-trafficking as a principal cause of political violence in Colombia is a myth: in reality it accounts for only a small proportion. In 1992 the Andean Commission of Jurists estimated that drug-traffickers were responsible for less than two per cent of non-combat politically motivated killings and "disappearances"; some 20 per cent were attributed to guerrilla organizations and over 70 per cent were believed to have been carried out by the security forces and paramilitary groups.

'Social cleansing'

"In a Christian society (and Colombia still merits this description) there cannot be any 'disposable people'; this foul expression should not even appear in the dictionary". Council of State, June 1992

The murder of people designated "socially undesirable" – homosexuals, prostitutes, minor drug peddlers, petty criminals and addicts, vagrants, street children and the mentally disturbed – has become endemic in Colombia's major cities. These killings are known as "social cleansing operations" and are generally attributed to, if not claimed by, so-called "death squads" with fearsome names such as Terminator, Kan Kil, Mano Negra, Los Magnificos, Cali Limpia. In most cases the assassins remain unknown. Many bodies are never identified and investigations, although routinely opened, frequently lead nowhere. However, several cases have produced evidence that the "death squads" were drawn from the security forces, particularly the National Police, and were often supported by local traders.

The town of Pereira in central Risaralda department has been the centre of a "social clean-up" campaign for a number of years. In November 1991 the Director of National Police and the Procurator General announced the results of a joint police-Public Ministry investigation into the killing of 60 vagrants in Pereira during July 1991.

As a result of the investigation, 13 police agents and two officers were dismissed from service for their involvement in the murders.

“Social cleansing” killings have been recorded in most major cities and particularly in Bucaramanga, Cúcuta, Barranquilla, Cali, Medellín, Popayan, Pereira, and the capital, Bogotá. It is difficult to obtain accurate statistics on these killings because many of the deaths go unreported or unrecorded. However, recent years have seen the number of victims increase considerably. The Catholic Church's Intercongregational Commission for Justice and Peace documented over 1,900 “social cleansing” murders between 1988 and 1992, 500 of them in 1992. According to official statistics, 229 “social undesirables” were murdered in the city of Cali alone in 1992. The local human rights ombudsman (personero), reported that the victims included 25 vagrants, 11 homosexuals, six prostitutes and 28 paper collectors; 163 of the victims were not identified. In September 1993 a senior council official in the city of Cali accused the police of the murder of 12 youths in a three-month period. The council's Peace Adviser described the killings as an attempt to undermine a council initiative to disarm and rehabilitate members of juvenile street gangs in the city. The Street Gang Project was set up in May 1993 under the auspices of Cali city council and the Council for Peace, Security and Development. The project had succeeded in persuading more than 200 child members of street gangs to hand over their weapons and join rehabilitation programs. The Cali Peace Adviser reported that he had received death threats after publicly blaming the police for killing 12 of the youths who had joined the project.

Sometimes “death squads” publicly announce that they are starting “clean-up” operations. Leaflets distributed in Barrancabermeja in the late 1980s announced the arrival of Toxicol-90, which aimed to “eliminate and eradicate, by whatever means, all those elements not fit to live in society such as bandits, pickpockets, drugs addicts, ... It is well-known that because of the fair and honest labour of our colleagues Terminator in Aguachica and Mano Negra in Bucaramanga, large numbers of delinquents have emigrated to our beloved city Barrancabermeja ... for this reason we have decided to create Toxicol-90 with the aim of carrying out humane ‘clean-up’ operations.... We will also apply popular justice to the lawyers who specialize in defending human scum.” In August 1993 posters appeared in the centre of Bogotá announcing the extermination of “delinquents”. Bearing a black cross, the posters invited the public in the name of “industrialists, shopkeepers and civic organizations” to attend the funerals of the “delinquents” who operated in the city centre.

“Death squad” methods vary according to the victim. Known or suspected petty criminals are seized from their homes or city streets, usually at night, by heavily armed men and driven away in unmarked vehicles. Their bodies, often with signs of torture, have been found dumped by roadsides, in rivers or on municipal rubbish dumps. Messages claiming the killing in the name of the “death squad” have been attached to some of the bodies. Mano Negra, which operates throughout Santander department, and particularly in the provincial capital Bucaramanga, has its own macabre “calling card”; victims are burned alive, often by “necklacing” – setting fire to a rubber tyre placed over the person's head. Other victims, such as vagrants, paper collectors<sup>2</sup>, prostitutes and homosexuals, are usually shot on the streets from moving vehicles.

Inhabitants of the Alfonso López, María Oriente and Primero de Mayo neighbourhoods of Popayán, Cauca department, told an Amnesty International delegation in September 1992 that the security forces had launched a “systematic and selective program of assassinations particularly directed against people the security forces consider to be ‘disposable’.” Twenty-four people had been killed in the previous three years in circumstances suggesting official responsibility. Two of the victims were Javier Ceballos, a community leader, and Harold Alegría, an employee of the public works

department of the local municipality. Both men were taken from their homes on 14 August 1992 in dawn raids by the police intelligence unit F-2. Harold Alegría's body was found five days later in the River Palacé outside Popayan. He had been shot seven times and his body showed signs of torture. The following day Javier Ceballos' body was found nearby: he had been castrated and his tongue had been cut out. The municipal ombudsman was reported as saying "we have been able to establish that members of the state security forces were involved".

Residents of the Popayan neighbourhoods said they had managed to catch several of the gunmen involved in the attacks, and handed them over to the local police. The police had released two of the captured gunmen when they identified themselves as members of the armed forces.

Community leaders, students and unemployed youths in shanty towns surrounding the major cities have also been targeted by the "death squads". Reports of "death squad" style attacks on young people in shanty towns surrounding Medellín increased dramatically after Pablo Escobar and several other leading drug-traffickers escaped from prison in July 1992. After the escapes, attacks on police agents in Medellín escalated. In a three-month period over 60 police officers were killed in Medellín by gunmen reportedly employed by Pablo Escobar. The police took their revenge by indiscriminately killing youths in the shanty towns. Only hours after two police agents were shot dead in the centre of Medellín in November 1992, 12 masked men armed with automatic rifles raided Villatina, a poor neighbourhood outside Medellín and killed nine children, aged 17 and under. The youngest victims were a boy and a girl, both aged eight. Seven of the children were members of a religious youth organization, "Builders of the Future". The press quoted a member of the local administration as saying that the victims "were innocent, only students, and young people who had nothing to do with the war the government has declared on the outlaws". In addition to indiscriminate killings, the police have targeted youths suspected of involvement in killing police agents or of membership of militia groups in Medellín. John Albert Muñetón Pulgarín, aged 17, was arrested by a motorized police unit in the Aranjuez district of Medellín in November 1992. He was taken to the Manrique police station, where he was accused of involvement in an attack on a police patrol. He was transferred to the headquarters of F-2, and then to the North Police Station for minors. After giving a sworn statement before a judge, he was released for lack of evidence and left the police station with his mother, Luz Mirian Pulgarín Jaramillo, his sister, Astrid Yaneth Muñetón Pulgarín, and his girlfriend, 16-year-old Marta Isabel Tamayo Gil. All four "disappeared" that night; they were last seen getting into a yellow taxi outside the police station. Despite their relatives' efforts to trace them, their whereabouts remain unknown.

The security forces and the "death squads" are not the only agents involved in "social cleansing" in Medellín. In Medellín's vast shanty towns, the proliferation of organized crime spawned by the drug trade centred on the city has led to the emergence of "self-defence" groups known as Popular Militias (see page 72). These civilian vigilante squads, some of which have links with guerrilla organizations, have been responsible for scores of killings in the shanty towns of local drug dealers and people accused of crimes against shanty town residents.

A "social cleansing" operation uncovered in the northwest port city of Barranquilla in February 1992 caused widespread revulsion in Colombia. University security guards and police officers were killing people and selling their bodies to the illegal trade in organs and corpses. The operation came to light when one of the intended victims survived and escaped. Oscar Hernández said that security guards had lured him and other paper collectors to the grounds of the Free University in Barranquilla by telling them they could collect discarded cartons and bottles outside the University's School of Medicine. Once inside the university grounds, the refuse collectors were shot or beaten to death with clubs. Oscar Hernández was beaten

unconscious and was presumably believed to be dead. When he regained consciousness early the following morning he found himself in a room with several corpses. He escaped and raised the alarm to a passing police patrol. Police and judicial officials searched the university and found 11 bodies, some with bullet wounds and others showing signs of severe beating, in the dissecting room of the School of Medicine. Partial remains of at least another 12 were found. Security guards and the head of the dissecting room were arrested and reportedly confessed that the traffic in bodies had been going on for two years. The university's security chief confessed that he had murdered more than 40 refuse collectors on the orders of a university executive. The School of Medicine was closed and seven university employees were brought to trial on charges of aggravated homicide. In May 1992 three police agents were charged with providing bodies to the School of Medicine.

Most killings of "undesirables" in the cities appear to be carried out by police agents, often from the F-2 intelligence branch, many of whom are contracted by local traders seeking to protect their economic interests. In contrast to abuses committed during counter-insurgency operations, no evidence has emerged that police agents involved in "social cleansing" are acting on orders from their superiors. However, the lack of action against those responsible by senior police commanders has clearly created a climate in which such abuses proliferate. Local police commanders routinely deny responsibility for such abuses, which they usually attribute to reprisal killings among rival criminal gangs.

The Council of State, Colombia's highest judicial administrative body, has strongly condemned the practice of "social cleansing" by the security forces. In June 1992 the Council of State issued a ruling in the case of ex-convict Javier de Jesús Londoño Arango, killed by two police agents in the village of Liborina, Antioquia department, in September 1986. In its ruling, the Council of State concluded that the police had killed Javier de Jesús Londoño "for being a well-known 'undesirable' and anti-social person with a criminal record" and ordered the Ministry of Defence to pay the equivalent of 500 grams of gold each to his parents. In summing up, the Council of State made the following comment:

"No one in Colombia can assume the authority to define ... just who is useful, good and deserves to live and who is bad, useless, 'disposable' and must die. No one, and especially not those in authority. When the authorities take on this role, they ... become the monstrous proprietor of these people's lives, integrity and property. This is the first step on the road to social anarchy and the world is already full of precedents. The 'cleansing' of a country, which leads to the worst excesses and aberrations, 'normally' begins with those labelled by 'the new judges' as disposable human beings (homosexuals, vagrants, petty thieves, drug addicts, prostitutes) and can be expanded to include agrarian, trades union and community leaders, or those whose ideology is not in line with the system and whose open opposition makes their existence inconvenient".

The military attitude towards "social cleansing" was illustrated by the Ministry of Defence's response to the compensation claim:

"...at no time was evidence presented that the police force or the public administration were at fault, hence there is no case for the payment of any compensation by the nation, particularly for an individual who was neither useful nor productive, either to society or to his family, but who was a vagrant whose presence nobody in the town of Liborina wanted".

Silencing human rights defenders

Members of human rights organizations are increasingly at risk in Colombia. People working to guarantee recognition and respect for human rights in Colombia have been targeted for abuses ranging from harassment and threats to "disappearance" and death. During 1992 and 1993 human rights organizations increasingly came under verbal attack from influential sectors in the media and senior military commanders who accused

them of links with guerrilla organizations. In several cases these verbal assaults were followed by physical attacks.

Members of the Magdalena Medio-based Regional Human Rights Committee (CREDHOS) have been particular targets in recent years. In January 1992 CREDHOS Secretary Blanca Valero de Durán was killed outside the committee's office in Barrancabermeja, Santander department, by gunmen in civilian clothes. Three policemen who witnessed the attack ignored her cries for help and made no attempt to pursue her assailants. Following statements by local military commanders in February 1992, accusing CREDHOS of links with guerrilla organizations, threats from army-backed paramilitary groups against CREDHOS members increased. In June CREDHOS worker Julio Berrio was killed by unidentified gunmen. A month later, Ligia Patricia Cortez, who worked on a CREDHOS-backed educational project, was shot dead with two trade unionists in a restaurant in Barrancabermeja. Several CREDHOS workers were forced to leave Barrancabermeja for their own safety. Although the Colombian government condemned the attacks and promised full investigations, those responsible were neither identified nor brought to justice. The military again threatened CREDHOS members in July 1993 after the committee's lawyers had denounced the torture of political prisoners held by the army's Nueva Granada Battalion in Barrancabermeja.

Recent Colombian governments have displayed an ambivalent approach to human rights. During periods of relative political calm, the authorities have taken significant steps to acknowledge the legitimacy of human rights and those who defend them. However, when political tension and civil conflict escalate, the official attitude to human rights protection has undergone a subtle but crucial shift. The ambiguities in the government's commitment to human rights protection have been exploited by right-wing sectors within the traditional political parties, the media and the armed forces to denigrate and discredit human rights organizations and their work.

The lives of some 150 human rights workers and trade unionists and popular leaders were endangered in August 1993 when it became known that the military intelligence services had compiled and circulated a list of individuals and institutions considered "subversive". The security forces passed the list to a Colombian television station for broadcast, an action which would not only have damaged the reputation of the individuals concerned, but would have put their lives at risk. Publication of the list was temporarily blocked by a legal action brought by the Andean Commission of Jurists.

In April 1993 Delio Vargas, a UP member and president of the local chapter of the human rights group working with people displaced by political violence, the Colombian Association for Social Assistance (ASCODAS), "disappeared" after being abducted from a street in Villavicencio, Meta department. Delio Vargas and his wife were ambushed by five heavily armed men as they arrived at their home in a suburb of Villavicencio. According to his wife, Delio Vargas attempted to escape from his captors, but fell as he ran and was forced into the assailants' vehicle. He has not been seen since. At the time of his "disappearance", Delio Vargas was involved in the organization of a forum titled "Peaceful Alternatives in Meta department" due to take place that month, which was intended to bring together all sectors of the community, including local and national authorities, to discuss peaceful solutions to escalating political violence in the region. An investigation conducted by the Special Investigations Unit of the Public Ministry led to the arrest of the driver of the vehicle used in the "disappearance" of Delio Vargas, who was identified as a retired army sergeant working as an "informant" for the B-2 army intelligence unit in Villavicencio.

Alirio de Jesús Pedraza Becerra, a lawyer and human rights worker, "disappeared" on the evening of 4 July 1990 in Bogotá. According to several eye-witnesses, about eight heavily armed men in plain clothes seized Dr Pedraza in the La Campiña shopping centre in Bogotá's Suba district. Two of the armed men identified themselves to

two police agents who stood by during the abduction of Dr Pedraza, although the lawyer resisted and shouted for help. Dr Pedraza was a long-standing and active member of the Political Prisoner Solidarity Committee, which represents victims of human rights violations and their relatives. When he "disappeared", he was representing relatives of scores of peasants killed when troops of the Luciano D'Eluyart Battalion opened fire on a protest march in May 1988 in Llano Caliente, Santander department. He was also representing a number of trade unionists detained and tortured by the army in Cali, Valle del Cauca department, in March 1990. Despite the efforts of Dr Pedraza's family, his colleagues and Public Ministry officials to locate him, the armed forces and police authorities denied his detention and his whereabouts remain unknown. In October 1992 two members of the judicial police, were arrested on suspicion of involvement in the "disappearance" of Dr Pedraza, but were released without charge in July 1993.

#### Peace and war

Over the past 10 years periods of intense military activity aimed at suppressing insurgent organizations have alternated with intermittent attempts at negotiating a settlement to the conflict. Since the early 1980s successive governments have embarked on negotiations with some or all of the guerrilla movements. In 1982 a government-sponsored "peace process", which included an amnesty for political prisoners, led to a cease-fire agreement with all but one of the major guerrilla organizations two years later. A temporary respite in hostilities followed. However, both the military and some sections of the political elite strongly opposed a political solution to the conflict and their position was strengthened by continued guerrilla activities and cease-fire violations by both sides. By 1985 the "peace process" had broken down, although informal talks with some guerrilla groups continued until 1987. In October 1987 the major guerrilla groups, including the FARC, M-19, ELN, EPL and Quintín Lame, formed the Simón Bolívar Guerrilla Coordination (CGSB) to undertake coordinated military action and present a common front in negotiations with the government.

Recent peace initiatives have met with more success. In the past four years several guerrilla organizations have demobilized after reaching peace agreements with the government. Peace negotiations between the government of Virgilio Barco and the M-19 guerrillas began in 1989 and culminated in the group's formal surrender, after 16 years in armed opposition, in March 1990. M-19 members were granted an amnesty and reorganized as a political party, the M-19 Democratic Alliance, which participated in local and presidential elections in May 1990 and in the December 1990 Constituent Assembly elections.

President César Gaviria initially continued his predecessor's policies and pursued a negotiated settlement. During 1991 another three guerrilla organizations demobilized after reaching peace agreements with the government: the Revolutionary Workers' Party, Quintín Lame, and a majority faction of the Popular Liberation Army. Leaders of these movements formed legal political parties and participated in Constituent Assembly and local elections in 1992.

In June 1991 the government and the remaining guerrilla organizations represented by the CGSB began talks in the Venezuelan capital, Caracas. The agenda included human rights, protecting civilians, paramilitary actions, the public forces and kidnappings. The talks broke down at the end of the year. They resumed in Mexico, but were adjourned and then indefinitely suspended in September 1992, after an upsurge in the conflict. The head of the government delegation, Horacio Serpa Uribe, resigned in September, saying he was stepping down because it was impossible to agree terms for a cease-fire as the guerrillas were not serious and the government had adopted a "war-like stance". Hostilities had continued throughout the talks, with heavy casualties. An army report documented 507 armed encounters during 1992,

with over 900 guerrillas and at least 500 soldiers killed.

A state of emergency was reimposed in December 1992 in response to a guerrilla offensive and escalating drug-trafficking violence. The government declared "total war" on the guerrillas. During the first six months of 1993, 550 CGSB guerrillas were reported killed in combat: declared military and police losses were 95. However, most of the casualties in the conflict were civilians.

In March 1993 negotiations were opened between the government and the Socialist Renewal Current (CRS), a dissident wing of the ELN with an estimated 300 combatants operating mainly in northern Colombia.

However, the dialogue was interrupted in September after two of the movement's leaders were killed by the army in circumstances suggesting they were extrajudicially executed.

States of emergency

Colombia has spent 37 of the past 44 years under a state of emergency. During this almost permanent state of siege, constitutional guarantees were side-stepped; governments ruled by executive decree and the armed forces were granted broad powers to deal with public order issues. This led to widespread, flagrant human rights violations.

In an effort to break the historical trend of government by emergency powers, the 1991 Constitution replaced the much criticized "state of siege" with a graded system of emergency powers: a state of "internal commotion" and a state of "external war". The Constitution limited the executive's powers to maintain an indefinite state of emergency by introducing political and judicial controls over the renewal of the emergency measures beyond 180 days. The Constitution also permits the Executive to declare a "state of emergency" in situations affecting the economic, social or environmental order.

In July 1991, when the new Constitution was promulgated, the state of emergency in force since 1984 was lifted. However, the period of constitutional normality was shortlived. A state of "internal commotion" was declared twice in 1992. On the first occasion, emergency powers were introduced so that the government could suspend the right to habeas corpus for those accused of drug-trafficking or "terrorism". The measure was lifted days later. In November 1992, with the peace negotiations with the CGSB in tatters and an upsurge in drug-trafficking violence, the government imposed a 90-day state of "internal commotion" and issued a number of emergency decrees. These restricted media coverage of guerrilla activities, penalized failure to inform the authorities of guerrilla activities, offered large rewards and immunity from prosecution in exchange for information on drug-traffickers and guerrilla leaders, and empowered the armed forces to carry out judicial investigations and press charges against civilian suspects. This last measure was later declared unconstitutional by the Constitutional Court. The state of "internal commotion" was renewed for a further 90-day period in February and, with the approval of the Senate, again in May before it was lifted in August 1993<sup>3</sup>. A presidential decree announced the end of the state of emergency, but extended most of the emergency decrees for a further 90 days, in the expectation that Congress would convert them into permanent legislation.

In June 1993 Congress approved a statutory law regulating the states of emergency. The executive had presented Congress with a draft bill granting the President sweeping powers to restrict constitutional guarantees. Several of the bill's provisions which violated constitutional human rights safeguards – such as introducing military jurisdiction over civilians and administrative detention –

were dropped during the debate. However, the statutory law may still provide a legal

framework in which serious human rights violations could occur. It allows the security forces to carry out arrests and raids without judicial warrants, and gives the executive powers to impose press censorship, restrict the right to strike, redefine crimes, increase sentences and modify penal procedures.

The People's Defender, Dr Jaime Córdoba Triviño, severely criticized the draft states of emergency bill:

"The government is not playing fair with the country when on the one hand it issues decrees under the 'state of commotion' and says that the measures are exclusively designed to resolve a temporary crisis and then tells Congress that these measures turned out to be so good that they should become permanent.... This is nothing less than prolonging by subterfuge the state of legal abnormality in the country".

Fighting the 'terrorist'

Successive governments have increasingly come to rely on anti-terrorist legislation to combat both drug-trafficking offences and insurgent forces. At the same time the legal definition of "terrorist" has become so ambiguous that it includes virtually anyone who opposes government policies.

Decree laws issued under the provisions of the state of siege have significantly increased the powers of the armed forces and the courts to counter the activities of opposition groups and criminal organizations with the result that safeguards against abuse by state forces have been progressively weakened. Tough anti-terrorist legislation known as the Defence of Democracy Statute, with greatly increased sentences and special courts, was introduced by executive decree under the state of emergency in 1988.

In January 1991 a new public order jurisdiction established by the Defence of Justice Statute came into effect. Under this statute, public order courts, now known as regional courts, deal with cases of terrorism, such as violent crimes related to drug-trafficking and political violence. In July 1992 these courts became a permanent feature of Colombia's criminal justice system. Judges, prosecutors and witnesses in regional courts may remain anonymous; access to evidence by defence lawyers and defendants' rights to challenge evidence are severely restricted.

Although this legislation was designed to protect judges and witnesses and enable the justice system to deal with guerrilla groups and criminal organizations, it has weakened procedural guarantees and safeguards against abuse by state forces. In addition, the branches of the security forces allowed to investigate crimes, including human rights violations, are precisely those units implicated in most political killings and "disappearances".

In October 1991 the Defence of Justice Statute, with certain modifications, became permanent legislation. The modifications eliminated incommunicado detention, gave the Public Ministry increased control over arrest procedures and required that detainees be brought before a judge within 36 hours of arrest. However, the security forces were still permitted to act as judicial police and the new law fails to stipulate that civilians should not be detained in military installations.

The laws designed to tackle terrorist offences are increasingly being used in a move towards criminalizing social protest, whether violent or peaceful. Since the introduction of the anti-terrorist legislation and public order courts, the number of political prisoners has soared to over 1,000. Many, maybe hundreds of them, are believed to have been arbitrarily arrested and wrongfully charged with terrorist offences. Among those on trial for terrorist offences are peasant farmers accused of cultivating opium poppies, landless peasants and poor people charged with "terrorist" offences in connection with land occupations, trade union leaders involved in strikes declared illegal by the government, and local officials accused of maintaining contacts with guerrilla forces.

In September 1993 Tirso Vélez, the UP mayor of Tibú, North Santander department, was arrested and accused of contacts with guerrilla forces, an offence under the

state of emergency decree laws introduced in December 1992. For many local officials in areas of guerrilla activity, contact is unavoidable. They may be regularly required to explain and defend their policies to guerrilla leaders and they, or their relatives, could be at risk of reprisal if they refused to cooperate. The basis for the charges against Tirso Vélez was unclear, but was believed to be related to a series of poems the mayor had written and published about political violence. One poem, entitled "Tibú, a Dream of Peace", describes the fates of a poor soldier and a guerrilla fighter caught up in the conflict. Shortly before his arrest, Tirso Vélez had reported receiving anonymous death threats.

The use of anti-terrorist legislation, with its greatly increased sentences, to deal with a wide range of offences such as damage to state property which are included in the ordinary penal code, appears intended to deter legitimate social and labour protests.

In early 1993, 16 workers from the state-owned telecommunications company Telecom were charged with offences under the anti-terrorist legislation in connection with a strike in April 1992. The strike left Colombia without a telephone service for seven days and delayed the government's plans to privatize Telecom.

The basis for the charges against the Telecom workers was the alleged sabotage of the Telecom computer system to prevent outside technicians being brought in to run the system during the strike. Although the civil penal code covers crimes of sabotage and damage to state property, the Attorney General ruled that the case should be heard before the special regional courts. The anti-terrorist legislation defines a terrorist as "Anyone who provokes or keeps in a state of anxiety or terror the population or a section of it by virtue of acts which endanger life, the physical integrity or the freedom of individuals or (endangers) buildings or means of communication ... by utilizing means which are capable of causing criminal damage". In October 1993 the Appeals Court commuted the charges of "terrorism" to "sabotage" under the ordinary penal code. The workers were released on bail after nine months' detention.

#### CHAPTER 1 CAPTIONS

Families of the "disappeared" join the 1993 May Day march in Bogotá. Over 1,500 people are believed to have "disappeared" in detention between 1978 and 1992. ©Utopías

Many of Colombia's poor and homeless exist by collecting paper and other recyclable refuse which they sell. ©David Browne/Parachute Pictures

A motorized police unit in Medellín. Many of the "death squads" behind "social cleansing" operations include members of the security forces, particularly the police. ©Julio Etchart/Reportage

The funeral of Miguel Angel Martínez, a popular poet who lived on the streets of Bogotá. He was beaten to death by police officers in September 1993. ©Lucio Lara/Utopías

A sufragio (invitation to a funeral), posted in Bogotá in August 1993. The text reads: "Funerals. Industrialists, businessmen, civic organizations and the wider community of the Zone of the Martyrs invite you to the funerals of delinquents who operate in this sector of the capital. The event will begin now and continue until their extermination". ©Miguel Díaz/El Tiempo

Demonstration in Bogotá organized by the International Working Group for Human Rights. Human rights activists in Colombia have been targeted for abuses ranging from harassment and threats to "disappearance" and death. ©Jenny Matthews

Blanca Valero de Durán was killed by gunmen in January 1992 outside the Regional Human Rights Committee (CREDHOS) office in Barrancabermeja, Santander department. She was the Secretary of the human rights organization CREDHOS. ©CREDHOS

Alirio de Jesús Pedraza Becerra, lawyer and human rights worker, "disappeared" in

July 1990 in Bogotá, after being seized by eight heavily armed men in plain clothes. Members of M-19, the April 19 Movement, handing over their weapons in March 1990 after the group's formal surrender. In the past four years several guerrilla organizations have demobilized after agreeing peace terms with the government. ©AP Daniel Arcila (without shirt) was a police informer who gave evidence to the inquiry into the April 1990 killing of Father Tiberio de Jesús Fernández Mafla, parish priest of Trujillo in Valle del Cauca department, and his three companions by the security and paramilitary forces. Daniel Arcila was killed in 1991.

Some of the 16 workers from the state-owned telecommunications company Telecom detained for six months under anti-terrorist legislation for their part in a strike in April 1992.

1

A history of conflict

## Chapter 2

### The agents of abuse

'Removing the water from the fish'

"The state security and defence agencies are trained to persecute a collective enemy and generally consider that victims form part of that enemy. In a substantial number of cases they act on the premise that prevailed in El Salvador of 'removing the water from the fish', which means that they establish a direct link between, for example, the trade unions or peasant organizations, with the guerrilla forces and when they carry out counter-insurgency operations these passive subjects are not identified as 'independent' victims but as part of the enemy. In effect, the state security and defence forces assault the human rights of independent passive subjects because they commit the mistake of considering them to be the enemy or allied to the enemy." Procurator General's Report on the Human Rights Situation 1992

On 11 February 1992 three peasant farmers "disappeared" near Villavicencio, the capital of Meta department. José Beltrán Bejarano, Alvaro Martínez and Fabián Sarmiento were among a group of people travelling to the town of Monfort. The bus was stopped at a military check-point on the outskirts of Villavicencio and its passengers were held while their identity documents were checked. During this time the soldiers telephoned the base of the army's Albán Battalion in Villavicencio, and reported that one of the passengers was Fidel Ortíz, who was wanted for collaborating with guerrillas. The passengers were eventually allowed to leave but the bus was stopped further down the road by a vehicle believed to belong to the security forces' elite Anti-extortion and Kidnap Unit (UNASE), which had been parked next to the military check-point.

There were six armed men in this vehicle. They forced the passengers out of the bus at gunpoint, singled out José Beltrán Bejarano, Alvaro Martínez and Fabián Sarmiento, and drove them away. The three men have not been seen since. It is believed that one of them may have been taken in the mistaken belief that he was Fidel Ortíz. Since 1988 increasing numbers of civilians have fallen victim to "disappearance" and political killing during military counter-insurgency operations throughout Colombia. Most attacks occur in the rural areas. Sometimes they are indiscriminate massacres in communities believed to support the guerrillas. In other cases, individuals, particularly civic leaders and members of legal left-wing parties, have been singled out because of their influence in the community.

During 1990 and 1991 the army launched major offensives against guerrilla forces in several parts of the country. Little or no effort was made to protect the civilian population during these operations. These offensives often began with aerial bombardments. Civilians trying to flee from the bombs were often prevented from leaving the area by ground troops, and thereby placed at risk of being caught in

the cross-fire between the military and the guerrillas. After the air raids, ground troops swept the area for guerrillas. Both stages of the offensive had a devastating effect. Civilians were injured and killed when houses, schools, and community and health centres were bombed. The survivors were frequently ill-treated and killed, or abducted and "disappeared"; their homes, crops and animals were destroyed. Despite ample evidence of what was happening, the military authorities routinely dismissed allegations that civilian communities were targeted, claiming that deaths, injuries and damage to property were incidental to the counter-insurgency operations.

In September 1990 a commission of inquiry was formed to investigate allegations of abuses by army personnel during counter-insurgency operations near Yondó in Antioquia department, part of the conflict-torn Magdalena Medio region<sup>5</sup>. The commission included representatives of the Regional Procurator's office and regional human rights organizations, and the mayor and the ombudsman of Yondó. They visited the communities of El Bagre, La Concha, No Te Pases and La Poza. In El Bagre the commission visited a base of the army's Mobile Brigade where approximately 400 soldiers were stationed. Twelve civilian families had taken refuge in the base after an air raid on El Bagre. Several of the civilians told the commission that they had tried to reach the city of Barrancabermeja, but that the army had prevented them from leaving the area. The commission also established that at least five of El Bagre's inhabitants had been detained by the army for up to 12 days and tortured. The commission also concluded that two civilians had "disappeared" in circumstances suggesting the army was responsible. Other abuses the commission reported included the burning of homes, destruction of belongings, and the theft of livestock and money.

Indiscriminate human rights violations are not confined to the Magdalena Medio. Similar reports of abuses against non-combatant civilians have been received from many areas of the country undergoing counter-insurgency operations, including the departments of Córdoba, Arauca, Cesar, Meta, Cauca, Putumayo and Boyacá. After a civilian was appointed to head the Defence Ministry in 1991, the number of reports of civilians killed and injured in aerial bombardments diminished. However, reports of the torture, "disappearance" and killing of unarmed civilians during counter-insurgency operations continued unabated.

Hector Audelo Chaparro was found dead with his throat cut shortly after being seized by a counter-insurgency patrol which raided Toquilla, a small community in Quitania, Boyacá department. On the evening of 2 October 1992 a patrol from the army's Tarqui Battalion arrived in Toquilla with a list of 10 people they were looking for. Hector Audelo Chaparro was one of those named on the list. The soldiers raided his house and his family saw him being beaten and accused of guerrilla activities before being taken away. He was killed 100 metres from his house. Two other men named on the list, Reynaldo Riveros Chaparro and Ismael Amaya, were also found in their homes; they were also beaten and accused of collaborating with the guerrillas. Both men were then killed. Other people named on the army list and relatives of the murdered men fled the area in fear of their lives. Before they left Toquilla, the patrol painted wall-slogans claiming the killings were carried out by FARC guerrillas. Despite extensive eye-witness accounts of events, the military continues to blame the guerrillas.

#### Deflecting responsibility

Hildegard María Feldmann, a Catholic lay missionary and nurse, and José Ramón Rojas Erazo and Hernando García, two peasant farmers from the community of El Sande, in Guachaves municipality, Nariño department, were killed by soldiers from the Caballería Mecanizado No 3 Cabal, attached to the army's III Brigade. Hildegard Feldmann was a member of the Community of Lay Missionaries of Fribourg, Switzerland, and had worked as a nurse and midwife in rural Colombia since 1983. On 9 September 1990 she was tending a sick woman in the home of José Rojas Erazo when troops opened

fire on the house without warning. Hildegard Feldmann and José Rojas Erazo died instantly. Four other people fled from the house to seek refuge. One of them, Hernando García, was shot in the leg and tried to hide under some rocks near a river. Moments later soldiers found and killed him. The attack followed an alleged confrontation between the army and FARC guerrillas. Military authorities immediately issued a communique claiming to have killed four guerrillas, including Hildegard Feldmann, in combat. However, this version of events was refuted by eye-witnesses who testified that no one in the house had fired at the military. The army later changed its version of events and claimed that Hildegard Feldmann had been treating wounded guerrillas in the house. Official investigations into the incident exonerated the army of responsibility for the killings.

Military commanders routinely claim that unarmed civilians extrajudicially executed by soldiers were “guerrillas killed in combat”. Blaming the guerrillas is another of the army's usual responses to accusations of human rights violations.

A case where the military tried to blame guerrillas for extrajudicial executions was exposed as a lie when four of the soldiers involved confessed. This was a massacre of 17 people in Cauca department in April 1991. A bus on an isolated road was stopped by a group of heavily armed and masked men near the village of Los Uvos, in Bolívar municipality. The bus driver, his two assistants and the 14 passengers, including a child and a pregnant woman, were forced to get off the bus and lie prone on the road. They were then shot dead and the bus was burned. Army Colonel Pablo Briceño Lovera, commander of the José Hilario López Battalion based in Popayán, and regional police authorities immediately attributed the massacre to the ELN. Colonel Briceño Lovera lodged a criminal complaint for slander against the national human rights group CONADHES, which had suggested troops under his command were involved in the massacre. He also accused CONADHES members of links with guerrilla groups.

Two years later, in mid-April 1993, the Procurator General's office announced that an army corporal, four soldiers and two civilians were under investigation for the killings. The Public Ministry brought disciplinary charges after hearing statements by four members of the counter-insurgency patrol of the José Hilario López Battalion. The four soldiers confessed to having participated in the massacre at Los Uvos. Disciplinary proceedings were also brought against an army lieutenant who commanded the patrol. Colonel Briceño Lovera was accused of covering up the crime. The Public Ministry also opened an investigation into irregularities by the 19th Military Court which had earlier cleared army personnel of all responsibility for the massacre. In August 1993 arrest warrants were issued against five soldiers and two civilians in connection with the massacre.

#### Disregard for civilian lives

Civilian casualties have often been attributed to the fact that they were caught in the cross-fire between the government and the guerrillas. However, closer examination of many of these cases shows that casualties were caused because both the Colombian armed forces and the guerrilla organizations failed to protect the physical integrity of non-combatant civilians in conflict areas, as required by the principles of humanitarian law. Army counter-insurgency patrols have occupied local health centres or rural schools in combat areas, as have guerrilla units. This has led to serious incidents in which civilians, including children, have been killed in the cross-fire.

In March 1992 a counter-insurgency patrol from the Numancia Battalion attacked a school in the rural community of La Paramillo, Cauca department, which had been occupied by a group of EPL guerrillas. Twenty-two primary school children and their teacher were in the building when the army opened fire. Eight-year-old Duván Muñoz Gallardo and a girl called Mónica died in the 20-minute confrontation and three other children were injured. Surviving children later said that when they called out for help the soldiers first shouted back “eat shit you cowards; go ask your

mothers for help". When the children continued to call for help, the soldiers stopped firing and agreed to allow them to leave the building. But as the children came through the front door with their teacher the soldiers opened fire again. They escaped by rolling into a ditch. Both sides put the lives of the children in jeopardy: the guerrillas by taking cover in the school and the soldiers by not allowing the children and their teacher to leave the building in safety.

Enforced service as military guides or porters

One of the most frequent reported abuses of civilians is the practice of forcing members of local communities to accompany military patrols as guides or porters. A peasant farmer, who cannot be named for his own safety, from the municipality of Cauca, Antioquia department, told the Procurator General in a written statement how he had been made to patrol with the army to identify "guerrilla collaborators". He said that soldiers had found a pistol at his ranch, and interrogated him about guerrilla movements. The patrol forced him to march back to their base camp. He spent the next two days and nights tied to a post. He was then made to put on an army uniform and accompany a patrol from house to house in nearby communities to identify collaborators. He refused to identify any of the peasants as collaborators and was returned to the base where he was tortured. The following day he was blindfolded and tied to two crossed stakes in full sun. He remained tied to the stakes for several days, without food or water. During this time he was repeatedly interrogated and tortured. Two weeks later, he was taken to the battalion headquarters and tortured again, before being taken to the local prison. He was brought before a judge and charged with "guerrilla activities" on the basis of allegations made by the army.

The whereabouts of many others taken remains unknown; they are assumed to have been killed by troops or in the cross-fire between troops and guerrilla forces. According to an investigation carried out by judicial officials in Cauca department in 1991, this practice is one of the principal causes of "disappearances":

"The armed forces detain a great number of peasants suspected of being guerrillas or collaborators and in some cases after a while they are found dead with signs of torture and in other cases the body is not even returned to the family. In other cases in which they have remained 'disappeared' for several months they report having been tortured and when they could not give information about guerrilla groups in the region, the armed forces took them from place to place using them as guides against their will."

No neutral ground

Civilians living in combat zones have increasingly been drawn into the conflict against their will as both the guerrillas and government forces demand their support and collaboration. Giving support to one side to the hostilities, however unwillingly, is frequently followed by reprisals from the other side. Peasant farmers have suffered serious human rights violations after guerrillas were seen on their land or if they gave food to the guerrillas. In June 1991 several peasant farmers from La Jagua de Ibérico, a small community in Cesar department, were detained and tortured after a group of FARC guerrillas had passed through the community. A deserter from the guerrilla unit had identified civilians who had allowed FARC to use their farms as a base. In his testimony to the local human rights ombudsman one farmer said he was interrogated about where the guerrillas were camped. When he told the soldiers he did not know, he was tied up, taken away, interrogated, and tortured with beatings and near-drowning. He was released several hours later, but the soldiers threatened to harm his wife if the guerrillas returned.

Targeting indigenous communities

Several indigenous communities have also been caught in the cross-fire between the government and guerrillas. Formally benign government policies towards the estimated 500,000 indigenous people in Colombia have not protected them from human

rights violations by the armed forces, particularly in areas where guerrilla forces have encroached on traditional Indian lands. The inhabitants of these lands are often perceived by the armed forces as potential guerrilla collaborators. This has led to arbitrary arrest, torture, "disappearance" and death.

Among the hardest hit have been members of the Arsario, Arhuaco and Kogui indigenous groups, numbering some 12,000, in the Sierra Nevada mountains of northern Colombia. These communities have suffered serious human rights violations at the hands of the Colombian army. In November 1990 Luis Napoleón Torres, an Arhuaco mamo (religious leader) and a governor of the Arhuaco Indians for seven years, was murdered with his brother Angel María Torres and another leader, Hugues Chaparro. They were abducted, while on their way to Bogotá to denounce army and police abuses, by three heavily armed men wearing army uniforms. On 14 December 1990 their bodies were found in Cesar department showing signs of severe torture.

The day the Arhuaco leaders were abducted, two other Arhuaco Indians, brothers Vicente and Amado Villafañe, were seized from their homes by soldiers and taken to the base of the army's La Popa battalion in Valledupar, capital of Cesar department. Vicente Villafañe later testified that they had been blindfolded and interrogated under torture about the involvement of the Arhuaco community in the unsolved kidnapping, six months earlier, of a wealthy local landowner and farmer. The kidnapping was apparently carried out by guerrilla forces operating in the area. Vicente Villafañe said that the brother of the kidnapped landowner had joined in the torture and interrogation of the Villafañe brothers in the presence of the battalion commander and another officer. During their detention the brothers were reportedly told that three other Arhuacos were in detention and would be killed if the landowner was not located. The brothers were later released without charge.

In April 1992 the Procurator Delegate for the Defence of Human Rights sought the dismissal from service of the commander and the head of the military intelligence unit of the La Popa Battalion. The officers had been found responsible for the physical and psychological torture of the Villafañe brothers and the killing of the three Arhuaco leaders. The officers immediately appealed against the ruling and remained in active service while their appeal was considered. In May 1991 the examining magistrate issued arrest warrants against the two military officers and the brother of the kidnapped landowner. Shortly afterwards, the military courts claimed jurisdiction over the case.

In April 1993 a group of soldiers from the La Popa battalion arrived at the Arsario community of Maracaso in the Sierra Nevada. The soldiers were believed to be pursuing three armed men who had been seen on land where Arsario leader Gregorio Nieves and three other Indians were working. The soldiers later stated they were deployed on a search for a missing journalist, Jaime Ardila Casamitjana, kidnapped by guerrillas in the area. The soldiers ran across the land where the Indians were working, firing at them and shouting, "those are guerrillas too - kill them". Gregorio Nieves was wounded and fell to the ground. All four men were made to lie face up while a hooded man examined them; he singled out Gregorio Nieves, saying "that wounded one is the guerrilla". Gregorio Nieves was then shot through the head at point-blank range. The other three Indians were interrogated and tortured by the soldiers before being taken back to their village where other members of the community, including Gregorio Nieves' wife and sister, were ill-treated and their home ransacked. Jaime Ardila was released by the guerrillas one month later.

#### Mobile Brigades

Since their creation in 1990 the army's Mobile Brigades have been accused of frequent and serious human rights violations against civilians. These specialist counter-insurgency brigades are made up of professional soldiers, equipped with sophisticated weaponry. They have been deployed in areas where guerrilla groups maintain strongholds.

In November 1992 troops from the army's Mobile Brigade No. 2 arrived at the home of Luís Fernando Martínez and Sonebia Pinzón in Sabaneta, Santander department. Eye-witnesses reported that the family were woken by soldiers hammering on the door, demanding entry and claiming that they were searching for weapons. Luis Martínez was taken away from the house and beaten by one of the soldiers who also threatened to shoot him. Another of the soldiers took Sonebia Pinzón outside and raped her in front of her three-year-old son. While she was being raped she could hear her two-year-old daughter Marcela screaming. When Sonebia Pinzón was allowed back into the house, she found Marcela semi-conscious and bleeding; the toddler had also been raped. Luís Fernando Martínez was released later that night. This case was unusual because four soldiers were arrested and charged with rape and conspiracy to commit a crime. In most cases there is no such action.

In late-1990 the army launched a major long-term offensive against Casa Verde, the headquarters of the FARC guerrillas near La Uribe in the foothills of the Andes in Meta department. Extensive areas, including civilian communities around Casa Verde and La Uribe, were bombed and strafed. The army's Mobile Brigade No. 1 played a major part in the offensive. Scores of civilians, mainly peasant farmers, were arbitrarily detained and ill-treated by Mobile Brigade troops. Peasants' homes were ransacked and crops and livestock stolen or destroyed.

In March 1992 the Procurator Delegate for the Armed Forces wrote to the Commander in Chief of the Army, requesting an immediate improvement in the conduct of troops of all ranks operating in the municipality of La Uribe. He said that the behaviour of the troops towards the local population "should not be so harsh, drastic and indiscriminate, but should comprehend their situation so that if an individual or collective search is conducted or if an operation is carried out, it should all be done without terrorizing the local population who, instead of feeling protected, find themselves persecuted".

Despite almost routine denials and attempts to mislead investigators and public opinion about human rights violations by military personnel, an implicit acknowledgment of responsibility was contained in a directive to Mobile Brigade No. 2 from their new commander in December 1992.

On assuming command of Mobile Brigade No. 2, Brigadier General Agustín Ardila Uribe declared:

"...it is regrettable for the whole army to have seen officers and non-commissioned officers who have had to answer for the results of operations file past the Tribunals of Justice.... The commanders of the operations units and counter-insurgency battalions must ... try to convince officers and soldiers that their conduct should be irreproachable, totally respectful of human dignity, and to instil in them the conviction that no procedure or military operation can exceed the constitutional, legal, judicial, moral and ethical framework."

This directive had no noticeable effect on the behaviour of Mobile Brigade No. 2. In January 1993 several men from San José del Tarra, a community near Hacarí, North Santander department, were detained by a detachment from Mobile Brigade No. 2. Most were released after a few hours in custody, during which they were tortured and threatened with death unless they informed the soldiers of the whereabouts of guerrillas in the area. Four of the detainees – Ramón Villegas, Gustavo Coronel, Luís Alfonso Ascanio and Wilson Quintero – were not released. The military denied having detained them. However, shortly afterwards, the local Mobile Brigade commander handed over to the police several bodies of men he claimed had been "killed in combat". Three of the bodies were identified as those of Gustavo Coronel, Luís Alfonso Ascanio and Wilson Quintero.

Several days later a teenage boy "disappeared" in the area. Fifteen-year-old Luís Ernesto Ascanio "disappeared" as he was returning home. At the time his home, near San José del Tarra, was occupied by soldiers searching for his father. The soldiers

were holding the family, including several young children, as hostages. The siege of the Ascanio home was lifted after national and international appeals to the government, but Luís Ascanio's whereabouts remained unknown until May 1993 when his body was exhumed, with 14 others, from the cemetery in the nearby town of Ocaña. Relatives of Luís Ascanio were able to identify his body, which had been dressed in military fatigues. Another of the bodies exhumed was believed to be that of Ramón Villegas.

Contract killers in army counter-insurgency units

“Just when it is necessary to intervene energetically in order to restore order, that's when human rights raise their head”. Brigadier General Harold Bedoya, former Commander of the army's II Division, February 1992.

The Colombian armed forces regularly include civilians in counter-insurgency units either as informants or as active operatives, frequently as contract killers (sicarios). These civilians are sometimes former members of guerrilla organizations who, willingly or under duress, have agreed to join the army's battle against their former colleagues. Others are recruited when they complete their obligatory military service and pass into the B-2 and S-2 intelligence units as civilian agents attached to the brigades and battalions.

In June 1990 a deserter, Martín Sánchez Rodríguez, gave a detailed description to the Procurator General of the activities of civilians working with the army intelligence unit in the XIV Brigade in Puerto Berrio, Magdalena Medio. Martín Sánchez was recruited by army intelligence in 1985 and carried out counter-insurgency activities in the area around Puerto Berrio under orders from an army sergeant. He testified that his orders included the assassination of people suspected of collaborating with guerrilla groups. He said that he was once given a list of 15 people to kill, including a woman targeted because she had denounced the killing of her son by army personnel to the Regional Procurator. Martín Sánchez claims he refused to kill the people on the list, but he told Public Ministry officials about numerous killings in and around Puerto Berrio by agents from his unit.

In 1988 Martín Sánchez was recruited to a combined army-civilian clandestine squad known as HURE and set up by the B-2 unit of the XIV Brigade to carry out special missions in the region, including killing suspected guerrilla collaborators. The regular army routinely withdrew from the areas HURE planned to patrol. Martín Sánchez said that this was necessary because the HURE squad passed themselves off as an active guerrilla unit and the risk of clashes with army patrols through mistaken identity was thus minimized. By disguising themselves as guerrillas the squad hoped to trick sympathizers into identifying themselves. Moreover, abuses committed by the HURE unit during patrols – such as looting and burning houses and torturing and killing unarmed civilians – could be attributed to the guerrillas. Martín Sánchez described how on one patrol the HURE unit murdered a number of civilians, including two women who worked in a cooperative store, and a peasant farmer and his son who were seized from their home and forced to accompany the patrol for two days before they were killed. A 17-year-old youth who ran into the patrol as he was on his way to buy milk for his mother was killed and his body thrown in the river. When the civilians were murdered, the patrol had not made contact with any guerrilla forces. No investigation is known to have resulted from Martín Sánchez' detailed testimony.

Killing by proxy – the role of the paramilitary

On the evening of 14 January 1990, 43 people “disappeared” from the village of Pueblo Bello, municipality of Turbo, in Antioquia department. Turbo is in Urabá region, which was then a militarized zone, administered directly by the army. According to witnesses, a squad of armed men, some in military uniform, others hooded and in plain clothes, raided the village and seized 40 men from their houses or from the streets and bars. Others were seized from the local Presbyterian church. The captured men were made to lie face down in the village square while their hands

were tied behind their backs. They were then forced onto two trucks which had earlier been hijacked by the armed squad; the three drivers were also taken. The trucks drove towards the town of San Pedro de Urabá. Eye-witnesses saw them passing through two army check-points, although for several years a night curfew had banned all civilian vehicles from the roads between 6pm and 6am.

Official investigations established that the 43 men had been abducted by a paramilitary group headed by a known drug-trafficker and ranch owner, Fidel Castaño Gil. In collaboration with regional army commanders, Fidel Castaño and his paramilitaries are believed to be responsible for a series of brutal massacres in north-west Colombia during the late 1980s.

After hearing the testimony of a deserter from the paramilitary group, judicial and police authorities searched two ranches belonging to Fidel Castaño in Córdoba department where they found nine unmarked graves. The graves contained 24 bodies showing signs of torture; 20 of these were believed to be some of the men from Pueblo Bello. However, only six were positively identified. The remains of the other 18 were placed in plastic bags and reburied as "NN" (No Name). Despite repeated requests by relatives and their lawyers, no further efforts were made to trace the missing men or to identify the bodies. Several civilians arrested in connection with the mass "disappearance" were released on a technicality. Arrest warrants against Fidel Castaño for this and other massacres have not been carried out.

Army-backed paramilitary squads have sown terror in rural areas of Colombia for more than a decade, torturing, killing and "disappearing" with virtual impunity. The appearance of these supposedly independent paramilitary organizations in the early 1980s coincided with a dramatic increase in "disappearances" and political killings. Many of the paramilitary groups have their origins in the civilian "self-defence" squads which the army created to act as auxiliaries during counter-insurgency operations. Army brigade commanders and intelligence units attached to brigades and battalions in the conflict zones, recruited, armed, trained and supported paramilitary "self-defence" squads, while large landowners, industrialists, regional politicians and later, drug-traffickers, gave them economic support.

Law 48 of 1968 provided a legal basis for the formation of paramilitary "self-defence" squads by giving the armed forces the right to arm civilians and to create peasant defence groups. However, these groups' activities were not confined to fending off guerrilla attacks. They joined counter-insurgency "search and destroy" operations in areas where the population was considered sympathetic towards the guerrillas. During the 1980s the paramilitary phenomenon grew rapidly. From the mid-1980s the "self-defence" groups increasingly merged with private armies of gunmen formed by drug-traffickers who had bought vast tracts of rich farmland in areas with a guerrilla presence. A community of interests developed between drug-traffickers and local army commanders in that both sought to eliminate members of rural communities who might sympathize with or support armed insurgents, and to deprive guerrilla groups of their social base. From small local groups intended to augment the military's capacity to protect private farms and rural communities from guerrilla attack, by 1988 the paramilitary organizations had become powerful military structures capable of coordinated action throughout the country.

Extensive areas of the country of economic interest to drug-traffickers or of tactical interest to the armed forces have been "fumigated": cleaned up by the paramilitaries, who rarely attack guerrilla forces directly. The target of "fumigation" campaigns are usually civilians suspected of sympathizing with guerrillas, and smallholders in the way of expanding ranches. Over the past five years, several thousand civilians have been massacred by army-backed paramilitary groups throughout the country. The victims include members of legal opposition groups, union leaders, teachers, and peasant and indigenous leaders. More recently,

journalists and others attempting to investigate human rights violations, including members of the judiciary and Public Ministry officials, have been targeted and killed by paramilitary groups.

“Fumigation” campaigns in rural areas of the Magdalena Medio and in the departments of Córdoba, Putumayo, and Meta have resulted in a massive displacement of the peasant population. Tens of thousands of people have fled their communities, abandoning their homes, livestock and belongings, to seek refuge in the cities, where they eke out a precarious existence in the shanty towns. Refuge centres for the displaced families have also been attacked. The Albergue, a refuge centre set up by church bodies and non-governmental organizations in Barrancabermeja, Santander department, was forced to close in June 1992, after a series of threats and attacks, and remained closed for over a year.

Although illegal paramilitary activity is principally centred on rural areas of guerrilla influence, “hit-squads” – small groups of gunmen – have frequently been despatched to the cities to assassinate trade union leaders, left-wing political activists, human rights activists and national political leaders.

In his inaugural speech in August 1990, President César Gaviria declared that as part of his government's overall strategy against violence “we shall vigorously oppose the paramilitary groups”; he committed himself to “channelling all the efforts of the Colombian state into dismantling these groups which, through drug-trafficking and extreme right-wing sectors, have become powerful criminal organizations responsible for massacres, assassinations of political leaders and all kinds of atrocities”.

Since then the military capacity of some of the most powerful paramilitary structures has been weakened and their activities have been reduced in parts of the country. However, President's Gaviria's stated commitment to dismantle the illegal paramilitary groups has not been fulfilled. Paramilitary groups continue to commit widespread human rights violations against civilians. Moreover, there is compelling evidence that the Colombian armed forces are doing little to combat even the uniquely criminal forces at the service of the drug-traffickers, while continuing to create new paramilitary forces for deployment in counter-insurgency operations.

The army's paramilitary command structure

The Colombian civilian authorities have adamantly denied that the deployment of paramilitary groups in counter-insurgency operations is government policy. Although they accept that paramilitary groups originated in the “self-defence” groups created by the army in the early 1980s, the current government maintains that the shift in the role of the paramilitaries, from “defensive” to “offensive” units responsible for widespread human rights violations, resulted from links with drug-traffickers. The mergers between the army's paramilitary groups and drug-traffickers' bands of hired gunmen was undoubtedly an important factor in increasing the military capacity of the organizations which preceded the dramatic escalation of paramilitary violence in the late 1980s. Nevertheless, there is compelling evidence that military support for the paramilitary groups went considerably beyond the training of “self-defence” groups by a handful of officers attached to local army battalions in conflict zones: the scenario depicted by the government.

In late 1989 judicial police captured Luis Antonio Meneses Baéz, a former army officer who had helped create the paramilitary organization based in Puerto Boyacá in the Magdalena Medio in 1981. During the 1980s this organization, operating under cover of the legal cattle ranchers' association ACDEGAM<sup>6</sup>, was responsible for widespread abuses against the local civilian population, including numerous killings and “disappearances”.

In his sworn statement before the Directorate of Judicial and Investigatory Police (DIJIN), Luis Meneses described his role in the ACDEGAM paramilitary organization as “political officer”; he maintained political contacts, and coordinated relations

with the armed forces and military intelligence. Luis Meneses said that he first came into contact with the "self-defence" groups in 1981 when he was an army lieutenant. He was transferred to the Bárbula Battalion based in Puerto Boyacá and introduced to the recently created groups by the battalion and brigade commanders. He stated that the "self-defence" groups were created on the orders of army high command and were an integral part of the government's counter-insurgency strategy; between 1981 and 1983 seven officers from the Bárbula Battalion were assigned to the formation and training of "self-defence" groups in the Magdalena Medio. At all times these groups were strictly controlled by the S-2 intelligence unit of the Bárbula Battalion and ACDEGAM, according to Luis Meneses. He left the army in 1984 but continued to be closely involved in the formation of "self-defence" groups in other regions. He then returned to Puerto Boyacá as a full-time member of the ACDEGAM paramilitary group, under the assumed name "Ariel Otero".

In 1987, according to Luis Meneses, the army intelligence command decided to coordinate paramilitary activities across the country. Commanders of paramilitary units were summoned to meet high-ranking officers at army intelligence headquarters in Bogotá based at the "Charry Solano" Battalion (BINCI). The National Assembly of Self-Defence' Groups (JNA) was created at the meeting. The JNA was headed by eight regional paramilitary commanders. Its objective was to unify the fight against guerrilla forces. Further JNA meetings, always attended by military intelligence officers, were held annually. Asked to specify with whom in the armed forces the paramilitary groups maintained contact, Luis Meneses replied that until 1989 they maintained direct contact with members of the army high command; afterwards contact had been routed through intermediaries such as politicians and industrialists. Intelligence information was coordinated with regional army intelligence officers and operations were jointly planned with local battalion and brigade commanders. Contacts with the police force were mainly restricted to local police commanders and were intended to ensure police cooperation with paramilitary activities. However, the police sometimes called on the paramilitary groups for assistance in specific illegal operations.

The creation by the army intelligence command of national paramilitary structures was followed, during 1988 and 1989, by the escalation of paramilitary attacks against civilians in many parts of the country. During 1988 alone paramilitary groups were held responsible for over 80 massacres of unarmed civilians which left hundreds of people dead. Judicial and independent investigations established that many of the massacres had been carried out by paramilitary forces with information provided by army intelligence and that in many cases the massacres were planned and coordinated by local army officers and civilian authorities. Investigations by the government's security agency, Administrative Security Department (DAS) uncovered a sophisticated training program for paramilitary groups in the Magdalena Medio, involving Israeli and British mercenaries brought to Colombia by army intelligence officials and financed by drug-traffickers.

In response to the growing public outcry over the atrocities committed by paramilitary groups, then president Virgilio Barco issued decree laws in April 1989 which suspended the legal basis of the "self-defence" groups and introduced measures to combat "bands of hired killers, groups of self-defence or private justice". The paramilitary groups linked to the drug-traffickers responded to this and other legal measures against them by assassinating prospective presidential candidate Luis Carlos Galán in August 1989. The killing unleashed an 18-month "drug-war" between government forces and drug-trafficking organizations based in Medellín.

However, little action was taken against the ACDEGAM paramilitary group in Puerto Boyacá and nor was there any sign that the army was dismantling paramilitary structures elsewhere. The armed forces continued to support and, to some extent, coordinate the activities of some paramilitary groups, albeit less directly than

before. Although several of ACDEGAM's paramilitary leaders were tried in absentia and sentenced to 20 years' imprisonment in 1991 for their part in a series of mass killings of banana plantation workers and peasant farmers in Antioquia department's Urabá region in 1988, the security forces made no attempt to capture the convicted men and serving army officers continued to work with the ACDEGAM forces.

Luis Meneses was neither charged nor tried in connection with his paramilitary activities. Only months after his capture he returned to Puerto Boyacá and rejoined the ACDEGAM paramilitaries. His reappearance in the group coincided with a period of internecine warfare which seriously weakened the organization. Several leading members of the Puerto Boyacá "self-defence" groups were murdered during a power struggle between rival factions. At the end of 1991 Luis Meneses assumed control of the ACDEGAM paramilitaries in Puerto Boyacá. Almost immediately he announced he was surrendering to the authorities under a government program offering leniency in exchange for confessing to a crime. Some 50 others surrendered with him and handed over 300 weapons. All confessed to possessing illegal weapons and were released on bail. Factions which remained within the ACDEGAM group accused Luis Meneses of betraying them and declared their determination to continue. Three months later, Luis Meneses was found dead on the outskirts of Puerto Boyacá. A communique from the "Magdalena Medio Self-Defence Groups" claimed that he had been executed after a "trial" in which he was found guilty of handing over armaments to the government without consulting the cattle ranchers who had paid for them.

April 1992 saw one of the few documented clashes between the regular security forces and the paramilitary. An ACDEGAM paramilitary leader, Jaime Rueda Rocha<sup>7</sup>, was killed with seven of his gunmen when their vehicle was attacked by a unit of the National Police Elite Corps near Honda, in Tolima department. One of the seven killed with Rueda Rocha was a serving army officer. The government took exceptionally swift action: within days of the incident, two senior army officers, Colonel Julio Angarita Vivas, commander of the Patriotas Battalion in Honda and Major Carlos Enrique Martínez Orozco, his second-in-command, were dismissed from active service by presidential decree for involvement with the paramilitaries. A warrant for Major Martínez' arrest had been issued in 1990. As an army captain, he was implicated by a civilian judge in the June 1988 massacre of 17 gold-miners in San Rafael, Antioquia department. He was neither arrested nor brought to trial in connection with the massacre; he was promoted to the rank of major. In June 1992 the two officers were charged before a military court in connection with their links with Jaime Rueda Rocha and the paramilitaries under his command.

Internal conflict rendered the ACDEGAM paramilitaries relatively inactive and the number of attacks on civilians declined significantly. However, in mid-1992 a group of armed men, believed to be paramilitaries from Puerto Boyacá, arrived in Villavicencio, Meta department. Their arrival was followed by a wave of death threats, killings and "disappearances" of political activists and grassroots leaders in the region.

Among the first victims were William Ocampo, recently elected mayor of El Castillo, outgoing mayoress María Mercedes Méndez, municipal treasurer Rosa Peña Rodríguez, her husband Ernesto Serralde and their driver Pedro Agudelo. They were killed in June 1992 when the car in which they were travelling was attacked with hand grenades and sub-machine guns by men in military uniforms at Caño Sibao near El Castillo. Only days before the massacre María Méndez had told local police and military authorities that paramilitary groups were operating in the area and had asked for protection. Five months later, in November 1992, her husband, José Rodrigo García Orozco, vice-president of the departmental assembly of Meta, was killed by unidentified gunmen. An official bodyguard, assigned to him after the murder of his wife, had been withdrawn two days earlier.

Paramilitaries also assassinated health workers in Meta department, possibly in

the belief that they had treated injured guerrilla fighters. Three senior doctors were killed or “disappeared” during September and October 1992. Dr Armando Rodríguez Parrado, a general practitioner and director of the hospital in Restrepo, was abducted on 11 September by five masked and heavily armed men. His whereabouts remain unknown. On the day of his abduction Dr Rodríguez had told colleagues that he was being followed and had received anonymous threats. Three weeks later, on 4 October, Dr Edgar Roballo Quintero, a surgeon and director of the San Martín hospital, was abducted from the hospital by armed men. His body was found by a roadside the following day. He had been tortured and shot. Another surgeon, Dr Alvaro Diego Escribano, was shot dead on 29 October as he arrived at his clinic in Villavicencio.

In its 1992 report the official Commission to Overcome Violence made detailed recommendations to the government on measures to halt the spiral of political violence, including the need to combat and dismantle the paramilitary organizations. According to the commission: “The paramilitary groups are, without doubt, an obstacle to overcoming the violence... the armed forces and the judiciary should intensify the battle against those that have not surrendered... and should demobilize their irregular forces.”

However, existing groups continue to operate and new groups have appeared such as Comando Ariel Otero, which has threatened and killed trade unionists, community leaders and human rights activists in the oil-refining port of Barrancabermeja since 1992, and Los Pepes in Antioquia, a group whose declared purpose is to kill fugitive drug-trafficker Pablo Escobar, his family and associates. Available information suggests that the new paramilitary groups are supported by and may include serving members of the armed forces.

The new paramilitary model: El Carmen and San Vicente de Chucurí

Government officials have claimed that senior military commanders are now opposed to using paramilitary forces as auxiliaries in counter-insurgency operations. While the armed forces may have loosened official ties with some of the more notorious paramilitary groups, in some regions, notably the departments of Cesar, Boyacá, Sucre and Santander, new paramilitary structures have been created. The new paramilitary model acts as an integral part of the army's counter-insurgency operations to subjugate the civilian population militarily and politically in areas of traditional guerrilla influence.

One of the areas most severely affected by the armed forces' policy of “fumigation” of the local population are the municipalities of El Carmen de Chucurí and San Vicente de Chucurí, Santander department, in the Magdalena Medio region. In this area of small farming communities, which has long been a stronghold of the ELN guerrillas and more recently the FARC, the army has been engaged in a major counter-insurgency offensive since 1990. An integral part of the offensive has been the use of paramilitary forces to control the local civilian population by terrorizing and killing suspected guerrilla sympathizers.

In September 1992 peasant farmers from the Magdalena Medio region gave an Amnesty International delegation visiting Colombia a detailed description of collaboration between paramilitary forces and the army. One witness said that paramilitaries had arrived in his village and summoned the local population to meetings at which armed forces personnel were present. The villagers were told it would be in their interests to collaborate with the army and were assured the army would protect them with helicopters if guerrillas came to the village. They were also told that if they refused to cooperate they could either leave the village or die. “When the villagers refused to cooperate they started insulting people and beating them and driving them out ... the paramilitary killed one person to force the people to cooperate through fear.... So the people left because they were afraid and then the paramilitary brought their own people into the village, while the main group moved on to the next village...”.

According to the villagers, when the armed forces enter a community in a targeted area, they take a census of inhabitants, through which grassroots, civic, political and religious leaders are identified. People are ordered to report to the local army base to be given safe-conduct passes which must be regularly renewed – sometimes on a daily basis. Anyone found without a pass risks arrest, ill-treatment or death. The armed forces may set up a base in the village but their presence is generally temporary. When they move out, paramilitary forces arrive in the communities, often with the list of inhabitants drawn up by the military. Local community and peasant leaders, left-wing activists and teachers are routinely threatened with death, and subjected to constant intimidation and harassment. Many leave the area, abandoning their homes and farms. Those who refuse to leave are captured, tortured and killed by the paramilitary.

Teachers from rural schools around El Carmen de Chucurí told Amnesty International that they were constantly harassed by paramilitary patrols. Several complained that heavily armed paramilitary units had set up camp on the school premises despite the teachers' objections that this placed the schoolchildren in danger. The teachers said that they had repeatedly been accused of collaboration with the guerrillas and specifically of acting as couriers for them. The accusation appeared to be based on the fact that the teachers were obliged to travel from the village schools to the town of San Vicente de Chucurí regularly to get their wages. In order to control the area, the paramilitaries had forbidden the local civilian population to travel outside their villages. Teachers who ignored these restrictions had been told to leave the area and threatened with violence. Several teachers had received written death threats signed in the name of paramilitary groups. One threat, addressed to a teacher working in the town of El Carmen de Chucurí, reads:

“You old bitch, you grass: let this be a warning to you that we know everything you are doing to betray the people. If you continue to collaborate with those bastards the FARC and ELN... we will be very pleased and so you don't think this is just a fake we will leave you a small present in your own home. This is the first warning – the second will be your present and with the third you will see your blood and the blood of your son. You had better get out of this village before it's too late... Cordially, FRPC/MAS.”

Civilians in communities overrun by the army's paramilitary auxiliaries are given three stark choices: they are told they can either cooperate with the paramilitaries, or abandon their farms and leave the area, or die. Cooperation involves not only accepting total paramilitary control of the community's life, but also paying “taxes” to equip and arm the paramilitaries. Many peasants are forced to join the paramilitary group and to accompany them on patrols, where they may be compelled not only to confront guerrilla forces, but also to witness or even commit human rights violations against non-combatant civilians. Children as young as 10 have reportedly been “recruited” to patrol with paramilitary units.

As a result, many peasant families fled the area. By 1991 most civilians who remained in El Carmen de Chucurí and surrounding villages were active or passive supporters of the paramilitary forces. Any attempts to oppose paramilitary domination of the area were dealt with brutally. In June 1992, 70-year-old farmer Juan de Dios Gómez was killed by a group of armed and hooded men who burst into his home in the community of Los Aljibes. Shortly before, Juan de Dios Gómez had denounced paramilitary and army abuses in a sworn statement before officials of the Procurator General's office and in declarations to the press and television.

In 1991 judicial and Public Ministry officials opened investigations into reports of serious human rights violations by army personnel and their paramilitary protégés in the area of El Carmen de Chucurí. After a year-long investigation, arrest warrants were issued for more than two dozen paramilitaries, including the mayor of El Carmen de Chucurí. In March 1992 a civilian judge, accompanied by judicial police, tried

to arrest 26 people implicated in paramilitary activities, including the mayor. Several paramilitary leaders were located and detained, but local inhabitants – encouraged by army personnel based in the town – physically opposed the operation. During the ensuing disturbance all but one of the captured paramilitaries escaped. The mayor of El Carmen subsequently surrendered to the authorities but was later released. Other paramilitary leaders have continued to operate without hindrance in the area despite warrants for their arrest. They have frequently been seen patrolling with regular army units and in the company of military authorities. The judicial commission had been accompanied by Orlando Rueda, a former resident of El Carmen who had worked in the formation of church grassroots groups until repeated death threats forced him to flee the area. Orlando Rueda was asked to accompany the judge in order to identify paramilitaries against whom there were arrest warrants. After the attempt to arrest the paramilitary leaders in El Carmen de Chucurí failed, local authorities in the town retaliated by lodging official complaints against Orlando Rueda, and against the former parish priest, Bernardo Marín, accusing both men of being ELN guerrillas. Warrants were issued for their arrest on the grounds that inhabitants of El Carmen de Chucurí had identified them as “guerrillas” during the operation. As Bernardo Marín had left the country by the time of the operation – a fact confirmed by his Bishop – the motive for the judge's decision to bring charges and issue arrest warrants against Orlando Rueda and Bernardo Marín has been widely questioned.

In November 1992 the Procurator Delegate for the Armed Forces opened formal disciplinary proceedings against the then head of military intelligence, General Carlos Gil Colorado, and six other officers. They were accused of organizing, arming and conducting joint operations with illegal paramilitary groups responsible for the murder of community leaders and suspected guerrilla sympathizers in Santander department. Commenting on the disciplinary proceedings, General Gil Colorado told the press: “All this is a consequence of accusations made by subversives. For a long time now anyone with a senior command position in the Magdalena Medio ... is accused because they have carried out their duties...”.

With the municipality of El Carmen de Chucurí under almost total control, in 1991 the army and paramilitary offensive was extended to the neighbouring municipality of San Vicente de Chucurí. During the initial stages of the military advance there were numerous reports of human rights violations against non-combatant civilians in the hamlets close to the border between the two municipalities. In November 1991 military operations were launched in the communities of El Ceibal, Alto Viento and El Filón following guerrilla attacks on army helicopters in the area. In response to reports of abuses against the civilian population, a commission of municipal officials from San Vicente visited the area to verify the situation. After passing several army check-points, they arrived in El Filón where they found 50 people, including 20 children, huddled in a building on the outskirts of the village. The villagers said they were hiding because they were afraid of the army. According to villagers' testimonies, two days after the guerrilla attack, the army had returned with four helicopter gunships. While one strafed the area, the others unloaded 100 soldiers who immediately began a ground sweep. One peasant farmer gave the following testimony to the municipal commission:

“On 21 November, at about 3pm, the first troops were unloaded near the school in en El Filón; I was in my house with my wife, a worker, and my daughter. They dragged me out and about six or seven soldiers started beating me. They had me on the ground with my arms spread out. Each soldier held an arm or a leg and another sat on top of my stomach and if I cried out they kicked me. They wanted me to tell them where the guerrillas were hiding.... About 6pm they let me go. Yesterday, I went to Alto Viento with my wife and daughter to buy meat.... They took the meat away from me and then took me up a hill where they tied me up and held me over a pool of stagnant

water and kicked and beat me. They ... made me lie face down in the paddock until 2pm.”

The commission members noted that the peasant had lacerations on his back consistent with his allegations that the soldiers had beaten him with a club or a stick.

Several other peasants had had similar experiences. The troops had also threatened to kill the peasants if the soldiers suffered any casualties from landmines in the area.

By mid-1992 troops from the Luciano D'Elhuyart Battalion based in San Vicente de Chucurí were conducting joint military operations with paramilitary forces in communities bordering the municipalities of El Carmen and San Vicente. These operations followed the same pattern. The inhabitants were summoned to meetings at which they were told by military and paramilitary commanders that they must pay regular “taxes” to finance paramilitary operations and participate in paramilitary patrols and operations against guerrilla organizations. The joint army and paramilitary units arrived in several of the villages with lists of local community leaders who were warned to leave the area or face death.

Two regional leaders of the Colombian National Peasants' Association (ANUC), Oliva Ballona from Guamales village and Avelino Domínguez from La Colorada, were threatened with death during the military operations. In July 1992 regional ANUC leaders had complained about harassment of peasant communities by the army and paramilitary forces to local authorities in San Vicente. Oliva Ballona and Avelino Domínguez had formally ratified the complaint before the military commander of the Luciano D'Elhuyart Battalion.

Octavio Sierra, a peasant farmer from the community of Pamplona, was ordered to present himself to a Mobile Brigade No. 2 base, where he was photographed and threatened with death unless he left the region within five days. When he and his family tried to leave, the bus in which they were travelling was intercepted by a paramilitary patrol whose members told him the only reason they were not going to kill him on the spot was because there were too many witnesses. He later managed to leave the area but was killed in February 1993 when he returned to his farm to collect some belongings, after receiving assurances from military authorities that he would be safe.

In November 1992 the then Presidential Adviser on Human Rights informed Amnesty International that the incidents reported in the communities of Guamales, La Colorada and Pamplona were being investigated. He also said that representatives of national and local government, including the Ministry of the Interior and the offices of the Procurator Delegate for the Armed Forces, the People's Defender and the Presidential Adviser on Human Rights, had met to discuss the violence in the region. They had recommended that “concrete measures be taken to neutralize the criminal activities of the paramilitary forces”.

Nevertheless, the paramilitary advance towards the municipal capital, San Vicente de Chucurí, continued unchecked. In late 1992, shortly after known paramilitary leaders from El Carmen de Chucurí – including several with outstanding arrest warrants – were seen entering and leaving the Luciano D'Elhuyart Battalion headquarters in San Vicente, anonymous threats were sent to local community and political leaders, human rights workers and grassroots activists. The mayor of San Vicente, Saúl Pico Gómez, and the municipal ombudsman, Humberto Geovo Almanza, were among those immediately targeted by the paramilitary. On the evening of 13 November, Saúl Pico was in his office with his wife and several municipal officials, when the electricity was suddenly cut off. Fearing an attack, the mayor took cover. Shots were fired into the office, damaging furniture, but producing no casualties. Saúl Pico had been named on a list of local officials, community and human rights leaders printed in a pamphlet circulated in the town several weeks earlier. The pamphlet was issued in the name of the Chucureño Democratic Committee and called on the

townspeople to denounce members of the ELN and FARC. The pamphlet accused the mayor of financing guerrilla activities. Ombudsman Humberto Geovo received several anonymous death threats warning him to resign or face death. Both Humberto Geovo and Saúl Pico left San Vicente and sought guarantees from the military authorities in Bogotá that if they returned they would be able to carry out their public functions without fear for their lives. However, in a meeting with the Army Secretary General, they were reportedly told that there could be no commitment to guarantee them protection and that the decision to return was theirs alone.

At the end of 1992, the community of San Cristóbal, near San Vicente, was invaded by the paramilitaries. All the inhabitants were rounded up and told they had to assist the paramilitary group with patrols and counter-guerrilla operations or leave the area. Seven villagers were threatened with death if they refused to cooperate. The seven men left the community, but two of them, Leonardo Rangel and Isnardo García Carreño, returned to their homes a few days later. During the night of 28 January 1993 they were captured by paramilitary forces, tortured and killed.

The paramilitary killings continued throughout 1993. In May 1993 a passenger bus travelling between El Carmen and San Vicente de Chucurí was stopped at a paramilitary road-block. One of the passengers, Ramiro Pinto Ladino, a peasant farmer from La Fortuna, was forced off the bus and taken away by the paramilitary. His body was found a few days later in Hoyomalo, a deep ravine which is a notorious dumping ground for the bodies of people killed by paramilitaries and the army.

The ELN has admitted responsibility for the abduction and murder of paramilitary leaders and local civilian officials who support them. In April 1991 the ELN kidnapped Alirio Beltrán Luque, the mayor of El Carmen de Chucurí, who they accused of supporting the paramilitary organizations. His body was found the following day.

#### Abuses by guerrilla groups

For many years Amnesty International has condemned the killing of prisoners by guerrilla groups in Colombia. One of the most gross abuses was the killing in 1985 of hundreds of captives by the Ricardo Franco Front, including 154 of its own members accused of being "infiltrators," which Amnesty International condemned in a letter to then President Belisario Betancour. Similarly, in 1989 the organization condemned the execution-style killing of 73-year-old Roman Catholic bishop, Jesús Emilio Jaramillo, by the ELN. The ELN claimed that the bishop's efforts to mediate between the ELN and the government constituted "obstinate interference" in the ELN's "internal affairs". In 1991 Amnesty International's policy broadened with respect to human rights concerns in the context of internal armed conflict. In addition to its long-standing position of condemnation of the torture or killing of prisoners by all parties to armed conflict, the organization now actively opposes the taking or holding of hostages and the deliberate and arbitrary killing by armed opposition groups of people not taking part in the conflict.

All the main guerrilla groups in Colombia have been responsible for deliberate and arbitrary killings of civilians. The victims include people killed while resisting kidnap attempts, deserters from guerrilla organizations, local government officials suspected of corruption, people accused of collaborating with the military, and members of the guerrilla groups which disbanded after reaching a peace settlement with the government. All have also deliberately killed members of the armed forces who have laid down their arms, been captured or were incapacitated and most have "executed" members of their own forces suspected of disloyalty.

In March 1993 the ELN killed Eustorgio Colmenares Baptista, founder and director of La Opinión newspaper in Cúcuta. The ELN sent a communique to a local television station admitting responsibility for the killing and criticizing La Opinión's coverage of military and police actions against the guerrillas. In November 1991 eight members of a judicial commission – a judge, a pathologist, five judicial police and a regular police officer – died when their vehicles were attacked by a FARC

column near Usme, Cundinamarca department. The wounded occupants of one of the cars were reportedly shot through the head. Documents reportedly confiscated from FARC guerrillas by military intelligence described the attack as a "tactical error".

Indigenous community leaders have also been deliberately and arbitrarily killed by guerrilla groups. Guerrilla groups have frequently entered Indian territories and tried to impose their authority on indigenous communities. Those who resist or who refuse to accept guerrilla instructions are sometimes killed. Former members of the indigenous guerrilla organization Quintín Lame, which demobilized in May 1991, have been among those murdered. In March 1993 Yesid Ducuara Villabon, a leader of the Guaipá Centro Indigenous community in Coyaima, Tolima department, was shot dead by FARC guerrillas on his way to the community farm. Shortly before his death, Yesid Ducuara had been abducted by the FARC, who interrogated him about Quintín Lame weapons they believed he had hidden. In a communique issued in April the FARC admitted killing Yesid Ducuara and accused him of "extortion" and attacks on buses and ranchers in the region. The Tolima Regional Indigenous Council (CRIT) condemned the killing and said the FARC had invented the accusations against Yesid Ducuara.

Former members of the EPL guerrilla organization (which also demobilized in 1991) have been particular targets for assassination in the Urabá region of Antioquia department. The peace agreements reached between the government and a sector of the EPL in 1990 initially led to a period of greatly reduced political violence in Urabá. However, since 1992 the number of reported killings has increased significantly. Many of the recent killings are a result of conflicts between the faction of the EPL which continued in armed opposition and the sector which demobilized and formed a new political movement, Esperanza, Paz y Libertad. During 1992 and the first half of 1993, over 70 members of Esperanza, Paz y Libertad were killed in Urabá. The movement's leaders accuse the EPL and the FARC of responsibility for the majority of these killings. In apparent reprisal killings, Communist Party members in the region have been killed by local militia groups known as commandos populares believed to have links with Esperanza, Paz y Libertad.

Trade union leader Jesús Alirio Guevara was abducted by 15 EPL guerrillas in Apartadó, Urabá, in January 1993. His bullet-ridden body was found the following day dumped by the roadside near the town of Turbo. Jesús Alirio Guevara was vice-president of the banana plantation workers' union SINTRAINGRO and a member of the national leadership of the trade union federation, CUT. The EPL claimed that they killed Jesús Alirio Guevara because of his links with the comandos populares which "in coordination with the army's Voltigeros Battalion and paramilitary leaders were responsible for a series of massacres in Antioquia and Córdoba departments". The killing of Jesús Alirio Guevara was widely condemned by the trade union movement, human rights groups and political parties, including the Communist Party. Other members of Esperanza, Paz y Libertad have been killed by paramilitary groups and the army.

In May 1993 the EPL murdered a 63-year-old Spanish priest, Javier Cirujano Arjona, who was parish priest of San Jacinto in Bolívar department. He was kidnapped on 29 May as he was riding back to San Jacinto after officiating at marriages and baptisms in nearby villages. In a communique to a Bogotá radio station in mid-June, the EPL announced they had executed the priest after subjecting him to a "popular trial" on charges of "collaborating with paramilitary groups". In 1991 Father Cirujano had played an active role in arranging the reintegration into civilian life of the EPL faction which had demobilized in the San Jacinto area.

Reprisals against civilian collaborators are not confined to people who provide assistance to the armed forces or their paramilitary allies. Civilians who socialize with members of the armed forces and police have also been harassed, intimidated

and threatened by guerrilla forces. In July 1992 a secondary schoolteacher from the municipality of Sácama in Casanare presented a formal complaint to the Attorney General's office against the ELN, whom she accused of threatening her with death because of her friendship with the local army commander. After she established a friendship with the base commander, she received a number of written threats from the ELN warning her to leave the area or she would be killed. One of the threats read: "Whoever is not with us is against us and is considered by the organization to be an informant. Your days are numbered and we will be waiting for the opportunity to carry out our death sentence".

Dozens of other killings occur in the context of attacks on military and police personnel, convoys and outposts, as well as civilian economic targets. In February 1992 ELN guerrillas attacked an army patrol on the outskirts of San Vicente de Chucurí, Santander department. A bomb placed by the roadside was detonated by remote control as the patrol passed by. A group of children leaving school were caught in the blast. Two seven-year-old boys, Edison Alberto García Nova and René Armando Díaz Luna, and one soldier were killed, and several children were injured. The bomb was detonated from a wood beside the road. The guerrillas must have been aware that the schoolchildren would be caught in the bomb blast when the detonation was signalled. The attack was later admitted by the ELN who "regretted" the civilian casualties.

Guerrilla groups in Colombia have often attacked military and economic targets, particularly those with significant foreign investment, such as oil pipelines and pumping stations, electricity pylons and banks. Radio stations and transmitters have also been attacked, apparently in reprisal for media criticism of guerrilla operations. Guerrilla organizations rarely carry out indiscriminate attacks on civilians, but many have been caught in the cross-fire. Civilians have also been killed and injured by landmines laid by ELN and FARC guerrillas to defend positions or to slow the advance of army and paramilitary forces. In what was described as an attempt to halt or slow the paramilitary advance in the El Carmen and San Vicente de Chucurí region, the ELN planted landmines in wide areas of the countryside. These mines, known as "foot breakers", have caused numerous casualties – usually involving loss of limb – among the army, paramilitary groups and civilians. In a 1992 letter to Amnesty International, the ELN admitted responsibility for laying mines in the Magdalena Medio region which had caused civilian casualties, but stated: "...these cases have been the exception and we have done everything possible to pay compensation for these accidents".

In recent years, so-called Popular Militias have emerged in several major cities. They describe themselves as civilian vigilantes squads whose purpose is to protect shanty town residents from abuse from organized gangs of youths and from the security forces. The militias, particularly in Medellín, have carried out numerous execution-style killings of people they consider a danger to residents. Some of the popular militias operate openly in the shanty towns, with local support. In other areas they operate clandestinely. Armed forces commanders and civilian authorities have accused the popular militias of being urban wings of marxist guerrilla movements. While the origins of the numerous vigilante groups in the shanty towns are not always clear, the use of names such as Bolívar Militias and People for the People suggests that at least some are linked to guerrilla organizations. Others are believed to be made up of former guerrillas who were demobilized under the 1990 peace plan and have recently moved to the cities.

Kidnapping and taking hostages

The taking and holding of hostages by armed opposition groups has become increasingly widespread as ransom money has become one of the principal sources of income for guerrilla groups.

Other kidnap victims are held hostage for political motives, either to pressure

the authorities to accede to guerrilla proposals or to demand publicity for their policies. Reliable statistics for the number of people kidnapped by armed political groups are difficult to compile. Hundreds of people are also kidnapped by drug-trafficking organizations and other criminal groups and many kidnappings go unreported by relatives who prefer to try to secure the release of hostages without the intervention of the security forces. Nevertheless, official statistics record that more than 1,700 people were kidnapped and held hostage by guerrilla organizations between 1989 and 1991. Official information suggests the FARC carry out most kidnappings, followed by the EPL, the ELN and some groups of recently demobilized guerrillas. In 1993 new legislation increased penalties for kidnapping to 60 years' imprisonment and provided for the freezing of the assets of kidnap victims and their relatives to prevent ransom payments.

There are persistent reports that some victims have been killed when ransom demands are not met and, in some cases, even when ransoms have been paid. Most people kidnapped for ransom are landowners, industrialists and business people and their relatives. They are usually held in extremely harsh conditions. They may be bound and blindfold for weeks at a time, given insufficient food and exercise, inadequate medical attention, and forced to live with the constant fear, and sometimes the explicit threat, of physical injury or death.

Other kidnappings are more directly politically motivated. Journalists, foreign nationals, judicial officials, local government officials, and others have been abducted by guerrilla forces and sometimes held for prolonged periods before being released, often with messages for the government about guerrilla political proposals or possible peace talks. Local officials and their relatives in guerrilla strongholds are frequently kidnapped and held until they agree to carry out public works programs or change their administration's policies. A number of local officials, particularly mayors, who are accused of corruption or unjust social policies have been kidnapped and subjected to "popular trials", to force them to resign or to "return" pilfered public funds. Some have been summarily executed. Edgar Quintero Bravo, the mayor of Pailitas in Cesar department, resigned in December 1991 after being kidnapped by the ELN and held hostage for three weeks with 11 other municipal employees and local politicians. On his release he said the guerrillas had demanded that he resign because of "irregularities" in his administration. Edgar Quintero Bravo, who was the third mayor from Cesar department forced to resign by the ELN during the year, said that the ELN were planning to "call to justice" at least three other mayors. One mayor from the region told the national press: "the truth is that the role we play is very complicated; we have to open our books to two inspectors: the Procurator General and the guerrillas..."

Political personalities or their relatives have also been kidnapped to put pressure on regional or national authorities. In most cases such political hostages have eventually been released, but some have died or been killed in custody. Argelino Durán Quintero, a 77-year-old former cabinet minister, died of a heart attack while being held hostage by the EPL in March 1992. He had been kidnapped in January. His death led to the suspension of talks between the government and the CGSB in Mexico. In response to the escalating problem of kidnapping, in 1991 the government created a specialist anti-kidnap and extortion unit (UNASE), a combined force of military and police officers. Within months UNASE gained a formidable reputation for its highly publicized operations to trace and release kidnap victims. It also gained a reputation for human rights violations in the course of illegal search operations, including arbitrary arrests, torture and extrajudicial execution, particularly in Medellín. In February 1993 Procurator General Dr Carlos Arrieta Padilla opened formal disciplinary proceedings against 150 UNASE agents, including 50 based in Medellín, on charges of torture, murder and extortion. In a radio interview Dr Arrieta said: "We have detected abuses committed in the execution of their duties. In some

cases there are instances of torture, in others of incorrect detentions, in others of illicit negotiations with kidnappers or kidnap victims". A Public Ministry spokesperson said that in some cases UNASE forces had located the kidnap victim only to torture and murder the kidnappers and extort a ransom from the victim's family. Among those under investigation were high-ranking officials, including two colonels, five lieutenants, a captain and four majors.

## CHAPTER 2 CAPTIONS

Passengers are searched at a military check-point in San Vicente de Chucurí, Santander department, an area that has been the focus of intensive counter-insurgency operations. ©Susan Meiselas/Magnum Photos

Angel María Torres, an Arhuaco indigenous leader, who was abducted and killed in December 1990 by army personnel. Benign government policies towards the estimated half a million indigenous people in Colombia have not protected them from human rights violations.

A woman surveys the ruins of her home after it was destroyed in an aerial bombardment in the conflict-torn Magdalena Medio region. In September 1990 a commission of inquiry into army abuses in the region reported the burning of peasants' homes, destruction of belongings, and the theft of livestock and money, as well as "disappearances" and political killings.

Message left by the army after a raid on a village in the Magdalena Medio region. In a string of insults, it accuses FARC guerrillas of being thieves and assassins. (Above) Edilma Escobar Duarte, with her brother Pedro and her children, pictured in Pueblo Bello cemetery. Edilma and Pedro lost two relatives when 43 people were abducted from Pueblo Bello in January 1990 by an army-backed paramilitary squad headed by Fidel Castaño Gil. Although the bodies of some of the 43 were found later, most remain "disappeared". ©David Browne/Parachute Pictures

(Below) Relatives of the "disappeared" of Pueblo Bello join a march called by the human rights organization ASFADDES in 1991. Their banner reads: "For the right to life, no more disappearances". ©ASFADDES  
Displaced children in Bogotá. ©ASCODAS

María Mercedes Méndez, former mayoress of El Castillo in Meta department, was killed in June 1992 when the car in which she was travelling was attacked by a paramilitary squad. Four others were killed with her, including the incoming mayor. Just before the massacre María Méndez had told local police and military authorities that paramilitary groups were operating in the area, and had asked for protection. ©ASCODAS

(Above) Edison Alberto Garcia Nova, aged seven, who was killed in February 1992 when ELN guerrillas ambushed an army patrol in San Vicente de Chucurí. (Below) Rene Armando Díaz Luna, who was killed at the same time. ©Vanguardia Liberal de Bucaramanga, Colombia

Indigenous women in Coiyama, Tolima department, where an Indian community leader was deliberately killed by FARC guerrillas in March 1993. © Luis Carlos Osorio/Utopías

## Chapter 3

### Impunity in practice

"The government cannot fail to recognize the seriousness of the accusations made constantly and on a massive scale against its agents, nor ignore the extent of impunity in cases of human rights violations". President César Gaviria, September 1991.

On 6 October 1993 troops from the Palacé Battalion based in Buga, Valle de Cauca department, launched a counter-insurgency operation in the municipality of Riofrío. The village of Alto de la Loma was cordoned off and houses were searched. Witnesses testified that soldiers burst into the home of the Ladino family. Several were beaten and the young women raped and made to put on military-style uniforms. Seven members of the family, aged between 75 and 15, were shot. Five members of the neighbouring Molina family were also killed, as was a civilian who had reportedly arrived with the soldiers. Military commanders immediately claimed the victims were members of the ELN. According to the commander of the Palacé Battalion, Lieutenant-Colonel Luís Felipe Becerra Bohórquez, the 13 people died in a confrontation with his troops. However, this version was contradicted by eye-witnesses who claimed the victims were peasant farmers who only had rifles used for hunting in their homes and were unarmed when shot.

After the Riofrío massacre the government announced that Lieutenant-Colonel Becerra had been relieved of his post and discharged from the army. However, his career provides a striking example of how impunity fosters further human rights violations. The massacre in Riofrío was not the first time Lieutenant-Colonel Becerra had been implicated in serious human rights violations. He had already faced charges in connection with another massacre, that of 21 workers at the Honduras and La Negra banana plantations near the town of Currulao in Urabá in 1988. The workers were massacred on 4 March by some 30 heavily armed and masked men. Fidel Castaño, a notorious paramilitary leader involved in a series of massacres in northwest Colombia, and 11 other civilians, who were convicted in absentia in June 1991 and sentenced to 20 years' imprisonment for their part in the Urabá massacre, remain at large.

Several of the civilian judges who investigated the Urabá massacres received repeated death threats. As a result one left the country; her father was murdered shortly afterwards. Only days before leaving, she had issued arrest warrants against four army officers, including Luís Felipe Becerra, then a major, in connection with the killings. Although the Ministry of Defence subsequently stated that the army officers were in custody, it was later reported that Major Becerra was in the United States of America undergoing a training course before promotion to lieutenant-colonel. In May 1991 the military courts were awarded jurisdiction over criminal proceedings against the army officers implicated in the case. In 1992, while still supposedly on trial in a military court as an accomplice to murder, the recently promoted Lieutenant-Colonel Becerra was appointed to head the army's press and public relations department.

The Procurator Delegate to the Armed Forces investigated the case and recommended that three army officers, including Lieutenant-Colonel Becerra, be dismissed for their part in the Urabá massacre. The Procurator Delegate had established that the three officers (who had all been promoted since the massacre) had identified the plantation workers who were to be killed as "guerrilla suspects" and had planned the operation to murder them. His investigation had also established that Lieutenant-Colonel Becerra had used his own credit card to pay the hotel bill for the paramilitaries who were brought in from Puerto Boyacá to carry out the killings. Despite seemingly abundant evidence that the army officers were involved in the massacre, in April 1993 the Procurator General rejected the Procurator Delegate's recommendations and decided not to seek the officers' dismissal on the grounds of insufficient evidence. He also ruled out reopening the investigation because more than five years had elapsed since the massacre and the statute of limitations had therefore expired. The Procurator General concluded that "although it was not possible to identify an individual responsible [for the massacre] it is possible to believe that by action or by omission some members of the army could have been involved as perpetrators, as accomplices, or as 'intellectual authors' in the crimes

. . .”.

Six months after the decision to drop disciplinary sanctions Lieutenant-Colonel Becerra was again implicated in a massacre of unarmed civilians.

Impunity is rife in Colombia. Despite ample evidence of military culpability in case after case of the gravest human rights violations, few members of the security forces have been brought to justice.

Impunity is one of the principal problems which the Colombian government must resolve if its stated commitment to protect human rights is to have any credibility. Although senior government officials, including President Gaviria, have recognized the extent of the problem, the government has shown itself to be unable or unwilling to impose the necessary controls on the armed forces or to introduce effective measures to ensure that those responsible are held accountable before the law. The fact that those responsible for widespread political killings and “disappearances” are seldom punished has undermined public confidence in the administration of justice and the rule of law. The knowledge that crime will go unpunished – and may even be rewarded – has not only contributed to the escalation of human rights violations in Colombia; it is also a factor behind the spiral of violence in society at large.

The government argues that the rule of law has broken down because of severe deficiencies in the judicial system, citing insufficient resources, lack of training, lack of specialist personnel and pervasive corruption. It has introduced radical judicial reforms to remedy these shortcomings with the help of major international aid programs. Impunity in Colombia, however, goes beyond deficiencies in the judicial system, real though these are. Attempts to redress these deficiencies are unlikely to have any significant impact on the scale of human rights violations unless the government finds the political will to ensure that the armed forces are held accountable before the law and justice is applied to all human rights violators. Twenty-four-year-old Adela Agudelo “disappeared” in April 1992. She was abducted in Duitama, a town in Boyacá department, by troops of the army's I Brigade. They took her off a bus and forced her into a waiting taxi which drove off towards the Sylva Plazas Battalion on the outskirts of the town. The military authorities denied all knowledge of the arrest. Nothing more was known of Adela Agudelo's whereabouts until an acquaintance saw her in Duitama town square accompanied by soldiers. Adela Agudelo dropped a piece of paper on which she had scribbled that she was being held at the brigade headquarters in Tunja. Several days later, Public Ministry and judicial officials searched the headquarters of the brigade and two battalions. They did not locate Adela Agudelo but they did find a locked room on an upper floor with signs of recent habitation. Fifteen people were present at the inspection, including a secretary employed by the judicial police, who bore a striking resemblance to Adela Agudelo. When the general in command of the brigade saw the secretary, he reportedly said “What, you found her?” The judge upbraided him, saying, “ How do you know that she resembles the person we are looking for? Can it be, General, that you know Adela?”. Despite evidence that the army was responsible, investigations into the “disappearance” of Adela Agudelo have been inconclusive and her whereabouts remain unknown.

Investigating the abuses

The Public Ministry, headed by the Procurator General, is the main administrative agency with a human rights monitoring and investigative role. The Public Ministry has a constitutional responsibility to investigate state agents accused of misconduct and to bring disciplinary proceedings and sanctions where appropriate. Sanctions range from fines or suspension from duty to requesting the dismissal of state employees found to have committed serious infractions or abuses. The Public Ministry cannot initiate criminal proceedings, although it can monitor criminal investigations and trials in the military and civilian judicial systems. Recent Procurators General have taken important steps to improve Public Ministry

procedures. Despite a serious lack of resources, this has resulted in an increased number of conclusive investigations, although these remain a relatively small proportion of the total number of investigations opened.

In September 1991 the Procurator General released a report on human rights covering the period from January 1990 to April 1991. The report recorded 3,087 complaints affecting 5,285 victims of abuses by the armed forces and police; around 35 per cent of the complaints were for massacres, "disappearances" and torture. Most cases were still in the investigative stage and disciplinary sanctions had been imposed against only 61 of the 622 members of the armed forces implicated. Dr Arrieta stated: "In areas where there is guerrilla violence and scarce state presence, the state agents most frequently accused are the military. The most common types of violations in which the military are implicated are massacres, torture and enforced disappearances. The majority of victims are peasants. In urban areas with state presence and little guerrilla violence, the National Police is the force most implicated and punished in disciplinary investigations. The most common types of violations in which the National Police are implicated ... are 'disappearances', bodily injury, threats and arbitrary detentions.'" <sup>8</sup>

In April 1993 the Procurator General reported that the Public Ministry had received a further 2,618 complaints of human rights violations by state agents during 1992, affecting 3,099 people, most of whom were victims of serious human rights violations. The complaints covered 74 massacres<sup>9</sup>, 403 homicides and 370 reported "disappearances". While the National Police were responsible for most abuses reported to the Public Ministry, the army was responsible for the majority of the most serious human rights violations, such as massacres and "disappearances". The gravity of the violations reported to the Public Ministry during 1992 led the Procurator General to comment:

"This is a very discouraging panorama: it demonstrates the extent to which the most uncivilized and least democratic practices are used to guarantee the existence of the state. It is unfortunate, to say the least, to confirm that the most elemental of rights ... on which all others are built, is the least respected when it is state agents who are involved in events in which human rights are attacked."

The Procurator General emphasized that the report merely reflected the number of cases reported to the Public Ministry rather than the full extent of human rights violations in Colombia. He stated that the number of reported abuses had decreased in 1992. However, this claim is contradicted by statistics compiled by other independent monitoring organizations.

During 1992, 191 formal disciplinary proceedings were opened against members of the armed forces and 512 against members of the National Police. Of these, 373 resulted in sanctions against members of the National Police and just 31 against armed forces' personnel, mainly from the lower ranks. Most of the 31 army personnel were accused of involvement in massacres, extrajudicial executions, "disappearances" and torture. Disciplinary sanctions, moreover, ranged from fines of a few days' salary to temporary suspension and, only occasionally, dismissal from the armed forces.

One of the cases which led to disciplinary proceedings against police officials arose from the discovery, in December 1991, of eight common graves containing 17 bodies on the outskirts of Cúcuta, a town on the Venezuelan border in northern Colombia. All of the bodies showed signs of torture and some had been mutilated, apparently to prevent identification. Almost immediately local police authorities declared that the crimes were the work of a drug-trafficking ring, linked to the Italian mafia, which operated in Venezuela and Colombia. Many of the bodies remained unidentified, making it difficult to establish the motives for the killings. However, one was identified as José de Jesús Olarte, a witness to the arrest and "disappearance" by F-2 police intelligence agents of truck driver Pedro Antonio

Granados in November 1991. José de Jesús Olarte and two other witnesses, José Florez and Jesús Peña, had been abducted and “disappeared” before they could testify in the investigation into the “disappearance” of Pedro Granados. Despite deliberate efforts by the police authorities to mislead investigators, inquiries carried out by judicial and public ministry officials quickly established that members of the F-2 police intelligence and UNASE were responsible for killing the 17 people whose bodies were found in the mass graves. In May 1992 warrants were issued for the arrest of a police major, a captain, a sergeant and nine police agents on charges of kidnapping, robbery and murder. In September 1992 the Procurator General's office brought formal disciplinary charges against several police agents attached to the F-2 and UNASE for direct responsibility for the 17 killings and the “disappearance” of Pedro Granados. Two senior police officers were charged with negligence for failing to ensure that the agents under their command had operated within the law. The Public Ministry has made progress in investigating some serious human rights violations, particularly abuses committed by the police. However, the number of sanctions brought against members of the armed forces remains low. The failure to effectively investigate extrajudicial executions, including massacres, and “disappearances” by army personnel is, according to the Procurator General, partly due to the particular difficulties of investigating army abuses. In his report, Dr Arrieta explained why these difficulties arose:

“[Incidents in which members of the armed forces are implicated] usually take place in rural areas where evidence is not so easy to obtain as in urban areas. These technical difficulties limit the operative capacity of the Public Ministry. But, also, it is due to the intrinsic structure of the armed forces. The Public Ministry should, at all times, assume that the constitutional principle of ‘due obedience’<sup>10</sup> prevails, which would lead us to believe that the lower ranks of the armed forces act in accordance with orders given by higher-ranking officers. However, it is not always possible to establish this relation clearly. Records of what could be considered abusive orders are almost never kept and yet the carrying out of these orders plays an important role in promotion.... Moreover, the security and defence forces have a deep-rooted sense of esprit de corps which ... results in a notorious lack of solidarity with the investigators.”

The reluctance of the senior army commanders to accept external monitoring has led to tension between the armed forces and the Public Ministry. Senior army commanders have accused the Public Ministry of obstructing military operations and restricting the armed forces' capacity to combat the insurgents. During times of heightened civil conflict, leading politicians have called for restrictions on the Public Ministry's supervisory role over the security forces.

In November 1992 the Procurator General wrote to the presidents of the two chambers of the National Congress to express concern about calls by members of Congress for the suspension of some fundamental human rights during the government's offensive against organized crime and guerrilla groups. In his letter, Dr Arrieta stated: “It is terrifying that ... there are those who think all will be resolved when the authorities who exercise control [over state agents], and especially the Procurator General's office, turn their backs on their legal and constitutional obligations and tolerate repressive measures.... If what they want is for the Procurator's office ... to tolerate a case of torture or a disappearance per month, that I will not allow.... If the country believes that the way to beat the guerrillas is torturing or disappearing people, then they should say so before Congress; they should have the civic courage to propose it. But in the meantime, the Procurator's office will not accept these practices”.

The difficulties described by the Procurator General undoubtedly lead to many investigations remaining inconclusive. However, even when there is strong evidence of official responsibility for gross human rights violations, those implicated have

sometimes been officially exonerated, often on the basis of nothing more than their own unsubstantiated denials of involvement. The 1991 massacre of 20 Paez Indians is a case in point. The victims were members of an indigenous community in Cauca department, which had occupied and farmed the El Nilo ranch near the town of Caloto for several years in an attempt to recover recognition of the title to their traditional lands. In the months before the massacre, the Indians had reported to the Regional Procurator and the Mayor of Caloto that they were being intimidated, harassed and threatened by representatives of the new owner of the ranch, who was rumoured to be involved in drug-trafficking. On 16 December 1991 some 60 armed and hooded men burst into a building where the Indians were holding a meeting and killed 20 people, including three women and three children.

An interim report prepared by the Special Investigations Unit of the Procurator General's office in October 1992 stated that, although it had not yet been possible to establish motives for the massacre, strong evidence had emerged of the involvement of the local police commander and a major. One eye-witness claimed that approximately 18 police agents, including the police captain who commanded the local force, had carried out the killing with a number of gunmen. The witness stated that the police captain had ordered his men to shoot the Indians. Another witness supported this statement and added: "they made the Indians lie down in a row on the ground... then [the leader of the civilian gunmen] ordered us to set fire to the huts. He went over to where the Indians were lying. He was carrying a rifle across his chest and, with some of the 22 men who came with the major, opened fire on the people on the ground".

The Special Investigators Unit recommended that the two police officers face disciplinary proceedings. However, in July 1993 the Procurator Delegate for Human Rights cleared the officers on the ground that both had denied responsibility and that the witnesses' testimony was unsound; they had given contradictory evidence concerning the number of police who participated in the massacre and whether or not they were in uniform. Dr Jaime Córdoba Triviño, the People's Defender, issued an open letter urging the Procurator General to revoke the decision to acquit the police officers. Dr Córdoba said that the decision to discount the eye-witness testimonies was not justified.

#### Mechanisms of impunity

The military's first line of defence against accusations of human rights violations is simply to deny that they were responsible. Victims of extrajudicial executions are routinely described as guerrillas killed in combat, or as a by-product of armed confrontation with guerrillas, or the killings are blamed on guerrilla groups or drug-traffickers.

When investigations proceed, particularly if the abuses took place during counter-insurgency operations, military authorities have obstructed the inquiries by systematically perverting the course of justice. Obstruction techniques range from the simple failure to cooperate with the investigations through to the intimidation, harassment and killing of investigators. These techniques are used to shield paramilitaries from justice, as well as members of the armed forces. There are several common techniques. Military commanders refuse to name individual members of the armed forces implicated or to allow them to testify. Evidence is tampered with or destroyed and reports of incidents are falsified. Arrest warrants issued by the investigating judge are not implemented. Officers under investigation are promoted, sent on training courses abroad, or transferred to areas of the country outside the jurisdiction of the investigating court. Repeated transfers and the failure to advise the court of the suspect's whereabouts result in serious delays which can lead to the suspension or closure of investigations. Witnesses are harassed or killed to prevent them from testifying. Relatives and friends of victims, lawyers and human rights defenders are threatened or killed if they persist with their

denunciations. Judges and other judicial officials are threatened, attacked or killed. When all else fails, the military courts claim jurisdiction over cases in which members of the armed forces have been accused of serious human rights violations.

Despite these obstacles, some cases have been brought before the civilian courts. However, those brought to trial are usually low-ranking members of the armed forces and police. In April 1993 a civilian judge issued warrants for the arrest of a police captain and a sergeant in connection with the abduction and murder of engineering student Alvaro Moreno Moreno. Alvaro Moreno was detained in Bogotá on 3 January 1991 by the National Police. The next day his father, a retired police officer, was informed by police authorities that his son was in the custody of the Judicial and Investigative Police Unit (DIJIN); however, Alvaro Moreno's body, bearing signs of severe torture, had been found that same day in the municipality of Tocancipá, Cundinamarca department. The body was taken to a morgue, but went missing before it could be formally identified. Almost one month later, judicial authorities informed Alvaro Moreno's parents that a body fitting their son's description had been buried as "NN" in a cemetery Chocontá, a town north of Bogotá. The body was exhumed and Alvaro Moreno's parents identified it as that of their son. Although the civil court issued arrest warrants for a police captain and sergeant, they were later released and charges were dropped against senior officers implicated in the murder, including a police lieutenant-colonel and two majors.

Investigations into the killing of leaders of left-wing political parties have met systematic obstruction. A report produced by the People's Defender in October 1992 documents 717 killings of UP members between January 1985 and September 1992: in only four cases had those responsible been convicted of crimes. Dr Córdoba concluded:

"One of the most horrifying forms of violence that UP activists have suffered has been the massacres. Innumerable deaths, a complete lack of security prior to the events – in spite of their being 'pre-announced' in many cases – and irregularities in the investigations are factors contributing to impunity in these cases".

Investigations routinely fail to establish chain-of-command responsibility for planning and ordering attacks; superior officers are, therefore, seldom charged even when serving members of the armed forces have given evidence against them. The 1991 Constitution introduced the concept of "due obedience" by which "military men on active duty" will not be held criminally liable for offences (including human rights violations) if they can demonstrate that they were following orders. This has reduced even further the possibility of bringing to justice the perpetrators of serious human rights violations. Moreover, the converse of the "due obedience" provision, that rank-and-file soldiers may be exonerated of human rights violations ordered by their superiors, has not resulted in superior officers being held to account for such crimes.

#### Military jurisdiction

"Abuses of power...would be severely curtailed if there existed an independent and efficient judiciary capable of investigating accusations promptly and of giving adequate protection to individual rights. Without political backing and without economic and logistical resources, the judiciary cannot adequately perform its functions. In this context, the Working Group wishes to reiterate that military tribunals should be reserved exclusively for those members of the security forces who commit military crimes, a category from which such serious human rights violations as enforced disappearances must be clearly and explicitly excluded".<sup>11</sup>

United Nations (UN) Working Group on Enforced or Involuntary Disappearances, December 1991.

Military courts have almost always claimed jurisdiction over cases of political killings, "disappearances" and torture involving members of the security forces.

In practice, many civilian judges accept that the military justice system should investigate human rights violations by military personnel. However, some have challenged the military courts' right to exclusive jurisdiction. Since the judicial reforms introduced by the 1991 Constitution, conflicts of jurisdiction have been resolved by the Superior Judicial Council. Before this, conflicts of jurisdiction were resolved by either the Disciplinary Tribunal or the Supreme Court of Justice. Both the Constitution and the Code of Military Justice have retained military privilege (*fuero*), whereby military courts claim jurisdiction to investigate crimes attributed to armed forces' personnel "on active service and in connection with military duty". The 1991 Constitution extended the scope of military privilege to the National Police.

Different interpretations of the concept of "on active service and in connection with military duties" have led to contradictory rulings in jurisdictional conflicts. In January 1989 the Supreme Court of Justice ruled that the civilian courts should try the case of two army officers and one police officer accused of acts of terrorism in connection with the massacre of 43 people in the town of Segovia, Antioquia department, in November 1988. The Supreme Court concluded that acts of terrorism are ordinary criminal offences committed outside the line of duty and therefore fell outside the scope of military jurisdiction. The Disciplinary Tribunal, however, has generally ruled in favour of military jurisdiction even in cases of human rights violations.

Military courts have persistently failed to conduct impartial proceedings or to hold police and military personnel criminally liable for human rights violations. This is clearly a political decision because the military courts routinely prosecute and punish soldiers charged with offences that are not related to counter-insurgency. In the vast majority of cases involving human rights violations the military courts either drop the charges or acquit those implicated.

In June 1990 an army platoon killed 11 peasant farmers, all members of the Burgos family, near Ilarguta in the municipality of Macaravita, Santander department. Jairo, Jaime Ariel, Gélver, Félix, Roque, Obdulio, José Alfredo and Jaime Burgos, José Ariosto Silva, Benancio Alfonso Duarte and José Audin Oviedo Esteban, were surrounded and killed while they were working, by soldiers of the Garcia Rovira Battalion, attached to the V Brigade. In his report of the operation, the army sergeant commanding the platoon claimed the 11 men were members of the ELN who had opened fire on the troops and had been killed during the subsequent confrontation. Evidence gathered by investigators soon discredited this version of events.

The bodies of the dead men were found dressed in army uniforms. The acronym "ELN" had been daubed on some of their hats. Some bodies had severe burn marks and signs of having been beaten as well as bullet and shrapnel wounds. Public Ministry investigators established that the uniforms in which the dead men had been dressed bore no bullet holes or blood stains. The peasants' own clothes were found partially burned but still clearly showing bullet holes and blood stains. The only cartridge casings found were from army issue ammunition. Numerous neighbours and local authorities testified that the 11 men were farmers who were wearing their normal clothes the day of the attack.

In January 1992 the Public Ministry concluded that the peasant farmers "were attacked without the possibility of their responding" and ordered the dismissal from the armed forces of the sergeant commanding the platoon. Although a civilian court had begun a criminal investigation of the massacre, the military courts claimed and won jurisdiction as soon as the sergeant was identified. The case was closed shortly afterwards without formal charges being brought. What followed was exceptional. The Superior Military Tribunal overturned the lower court's decision to close the case and ordered the arrest and trial of the officers implicated, noting that "it is implausible that guerrillas would have set up camp on that exposed escarpment".

The tribunal examined the forensic evidence and concluded that “before the peasants were massacred, they were not only tortured but burned alive”. The tribunal decided that the soldiers were aware they had committed a crime and “thought that covering up at the scene of the crime would make its reconstruction impossible and the act would be accepted as legitimate”. The trial was held in July 1992 and resulted in the acquittal of all army personnel implicated in the massacre. The Public Ministry appealed against this ruling, and the Superior Military Tribunal declared the verdict to be contrary to the evidence and ordered a retrial. This was held in December 1992; the army sergeant and two junior officers were again acquitted. No further appeals can be admitted. When she heard the final verdict, the mother of one of the victims said: “I hope God can forgive the army... they have left 48 orphans, seven widows and two unsupported mothers”.

In the few cases where military personnel are charged in the military courts with serious human rights violations, they are frequently reported to have escaped from custody or are released before being brought to trial – in some cases to kill again. This was what happened in the case of the massacre of the Palacios family in Fusagasugá, Cundinamarca department, in August 1991. On 18 August soldiers from the Artillery Battalion of the XIII Brigade raided the home of UP activist Antonio Palacios Urrea. Antonio Palacios, three of his children, and his son-in-law were shot dead. One of the victims, Blanca Palacios Romero, was tortured in front of her mother and baby daughter before being shot in the back of the head. The military issued a statement alleging that those killed were members of a guerrilla group who had died during an armed confrontation with soldiers. However, the army's version was contradicted by forensic evidence and eye-witnesses. The only adult survivor of the attack, Belarmina Romero, testified to the military court investigating the killings that her husband and children were shot through the back of the head at close range after being made to lie face down on the floor.

Following widespread publicity, the military judge took the unusual step of ordering the arrest of a sub-lieutenant, a sergeant and five privates on charges of aggravated homicide. Six months later, the soldiers were released under an article of the military penal code allowing for the “provisional release” of defendants who had not been brought to trial within 180 days. Within weeks, one of the soldiers had been rearrested and charged with killing a man and two women, one of whom was pregnant, in Bogotá. Both women had first been raped. In March 1993 the Procurator General recommended the dismissal of two non-commissioned officers attached to the XIII Brigade, and 30 days' suspension for an army colonel, for their part in the torture and murder of the Palacios family. The Public Ministry exonerated an army captain even though the investigation established that he had prepared the testimonies the soldiers gave to the court in order to “hide the facts and to pressure his subordinates into requesting the court to revoke the detention order against him”.

Commenting on the failings of the military courts to conduct impartial investigations and impose appropriate sentences the Council of State declared:

“Rulings produced in the military courts should follow closely the facts in order to impose sanctions according to the gravity of the crimes; they should never be [accompanied] by a ‘false sense of comradeship’ in order to absolve in an irregular manner those accused of responsibility. This produces frustration and, in the end, leads to a future...in which similar acts are carried out in the belief that the perpetrators will be exonerated”.

However, despite its stated commitment to ending impunity, the government has failed to take even the most elementary steps to ensure that members of the security forces responsible for violations of fundamental human rights are unable to reoffend. Immediate measures which the government could take include the suspension of army and police personnel once formal disciplinary or criminal charges have been brought, and the discharge of those found responsible.

The government has claimed that as the judicial system has failed to hold army and police personnel accountable for human rights violations, it has removed violators from the security forces by executive decree. Statistics for those dismissed from active service by executive decree or following internal disciplinary procedures are difficult to verify and it appears that most were guilty of offences which had no political motive. In several highly publicized cases in which police agents were accused of serious crimes, including murder, which had no apparent political motivation, those implicated were rapidly suspended from duty, placed under arrest, prosecuted and convicted. While it is clear that the police and national authorities have taken measures to discharge agents responsible for common crimes, the "purge" has seldom been extended to those implicated in political crimes. When overwhelming evidence that high-ranking officers were responsible for human rights violations has been uncovered and become widely publicized, they have been dismissed, retired from service, or otherwise removed, sometimes by postings as military attachés in Colombian embassies abroad. Between January 1991 and August 1992 only five army and four police officers were dismissed for politically motivated crimes.

Dismissing officers implicated in human rights violations is particularly appropriate given that the government and its human rights agencies agree on the difficulties in effectively investigating and punishing human rights violations by members of the armed forces and on the failures of the military justice system. The Commission to Overcome Violence has also recommended that "the Executive should use its discretionary powers to dismiss from active service those suspected of serious and repeated human rights violations".

Several intergovernmental organizations have recommended that the investigation of human rights violations be excluded from military courts. The UN Advisory Services Program included this recommendation in an evaluation of its program in Colombia published in September 1993<sup>12</sup>.

Accepting liability: civil suits for compensation

Victims and their relatives seeking redress for human rights violations can present a civil suit for compensation against the state in the administrative courts. In a number of cases victims' relatives have received substantial awards after their claims were upheld by the Council of State.

The Council of State has awarded claims against the state in cases where charges against the perpetrators have been dropped or they have been acquitted by the military courts. One such case is the killing of Alvaro Garcés Parra, UP mayor of the town of Sabana de Torres, Santander Department. Alvaro Garcés Parra was killed by hired gunmen in a restaurant in August 1987. When the gunmen shot Alvaro Garcés, his bodyguard returned fire and in the ensuing gunbattle four other people were killed, including one of the gunmen. Among the documents found on the gunman's body was a special gun licence, issued the day before and signed by Captain Luis Ardila Orjela, head of the army intelligence unit of the Ricuarte Battalion in Bucaramanga. Another gunman was wounded in the attack and was taken to the local hospital by an army major attached to the same battalion, who registered him as a "soldier wounded in combat with guerrilla forces". The battalion paid his hospital bill.

As is normally the case in Colombia, judicial proceedings were opened into the killing and by the end of 1988 charges were brought against the two army officers and several civilian members of a paramilitary organization. At this point the military justice system claimed jurisdiction over proceedings against the two army officers. One year later, the military judge acquitted the two officers and closed the investigation. Charges against the paramilitaries implicated in the killings were also dropped.

In a parallel disciplinary investigation conducted by the Public Ministry, further compelling evidence emerged of the responsibility of the two army officers for the attack on Alvaro Garcés. A former soldier testified that he had been hired to plan

the attack on Alvaro Garcés, although he refused to take part. The Procurator General ordered the dismissal from the armed forces of the two army officers – the maximum sanction the Public Ministry can impose.

On the basis of the findings of the Public Ministry investigation, Alvaro Garcés' family brought a civil suit against the Ministry of Defence demanding compensation for the “moral and material damages” caused by his killing. In 1992 the Council of State concluded that the state must assume responsibility for the army officers' actions and ordered compensation to be paid to the victims' dependants. Curiously, even though the two army officers had been acquitted by the military court, the Ministry of Defence did not contest the administrative court's ruling and, in a conciliation hearing, agreed with the family's lawyers the amount of damages to be paid.

In March 1993 the Council of State announced that in the previous eight months it had produced 211 rulings, of which 86 were against the National Police and 50 against the army. Council of State member Carlos Betancur Jaramillo said “of every 10 sentences each week, five are against the Ministry of Defence.... The armed forces must be made to act morally in order to avoid a continuation of cases that are literally indefensible”.

### CHAPTER 3 CAPTIONS

Twelve members of a judicial commission investigating abuses in the Magdalena Medio region were killed by the army and paramilitaries in 1989. This is the only case in which a paramilitary leader has been imprisoned for human rights abuses.

Children tend the grave of one of 20 Paez Indians massacred on the El Nilo ranch, Cauca department, in December 1991. Despite eye-witness evidence that a joint police and paramilitary force was responsible, the officers implicated were acquitted.

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Engineering student Alvaro Moreno Moreno, who “disappeared” in January 1991 after being detained in Bogotá by the National Police. His body was later found buried as “NN” in a cemetery in Chocontá, a town north of Bogotá.

Hildegard María Feldmann, a Catholic lay missionary and nurse from Switzerland, was shot dead by the army on 9 September 1990, while treating a sick woman.

The Burgos family, 11 of whom were massacred by the army in June 1990. Their case went further than most. The Superior Military Tribunal ordered that the soldiers involved stand trial. In the words of the tribunal, “before the peasants were massacred, they were not only tortured but burned alive”. Nevertheless, the soldiers were acquitted.

The banana industry in Urabá, crucial to the economy. The region has seen a string of massacres. In 1988 arrest warrants were issued for paramilitary leaders and three army officers for killing 21 banana plantation workers. None were arrested and one of the officers, Major Becerra, was promoted to Lieutenant-Colonel. In October 1993 troops under his command killed 13 people in the village of Alto de la Loma, in Valle de Cauca. Six were women, some of whom were raped before being shot. ©Jenny Matthews

UP activist Antonio Palacios Urrea, his daughter Janeth (centre), and three other members of his family were killed by soldiers in August 1991. His wife, Belarmina Romero (right), was the only adult survivor of the attack.

### Chapter 4

#### Steps towards ending human rights violations

Human rights protection confronts its greatest challenge in the face of political violence. When civil conflict or organized criminality prevail, the formal authority of an elected government publicly committed to protect human rights coexists

precariously with the power of its security forces when the latter are prepared to resort to gross human rights violations in the fight against insurgents and organized crime or to protect vested interests.

Many governments are prepared to ignore, and some even encourage, human rights violations by the forces under their authority, on the grounds that state security is in jeopardy. But when a state employs illegal methods to crush opposition, the spiral of violence is more often intensified than suppressed. Governments are bound by international law prohibiting any derogation from fundamental rights and guarantees, including the right to life and the prohibition against torture, even in emergencies. To translate these principles into practice requires a resolute and public commitment to the protection of human rights at the highest political level, prompt and effective investigations, and sanctions when violations are committed, coupled with rigorous training and control of the security forces.

The Government of President Gaviria has made important progress in acknowledging the prevalence of human rights violations in Colombia, in improving complaints procedures and in creating mechanisms of human rights protection. Recent initiatives taken by the government or resulting from the 1991 Constitution have genuine potential for improving respect for human rights and, in some cases, have already proved their potential in practice.

#### Municipal ombudsmen

Since 1990 municipal ombudsmen have played an increasingly important role in the reception and initial investigation of reports of human rights violations. In 1990 legislation was introduced which greatly enhanced and strengthened their powers. Of particular importance are the provisions granting municipal ombudsmen formal right of access to inspect all police and military establishments to establish the presence and condition of prisoners. Military and police authorities are now also legally obliged to inform ombudsmen of all detentions carried out in the previous 24 hours. Municipal ombudsmen in both cities and rural municipalities have found themselves in the vanguard of human rights protection and particularly the protection of prisoners' rights.

However, many municipal ombudsmen are severely hampered by lack of adequate resources to fulfil their duties and by the failure of many military authorities to cooperate. There are numerous reports of local military authorities trying to obstruct municipal ombudsmen's investigations. Many have been threatened and intimidated and at least one has been killed. Luis Augusto Orjuela Pérez, UP politician and municipal ombudsman of Mesetas, Meta department, was killed in February 1992. According to his widow, three men shot Luis Orjuela Pérez as he was returning home from a meeting at the mayor's house. Although Luis Orjuela Pérez was accompanied by two members of the National Police, assigned to protect him after he received threats, neither intervened to prevent the killing or to apprehend the assailants, who escaped. The financial dependency of the ombudsmen on the local municipal council budget has proved a further obstacle to effective action as it leaves the ombudsmen open to political pressures.

#### The People's Defender

The creation of the office of People's Defender in the 1991 Constitution is of particular relevance to human rights protection. The constitutional role of the People's Defender, which forms part of the Public Ministry, is to oversee the "promotion, exercise and dissemination of human rights". Although the office has no investigative role, since early 1992 the People's Defender office in Bogotá and other major cities has provided an important and accessible point for receiving complaints of human rights violations and providing advice to the victims. The People's Defender has also been effective in drawing attention to continuing human rights violations through issuing publications and joining national debates relevant to human rights, including debates on statutory legislation on states of emergency,

the reformation of the National Police, and the application of the petition of tutela.  
Petitions of tutela

The People's Defender is legally empowered to act on behalf of plaintiffs in presenting a petition of tutela to the courts. Any citizen can bring an action of tutela, and seek rapid redress if they consider their constitutional rights have been or are in danger of being violated. In 1992 more than 7,000 actions of tutela were heard by the courts. Among the successful actions were several presented by national human rights organizations and activists who had been accused of links with guerrilla organizations in articles published in the national press. The courts ruled that their rights had been violated and ordered the newspapers to print retractions. In most cases this was done, although not with the same prominence as the original defamatory articles. One editor who refused to comply with the court's order to rectify the information was imprisoned for 10 days in May 1993 for contempt of court.

Emergency human rights offices

Another new human rights mechanism is a joint initiative by the People's Defender and the Public Ministry to set up 24-hour emergency offices in the cities with the highest number of human rights violations. The first such office was opened in Medellín in 1991. In its first 16 months, the office received 4,563 complaints of human rights violations and acted on 3,554. Many of the complaints concerned arbitrary arrest and ill-treatment by the National Police and special police units such as the Elite Corps, UNASE and the special task force formed to hunt for drug-trafficker Pablo Escobar after his escape from prison. The rapid intervention of the human rights office in Medellín undoubtedly helped prevent incidents of arbitrary detention and ill-treatment from becoming even more serious violations. During 1992 and 1993 several more offices were set up in Colombia's major cities.

Legislating against 'disappearance'

Since 1988 successive Procurators General have tried to establish carrying out a "disappearance" as a criminal offence in law. Although sanctions have, on occasion, been imposed against security forces' personnel responsible for "disappearances", the punishment does not fit the crime. There is not one single case of the conviction of members of the armed forces for serious crimes deriving from "disappearance", either in the criminal justice or administrative systems. Judges' and Public Ministry rulings have been limited to punishing related offences such as arbitrary detention or ill-treatment. Successive Procurators General have explained the seemingly derisory sanctions imposed on perpetrators of "disappearances" as the result of the fact that no such offence is included in the penal code. As a consequence, in the few cases in which it has been possible to identify members of the armed forces and police responsible for "disappearances", the sanctions imposed have borne no relation to the gravity of the crime and are generally limited to fines or a few days' suspension from duty for "irregularities in detention procedures". In 1988 the then Procurator General presented to Congress a draft bill designed to incorporate "disappearances" as an offence in the Colombian Penal Code punishable by between two and 10 years' imprisonment. In a letter to the then Minister of Justice, the Ministry of Defence objected to the proposed legislation on the grounds that it would "undermine the power of the authorities...who have as their principal priority the re-establishment of public order and as a consequence, facilitate the action of terrorists, who would use the legislation to accuse the armed forces". The bill was never debated by Congress and two bills subsequently presented to Congress have suffered a similar fate.

In 1991 the government created a program to tackle the phenomenon of "disappearances", which included a national plan for the identification of victims through the creation of a register of "disappeared" persons and unidentified bodies. The stated aim of the program was to "establish the identity of 'NN' bodies through

the comparison of fingerprints and other identification techniques and to create a technical-scientific support program in the fight against the phenomenon of 'disappearances'. The program was set up by the National Criminal Investigation Department, now a part of the Attorney General's Office, and was considered necessary because of "the magnitude and type of violence which afflicts the country, reflected in the increase in 'NN' bodies and of 'disappeared' people". Although the Colombian authorities have given assurances that the program is functioning, no detailed information has been provided on its progress. However, ASFADDES, the independent organization representing relatives of the "disappeared", informed Amnesty International in August 1992 that since the program was set up they had officially submitted information on 49 victims, but had received no reply. In July 1993 a draft bill designed to criminalize the offence of "disappearances" was approved by the Senate chamber of Congress. The draft law provided sentences of up to 60 years' imprisonment in cases of enforced "disappearances". Of particular importance is the fact that the draft law stipulates that investigations and trials should be conducted by the civilian justice system and that perpetrators should not receive amnesties or pardons. The bill has to be debated by the Congressional Chamber of Deputies before becoming law.

#### National Police reforms

Major reforms to the National Police, announced in August 1993, could have significant implications for the future protection of human rights. The reforms were a response to widespread public outrage at growing police abuse, and included the creation of a civilian "accountability mechanism" in the form of a National Commissioner of Police. The National Commissioner, who will be appointed by the President, must be a civilian with the qualifications of a Supreme Court Justice.

The commissioner's role is to receive and analyse complaints about police abuses and propose policies and procedures to deal with them. The commissioner is also to "order and supervise penal investigations against members of the National Police ... with the objective of assuring prompt and fair justice" and to ensure that the police act within the law.

These are undoubtedly steps in the right direction, towards a future in which respect for human rights can be restored. However, the mere institution of the new measures and safeguards is no guarantee that human rights will be protected. They must also be enforced. In Colombia the gap between the law and its application is still immense.

#### Conclusions and recommendations

The Colombian government has so far failed to ensure that the armed forces and security agencies act within the rule of law. Armed forces and police personnel continue to arbitrarily arrest, torture, unlawfully kill and "disappear" people in many areas of the country in their drive to crush guerrilla forces.

Paramilitary forces which have spread terror throughout many rural areas of Colombia for over a decade have not been disbanded, nor have the armed forces relinquished their commitment to employing such forces in counter-insurgency. New paramilitary structures are being created by regional army commanders in central Colombia and used as an integral part of the army's operations against the civilian population in areas of guerrilla influence.

Avenues of social protest are being closed as the government increasingly resorts to anti-terrorist legislation to curb opposition, whether violent or peaceful.

Despite overwhelming evidence of the responsibility of army and police personnel for continuing widespread human rights violations, those responsible have not been brought to justice.

The failure to effectively implement human rights safeguards, to tackle the continuing problem of impunity or to disband the illegal paramilitary forces associated with the armed forces raises serious questions about the government's

political will to end human rights violations.

Armed opposition groups have frequently carried out deliberate and arbitrary killings of civilians and have killed soldiers and others who have fallen into their hands after capture, surrender or having been incapacitated by wounds. They have persistently held civilian captives hostage and in some cases have murdered them. All such acts are in direct violation of the principles laid down in international humanitarian law and in particular as set out in Common Article 3 of the Geneva Conventions.

The implementation of the following recommendations would be a practical expression of the government's stated commitment to ending human rights violations.

Prevent human rights violations:

Detainees should be held only in officially recognized places of detention. Accurate information on their custody and whereabouts, including transfers, should be made promptly available to their relatives and lawyers.

Procedures for the supervision of interrogation sessions should be revised to introduce safeguards against torture or ill-treatment. As an additional safeguard, the presence of the detainee's lawyer should be considered essential during interrogation sessions, particularly when the detainee signs any statement.

Clear instructions should be given to all armed forces commanders that under no circumstances should civilians be compelled to act as guides, porters or human shields.

Counter-insurgency patrols should immediately transmit to their bases the names of people detained, and of people injured or killed in armed confrontations. This information should then be transmitted to the relevant civilian authorities.

The human rights ombudsmen, or other appropriate civilian authorities, should be informed by the arresting agency immediately of any arrest as opposed to providing a list of detainees every 24 hours as required by Colombian law.

Up-to-date local and central registers of detention should be maintained and made available on request to relatives, Public Ministry officials, judges, lawyers and representatives of human rights organizations. The authorities should reveal without delay where detainees are held.

Detainees should be released in the presence of civilian judicial or public ministry officials in order to verify that the release occurred.

All military uniforms, including those of the Mobile Brigades, should be clearly marked with the insignia of the battalion or detachment. Police and military vehicles should be clearly identified as such and should display licence plates at all times.

Take steps to end impunity

Members of the security forces implicated in extrajudicial executions, "disappearances" or torture should be immediately suspended from any position of authority and from all duties in which they have contact with detainees or others at risk of human rights violations.

Security force personnel against whom there is evidence of involvement in extrajudicial executions, "disappearances", or other human rights violations, should be prosecuted. This principle should apply no matter how much time has elapsed since the commission of the crime. Because of the persistent failure of the military justice system to hold impartial trials, all investigations and trials should be in civilian courts. The perpetrators should not benefit from any legal measures exempting them from criminal prosecution or conviction.

Investigations should establish chain-of-command responsibility for human rights violations and should investigate patterns of human rights violations as well as individual cases. Anyone found to have ordered, committed or covered up human rights violations should be brought to justice.

Steps should be taken to ensure that military personnel cooperate with investigations and that members of the judiciary investigating human rights violations are given

adequate protection.

The government must make special efforts to protect the security of relatives, witnesses, lawyers and journalists collaborating with investigations of human rights violations.

Disband the paramilitary forces

The government should immediately fulfil its commitment to disband “death squads”, so-called private armies and paramilitary forces presently operating as auxiliaries of the armed forces or with armed forces' complicity. Members of such forces responsible for extrajudicial executions, torture, “disappearances” or other human rights violations should be brought to justice. Perpetrators should not be allowed to benefit from any legal measures exempting them from criminal prosecution or conviction.

Those responsible for organizing, financing or otherwise supporting paramilitary groups should be held accountable before the law for their illegal activities.

Military commanders should be held accountable for the actions of civilian auxiliaries attached to their units, taking part in joint operations with troops under their command, or otherwise operating with their assistance and under their authority.

Strengthen official human rights agencies

The government should review the work of all official human rights agencies in order to assess the extent to which they are fulfilling their objectives.

Necessary resources, both human and material, must be provided to enable official human rights bodies to play their designated role in preventing and investigating human rights violations.

End the use of anti-terrorist legislation to criminalize social protest

Legislation introduced to deal with crimes by drug-traffickers and guerrilla groups should not be applied to civilians engaged in non-violent social or economic protests.

The government should amend the laws regulating the regional courts established under the Public Order jurisdiction to reflect Principle 5 of the UN Basic Principles on the Independence of the Judiciary, which states:

“Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.”

Protect human rights defenders

The government should ensure that human rights defenders, including all members of independent human rights monitoring and reporting groups, receive the full protection of the law so that they can carry out their vital work. All instances of human rights violations directed against staff of such organizations must be fully investigated and the perpetrators brought to justice.

The government should take steps to end harassment, threats and intimidation against human rights defenders, including public statements by armed forces commanders attempting to discredit the work carried out by human rights organizations by linking them with armed opposition movements.

Provide victims of human rights violations with assistance and compensation

The government should take steps to ensure respect for the fundamental human rights of people who have been internally displaced by the conflict. Concrete measures should be taken to ensure they receive protection and assistance.

The state should provide appropriate reparation and compensation to the victims of human rights violations.

International governmental organizations

The government should again invite the UN Working Group on Enforced or Involuntary Disappearances and the UN Special Rapporteur on Summary or Arbitrary Executions

to visit Colombia in order to monitor the implementation of recommendations made after their visits in 1988 and 1989 respectively.

Establish an independent commission of inquiry

The phenomenon of impunity is one of the root causes of the continuing pattern of gross human rights violations in Colombia. Victims, their relatives and society at large all have a vital interest in the truth about past abuses and in the clarification of unresolved human rights crimes. Similarly, bringing the perpetrators to justice is not only important in respect of the individual case; it also sends a clear message that human rights violations will not be tolerated and that those responsible will be held fully accountable. Despite radical reforms to the justice system and the introduction of measures to strengthen the Public Ministry, the number of conclusive investigations remains very small. Political and technical difficulties have resulted in the suspension or closure of the vast majority of investigations into serious human rights violations without ever uncovering the full truth or establishing responsibilities. A new approach is required to break the self-perpetuating cycle of violence in which continuing violations of human rights are cloaked and fuelled by impunity.

The government should establish a commission of inquiry with the following attributes and terms of reference:

The commission should be independent from government and its mandate should reflect this.

The commission should consist of people known for their integrity and impartiality of judgment who shall decide matters before them on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, or threats or interferences from any quarter or for any reason. The commission's members should have a proven expertise and competence in the field of protecting and promoting human rights and should be drawn from a variety of different backgrounds, including relevant professional groups and the non-governmental sector. They should be selected in a fair and transparent manner and should be afforded all necessary guarantees of independence and broad representation. The terms of appointment of commission members, tenure and removal should be clearly specified in the commission's charter.

The commission should be able to draw on sufficient human and material resources to conduct thorough, effective and efficient investigations.

The commission should be directed to establish effective cooperation with the widest possible range of sectors of society who are in a position to supply it with information, particularly national human rights organizations and organizations of relatives of victims, which have systematically investigated and documented cases of human rights violations and abuses.

All Colombians should be granted access to the commission. Victims' relatives should be kept informed of hearings and all other information relating to the investigation of their case, to which they should have access and be allowed to present evidence.

The commission should also be empowered to receive information and statements from relatives, witnesses and organizations outside the country.

All those who collaborate with the commission as witnesses or complainants should be offered effective guarantees for their safety.

The commission should have access to statements, documentary evidence and other information relating to military or security force intelligence relevant to the cases and situations under investigation. Medical-legal records and existing court files should be placed at its disposal.

Civilian or military officials, whether retired or in active service, should be compelled to cooperate with the commission's inquiries.

The commission should have precisely defined powers to investigate on its own initiative, without having to receive formal complaints, situations and reports

of human rights violations.

The results of the commission's investigations should be referred to the civilian judicial authorities without delay. Anyone the commission alleges to have been responsible for committing human rights violations or to have ordered, encouraged or permitted them, should automatically be brought to justice.

The commission should seek to establish chain-of-command responsibility, so that judicial proceedings may be initiated against superior officers for acts committed under their authority.

The commission should be able to draw on the services of experts in the field of pathology, forensic anthropology and ballistics, in order to carry out the search, recovery and identification of human remains and to determine the cause and circumstances of death, as well as to verify allegations of torture. The methodology to be employed in exhumations, autopsies and forensic analyses should conform to the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary or Summary Executions.

The commission should be charged with conducting a national study of the underlying causes of human rights violations in Colombia, including the failure of existing institutions and legal mechanisms to protect human rights. Such a study, which could draw upon authoritative investigations already carried out by official and independent bodies, could recommend measures to ensure the effective implementation of human rights safeguards.

The government should undertake to make public the findings of the commission of inquiry.

Recommendations to armed opposition groups

Amnesty International calls on all armed opposition groups in Colombia to prevent their members from committing abuses and to publicly commit themselves to respect international humanitarian standards. In particular, the leadership of each guerrilla organization should take the following steps:

Order its fighters to treat prisoners, the wounded and those seeking to surrender humanely, whether the prisoners are civilians or members of the armed forces, and never to kill them.

Prohibit deliberate and arbitrary killings of non-combatants under any circumstances.

Ensure that no captives are held as hostages. Immediate measures should be taken to identify any people so held and ensure their immediate safe release.

Ensure that landmines are not employed to deliberately kill or maim civilians.

Conduct proper investigations into alleged abuses by guerrilla combatants in order to determine responsibility.

Ensure that individuals suspected of committing or ordering abuses such as deliberate and arbitrary killings, the taking of hostages or the torture or ill-treatment of captives, should be removed from any position of authority and all duties which bring them into contact with prisoners or others at risk of abuse.

#### ENDNOTES

<sup>1</sup> The Andean Commission of Jurists has compiled its statistics from surveys carried out by a number of official agencies and non-governmental organizations.

<sup>2</sup> Many homeless people earn a precarious living in Colombia by collecting discarded paper, cans, and other recyclable refuse, for resale.

<sup>3</sup> According to the 1991 Constitution, the state of "internal commotion" is only renewable for two 90-day periods.

<sup>4</sup> Executive imposed confinement or internal exile

<sup>5</sup> The Magdalena Medio follows the Magdalena River through a large area of central Colombia between two mountain chains covering parts of the departments of Cundinamarca, Boyacá, Cesar, Antioquia, Caldas, Santander and Bolívar.

<sup>6</sup> For more information on ACDEGAM and its activities in the 1980s, see Colombia: Human Rights Developments . “Death Squads” on the Defensive?, AMR 23/38/89, September 1989.

<sup>7</sup> Jaime Rueda Rocha was on the run. He had escaped from a high-security prison where he was awaiting trial for assassinating presidential candidate Luís Carlos Galán.

<sup>8</sup>Both the police and the armed forces have internal disciplinary procedures. Very little information is made publicly available about the results of these proceedings. In 1992 the National Police presented Amnesty International with a report on disciplinary proceedings. According to this, 640 members of the National Police were dismissed from service during 1990 and 1991 for violating human rights. Of these 57 were found guilty of homicide and a further 210 were under investigation for homicide. No details of the cases were provided. Between 1989 and 1991, over 3,600 police agents were dismissed from service for misconduct. However, the nature of the misconduct was not specified. Although the National Police has generally taken vigorous and rapid action against police personnel accused of common crimes, particularly in relation to drug-trafficking, action against police agents implicated in politically motivated human rights violations is unknown.

<sup>9</sup> Defined as multiple killings of four or more people.

<sup>10</sup> Article 91 of the Colombia Constitution states: “In the event of a manifest infraction of a constitutional provision which detrimentally affects another person, the fact that a state employee acted on superior orders does not exempt the agent from responsibility. Active service military personnel are excluded from this provision. With respect to the latter, responsibility lies solely with the officer giving the command”.

<sup>11</sup> E/CN.4/1992/18, paragraph 367, December 1991.

<sup>12</sup> E/CN.4/1993/61/Add.3, 6 September, 1993.

In human rights terms Colombia is a paradox. Known as one of the most stable democracies in Latin America, it has a tradition of civilian, democratically elected government, only briefly interrupted by military dictatorship in the 1950s. Successive civilian governments have issued public commitments to upholding human rights and taken steps to construct mechanisms to safeguard civil and political rights. Yet behind this facade of stability and democracy is a country plagued by internal conflict and appalling levels of violence.

Colombia has one of the highest murder rates in the world. No one is safe: from the scavenger killed so that his corpse can be chopped up and sold on the black market for body parts, to the topmost politician, murdered to deliver a warning to the government. The violence touches all sectors of Colombian society. Most deaths result from social and street crime, but a steadily growing proportion of violence in Colombia is politically motivated. Since 1986, over 20,000 people have been killed for political reasons – the majority of them by the armed forces and their paramilitary protegés.

Colombia prides itself on its democracy – political opposition is legal and democratic elections are held. Yet although political parties and independent organizations are free to operate, deciding to do so can be tantamount to signing your own death warrant. Members of all political parties, including the ruling Liberal Party, have been assassinated because of their political views. Perhaps the most dramatic expression of political intolerance in recent years has been the systematic elimination of the leadership of the left-wing coalition Patriotic Union (UP). Over 1,500 of its leaders, members and supporters have been killed since the party was created in 1985.

Anyone who takes an active interest in defending human rights, or investigating massacres, “disappearances” or torture, is in a similar position. What they are doing is perfectly legal, yet the mere fact of doing it can result in torture and

death. Human rights activists, people who campaign for better conditions in the shanty towns, lawyers conducting independent inquiries, victims' relatives seeking the truth and perhaps some redress, judges, trade unionists, teachers and Indian leaders have all been singled out and deliberately killed because they were perceived in some way as a threat.

Many of the other victims of political violence in Colombia died in confrontations between guerrillas and government forces. But the overwhelming majority of people killed for political reasons in recent years were unarmed civilians who took no part in the conflict, peasant farmers living in areas of guerrilla activity and intense counter-insurgency operations. The doctrines of "collective responsibility", applied in Guatemala, and more recently in Peru, and El Salvador's "removing the water from the fish" – whereby civilians are seen as legitimate targets simply because they live in areas where guerrillas operate – have produced widespread slaughter in rural Colombia.

But this is the other Colombia: an image of the country which does not feature in the headlines of the international media. Some governments are adept at concealing their responsibility for gross human rights violations. Successive Colombian governments have largely escaped international criticism because of a skilful mix of political initiatives, public relations campaigns and the support, in the international arena, of powerful allies for whom Colombia's strategic and economic significance is of far more importance than its human rights record. This support goes beyond passivity in the face of gross abuses. Colombia's backers, notably the United States of America, have also remained silent when aid destined to combat drug- trafficking was diverted to finance counter-insurgency operations and thence the killing of unarmed peasants.

The violence has many causes, a variety of actors and marked regional variations. This very complexity has been used by successive governments to confuse public opinion about the true nature and the scale of political violence. Some influential sectors of Colombian society have attempted to justify human rights violations as an inevitable and justifiable consequence of the civil conflict. But a more common response, and the official one, has been to disclaim responsibility by attributing the great majority of human rights violations, and particularly political killings, to forces which the government claims it cannot control.

The government persistently attributes responsibility for most political killings to drug-trafficking organizations and guerrilla forces. Drug-trafficking organizations have resorted to violent crime with campaigns of indiscriminate bombings and the assassination of government ministers, judicial officials, journalists and many others who opposed their criminal activities. However, the perception of drug-trafficking as the principal cause of political violence in Colombia is a myth.

Human rights violations by state agents have taken place in the context of a long-running civil conflict between the armed forces and numerous guerrilla groups. As a result of this conflict, Colombia has spent most of the past four decades under a state of siege, governed by state of emergency powers which the armed forces and their paramilitary allies have used to repress anyone who challenges the status quo. Guerrilla groups active in Colombia in recent years have also contributed to the spiral of violence with persistent disregard for the minimum humane standards established in international humanitarian law. Abuses for which they have been responsible include the kidnapping and holding hostage of hundreds of civilians and the deliberate and arbitrary killing of civilians not party to the conflict and members of the armed forces who are hors de combat.

Statistics compiled by independent bodies and by the government itself clearly show that by far the greatest number of political killings are the work of the Colombian armed forces and the paramilitary groups they have created. These paramilitary

organizations, which now draw upon the support of private interests, including the so-called drug barons, blur the distinctions between public and private power and between common crime and state repression. The military's management of repression, so that plainclothes agents of the state are virtually indistinguishable from common criminals (and may indeed be both), provides the government with a second line of defence against accusations of human rights violations. Successive governments have claimed that the paramilitary groups are independent organizations over which they have no control and thereby abrogated responsibility for thousands of political killings and "disappearances".

This terrifying alliance between the forces of the state, and those of private individuals and organized crime is one of the key factors underpinning the cycle of violence in Colombia. Since the mid-1980s – when the military forged an alliance with the drug barons to combat the left through its paramilitary "self-defence" structures – it has produced wave upon wave of human rights violations committed with impunity. Only exceptionally have those responsible been brought to justice and then usually only in cases with no apparent political motivation. Members of the armed forces and members of paramilitary groups implicated in political killings and "disappearances" have been placed beyond the reach of the law, shielded from prosecution by the military. When there is any possibility that members of the armed forces might face charges in the civilian courts, the military courts automatically claim and usually win jurisdiction over the case. Paramilitary leaders responsible for wholesale massacres and sought by the judicial authorities remain at large and associate openly with army officers.

The effect of impunity goes beyond just giving the military the confidence to murder at will without fear of prosecution. When impunity prevails, the rule of law breaks down in society at large. The fact that the Colombian security forces and the paramilitary death squads have been seen to murder with impunity has undoubtedly created the conditions in which violence flourishes. When the security forces literally get away with murder on a daily basis, impunity becomes part of a nation's life. The rule of law disintegrates, causing an epidemic of casual murder in which the poor and others on the margins of society are systematically eliminated. This is a major cause of the phenomenon of "social cleansing" in which hundreds of people have been killed by shadowy "death squads" who have the tacit support, and often the participation, of the security forces to rid Colombia's towns and cities of those sectors of society considered "disposable": vagrants, street children, homosexuals, prostitutes and suspected delinquents.

This was the legacy inherited by President César Gaviria Trujillo, who began a four-year term of office in August 1990. The Gaviria government has repeatedly issued public pledges that human rights would be respected. The President has publicly recognized that human rights violations are widespread and carried out with impunity. In his inaugural speech, he denounced the paramilitary groups as criminal organizations and declared that his government would spare no effort to disband them. His government has also publicly acknowledged the links between the armed forces and the paramilitary.

The government has also taken practical steps to create human rights mechanisms and to incorporate human rights safeguards in national legislation. A new Constitution, written by a popularly elected, representative assembly in 1991, incorporated extensive references to human rights, including the right to physical integrity and to be protected against enforced disappearance. The Constitution also provided safeguards against arbitrary state action, by creating the post of People's Defender and the right of tutela, which enables citizens to seek rapid legal redress if their fundamental rights are violated or threatened.

The government's public promises to protect human rights and the promulgation of the new Constitution with its radical judicial and political reforms generated

considerable optimism in the country and the expectation that improved respect for civil and political rights would follow. Hope for the future was further fuelled by peace agreements with a number of the country's guerrilla groups. However, the optimism and expectation soon evaporated as peace talks with the remaining guerrilla organizations broke down and it became clear that the gap between law and practice remained as wide as ever. So far, most of the much-vaunted new human rights protection mechanisms have existed only on paper.

These positive words and positive steps may have had little measurable impact on the continuing reality of political violence in Colombia. They have, however, generated a smokescreen of human rights protection which has helped hide the fact that other measures and steps the government has taken seriously threaten human rights. Although the new Constitution upheld human rights, it also effectively guaranteed that impunity will continue. It reaffirmed the right of the military courts to jurisdiction over crimes attributed to armed forces' personnel, and introduced their right to jurisdiction over crimes committed by the police. This effectively excludes human rights violations from investigation by civilian courts. The Constitution also introduced immunity from prosecution on grounds of "due obedience" – whereby junior officers and rank and file members of the armed forces are exempt from punishment if they can demonstrate that they acted under orders. At the same time, avenues of social protest are being closed. Economic reforms, principally the adoption of measures promoting a free market economy, have exacerbated social tensions and fuelled protest in recent years. Previous governments have used emergency powers not only against the guerrillas, but also to control and stifle social protest. Under the present government social protest has been criminalized through the arbitrary use of anti-terrorist legislation, ostensibly introduced to deal with drug-trafficking crimes and guerrilla activity. In the past three years, the number of political prisoners has soared to over 1,000, many of them imprisoned on spurious charges of terrorist offences.

In January 1992 a government-sponsored commission gave a damning indictment of official failure to protect human rights, when the Commission to Overcome Violence published the findings of its study into political violence. The study, which was commissioned by the Presidential Peace Adviser and the Presidential Human Rights Adviser, grew out of peace agreements between the government, and the Popular Liberation Army (EPL) and Quintín Lame guerrilla organizations in 1990. The Commission observed that despite the peace agreement political violence and human rights violations had not been curbed:

"[Among] the principal factors which permit and encourage violations of human rights ... are the criminalization of social protest, the inappropriate powers conferred on military and police authorities in relation to civilians, the impunity associated with a lax interpretation of military jurisdiction, the illegal practices carried on in association with other sectors, notably in the collaboration with the paramilitary and in 'social cleansing' campaigns and, finally, the absence of adequate responses from the executive, through its failure to hold the [military] commanders who have been accused of repeated violations ... politically responsible for their acts".

Two years on, nothing has changed. The government has failed to implement effectively the provisions for respect of human rights and the patterns of gross human rights violations, including extrajudicial executions and "disappearances", have continued unchecked. Crucially, the problem of impunity has not been tackled. In recent years, official investigations by the judiciary and the Public Ministry, as well as independent bodies, have produced substantial evidence of army and police responsibility for gross human rights violations. The government has singularly omitted to ensure that those responsible are brought to justice.

On 10 November 1993 the government announced that Lieutenant-Colonel Becerra,

commander of the Palacé Battalion in Valle de Cauca department, had been discharged from the army. His dismissal followed reports that troops under his command had massacred 13 people in the municipality of Riofrío. This was not the first time Lieutenant-Colonel Becerra had been implicated in serious human rights violations. In 1988 he was involved in the massacre of 21 banana plantation workers in Urabá. Although a warrant was issued for his arrest, he was neither taken into custody nor brought to trial. He was, in fact, promoted. His career provides a striking example of how impunity leads to further human rights violations.

Enduring and systematic human rights violations such as have been seen in Colombia in recent years require particularly vigorous action. Although the Colombian government may not itself have instituted the policies which have resulted in systematic human rights violations, it is clearly bound by national and international law to ensure the armed forces act within the law. The government's failure to take decisive action to bring those responsible for widespread abuses to justice and to demonstrate that further human rights violations will not be tolerated is more than a tragic omission; it fuels the cycle of violence.

The failure to ensure respect for human rights and the rule of law cannot be compensated for by the introduction of numerous largely ineffectual measures ostensibly designed to safeguard human rights, but which in reality have mainly served to protect the government's national and international image. Any lasting improvement in respect for fundamental human rights in Colombia will depend on the government exercising the political will necessary to ensure that measures to protect human rights are rapidly and effectively implemented and that perpetrators are brought to justice.

#### Amnesty International on Colombia

Amnesty International has followed the human rights crisis in Colombia with growing concern since the 1970s, when the organization's main concerns were the torture, ill-treatment and unfair trials of political prisoners and the imprisonment of prisoners of conscience. During the early 1980s the pattern of human rights violations changed dramatically. The number of political prisoners declined steadily. But at the same time, growing numbers of reports were received of extrajudicial executions and "disappearances" attributed to both the security forces and the nascent paramilitary organizations. Amnesty International repeatedly drew the Colombian government's attention to the gross violations of fundamental human rights committed by forces under its authority and urged vigorous and effective action to halt the abuses. In 1988, alarmed at the dramatic upsurge in political killings, Amnesty International launched an international campaign to press for urgent measures to halt the slaughter. Since then successive governments have introduced numerous human rights initiatives. The abuses, however, have continued unabated.

This report documents the continuing pattern of gross human rights violations in Colombia under the government of President César Gaviria. It describes the structures within the Colombian armed forces responsible for the creation of paramilitary organizations in the 1980s and exposes the continuing close links between the army and the now illegal paramilitary forces. The report also describes the mechanisms of impunity by which members of the Colombian security forces have evaded and, in many cases, perverted the course of justice and the increasing harassment of human rights defenders in Colombia. In addition, the report documents violations of the principles of international humanitarian law by armed opposition groups.

Amnesty International's information comes from a wide variety of sources including victims, witnesses, non-governmental human rights organizations, church workers, lawyers groups and official and government sources. This report is based on research undertaken by Amnesty International over a number of years during which the organization has visited Colombia regularly in order to verify reports of human

rights violations in different areas of the country and to discuss its concerns with the government. During its visits to Colombia, Amnesty International has received the full cooperation of national and regional authorities.

inter captions

Members of an elite counter-insurgency unit of the Colombian armed forces. @ASCODAS  
Displaced woman and her children in the oil-refining port of Barrancabermeja. She is reading a newspaper headlined: "The dirty war is a disgrace". The military and paramilitary offensive in rural Colombia has resulted in a massive displacement of the peasant population. Tens of thousands of people have fled their communities, to seek refuge in the cities where they eke out a precarious existence in the shanty towns. Most of the displaced are women and children. @Jenny Matthews

Wall-painting in Ciudad Bolívar, a poor neighbourhood on the outskirts of Bogotá, where scores of youths have been killed by "death squads". The slogan reads: "Our youth, for life, for our dreams, for the future". @Jenny Pearce

A car bomb explodes in central Bogotá on 15 April 1993, killing 11 people. This was one of several bomb attacks by drug-traffickers in Colombia's major cities. Drug-related violence has undoubtedly contributed to the dramatic proliferation of political violence in recent years. However, the perception of drug-trafficking as the principal cause of political violence in Colombia is a myth. @Carlos Angel/Gamma

Victims of the massacre in the village of Alto de la Loma, Valle de Cauca department, in October 1993, in which 13 people were killed by the security forces. Six of them were women, who were first raped. @ASCODAS

Indigenous protest in Coiyama, Tolima department. The banner reads: "Stop the killing of indigenous peoples". @Luc Schneekloth/Utopías