

# COLOMBIA

## Human Rights and USA Military Aid to Colombia

### **Introduction**

On July 13, 2000 United States President Bill Clinton signed Public Law 106-246, which included \$1.3 billion in aid to Colombia. The bulk of this aid is for Colombia's military.

Section 3201 of the law establishes specific human rights conditions for military assistance to Colombia, included in this document as Appendix A.

As required by law, the State Department held consultative meetings with non-governmental organizations (NGOs) in both Washington, D.C. and Bogotá, Colombia. On August 17 and 18, various human rights organizations, including the Washington Office on Latin America (WOLA), Human Rights Watch, and Amnesty International, met with officials of the State Department and other US governmental departments and agencies in Washington, D.C. to discuss Colombia's compliance with these conditions.

The following document outlines the evidence presented jointly by WOLA, Human Rights Watch and Amnesty International. All three organizations concluded that there was overwhelming evidence demonstrating that Colombia has not met these conditions.

On August 22, 2000, President Clinton invoked Section 4 of the law, waiving the human rights conditions on the grounds of U.S. national security interests. We deplore this decision.

In this report, we set out each of the human rights conditions mandated by Congress and then review the record of the Colombian government and military.

This document is jointly published by Amnesty International, Human Rights Watch and the Washington Office on Latin America.

## **Certification**

### **CONDITION (A)(i): Civilian Court Jurisdiction**

This condition requires:

“(A) (i) the President of Colombia has directed in writing that Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights will be brought to justice in Colombia’s civilian courts, in accordance with the 1997 ruling of Colombia’s Constitutional court regarding civilian court jurisdiction in human rights cases;”

#### **This condition has not been met.**

A directive that meets this standard has not been issued.

#### **Colombian Political and Judicial Context**

On August 5, 1997, Colombia’s Constitutional Court, the highest constitutional authority in the country, ruled that all cases involving alleged human rights violations, including those that involve security force personnel, must be heard by civilian courts (Sentence No. C-358/97). In its ruling, the court noted:

The simple fact that [a security force member] is on active duty does not exempt them from being subject to the criminal code. The prerogatives and official nature that members of the public force are endowed with lose all relation to their service when they are deliberately used to commit common crimes, which do not cease being common crimes simply because this state agent has used the aforementioned prerogatives and official nature [to commit them].

The Court established rules for determining when, on an exceptional basis, conduct by active-duty members of the military or police may be considered a service-related act subject to the jurisdiction of the military courts, in accordance with Article 221 of the Constitution. The Court said:

[F]or an offense to come under the jurisdiction of the military criminal courts there must be a clear nexus of origin between it and the activity of the service, i.e., the punishable act should come about as an overstepping of the bounds of or abuse of authority in the context of an activity directly linked to a proper function of the armed institution . . . . The excess or exceeding of authority must take place during the performance of a task that itself constitutes a legitimate development of the missions of the Military Forces and the National Police.

The Court added:

[T]he link between the criminal act and the service-related activity is broken when the offense is extremely grave, as is the case of what are known as crimes against humanity. In these circumstances, jurisdiction in the case must be conferred on the regular courts, given the total contradiction between the offense and the constitutional missions of the Military Forces and National Police.

In Colombia, under Article 243 of the Constitution, the rulings of the Constitutional Court are binding and obligatory.<sup>1</sup>

However, in numerous cases, some outlined below, military judges have abused this mechanism and flouted the law by challenging civilian jurisdiction in cases that clearly involve credible allegations of human rights violations by security force officers. This is one of the cornerstones of impunity in Colombia. Repeatedly, military judges use the specious argument that the case belongs before a military tribunal solely because the accused is a member of the armed forces and was on duty at the time of the alleged crime. In other words, any criminal act becomes an “act of service” simply because the accused was wearing a uniform or was on active duty.

Unfortunately, the Superior Judicial Council (*Consejo Superior de la Judicatura, CSJ*), charged with resolving these disputes, has traditionally demonstrated bias in favor of the military justice system in defiance of the Constitutional Court. Far from moving to enforce the law, President Pastrana continues to shield this source of impunity.

On June 2, 2000, the Association of Family Members of the Detained and Disappeared (*Asociación de Familiares de Detenidos Desaparecidos-Colombia, ASFADDES*), the Citizenry Alive Corporation (*Corporación Viva la Ciudadanía*), and the Colombian Commission of Jurists (*Comisión Colombiana de Juristas, CCJ*) filed a petition (*derecho de petición*) calling on the President to issue a written directive to the Armed Forces ordering its commanders to abstain from initiating jurisdictional disputes over cases involving credible allegations of human rights abuses by security force officers. Such a directive would satisfy condition 1 (A) (i).

President Pastrana failed to respond to the petition before the legally mandated deadline. After these organizations filed a constitutional challenge (*acción de tutela*) compelling a reply, Defense Minister Luis Ramírez responded for the Pastrana Administration by refusing to issue this directive.

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<sup>1</sup>Article 243 provides: “The rulings of the Court in the exercise of constitutional review become *constitutional res judicata*.”

It is revealing to examine his reasons. Minister Ramírez argued that military tribunals had already transferred 533 cases to civilian jurisdiction. Minister Ramírez concluded, “[these] statistics are significant enough to show that the military jurisdiction is complying with great diligence with the limits of military jurisdiction set out in [ruling C-358/97]”.

**We dispute this claim.** In a review of 103 cases transferred from military tribunals to civilian jurisdiction since the beginning of 1997, we found that only fifty-one related to members of the military (the rest were police officers). Of that number, twelve had been accused of common crimes like allowing prisoners to escape, theft, and drug trafficking. Only thirty-nine related in some way to crimes that could be construed as human rights violations, like murder. Most of these cases involved low-ranking sergeants and lieutenants. In other words, fewer than ten cases per year are transferred from military to civilian jurisdiction, and these rarely involve senior officials who may have ordered or orchestrated gross violations. Despite repeated requests to the Colombian government, including by U.S. Congressional offices, the Colombian government has failed to provide details of the remaining 430 cases they claim were transferred.

Minister Ramírez went on to say that since the CSJ adjudicates these cases and is, he claimed, independent, there is no evidence that military tribunals seize jurisdiction over cases that properly fall outside their sphere. However, this is contradicted by the State Department’s own human rights reporting as well as by detailed information compiled by the United Nations High Commissioner for Human Rights, Amnesty International, Human Rights Watch, and dozens of other groups. This year, the State Department concluded that “CSJ rulings indicated that it did not always consider itself bound by the Constitutional Court’s 1997 directive when determining whether cases involving security force personnel belonged in the military or civilian judiciaries . . . . The CSJ assigned most cases involving high-level military personnel to the military courts, where convictions in human rights-related cases were the rare exception. . . . In determining which alleged crimes were to be tried by military tribunals, the CSJ also regularly employed an extremely broad definition of acts of service, thus ensuring that uniformed defendants of any rank, particularly the most senior, were tried in military tribunals.”

Indeed, even military officers have charged that their own tribunals are unfair, cover up crimes and shield high ranking officers. In letters to Colombia’s CSJ and Constitutional Court, Lt. Col. Hernán Orozco, who alerted his superiors to the 1997 Mapiripán massacre, requested that the court overturn the CSJ decision to send his case to a military tribunal. “It is unthinkable that [military tribunals] would allow the prestige of a general of the Republic to be questioned with a guilty verdict, and exonerate a subordinate, even if that subordinate is innocent. . . . I maintain the absolute conviction that the military justice system is not impartial. . . . and cannot prosecute with fairness high-ranking military personnel implicated in crimes against humanity.”

As far as we have been able to determine, the military has never transferred the case of an officer with the rank of colonel or higher from a military tribunal to a civilian court.

Finally, Minister Ramírez suggested that the required directive would violate judicial independence. **We dispute this claim.** Such directive would in no way interfere with due process or the independence of the judiciary. Moreover, the President not only has the power to issue this directive, but the constitutionally-mandated duty to do so.

The President is the commander-in-chief and can order his subordinates in the Armed Forces to cease disputing these cases and thereby uphold the law. Specifically:

- (i) The President of the Republic has the authority and the duty to direct the Military Forces and National Police and, therefore, to give them orders that must be obeyed by each and every one of their members (Article 189.3 and Article 4 of the Constitution).
- (ii) The order that the President of the Republic should give is an obligation that stems from the duty of the government to ensure that judicial rulings are carried out, and to respect and enforce the laws (Articles 201.1 and 189.10 of the Constitution).
- (iii) The President of the Republic should implement the recommendations on human rights made by the organs of the international community authorized to do so by international law (Articles 5, 93, and 224 of the Constitution).

Not only has the Pastrana administration been unwilling to take the affirmative measures needed to address impunity, it has also worked to block legislation designed to implement the Constitutional Court ruling, measures that would ensure that human rights violations are tried within the civilian court system. During the Congressional debate regarding the law to criminalize forced disappearance (now Law 589 of 2000), the President presented objections to the proposed law that were designed to exclude Article 7 from the bill. This article stipulated that the crimes of genocide, forced disappearance, and torture must be tried within the civilian court system. The presidential objections were not only without merit, but they also ran contrary to the President's human rights mandate.

Moreover, the military claims proudly that it continues to prosecute cases involving human rights violations, in open defiance of the Constitutional Court decision. In a statistical table that covers 1997-1999, precisely when all of these cases should have been transferred to civilian jurisdiction, the Military Superior Tribunal reported that it issued 271 "condemnations" for human rights crimes.

#### International Context International jurisprudence

The position of the United Nations Human Rights Committee, as well as that of the Inter-American Commission on Human Rights of the Organization of American States, is clear on the issue of civilian versus military jurisdiction. In defining the

scope and content of the obligation of States in terms of guaranteeing an effective recourse for the victims of human rights violations, and of bringing those responsible for abuses before courts of justice, both international bodies have insisted that States guarantee that members of the military implicated in human rights violations be brought before civilian criminal tribunals and not before military tribunals.

The U.N. Human Rights Committee has repeatedly reiterated the obligation of States to investigate, process, and punish state agents who are authors of violations of human rights and, in particular, in cases of extrajudicial executions, torture and "disappearances".<sup>2</sup> In its decision regarding the case of Nydia Erika Bautista de Arrellana in Colombia, the Human Rights Committee stated that:

the State party is under a duty to investigate thoroughly alleged violations of human rights, and in particular forced disappearances of persons and violations of the rights to life, and to prosecute criminally, try and punish those held responsible for such violations. This duty applies *a fortiori* in cases in which the perpetrators of such violations have been identified.<sup>3</sup>

The Human Rights Committee has stated clearly that this obligation implies that those responsible for such abusive acts should be processed by civilian courts and not by military tribunals, and it has encouraged those States that maintain military exemptions in matters involving human rights violations to transfer those cases to the competence of civilian criminal courts.<sup>4</sup>

Similarly, in its April 1997 observations and recommendations to Colombia, the U.N. Human Rights Committee specifically urged that:

[A]ll necessary steps be taken to ensure that members of the armed forces and the police accused of human rights abuses are tried by independent civilian courts and suspended from active duty during the period of investigation. To this end, the Committee recommends that the jurisdiction of the military courts with respect to human rights violations be transferred to civilian courts and that investigations of such cases be carried out by the Office of the Attorney General and the Public Prosecutor. More generally, the Committee

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<sup>2</sup>Cases N\_30/1978, N\_107/1981, N\_146/1983, N\_161/1983, N\_194/1985, and N\_25/1978

<sup>3</sup>United Nations document, CCPR/C/55/563/1993, of 13 November 1995, par. 8 (6).

<sup>4</sup>United Nations document: [Observations and Recommendations - Colombia](#), M/CCPR/92/18; [Observations and Recommendations - Colombia](#), CCPR/C/79/ Add.76; [Observations and Recommendations - Colombia](#), CCPR/C/79/Add.2; [Observations and Recommendations - Egypt](#), CCPR/C/79/Add.23; [Observations and Recommendations - Brazil](#), CCPR/C/79/Add.66; [Observations and Recommendations - Bolivia](#), CCPR/C/79/Add.74; [Observations and Recommendations - Lebanon](#), CCPR/C/79/Add.78; and [Observations and Recommendations - Chile](#), CCPR/C/79/Add.104.

recommends that the new draft Military Penal Code, if it is to be adopted, comply in all respects with the requirements of the Covenant. The public forces should not be entitled to rely on the defense of "orders of a superior" in cases of violation of human rights.<sup>5</sup>

The United Nations Committee against Torture, in its 1995 conclusions and recommendations to Colombia, concluded that under the Convention against Torture and other Cruel, Inhuman, and Degrading Treatment or Punishment, it does:

not seem to be acceptable [...] the extension of military jurisdiction to deal with ordinary crime by means of the inadmissible expansion of the concept of acts service".<sup>6</sup>

The Inter-American Commission on Human Rights has repeatedly found that military tribunals do not satisfy the criteria of judicial independence and impartiality required of proper courts of justice, as provided for under Article 8 of the American Convention on Human Rights.<sup>7</sup> Indeed, the Commission has affirmed that, in matters of investigation, prosecution, and sanctions against military authors of human rights violations, military tribunals violate the right to justice and gravely infringe on the American Convention on Human Rights.<sup>8</sup>

With respect to military jurisdiction in Colombia, the Inter-American Commission on Human Rights has specifically stated that:

[M]ilitary tribunals do not guarantee that the right to a fair trial will be observed, since they do not have the independence that is a condition *sine qua non* for that right to be exercised. Moreover, their rulings have frequently been biased and have failed to punish members of the security forces whose involvement in very serious human rights violations has been established.<sup>9</sup>

With respect to judging members of the military who are tried before military tribunals for alleged human rights violations, the Inter-American Commission on Human Rights concluded that:

[W]hile the administration of justice in Colombia is poorly served by such a

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<sup>5</sup>United Nations document, Observations and Recommendations - Colombia, CCPR/C/79/Add. 76, par.34.

<sup>6</sup>United Nations document, A/51/44 par. 76

<sup>7</sup>See United Nations document E/CN.4/Sub.2/1992/Add.2, par. 103; Inter-American Commission for Human Rights, Informe sobre la situación de los Derechos Humanos en Chile, 1985, Doc. OEA/S.R.L./V/II.66, par. 139.

<sup>8</sup>See, for example, the Inter-American Commission for Human Rights' Annual Report, 1984-1985, p. 166.

<sup>9</sup>Second report on the Human Rights Situation in Colombia, OEA/Ser.L/V/II.84, Doc. 39 rev, 14 October 1993, p. 245-246.

system, so are the right to a fair trial provided for in the American Convention on Human Rights and the Inter-American system itself, which requires that States parties like Colombia act swiftly to adapt their due process laws to the American Convention.<sup>10</sup>

The limiting of military jurisdiction has been recommended repeatedly by intergovernmental organizations. Yet the Colombian government continues to resist making the necessary changes.

Over more than ten years, a series of authoritative intergovernmental bodies and mechanisms for the protection of human rights have recommended that Colombia limit the competence of military tribunals to crimes that are strictly military, and transfer cases involving human rights violations to civilian criminal jurisdiction. This recommendation has been made by the United Nations Working Group on Enforced or Involuntary Disappearances, the United Nations Human Rights Committee, and was reiterated in 1995 by the U.N. Special Rapporteurs on Extrajudicial Summary or Arbitrary Executions and on Torture of the United Nations; and by the U.N. Special Rapporteur on the Independence of Judges and Lawyers<sup>11</sup>. The Inter-American Commission on Human Rights of the Organization of American States, has also made the same recommendation. Likewise, in both 1999 and 2000, the United Nations Commission on Human Rights, in the Declaration on Colombia by its President, has called on the Colombian authorities to guarantee that cases of military personnel accused of human rights violations be transferred to the civilian criminal justice system.

### **August 17 Directive**

The Colombian government purported to meet this requirement when, on August 17, it released Directive 01. The Directive is based on the entrance into law of the new Military Penal Code. The State Department immediately certified that this directive meets the requirement laid out in Sec. 3201(1) (A) (i).

### **We believe Directive 01 is not satisfactory and should not have been certified.**

Directive 01 is intended to comply only partially with Sec. 3201(1) (A) (i). That condition did not call for *any* directive, but one which directly addressed one of the foundations of impunity in Colombia. Therefore, anything short of full compliance should have resulted in a denial of certification.

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<sup>10</sup>Second report on the Human Rights Situation in Colombia, OEA/Ser.L/V/II.84, Doc. 39 rev, 14 October 1993, p. 103.

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Flouting Constitutional Court ruling 358/97, Colombia's military continues to dispute the jurisdiction of cases involving Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights. As the State Department has reported, these tribunals have a virtually unbroken record of covering up crimes, failing to gather or consider evidence and acquitting implicated officers in the face of overwhelming evidence against them.

Instead of basing himself on the Constitutional Court, President Pastrana used the new Military Penal Code, which specifically cites only three crimes as belonging before civilian courts, not military tribunals. These crimes are genocide, torture and forced disappearance.

This falls far short of the crimes considered "gross violations of human rights" required by the text of the condition.

To comply with Sec. 3201(1) (A) (i), President Pastrana should have used only Constitutional Court ruling 358/97. That ruling stipulates that all alleged gross violations of human rights committed by armed forces personnel belong before civilian courts.

In fact, the crimes most often alleged to have been committed by members of Colombia's Armed Forces are not specifically excluded from military jurisdiction by the Military Penal Code, among them extrajudicial execution, rape and aiding and abetting the atrocities carried out by paramilitary groups.

During prolonged debate over the Military Penal Code bill, Colombia's military lobbied aggressively and successfully against including the wording established by the Constitutional Court, as a way of maintaining a questionable legal foundation for their continued defiance of the law.

### **BENCHMARKS:**

The following benchmarks should be achieved before the U.S. Secretary of State issues a certification of the Colombian government's compliance with this condition:

A. A written directive should be sent by the President of Colombia to the Commander General of the Armed Forces ordering members of the armed forces to cease disputing jurisdiction of cases involving military personnel who are credibly alleged to have ordered, committed or acquiesced in gross violations of human rights, including by aiding or abetting of paramilitary activities, whether directly or by "omission."

### **CONDITION (A)(ii): Suspension of Military Officers**

This condition requires the Secretary of State to certify that:

"(A)(ii) the Commander General of the Colombian Armed Forces is promptly suspending from duty any Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights or to have aided or abetted paramilitary groups;"

**This condition has not been met.**

The condition specifies that any armed forces personnel so accused are promptly suspended. For this condition to be met, therefore all personnel formally implicated in gross human rights violations and/or paramilitary activity by the *Fiscalía* or *Procuraduría* would have to have been suspended, pending the outcome of investigations against them, and such suspensions would need to have been implemented "promptly" -that is, within a very short time frame of a matter of days at most.

“Prompt suspension” can only be reasonably interpreted to mean the rapid suspension of implicated officers from active duty when credible evidence is presented of their involvement in gross human rights or international humanitarian law violations, or their aiding and abetting paramilitary groups, or when formal charges to such effect have been filed against by the *Fiscal* or the *Procuraduría*. These cases should then be sent for investigation to the *Fiscalía* and the armed forces should provide full cooperation in carrying out the investigation. The purpose of this condition is to prevent possible new violations by military personnel accused of human rights violations.

This clearly has not been, and is not, happening. Therefore the condition has not been met. Although President Pastrana has repeatedly declared that he will remove from service those security force officers who have acted outside the law, he has yet to make good on his promises.

Dozens of armed forces personnel who have been implicated in abuses not only remain on active duty today but are in command of troops or carrying out intelligence work, and are regularly promoted. Even when formal charges have been filed by the *Fiscalía* and the soldiers implicated are officially reported to be held in detention, they are often, in fact, still on duty and are free to come and go from military barracks.

In one notorious case, the two army officers who murdered Colombian senator Manuel Cepeda on August 9, 1994, remained on active duty until human rights groups protested against this in 1999. Hernando Medina Camacho and Justo Gil Zúñiga Labrador were able to move freely about Colombia, with Medina continuing to work in intelligence, despite the fact that the *Fiscalía* had issued arrest warrants

against them

Others have left the military facilities where they were reported to be detained. For example, army major David Hernández, arrested in connection with the March 1999 murder of Alex Lopera, a former peace adviser to the Antioquia governor's office, left the base operated by the 4<sup>th</sup> Brigade during the investigation of the case against him, and did not return. Subsequently, another officer implicated in the same murder was also able to leave the 4<sup>th</sup> Brigade unimpeded.

Other armed forces personnel remain on active duty, in some cases in command of field troops, despite credible allegations of their participation in gross human rights violations, or assistance to paramilitary groups. In many cases, armed forces personnel have been allowed by their supervisors to remain on active service despite the fact that charges are known to have been filed against them by the *Fiscalía*.

#### **BENCHMARKS:**

The following benchmarks should be achieved before the Secretary of State issues a certification on the Colombian government's compliance with this condition:

A. The United States should require the suspension of members of the security forces within twenty four hours of the presentation of credible evidence of gross violations of human rights or international humanitarian law; the aiding and abetting of paramilitary groups; or their being formally charged by the *Fiscalía* as suspects in alleged human rights crimes or the aiding and abetting of paramilitary groups.

B. The United States should obtain a list of the names and ranks of military personnel who have been suspended from duty since August 1997 as a result of credible allegations that they committed gross violations of human rights or aided or abetted paramilitary groups, together with the dates of their suspension. The U.S. Embassy should update this list at three-month intervals and distribute it to the appropriate congressional committees and the human rights groups included in the consultation process required for certification.

C. The United States should obtain a list of names and ranks of military personnel who have not been suspended from duty since August 1997 despite credible allegations that they committed gross violations of human rights or aided or abetted paramilitary groups. The U.S. Embassy should update this list at three-month intervals and distribute it to the appropriate congressional committees and the human rights groups included in the consultation process required for certification.

D. In particular, the United States should ensure that the following individuals are or have

been suspended, pending investigations and, as appropriate, prosecution for their alleged involvement in gross violations of human rights and paramilitary activities:

**1. General Rodrigo Quiñones, Commander, Navy's 1st Brigade:**

Colombian government investigators linked Quiñones to at least 57 murders of trade unionists, human rights workers, and community leaders in 1991 and 1992, when he was head of Navy Intelligence and ran Network 3, based in Barrancabermeja. A military tribunal decided that there was insufficient evidence against him, but he has not been brought to trial in the civilian justice system. The only people to be convicted for these crimes were two civilian employees of Naval Intelligence Network No. 7, one of whom was later murdered in prison. In his ruling on the case, the civilian judge stated that he was “perplexed” by the military tribunal’s acquittals of Quiñones and others, since he considered the evidence against them to be “irrefutable.” “With [this acquittal] all that [the military] does is justify crime, since the incidents and the people responsible for committing them are more than clear.” This judge also discounted the military’s contention that Quiñones was the victim of a smear campaign by drug traffickers, concluding that there was no evidence to support this claim. To the contrary, he concluded that evidence linking Quiñones to the Barrancabermeja atrocities was clear and compelling.

The only punishment meted out to Quiñones so far has been a “severe reprimand” ordered by the *Procuraduría General de la Nación*, which concluded that he was responsible for the deaths. In a disputable interpretation of existing norms, the *Procuraduría* has determined that murder is not classified as an administrative infraction in the existing regulations. Therefore, the maximum punishment it can impose for murder is a “severe reprimand,” essentially a letter in an employment file. It is important to note that the *Procuraduría* itself has termed this absurd punishment “embarrassingly insignificant, both within the national sphere and before the international community.” Quiñones is also the officer in charge of the region at the time of the February 2000 massacre in El Salado (Bolívar). Military and police units stationed nearby failed to stop the killing and established roadblocks which prevented human rights and relief groups from entering the town. Quiñones was promoted to General in June 2000.

**2. General Carlos Ospina Ovalle, Commander, 4<sup>th</sup> Division:** Colombia’s Attorney General’s Office has documented extensive ties between the 4<sup>th</sup> Brigade and paramilitary groups between 1997 and 1999, while General Ospina was in command. Among the cases that implicate Ospina is the October 1997 El Aro massacre. Government documents show that a joint army-paramilitary force surrounded the village and maintained a perimeter while about 25 paramilitaries entered the town, rounded up residents, and executed four people.

3. **Brigadier General Jaime Ernesto Canal Albán, Commander, 3rd Brigade**: Colombian government investigators found evidence that, in 1999, while Brig. Gen. Canal Albán was in command, the 3rd Brigade set up a paramilitary group and provided them with weapons and intelligence.

4. **General Jaime Humberto Cortés Parada, Inspector General of the Army**: The *Fiscalía* collected compelling and abundant evidence indicating that under his command at the 3<sup>rd</sup> Division, the Army's 3<sup>rd</sup> Brigade set up a "paramilitary" group in the department of Valle del Cauca, in southern Colombia. Investigators were able to link the group to active duty, retired, and reserve military officers and the ACCU in Barranquilla, Atlántico (See below); and

5. **General Freddy Padilla León, Commander of the II Division, and Colonel Gustavo Sánchez Gutiérrez, Army Personnel Director**: In July 2000, the press widely reported that the *Procuraduría* formally charged (*pliego de cargos*) **General Jaime Humberto Cortés Parada** and these two officers with "omission" in connection with the massacre in Puerto Alvira in June 1997. Two other generals who also face disciplinary charges, for "omission" - Generals Jaime Humberto Uscátegui and Agustín Ardila Uribe – are already retired.

E. If it is found after extensive review that the military lacks the legal power to impose suspensions required by this condition, the United States should require that the president of Colombia sign a decree authorizing these suspensions and implement it fully and without delay.

### **CONDITION (A)(iii): Compliance with Conditions by Armed Forces** **CONDITION (A)(iii): Compliance with Conditions by Armed Forces**

This condition requires that:

"(A) (iii) the Colombian Armed Forces and its Commander General are fully complying with (A) (i) and (ii); and"

#### **This condition has not been met.**

As long as there are **any** jurisdictional challenges to cases of alleged human rights abuses or the aiding and abetting of paramilitary groups pending before the Supreme Judicial Council, the armed forces and Commander General are not "fully complying with (A) (i) and (ii)." Partial compliance or even a stated intent to

comply is not adequate to meet this condition, which requires total compliance. Full means complete -- not partial, not mostly -- but total.

In fact, the armed forces do continue to dispute jurisdiction over human rights cases and cases involving alleged support for paramilitary groups, and while these jurisdictional challenges continue to be filed before the Supreme Judicial Council, the armed forces and Commander General are not "fully complying with (A) (i) and (ii)."

Finally, on the question of jurisdiction, the Colombian authorities do have ways to transfer cases back to civilian jurisdiction. Cases that are under investigation or that have not reached the stage of final appeal and its resolution can be transferred to civilian courts, where they should be tried. The following mechanisms can also be used to reopen cases that have been closed by military judges for supposed "lack of evidence," a common way to shield officers from punishment:

a) the military judge can order their transfer based on the Constitutional Court decision. For example, in 1999, the military judge in charge of the case implicating José Ancizar Hincapie Betancur, commander of the Tenerife Battalion at the time of the alleged crime, ordered that the case be returned to civilian jurisdiction.

b) a civilian prosecutor or judge can request jurisdiction directly from the military judge assigned to the case, based on the Constitutional Court decision;

c) the civilian plaintiffs can file an appeal with the Constitutional Court, which can then order the CSJ to revisit the jurisdictional determination. For example, on June 29, 2000 the Constitutional Court ordered the CSJ to revisit the case involving the alleged "disappearance" of Nydia Erika Bautista on September 12, 1987.<sup>12</sup> Within a month, the CSJ reversed the earlier decision, returning jurisdiction to the civilian courts. It is worth noting that this case, although it occurred thirteen years ago, had not been resolved by the military tribunal, affording the perpetrators complete impunity. This decision will likely have significant implications for other cases that remain unresolved.

Cases in which a verdict has been confirmed at appeal can be made the subject of an "extraordinary appeal for review" (*recurso extraordinario de revisión*) to the Supreme Court. In addition, in several instances, the government of Colombia has agreed to consider an in-depth study (*estudiar los mecanismos internos*) of this type of case to see if there are legal remedies available to address impunity. For example, such a process is being carried out to find those

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<sup>12</sup>Sentencia T-806/00, JUNe 29, 2000.

responsible for the murder of minor Roison Mora Rubiano, currently under review by the Inter-American Commission on Human Rights.

**BENCHMARKS:**

A. The U.S. government should obtain from the Colombian government a list of all cases since August 1997 in which military judges have challenged jurisdiction in cases being investigated by the Attorney General's Office involving gross human rights violations or the aiding and abetting of paramilitary activities, including the charges, the rank of the individuals charged, and the decision of the Superior Judicial Council. The U.S. Embassy should update this list at three-month intervals, and distribute it promptly to the appropriate congressional committees and the human rights groups included in the consultation process required for certification.

B. The U.S. government should obtain a list of military personnel brought to justice in Colombia's civilian courts since August 1997, including the names and ranks of these personnel, details of the charges brought, and the disposition of the cases. The U.S. Embassy should update this list at three-month intervals, and distribute it promptly to the appropriate congressional committees and the human rights groups included in the consultation process required for certification.

C. The Colombian military should transfer the cases involving the officers named below to the appropriate civilian authorities for investigation and prosecution:

1. **General (ret.) Fernando Millán, former Commander, 5th Brigade:**

The *Fiscalía* opened an investigation against General Millán based on evidence that he set up the Las Colonias CONVIVIR in Lebrija, Santander, while he commanded the Fifth Brigade. The Las Colonias CONVIVIR operated throughout 1997 without a license but with army support, according to the testimony of former members. According to residents and victims' families, the group committed at least fifteen targeted killings before the director, "Commander Cañón," a retired army officer, and the employees he hired were arrested and prosecuted under Decree 1194, which prohibits the formation of paramilitary groups. Among the cases currently under investigation by the Attorney General's Office are those of two Protestants, brothers Oscar and Armando Beltrán Correa, who were taken captive by the Las Colonias CONVIVIR as they went to work on July 29, 1997 and killed on the road leading from Lebrija to the hamlet of La Puente. Apparently, the CONVIVIR accused them of passing information to the guerrillas. On September 4, 1997, father and son Leonardo and José Manuel Cadena were forced out of their home by CONVIVIR members and killed, according to a family member's testimony to the Attorney General's Office. The CONVIVIR apparently accused the Cadenas of providing food to guerrillas.

According to a former CONVIVIR member who was also an army informant, during its months of operation, the Las Colonias CONVIVIR frequently went on operations with army units, setting up roadblocks and detaining suspected guerrillas and criminals. When the Attorney General's Office investigated this case, the army high command prevented prosecutors from questioning Millán, then interposed a jurisdictional dispute, claiming that since Millán was on active service and carrying out his official duties, the case should be tried before a military tribunal. Following a decision by the CSJ, the case was transferred to the military justice system in October 1998. A prosecutor assigned to investigate the May 1998 massacre of 11 people in Barrancabermeja fled the country after receiving threats from General Millán, then-Commander of the 5th Brigade. Nine members of the military and police were disciplined in connection with the massacre, but there have been no prosecutions under civilian jurisdiction. General Millán has not been brought to justice in the civilian justice system.

2. **Major Jesús María Clavijo, 4th Brigade:** In March 2000, Major Clavijo was relieved of his command pending the outcome of his trial on charges of helping form and direct paramilitary groups during his service with the 4<sup>th</sup> Brigade. Eyewitnesses have linked Clavijo and other 4<sup>th</sup> Brigade officers to paramilitaries through regular meetings held on military bases. An investigation by the Internal Affairs agency (*Procuraduría*) listed hundreds of cellular telephone and beeper communications between known paramilitaries and 4<sup>th</sup> Brigade officers, among them Clavijo. On May 11, 2000, the Attorney General received a jurisdictional dispute from the military judge handling the case. The case is now pending before the CSJ.

3. **General (ret.) Jaime Uscátegui, 7th Brigade:** Dozens of civilians were killed by paramilitaries and hundreds were forced to flee for their lives from Mapiripán, Meta, in July 1997. For five days, paramilitaries acting with the support of the army detained residents and people arriving by boat, took them to the local slaughterhouse, then bound, tortured, and executed them by slitting their throats. Local army and police units ignored repeated phone calls from a civilian judge in the area seeking to stop the slayings. At least two bodies — those of Sinaí Blanco, a boatman, and Ronald Valencia, the airstrip manager — were decapitated. Judge Leonardo Iván Cortés reported hearing the screams of people who had been taken to the slaughterhouse to be interrogated, tortured, and killed. In one message that he sent to various regional authorities while the massacre was in progress, he wrote: "Each night they kill groups of five to six defenseless people, who are cruelly and monstrously massacred after being tortured. The screams of humble people are audible, begging for mercy and asking for help." Hundreds of people fled the region. They included Judge Cortés, who was forced to leave Colombia with his family because of threats on his life.

Subsequent investigations revealed that troops under the command of Uscátegui, then in



charge of the 7<sup>th</sup> Brigade, assisted the paramilitaries during their arrival at the nearest airport, and made sure that troops with the capability to combat paramilitaries were engaged elsewhere. In an attempt to cover up his responsibility, Uscátegui tried to falsify documents reporting the massacre. As a result of their internal investigation, the army moved Gen. Uscátegui to administrative duties for failing to act promptly to stop the massacre and detain those responsible. However, the CSJ later ruled that the case involved an “act of omission” and belonged before a military court. Uscátegui has since retired, and has yet to be prosecuted before a civilian court. However, the military has reopened the case and announced that Uscátegui will be brought before a Consejo de Guerra on charges of “homicidio”, “prevaricación por omisión” and “falsedad en documento” for the Mapiripán massacre. Uscátegui has been re-arrested and is being held in the 13<sup>th</sup> Brigade.

4. **General (ret.) Alberto Bravo Silva, Commander, 5<sup>th</sup> Brigade:** According to Colombia’s Public Advocate, on May 29, 1999, paramilitaries killed at least 20 people and abducted up to fifteen more in La Gabarra (Norte de Santander). General Bravo was repeatedly informed of the subsequent threats and the ensuing massacres, but did not act to prevent them or to pursue the perpetrators effectively once the massacre had taken place. He was relieved of duty, but has not been prosecuted in a civilian court for his alleged role in aiding and abetting this atrocity.

5. **General (ret.) Rito Alejo del Río, 17<sup>th</sup> Brigade:** An investigation was opened by *Fiscalía* in 1998 into Del Río’s support and tolerance for paramilitary activity in the Urabá region in 1996 and 1997 while he was commander of the 17<sup>th</sup> Brigade. According to reports made by Colonel (ret.) Carlos Velásquez, his chief of staff, to his superiors in 1996, that Del Río supported paramilitaries in Urabá, and maintained a relationship with a retired army major who worked with paramilitaries. Instead of prompting a serious investigation of Del Río, the reports prompted the army to investigate Velásquez, in an apparent attempt to silence him. The army concluded the inquiry by recommending not that Gen. del Río, who was later promoted, be punished, but that Colonel Velásquez be disciplined for “insubordination, [acts] against duty and esprit de corps.” Velásquez was forced to retire on January 1, 1997.

Recent press reports indicate that an investigation was opened by the *Fiscalía* against Generals **del Río** and **Fernando Millán** in August 2000. According to these reports, prosecutors charge that they attempted to present false witnesses to the *Fiscalía* to claim that a prominent trade unionist and a human rights defender had paid witnesses to denounce **del Río** and **Millán** as having ties to paramilitaries. These reports suggest that the *Fiscalía* suspects that, in fact, an army “informant” in league with Del Río and Millán paid the two false witnesses to lie to authorities.

6. **General (ret.) Farouk Yanine Díaz:** Gen. Yanine was arrested in October 1996 for alleged complicity in the massacre of 19 merchants in the Middle Magdalena region in 1987. Eyewitnesses, including a military officer, testified that he supported paramilitaries who carried out the massacre and had operated in the area since 1984,

when Yanine was commander of the 14<sup>th</sup> Brigade in Puerto Berrio. The paramilitary leader also testified that Gen. Yanine had paid him a large sum to carry out the killing. Yanine also allegedly provided paramilitaries with the intelligence necessary to intercept their victims. Despite compelling evidence, General Manuel José Bonnet, then the army commander, closed the case citing a lack of evidence. The *Procuraduría* appealed the decision on the grounds that “evidence presented against Yanine Díaz had not been taken into account... [the sentence] clearly deviates from the evidence presented in this case, *“se aparta protuberantemente de las pruebas que aparecen en el proceso.”*” The U.S. State Department expressed concern about the acquittal on July 1, 1997.

7. **General Rodrigo Quiñones, Commander, Navy’s First Brigade:** (See benchmarks above, under Condition (A)(ii).
8. **General Carlos Ospina Ovalle, Commander, 4<sup>th</sup> Division:** (See above).
9. **Brigadier General Jaime Ernesto Canal Albán, Commander, 3<sup>rd</sup> Brigade:** (See above).

***The following cases should also be transferred to civilian jurisdiction:***

1. **Massacres at Trujillo (Valle del Cauca):** Dozens of people were killed in the municipality of Trujillo over a several year period in the late 1980’s and early 90’s. On December 20, 1990, the 3<sup>rd</sup> Brigade dropped charges that had been leveled against Major Alirio Antonio Urueña Jaramillo. The sitting president later cashiered him on human rights grounds. Further cases arising from the Trujillo killings remain in military courts. The paramilitary leader widely reported to have participated, Henry Loaiza Ceballo, “*El Alacrán*”, is not known to have been convicted for his role in this case.
2. **Massacre at El Caloto (Cauca):** This massacre, in which twenty members of Paez indigenous community were killed, was carried out on December 16, 1992 by the Judicial Police. The case was transferred to military jurisdiction at the end of 1997 and charges against the implicated officials were dropped.
3. **Massacre at Riofrío (Valle del Cauca):** Thirteen people were killed in the village of El Bosque, in the Municipality of Riofrío on October 5, 1993 by men in uniforms and ski masks. The victims were presented as combat deaths by Battalion Palacé of the 3<sup>rd</sup> Brigade, based in Cali. The case was initially transferred to the military court system by a 1994 CSJ decision. A civilian judge then requested that the military justice system transfer to him the portion of the case brought against several military officials. The military justice system refused to grant the transfer, and the matter returned to the CSJ. In July 1998, the CSJ

refused to decide the conflict on the grounds that it had already decided the jurisdictional question in 1994.

4. **Blanquicet:** On September 22, 1993, in the rural district of Blanquicet, municipality of Turbo, in Urabá, Antioquia department, members of the Colombian army killed Carlos Manuel Prada and Evelio Bolano, members of the armed opposition group Socialist Renovation Current, (*Corriente de Renovación Socialista, CRS*) who had been acting as peace negotiators. The CRS later demobilized. An army captain, sergeant, and several soldiers, were acquitted by the military justice system. This decision was appealed by the lawyers acting for the families and by the CRS on jurisdictional grounds, and they requested the transfer of the case to the *Fiscalía* in compliance with the Constitutional Court's ruling. The request was rejected but the rejection was appealed, whereupon the *Tribunal Superior Militar* confirmed the decision to deny the transfer. The Human Rights unit of the *Fiscalía* then requested the transfer of the case on jurisdictional grounds, and it is now before the CSJ. The case is also before the Inter-American Commission, which has agreed to a 'friendly settlement' on condition that the criminal investigation is transferred to the civilian justice system.

5. **San José de Apartadó:** On February 19 and July 8, 2000, alleged paramilitaries killed a total of eleven civilians in San José de Apartadó. According to eyewitnesses, personnel of the 17<sup>th</sup> Brigade were in the area at the time of both massacres and failed to prevent or stop the killings. An army helicopter allegedly belonging to the 17<sup>th</sup> Brigade hovered overhead at the time of the July 8 massacre.

6. **El Aro:** Colombian prosecutors collected evidence linking the 4th Brigade, under the command of General Carlos Ospina Ovalle, to the October 25, 1997, massacre committed by paramilitaries in El Aro. Government documents show that a joint army-paramilitary force surrounded the village and maintained a perimeter while about 25 paramilitaries entered the town, rounded up residents, and executed four people.

## **CONDITION (B): Cooperation with Civilian Authorities**

This condition requires the Secretary of State to certify that:

"(B) the Colombian Armed Forces are cooperating fully with civilian authorities in investigating, prosecuting, and punishing in the civilian courts Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights;"

### **This condition has not been met.**

Government investigators, community leaders, journalists, and human rights defenders who attempt to document cases involving security forces officers alleged to have committed human rights violations or to have aided or abetted the work of paramilitary groups continue to face harassment, threats and attacks from the armed forces. Particularly disturbing are threats against *Fiscalía* Human Rights unit prosecutors and their investigators from the Technical Investigations unit (*Cuerpo Técnico de Investigación, CTI*).

Since the Human Rights unit began work in 1995, dozens of prosecutors have been forced to either abandon these cases, leave the *Fiscalía*, or go into exile. For instance, most of the prosecutors and CTI agents involved in documenting links between paramilitaries and the 4<sup>th</sup> Brigade between 1997 and 1999 have either left the *Fiscalía*, gone into exile, or been killed.

This is aggravated by the fact that members of the Colombian Armed Forces continue to make public statements accusing civilian authorities of having been infiltrated by the guerrillas and questioning the legitimacy of their investigations, demonstrating their lack of cooperation with those investigations. In one case, the Army Chief of Staff, General Néstor Ramírez, stated publicly on December 2, 1999, that the most difficult struggle of the Colombian Army is against "those subversives who have infiltrated the *Fiscalía*, *Procuraduría*, and the Human Rights Ombudsman's Office, backed by some international and national organizations that are causing us a lot of damage."

Despite a request from the *Fiscal* and the *Procurador*, General Ramírez did not retract the allegations or provide evidence to support this claim. President Pastrana responded only after a public letter from the *Fiscal* and the *Procurador*. He said only that he regretted the remarks but also requested that the *Fiscalía* and *Procuraduría* open an investigation into the allegations. An article making similar allegations (including allegations against Human Rights Watch and the Bogotá U.S. Embassy's

Human Rights Officer) was posted on the Ministry of Defense's website for several months this year. To date there has been no retraction of the allegations.

This is despite Presidential Directive 07, issued on September 9, 1999, concerning "Support, communication and cooperation of the State with Human Rights organizations". This directive restates most aspects of the previous Presidential Directive 011 of June 1997, issued by then President Ernesto Samper. It orders all public officials to abstain from questioning the legitimacy of human rights organizations and from making false accusations which could compromise their security or reputation. It also requires all public officials to cooperate fully with human rights organizations when asked to provide information or assistance. This Directive makes no mention of any sanctions, and has not been enforced to date.

### **BENCHMARKS:**

The following benchmarks should be achieved before the Secretary of State issues a certification on the Colombian government's compliance with this condition:

A. The United States should insist upon the capture and effective detention of alleged material and intellectual authors of gross human rights violations against whom there are arrest warrants, including military officers.

B. The United States should obtain a list of outstanding arrest warrants issued by the *Fiscalía* relating to human rights cases. The U.S. Embassy should update it at three-month intervals, and distribute it promptly to the appropriate congressional committees and the human rights groups included in the consultation process required for certification. New cases should be included as well as developments in existing cases, in particular, whether the security forces are taking concrete measures to execute these warrants. The execution of arrest warrants should be sorted according to the security force units to which they refer.

C. The United States should require that Colombia take effective measures to protect civilian investigators and prosecutors from threats that impede their work.

D. There should be significant and measurable progress, including the execution of outstanding arrest warrants and the transfer to civilian courts of the prosecutions of implicated security force officers, of the following benchmark cases:

1. **Alirio de Jesus Pedraza Becerra**: Pedraza, a lawyer with the Committee of Solidarity with Political Prisoners (*Comité de Solidaridad con Presos Políticos*, CSPP), was "disappeared" by eight heavily armed men on July 4, 1990. His whereabouts have never been determined. At the time, he was

representing the family members of scores of peasants killed when the Luciano D'Eluyart Battalion opened fire on a protest march in 1988 in Llano Caliente, Santander. We are not aware of any arrests in this case.

2. **Blanca Cecilia Valero de Durán, CREDHOS**: This human rights defender belonging to the Regional Human Rights Committee for the Defence of Human Rights (*Comité Regional para la Defensa de los Derechos Humanos*, CREDHOS) was shot and killed on January 29, 1992 in Barrancabemeja, Santander. The then Colonel Rodrigo Quiñones Cárdenas, director of intelligence for Colombian Navy Intelligence Network 7, was believed responsible for her murder and scores of other political killings by government investigators. Nevertheless, Quiñones was acquitted by a military tribunal, although the *Fiscalía* named him as the “unequivocal” intellectual author. He remains on active duty. Two people were convicted in the killing.

3. **Oscar Elías Lopez, CRIC**: This human rights lawyer had been advising the Indigenous Regional Council of Cauca, (*Consejo Regional Indígena del Cauca*, CRIC). He was killed in Santander de Quilchao by heavily armed men on May 29, 1992.

4. **Julio Cesar Berrio, CREDHOS**: He was a security guard employed by CREDHOS, also involved in a CREDHOS investigation. Shot dead on June 28, 1992, allegedly by men working for Navy Intelligence Director Colonel Quiñones.

5. **Ligia Patricia Cortez Colmenares, CREDHOS**: Cortez, an investigator with CREDHOS, was killed on July 30, 1992, alongside several union members. We are not aware of any arrests in this case.

6. **Jairo Barahona Martínez, Curumaní Human Rights Committee**: This activist was killed on September 29, 1994 in Curumaní, Cesar following his abduction and torture. According to members of human rights organizations who collected information and pressed for a proper judicial investigation into the killing, members of the security forces were implicated in the assassination. No one has been brought to justice.

7. **Ernesto Emilio Fernández, human rights defender**: He was shot while driving home with his children on February 20, 1995. We are not aware of any arrests in this case.

8. **Javier Alberto Barriga Vergal, CSPP**: This human rights lawyer was killed in Cucutá on June 16, 1995. We are not aware of any arrests in this case.

9. **Josué Giraldo Cardona, co-founder and president of the Meta Civic Committee for Human Rights:** Giraldo was killed on October 13, 1996 after months of alleged harassment and threats by paramilitaries and military intelligence officers working for the 7<sup>th</sup> Brigade, then commanded by General Rodolfo Herrera Luna.

10. **Elsa Alvarado and Mario Calderón, CINEP:** Alvarado and Calderón were investigators with the Center for Research and Popular Education (*Centro de Investigación y Educación Popular*, CINEP). On May 19, 1997 a group of masked gunmen forced their way into Alvarado and Calderón's apartment, killing Elsa, Mario, and Elsa's father. Although some material authors of the crime are under arrest, the intellectual authors remain at large. Arrest warrants have been issued for Fidel and Carlos Castaño as the intellectual authors of the killings.

11. **Jesús María Valle Jaramillo, "Héctor Abad Gómez" Permanent Committee for the Defense of Human Rights:** Valle was assassinated on February 27, 1998 by unidentified gunmen, after repeatedly denouncing military / paramilitary links. Formal criminal charges were brought by the Attorney General's office against paramilitary leader Carlos Castaño and eight others. Six paramilitaries are currently detained. Despite strong indications of military involvement in the crime, no formal investigation has been opened against military personnel.

12. **Eduardo Umaña, human rights lawyer:** Umaña was killed in Bogotá on April 18, 1998. Several alleged gunmen are either under arrest or wanted for extradition. Shortly before his murder he had denounced the role of a military intelligence unit in paramilitary activity and human rights violations. The intellectual authors remain at large.

13. **Jorge Ortega, union leader:** This union leader and human rights defender was killed in Bogotá on October 20, 1998. Two former police officers have been implicated in the attack and are in prison. However, the intellectual authors remain unidentified.

14. **Everardo de Jesús Puertas and Julio Ernesto González, CSPP:** Puertas and González, lawyers with the CSPP, were shot dead on January 30, 1999, as they traveled by bus from Medellín to Bogotá. We are not aware of any arrests in this case.

15. **Dario Betancourt, academic:** Betancourt, a professor at Bogotá's *Universidad Pedagógica Nacional*, was forcibly disappeared on May 2, 1999, and

his body was found on September 2, 1999. There have been no arrest warrants issued in this case.

16. **Hernan Henao, academic**: Henao, the Director of the University of Antioquia's Regional Studies Institute, was killed on May 4, 1999. There have been no arrest warrants issued in this case.

17. **Guzmán Quintero Torres, journalist**: Quintero, a journalist who had investigated reports of corruption within the Armed Forces, was killed on September 16, 1999, in Valledupar (Cesar). The Attorney General's Office detained two paramilitaries allegedly involved in the killing, but the intellectual authors have not been identified.

18. **Jesús Antonio Bejarano, academic**: Bejarano, a former government official involved in the peace talks with the FARC, was killed on September 16, 1999. There have been no arrest warrants issued in this case.

19. **Alberto Sánchez Tovar and Luis Alberto Rincón Solano, journalists**: Journalists Sánchez and Rincón were allegedly detained and executed by paramilitaries on November 28, 1999, in El Playón (Santander), while covering municipal elections. Three paramilitary gunmen have been arrested, but the intellectual authors remain unidentified.

20. **Jairo Bedoya Hoyos, indigenous activist**: Bedoya, a member of the Indigenous Organization of Antioquia (*Organización Indígena de Antioquia*, OIA), was abducted on March 2, 2000. There have been no arrests in this case.

21. **Margarita Maria Pulgarín Trujillo, Fiscalía**: Pulgarín, a prosecutor specializing in investigating links between the military and paramilitary groups, was killed in Medellín on April 3, 2000. No arrest warrants have been issued in this case.

22. **Jesús Ramiro Zapata Hoyos, Segovia Human Rights Committee**: Zapata, the leader of an umbrella organization of human rights groups, was abducted and killed on May 3, 2000 in Segovia, Antioquia. The day he was abducted, Zapata had reported to local authorities that paramilitaries had been seeking information on his whereabouts. Paramilitaries had occupied the area the month before.

23. **Elizabeth Cañas Cano, Association of Family Members of the Detained and Disappeared, ASFADDES**: Cañas, an ASFADDES (*Asociación de Familiares de Detenidos Desaparecidos-Colombia*) member, was shot dead near



her office on June 11, 2000. She had lost relatives in the 1998 Barrancabermeja massacre. Witnesses to the massacre and other ASFADDES members are currently in grave danger of further attacks.

***In addition, we call for progress on the following cases involving kidnappings, attacks, and death threats:***

24. **Jairo Bedoya, Olga Rodas, Jorge Salazar, and Claudia Tamayo, IPC:**

These four human rights workers belonging to the Institute for Popular Training (*Instituto Popular de Capacitación*, IPC) based in Medellín, Antioquia were abducted from their offices on January 28, 1999 by an armed gang. Several days later paramilitary commander Carlos Castaño claimed responsibility for the kidnappings, claiming the four as “prisoners of war.” He remains at large.

25. **Piedad Córdoba de Castro, Senator:** On May 21, 1999 Córdoba, Liberal Party Senator and president of the Senate's Human Rights Commission, was abducted in Medellín by a group of fifteen armed men. The next day, paramilitary leader Carlos Castaño issued a public statement claiming responsibility for the abduction. She was later released.

26. **Diana Salamanca Martínez, Justice and Peace:** Salamanca, a human rights worker, was abducted on November 10, 1999 by paramilitary forces in Dabeiba, Antioquia. Three days later, following a national and international outcry, Salamanca was released to church workers in Necoclí, Antioquia. She reports having been transported overland in a truck, passing unhindered through various military and police checkpoints. We are not aware of any arrests.

27. **San José de Apartadó:** On February 19 and July 8, 2000, alleged paramilitaries killed 11 civilians in San José de Apartadó. According to eyewitnesses, personnel of the 17<sup>th</sup> Brigade were in the area at the time of both massacres and failed to prevent or stop the killings. An army helicopter allegedly belonging to the 17<sup>th</sup> Brigade hovered overhead at the time of the July 8 massacre.

28. **El Aro:** Colombian prosecutors collected evidence linking the 4th Brigade, under the command of General Carlos Ospina Ovalle, to the October 25, 1997, massacre committed by paramilitaries in El Aro. Government documents show that a joint Army-paramilitary force surrounded the village and maintained a perimeter while about 25 paramilitaries entered the town, rounded up residents, and executed four people.

## **CONDITION (C): Prosecution for Paramilitary Activities**

This condition requires that the Secretary of State certify that:

"(C) The Government of Colombia is vigorously prosecuting in the civilian courts the leaders and members of paramilitary groups and Colombian Armed Forces personnel who are aiding or abetting these groups."

### **This condition has not been met.**

Currently, there are hundreds of outstanding arrest warrants for known paramilitaries that have yet to be executed. The government of Colombia claims that it has stepped up arrests. **We dispute this claim.**

According to statistics provided by the *Fiscalía*, they have significantly increased the number of arrest warrants issued, from roughly 53 per year in 1995 and 1996, to 146 per year currently. Nevertheless, the majority of these warrants remain unexecuted despite a dramatic increase in paramilitary activity. Most arrests claimed by the security forces are of low-ranking paramilitaries, not leaders. In the few cases where top leaders have been arrested, several have been able to leave prison unhampered, like Jacinto Alberto Soto, known as "Lucas" and believed to act as the ACCU's accountant. In 1998, the Attorney General's office seized Soto in possession of ACCU documents and ledgers. Nevertheless, authorities told Human Rights Watch that Soto apparently bribed his way out of the front door of Medellín's maximum security prison weeks later.

Meanwhile, notorious paramilitary leaders remain at large, and collect arrest warrants like badges of honor. There are currently twenty-two outstanding arrest warrants against Carlos Castaño, seven against Fidel Castaño, eight against Salvatore "Mono" Mancuso, and two against Ramón Isaza.

In fact, the number of state agents named in human rights-related cases is on the increase. In October 1999, the *Fiscalía* reported that 262 members of the security forces had been formally charged, an increase of 19 over the previous year. Yet the highest rank reported was major, showing that the commanders who tolerate, order, and cover up for human rights violations remain virtually untouched.

Although the government of Colombia has repeatedly claimed that it has formed special search units (*Bloques de Búsqueda*) to target paramilitary groups, in practice these groups are little more than paper tigers that vanish once the press conference is concluded. Indeed, according to our information, the "Coordination Center for the

Fight against Self-Defense Groups,” formed by presidential decree and much fanfare on February 25, 2000 has yet to meet.

But President Pastrana is not to first to lead with rhetoric rather than action. The first *Bloque* was decreed in 1989 by President Barco when he outlawed paramilitary groups. The activation of such *Bloques* has been announced by every successive administration, with no visible results. President Pastrana announced the creation of such a body twice. Before this Coordination Center was announced, he claimed the government would activate the *Bloque de Búsqueda* as part of the agreement with the internally displaced of the Magdalena Medio, and signed Decree Law 2295 to this effect in November 1998. Despite the personal commitment of President Pastrana however the *Bloque* never became operational and paramilitary forces were able unhindered to consolidate their presence and escalate attacks against the civilian population in the Magdalena Medio.

In the meantime, paramilitaries continue to carry out their attacks from well-established and well-known bases, often near official military bases.

#### **BENCHMARKS:**

The following benchmarks should be achieved before the Secretary of State issues a certification of the Colombian government’s compliance with this condition:

A. The “Coordination Center for the Fight against Self-Defense Groups” should present to the public a comprehensive plan that is fully funded and includes a long-term and politically feasible strategy to disband paramilitary groups and execute outstanding arrest warrants.

B. The United States should obtain a list of the names of paramilitary leaders and members who have been indicted, arrested, and prosecuted since August 1997; a description of the charges brought; and the disposition of the cases. The US Embassy should update it at three-month intervals, and distribute it promptly to the appropriate congressional committees and the human rights groups included in the consultation process required for certification. Included should be new cases and developments in existing cases, with particular emphasis on whether or not the security forces are taking concrete measures to execute warrants. Information regarding the execution of arrest warrants should be sorted according to the security force units to which they refer

C. The United States should obtain a list of the names and ranks of Colombian armed forces personnel who have been brought to justice in civilian courts since August 1997 for aiding or abetting paramilitary groups, including a description of the

charges brought and the disposition of the cases. The US Embassy should update it at three-month intervals, and distribute it promptly to the appropriate congressional committees and the human rights groups included in the consultation process required for certification. Included should be new cases and developments in existing cases, with particular emphasis on whether or not the security forces are cooperating with the execution of arrest warrants. The execution of arrest warrants should be sorted according to the security force units to which they refer.

D. The United States should require the investigation and, as appropriate, arrest and prosecution in civilian courts of the following military personnel. They have yet to be investigated and brought to trial under civilian jurisdiction despite credible allegations of their participation in gross human rights violations and/or support for paramilitary activity:

1. **General (ret.) Fernando Millán, former Commander, 5th Brigade:**

The *Fiscalía* opened an investigation of General Millán based on evidence indicating that he set up the Las Colonias CONVIVIR in Lebrija, Santander, while he commanded the Fifth Brigade. The Las Colonias CONVIVIR operated throughout 1997 without a license but with army support according to the testimony of former members. According to residents and victims' families, the group committed at least fifteen targeted killings before the director, "Commander Cañón," a retired army officer, and the employees he hired were arrested and prosecuted under Decree 1194, which prohibits the formation of paramilitary groups. Among the cases currently under investigation by the Attorney General's Office are the killings of two Protestants, brothers Oscar and Armando Beltrán Correa, taken captive by the Las Colonias CONVIVIR as they headed to work on July 29, 1997 and killed on the road leading from Lebrija to the hamlet of La Puente. Apparently, the CONVIVIR accused them of passing information to the guerrillas. On September 4, 1997, father and son Leonardo and José Manuel Cadena were forced out of their home by CONVIVIR members and killed according to a family member's testimony to the Attorney General's Office, apparently because the CONVIVIR accused the Cadenas of bringing food to guerrillas. According to a former CONVIVIR member who was also an army informant, during its months of operation, the Las Colonias CONVIVIR went on frequent operations with army units, setting up roadblocks and detaining suspected guerrillas and criminals. When the Attorney General's Office investigated the case, the army high command prevented prosecutors from questioning Millán, then interposed a jurisdictional dispute, claiming that since Millán was on active service and carrying out his official duties, the case should be tried before a military tribunal. Following a decision by the CSJ, the case was transferred to the military justice system in October 1998. A prosecutor assigned to investigate the May 1998 massacre of 11 people in Barrancabermeja fled the

country after receiving threats from General Millán, then-Commander of the 5th Brigade. Nine members of the military and police were disciplined in connection with the massacre, but there have been no civilian prosecutions. General Millán has not been brought to justice in the civilian justice system.

2. **Major Jesús María Clavijo, 4th Brigade:** In March 2000, Major Clavijo was relieved of command pending the outcome of his trial on charges of helping form and direct paramilitary groups during his service with the 4<sup>th</sup> Brigade. Eyewitnesses have linked Clavijo and other 4<sup>th</sup> Brigade officers to paramilitaries through regular meetings held on military bases. An investigation by the Internal Affairs agency (*Procuraduría*) listed hundreds of cellular telephone and beeper communications between known paramilitaries and 4<sup>th</sup> Brigade officers, among them Clavijo. On May 11, 2000, the Attorney General received a jurisdictional dispute from the military judge handling the case. The case is now pending before the CSJ.

3. **General (ret.) Jaime Uscátegui, 7<sup>th</sup> Brigade:** Dozens of civilians were killed by paramilitaries and hundreds were forced to flee for their lives from Mapiripán, Meta, in July 1997. For five days, paramilitaries acting with the support of the army detained residents and people arriving by boat, took them to the local slaughterhouse, then bound, tortured, and executed them by slitting their throats. Local army and police units ignored repeated phone calls from a civilian judge in the area asking for help to stop the slayings. At least two bodies — those of Sináí Blanco, a boatman, and Ronald Valencia, the airstrip manager — were decapitated. Judge Leonardo Iván Cortés reported hearing the screams of the people they brought to the Slaughterhouse to interrogate, torture, and kill. In one of the missives he sent to various regional authorities during the massacre, he wrote: “Each night they kill groups of five to six defenseless people, who are cruelly and monstrosly massacred after being tortured. The screams of humble people are audible, begging for mercy and asking for help.” Hundreds of people fled the region, including Judge Cortés, who was forced to leave Colombia with his family because of threats on his life.

Subsequent investigations revealed that troops under the command of Uscátegui, then in charge of the 7<sup>th</sup> Brigade, assisted the paramilitaries during their arrival at the nearest airport, and made sure that troops able to combat paramilitaries were engaged elsewhere. In an attempt to cover up his responsibility, Uscátegui tried to falsify documents reporting the massacre. As a result of their internal investigation, the army put Gen. Uscátegui on administrative duty for failing to act promptly to stop the massacre and detain those responsible. However, the CSJ later ruled that the case involved an “act of omission” and belonged before a military court. Uscátegui later retired, and has yet to be prosecuted in civilian

courts for his alleged crimes. Subsequently, the military reopened the case and announced that Uscátegui would be brought before a Consejo de Guerra on charges of “homicidio”, “prevaricación por omisión” and “falsedad en documento” for the Mampiripán massacre. Uscátegui has been re-arrested and is held in the 13<sup>th</sup> Brigade.

4. **General (ret.) Alberto Bravo Silva, Commander, 5<sup>th</sup> Brigade:** According to Colombia’s Public Advocate, on May 29, 1999, paramilitaries killed at least 20 people and abducted up to fifteen more in La Gabarra (Norte de Santander). General Bravo was repeatedly informed of the subsequent threats and the ensuing massacres, but did not act to prevent them or to pursue the perpetrators effectively once the massacre had taken place. He was relieved of duty, but was not prosecuted in civilian courts for his alleged role in aiding and abetting this atrocity.

5. **General (ret.) Rito Alejo del Río, 17<sup>th</sup> Brigade:** An investigation was opened by *Fiscalía* in 1998 into Del Río’s support and tolerance for paramilitary activity in the Urabá region in 1996 and 1997 while he was commander of the 17<sup>th</sup> Brigade. According to reports made by Colonel (ret.) Carlos Velásquez, his chief of staff, to his superiors in 1996, that Del Río supported paramilitaries in Urabá, and maintained a relationship with a retired army major who worked with paramilitaries. Instead of prompting a serious investigation of Del Río, the reports prompted the army to investigate Velásquez, in an apparent attempt to silence him. The army concluded the inquiry by recommending not that Gen. del Río, who was later promoted, be punished, but that Colonel Velásquez be disciplined for “insubordination, [acts] against duty and esprit de corps.” Velásquez was forced to retire on January 1, 1997.

Very recent press reports indicate that an August 2000 investigation was opened by the *Fiscalía* against Generals **del Río** and **Fernando Millán**. According to these reports, prosecutors charged that they had attempted to present false witnesses to the *Fiscalía* to claim that a prominent trade Unionist and a human rights defender had themselves paid witnesses to denounce **del Río** and **Millán** for ties to paramilitaries. These reports indicate that the *Fiscalía* believes that, in fact, an army “informant” in league with Del Río and Millán paid the two false witnesses to lie to authorities.

6. **General (ret.) Farouk Yanine Díaz:** Gen. Yanine was arrested in October 1996 for alleged complicity in the massacre of 19 merchants in the Middle Magdalena region in 1987. Eyewitnesses, including a military officer, testified that he supported paramilitaries who carried out the massacre and had operated in the area since 1984, when Yanine was commander of the 14<sup>th</sup> Brigade in Puerto Berrio. The paramilitary leader also testified that Gen. Yanine had paid him a large sum to carry out the killing. Yanine also allegedly provided paramilitaries with the intelligence necessary to intercept their victims. Despite abundant evidence, General Manuel José Bonnet, at the time commander of the Army, closed the case for alleged lack of evidence. The *Procuraduría* appealed the decision on the grounds that “evidence presented against Yanine Díaz had not been taken into account... [the sentence] clearly deviates from the evidence presented

in this case, “*se aparta protuberantemente de las pruebas que aparecen en el proceso.*” The Department of State expressed concern about the acquittal on July 1, 1997.

7. **General Rodrigo Quiñones, Commander, Navy’s 1st Brigade:** Colombian government investigators linked Quiñones to at least 57 murders of trade unionists, human rights workers, and community leaders in 1991 and 1992, when he was head of Navy Intelligence and ran Network 3, based in Barrancabermeja. A military tribunal decided that there was insufficient evidence against him, but he has not been brought to trial in the civilian justice system. The only people to be convicted for these crimes were two civilian employees of Naval Intelligence Network No. 7, one of whom was later murdered in prison. In his ruling on the case, the civilian judge stated that he was “perplexed” by the military tribunal’s acquittals of Quiñones and others, since he considered the evidence against them to be “irrefutable.” “With [this acquittal] all that [the military] does is justify crime, since the incidents and the people responsible for committing them are more than clear.” This judge also discounted the military’s contention that Quiñones was the victim of a smear campaign by drug traffickers, concluding that there was no evidence to support this claim. To the contrary, he concluded that evidence linking Quiñones to the Barrancabermeja atrocities was clear and compelling.

The only punishment meted out to Quiñones so far has been a “severe reprimand” ordered by the *Procuraduría General de la Nación*, which concluded that he was responsible for the deaths. In a disputable interpretation of existing norms, the *Procuraduría* has determined that murder is not classified as an administrative infraction in the existing regulations. Therefore, the maximum punishment it can impose for murder is a “severe reprimand,” essentially a letter in an employment file. It is important to note that the *Procuraduría* itself has termed this absurd punishment “embarrassingly insignificant, both within the national sphere and before the international community.” Quiñones is also the officer in charge of the region at the time of the February 2000 massacre in El Salado (Bolívar). Military and police units stationed nearby failed to stop the killing and established roadblocks which prevented human rights and relief groups from entering the town. Quiñones was promoted to General in June 2000.

8. **General Carlos Ospina Ovalle, Commander, 4<sup>th</sup> Division:** Colombia’s Attorney General’s Office has documented extensive ties between the 4<sup>th</sup> Brigade and paramilitary groups between 1997 and 1999, while General Ospina was in command. Among the cases that implicate Ospina is the October 1997 El Aro massacre. Government documents show that a joint army-paramilitary force surrounded the village and maintained a perimeter while about 25 paramilitaries entered the town, rounded up residents, and executed four people.

9. **Brigadier General Jaime Ernesto Canal Albán, Commander, 3rd Brigade**: Colombian government investigators found evidence that, in 1999, while Brig. Gen. Canal Albán was in command, the 3rd Brigade set up a paramilitary group and provided them with weapons and intelligence.

10. **General Jaime Humberto Cortés Parada, Inspector General of the Army**: the Fiscalía collected compelling and abundant evidence indicating that under his command at the 3<sup>rd</sup> Division, the Army's 3<sup>rd</sup> Brigade set up a "paramilitary" group in the department of Valle del Cauca, in southern Colombia. Investigators were able to link the group to active duty, retired, and reserve military officers and the ACCU (See below);

11. **General Freddy Padilla León, Commander of the II Division, and Colonel Gustavo Sánchez Gutiérrez, Army Personnel Director**: In July 2000, the press widely reported that the *Procuraduría* formally charged (*pliego de cargos*) **General Jaime Humberto Cortés Parada** and these two officers with "omission" in connection with the massacre of Puerto Alvira in June 1997. Two other generals who also face disciplinary charges, for "omission" - Generals Jaime Humberto Uscátegui and Agustín Ardila Uribe – are already retired.

E. Investigation and, as appropriate, arrest and prosecution of the following paramilitary leaders and members:

1. **Carlos Castaño Gil, leader of the Peasant Self-Defense Force of Córdoba and Urabá (ACCU)**: Castaño has twenty-two outstanding arrest warrants, including one relating to the killings of human rights defenders. He has been implicated in the death of political satirist Jaime Garzón, whom he allegedly threatened and he claimed responsibility for the death of University of Antioquia student Gustavo Marulanda. Castaño has repeatedly threatened to have his forces continue the May 2000 massacres in La Gabarra (Norte de Santander) until the area is "cleansed" of guerrillas. Despite Castaño's public appearances, including a television appearance in March 2000, Colombian law enforcement agencies have not executed warrants for his arrest.

2. **Fidel Castaño Gil, Los Tangüeros**: Although the Castaño family claims that Fidel is dead, there is no confirmation of this. Meanwhile, the *Fiscalía* continues to bring charges and sentences against him, and he should at the present be considered a fugitive.

3. **Alexander "El Zarco" Londoño, Las Terrazas**: Londoño is the head of a group of professional killers that works with Carlos Castaño and is wanted in



connection with a series of killings and kidnappings, including the 1999 IPC kidnapping, carried out on the orders of the ACCU. There are several warrants for his arrest.

4. **Julian Duque, Bolívar**: Duque is the paramilitary leader of the *Autodefensas del Sur de Bolívar* and is wanted for organizing paramilitary groups.

5. **Gabriel Salvatore "El Mono" Mancuso Gómez, ACCU**: Mancuso has eight arrest warrants outstanding against him, including one related to the 1997 El Aro massacre, carried out in coordination with the 4<sup>th</sup> Brigade.

6. **Ramón Isaza Arango, Middle Magdalena**: A veteran paramilitary leader, Isaza is wanted for paramilitary activity in the region surrounding Barrancabermeja.

7. **Luis Eduardo "El Aguila" Cifuentes Galindo, Cundinamarca**: Cifuentes is the paramilitary leader of the *Autodefensas de Cundinamarca* and is wanted for organizing paramilitary groups.

8. **Diego Fernando Murillo Bejerano**: Murillo is not directly associated with the military wing of the “self-defence forces,” instead playing a white-collar financial role. He is allegedly responsibly for a series of kidnappings in and around Medellín, carried out in association with the AUC. The Fiscalía reportedly also suspects him of being the “intellectual author” of the murder of Mario Calderón and Elsa Alvarado.

F. Investigation and, as appropriate, arrest and prosecution of paramilitaries believed to be involved in the following human rights cases:

1. **Alirio de Jesus Pedraza Becerra**: Pedraza, a lawyer with the Committee of Solidarity with Political Prisoners (*Comité de Solidaridad con Presos Políticos*, CSPP), was “disappeared” by eight heavily armed men on July 4, 1990. His whereabouts have never been determined. At the time, he was representing the family members of scores of peasants killed when the Luciano D’Eluyart Battalion opened fire on a protest march in 1988 in Llano Caliente, Santander. We are not aware of any arrests in this case.

2. **Blanca Cecilia Valero de Durán, CREDHOS**: This human rights defender belonging to the Regional Human Rights Committee for the Defence of Human Rights (*Comité Regional para la Defensa de los Derechos Humanos*, CREDHOS) was shot and killed on January 29, 1992 in Barrancabermeja, Santander. The then Colonel Rodrigo Quiñones Cárdenas, director of intelligence

for Colombian Navy Intelligence Network 7, was believed responsible for her murder and scores of other political killings by government investigators. Nevertheless, Quiñones was acquitted by a military tribunal, although the *Fiscalía* named him as the “unequivocal” intellectual author. He remains on active duty. Two people were convicted in the killing.

3. **Oscar Elías Lopez, CRIC**: This human rights lawyer had been advising the Indigenous Regional Council of Cauca, (*Consejo Regional Indígena del Cauca*, CRIC). He was killed in Santander de Quilchao by heavily armed men on May 29, 1992.

4. **Julio Cesar Berrio, CREDHOS**: He was a security guard employed by CREDHOS, also involved in a CREDHOS investigation. He was shot dead on June 28, 1992, allegedly by men working for Navy Intelligence Director Colonel Quiñones.

5. **Ligia Patricia Cortez Colmenares, CREDHOS**: Cortez, an investigator with CREDHOS, was killed on July 30, 1992, alongside several Union members. We are not aware of any arrests in this case.

6. **Jairo Barahona Martínez, Curumaní Human Rights Committee**: This activist was killed on September 29, 1994 in Curumaní, Cesar following his abduction and torture. According to members of human rights organizations who collected information and pressed for a proper judicial investigation into the killing, members of the security forces were implicated in the assassination. No one has been brought to justice.

7. **Ernesto Emilio Fernández, human rights defender**: He was shot while driving home with his children on February 20, 1995. We are not aware of any arrests in this case.

8. **Javier Alberto Barriga Vergal, CSPP**: This human rights lawyer was killed in Cucutá on June 16, 1995. We are not aware of any arrests in this case.

9. **Josué Giraldo Cardona, co-founder and president of the Meta Civic Committee for Human Rights**: Giraldo was killed on October 13, 1996 after months of alleged harassment and threats by paramilitaries and military intelligence officers working for the 7<sup>th</sup> Brigade, then commanded by General Rodolfo Herrera Luna.

10. **Elsa Alvarado and Mario Calderón, CINEP**: Alvarado and Calderón were investigators with the Center for Research and Popular Education (*Centro de*

*Investigación y Educación Popular*, CINEP). On May 19, 1997 a group of masked gunmen forced their way into Alvarado and Calderón's apartment, killing Elsa, Mario, and Elsa's father. Although some material authors of the crime are under arrest, the intellectual authors remain at large. Arrest warrants have been issued for Fidel and Carlos Castaño as the intellectual authors of the killings.

11. **Jesús María Valle Jaramillo, "Héctor Abad Gómez" Permanent Committee for the Defense of Human Rights**: Valle was assassinated on February 27, 1998 by unidentified gunmen, after repeatedly denouncing military / paramilitary links. Formal criminal charges were brought by the Attorney General's office against paramilitary leader Carlos Castaño and eight others. Six paramilitaries are currently detained. Despite strong indications of military involvement in the crime, no formal investigation has been opened against military personnel.

12. **Eduardo Umaña, human rights lawyer**: Umaña was killed in Bogotá on April 18, 1998. Several alleged gunmen are either under arrest or wanted for extradition. Shortly before his murder he had denounced the role of a military intelligence unit in paramilitary activity and human rights violations. The intellectual authors remain at large.

13. **Jorge Ortega, union leader**: This union leader and human rights defender was killed in Bogotá on October 20, 1998. Two former police officers have been implicated in the attack and are in prison. However, the intellectual authors remain unidentified.

14. **Everardo de Jesús Puertas and Julio Ernesto González, CSPP**: Puertas and González, lawyers with the CSPP, were shot dead on the January 30, 1999, as they traveled by bus from Medellín to Bogotá. We are not aware of any arrests in this case.

15. **Dario Betancourt, academic**: Betancourt, a professor at Bogotá's *Universidad Pedagógica Nacional*, was forcibly disappeared on May 2, 1999, and his body was found on September 2, 1999. There have been no arrest warrants issued in this case.

16. **Hernan Henao, academic**: Henao, the Director of the University of Antioquia's Regional Studies Institute, was killed on May 4, 1999. There have been no arrest warrants issued in this case.

17. **Guzmán Quintero Torres, journalist**: Quintero, a journalist who had investigated reports of corruption within the armed forces, was killed on

September 16, 1999, in Valledupar (Cesar). The Attorney General's Office detained two paramilitaries allegedly involved in the killing, but the intellectual authors have not been identified.

18. **Jesús Antonio Bejarano, academic:** Bejarano, a former government official involved in the peace talks with the FARC, was killed on September 16, 1999. There have been no arrest warrants issued in this case.

19. **Alberto Sánchez Tovar and Luis Alberto Rincón Solano, journalists:** Journalists Sánchez and Rincón were allegedly detained and executed by paramilitaries on November 28, 1999, in El Playón (Santander), while covering municipal elections. Three paramilitary gunmen have been arrested, but the intellectual authors remain unidentified.

20. **Jairo Bedoya Hoyos, indigenous activist:** Bedoya, a member of the Indigenous Organization of Antioquia (*Organización Indígena de Antioquia*, OIA), was abducted on March 2, 2000. There have been no arrests in this case.

21. **Margarita Maria Pulgarín Trujillo, Fiscalía:** Pulgarín, a prosecutor specializing in investigating links between the military and paramilitary groups, was killed in Medellín on April 3, 2000. No arrest warrants have been issued in this case.

22. **Jesús Ramiro Zapata Hoyos, Segovia Human Rights Committee:** Zapata, the leader of an umbrella organization of human rights groups, was abducted and killed on May 3, 2000 in Segovia, Antioquia. The day he was abducted, Zapata had reported to local authorities that paramilitaries had been seeking information on his whereabouts. Paramilitaries had occupied the area the month before.

23. **Elizabeth Cañas Cano, Association of Family Members of the Detained and Disappeared, ASFADDES:** Cañas, an member the Association of Families of the Detained and "Disappeared" (*Asociación de Familiares de Detenidos Desaparecidos-Colombia*, ASFADDES), was shot dead near her office on June 11, 2000. She had lost relatives in the 1998 Barrancabermeja massacre. Witnesses to the massacre and other ASFADDES members are currently in grave danger of further attacks.

24. **Jairo Bedoya, Olga Rodas, Jorge Salazar, and Claudia Tamayo, IPC:** These four human rights workers belonging to the Institute for Popular Training (*Instituto Popular de Capacitación*, IPC) based in Medellín, Antioquia were abducted from their offices on January 28, 1999 by an armed gang. Several days

later paramilitary commander Carlos Castaño claimed responsibility for the kidnappings, claiming the four as “prisoners of war.” He remains at large.

25. **Piedad Córdoba de Castro, Senator**: On May 21, 1999 Córdoba, Liberal Party Senator and president of the Senate's Human Rights Commission, was abducted in Medellín by a group of fifteen armed men. The next day, paramilitary leader Carlos Castaño issued a public statement claiming responsibility for the abduction. She was later released.

26. **Diana Salamanca Martínez, Justice and Peace**: Salamanca, a human rights worker, was abducted on November 10, 1999 by paramilitary forces in Dabeiba, Antioquia. Three days later, following a national and international outcry, Salamanca was released to church workers in Necoclí, Antioquia. She reports having been transported overland in a truck, passing unhindered through various military and police checkpoints. We are not aware of any arrests.

27. **San José de Apartadó**: On February 19 and July 8, 2000, alleged paramilitaries killed 11 civilians in San José de Apartadó. According to eyewitnesses, personnel of the 17<sup>th</sup> Brigade were in the area at the time of both massacres and failed to prevent or stop the killings. An army helicopter allegedly belonging to the 17<sup>th</sup> Brigade hovered overhead at the time of the July 8 massacre.

28. **El Aro**: Colombian prosecutors collected evidence linking the 4th Brigade, under the command of General Carlos Ospina Ovalle, to the October 25, 1997, massacre committed by paramilitaries in El Aro. Government documents show that a joint army-paramilitary force surrounded the village and maintained a perimeter while about 25 paramilitaries entered the town, rounded up residents, and executed four people.

29. **El Salado**: On 18 February 2000, a massacre of dozens of civilians was initiated in El Salado, Bolívar. Entering on Friday the 18th and leaving Sunday the 20th, some 300 paramilitary members killed at least 46 townspeople, including a six year-old girl and an elderly woman. Despite pleas to intervene, the regional military reportedly set up a roadblock and prevented humanitarian workers from entering the area. Admiral William Porra, second in command of the Navy, continues to claim that the deaths were a result of combat, not of the executions related by dozens of witnesses.

30. **Norte de Santander**: The recent string of paramilitary massacres in Norte de Santander illustrate the Colombian military's unwillingness to protect the civil population from violence even in the face of repeated national and international warnings. Following is a brief chronology of attacks in the last year:

- ¢ 29 May 1999: Twenty five civilians killed in La Gabarra by a group of roughly 400 paramilitaries. Shortly following, Amnesty International USA issued the first of many urgent appeals, calling on the state authorities to take preventative measure to protect the civil population. 29 May 1999: 25 civilians killed in La Gabarra by a group of roughly 400 paramilitaries. Shortly following, Amnesty International USA issued the first of numerous Urgent Actions, repeatedly calling on the state authorities to take preventative measure to protect the civil population.
- ¢ 17 July 1999: Fourteen people were killed and thirty abducted by paramilitaries in Tibú, where the Colombian Army's Counter-guerrilla Battalion #46 "Heroes of Saraguru" is stationed. 17 July 1999: 14 killed and 30 abducted by paramilitaries in Tibú, where the Colombian Army's Counter-guerrilla Battalion #46 "Heroes of Saraguru" is stationed.
- ¢ 20 August 1999: Paramilitary massacre of at least thirty in Caño Lapa, municipality of Tibú. 20 August 1999: Paramilitary massacre of at least 30 in Caño Lapa, municipality of Tibú.
- ¢ 20 November 1999: Paramilitaries killed a peasant and burned down several homes in the municipality of El Tarra. 20 November 1999: Paramilitaries kill a peasant and burn down several homes in the municipality of El Tarra.
- ¢ 19 January 2000: Three people were killed and two were abducted by paramilitaries in El Tarra. 19 January 2000: 3 killed and 2 abducted by paramilitaries in El Tarra.
- ¢ 3 March 2000: Paramilitaries burned the village of Filo Gringo to the ground, in spite of warnings sent to the Army's 5th Brigade in previous days by state authorities and NGO's. 3 March 2000: Paramilitaries burn village of Filo Gringo to the ground, in spite of warnings sent to the Army's 5th Brigade in previous days by state authorities and NGO's.
- ¢ 6 April 2000: Another massacre in Tibú, within one kilometer of the army's "Heroes of Saraguru" base, despite repeated assurances by Colombian Embassy officials in Washington, D.C. to Amnesty International that the Colombian Army was confronting the paramilitaries. 6 April 2000: Latest massacre in Tibú, within one kilometer of "Heroes of Saraguru" base despite repeated assurances by Colombian Embassy officials in Washington, DC to Amnesty International that the Colombian Army was confronting the paramilitaries.

## APPENDIX A

Sec. 3201. Conditions on Assistance for Colombia. (a) Conditions:

- (1) Certification required: Assistance provided under this heading may be made available for Colombia in fiscal years 2000 and 2001 only if the Secretary of State certifies to the appropriate congressional committees prior to the initial obligation of such assistance in each such fiscal year, that—
- (A)(i) the President of Colombia has directed in writing that Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights will be brought to justice in Colombia's civilian courts, in accordance with the 1997 ruling of Colombia's Constitutional court regarding civilian court jurisdiction in human rights cases; and
  - (ii) the Commander General of the Colombian Armed Forces is promptly suspending from duty any Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights or to have aided or abetted paramilitary groups; and
  - (iii) the Colombian Armed Forces and its Commander General are fully complying with (A)(i) and (ii); and
  - (iv) the Colombian Armed Forces are cooperating fully with civilian authorities in investigating, prosecuting, and punishing in the civilian courts Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights; and
  - (v) the Government of Colombia is vigorously prosecuting in the civilian courts the leaders and members of paramilitary groups and Colombian Armed Forces personnel who are aiding or abetting these groups.
  - (vi) the Government of Colombia has agreed to and is implementing a strategy to eliminate Colombia's total coca and opium poppy production by 2005 through a mix of alternative development programs; manual eradication; aerial spraying of chemical herbicides; tested, environmentally safe mycoherbicides; and the destruction of illicit narcotics laboratories on Colombian territory;
- (E) the Colombian Armed Forces are developing and deploying in their field units a Judge Advocate General Corps to investigate Colombian Armed Forces personnel for misconduct.

- (2) Consultative process: The Secretary of State shall consult with internationally recognized human rights organizations regarding the Government of Colombia's progress in meeting the conditions contained in paragraph (1), prior to issuing the certification required under paragraph (1).
- (3) Application of existing laws: The same restrictions contained in section 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (Public Law 106-113) and section 8098 of the Department of Defense Appropriations Act, 2000 (Public Law 106-79) shall apply to the availability of funds under this heading.
- (4) Waiver: Assistance may be furnished without regard to this section if the President determines and certifies to the appropriate Committees that to do so is in the national security interest.



## **APPENDIX B**

Definitions: In this section:

- (1) Aiding or abetting: The term ‘aiding or abetting’ means direct and indirect support to paramilitary groups, including conspiracy to allow, facilitate, or promote the activities of paramilitary groups.
- (2) Appropriate congressional committees: The term ‘appropriate congressional committees’ means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.
- (3) Paramilitary groups: The term ‘paramilitary groups’ means illegal self-defense groups and illegal security cooperatives.
- (4) Assistance: The term ‘assistance’ means assistance appropriated under this heading for fiscal years 2000 and 2001, and provided under the following provisions of law:
  - (A) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; relating to counter-drug assistance).
  - (B) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; relating to counter-drug assistance to Colombia and Peru).
  - (C) Section 23 of the Arms Export Control Act (Public Law 90-629); relating to credit sales.
  - (D) Section 481 of the Foreign Assistance Act of 1961 (Public Law 87-195; relating to international narcotics control).
  - (E) Section 506 of the Foreign Assistance Act of 1961 (Public Law 87-195; relating to emergency drawdown authority).