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The Human Rights Situation in Colombia: Amnesty International written statement to the thirteenth session of the UN Human Rights Council (1-26 March 2010)

Amnesty International expresses its continued appreciation of the work of the Office of the UN High Commissioner for Human Rights in Colombia to improve respect for human rights and international humanitarian law in the country. Amnesty International also supports the renewal of the Office's mandate when its current mandate expires at the end of October 2010.

This statement presents an overview of Amnesty International's concerns in Colombia.

ARMED CONFLICT AND HUMAN RIGHTS ABUSES

The human rights and humanitarian situation in Colombia continues to be serious with civilians still bearing the brunt of the country's long-running internal armed conflict. The security forces, paramilitaries and guerrilla groups continue to be responsible for serious human rights abuses and violations of international humanitarian law and to disregard the fundamental right of civilians not to be dragged into the conflict.

The human rights picture in the country presents some positive and several negative features.¹ Compared to 2008, in 2009 fewer civilians were extrajudicially executed by the security forces or kidnapped by guerrilla groups and criminal gangs. Forced displacement again increased – albeit at a slower rate than in 2008 – as did the killing of members of marginalized social groups and Indigenous Peoples. Threats against human rights defenders and other activists continue unabated. Many witnesses to killings and survivors of serious human rights abuses and their families are threatened and killed. Other human rights abuses and breaches of international humanitarian law include sexual violence, enforced disappearances, forced recruitment of minors, indiscriminate attacks against civilians, and the use of land mines.

Paramilitaries continue to operate in many parts of the country, sometimes in collusion with sectors of the security forces, despite government claims that paramilitary groups have all demobilized. These groups have in fact become more organized. While the government claims that violence attributed to these groups is solely drug-related and criminal in nature, the tactics employed by these groups to terrorize the civilian population, such as death threats and massacres, reflect those used prior to their so-called demobilization. Human rights defenders and other activists are particularly targeted by such groups.

The Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) guerrilla groups continue to commit serious human rights abuses and breaches of international humanitarian law, including killings, hostage-taking, the recruitment of children as combatants, and the use of land mines. The kidnapping and killing of the governor of Caquetá Department, Luis Francisco Cuéllar, in December 2009, and the killing of 15 Awá Indigenous People, including two pregnant women, in February 2009, illustrate the FARC's failure to respect the right of civilians not to be drawn into the conflict.

Violence is again increasing in some cities. This rise in urban violence is linked to the armed conflict, drugs-related crime and acts of "social cleansing". Paramilitaries are increasingly seeking to assert social control over poor communities in urban areas, through threats and killings. The victims include young people, sex workers, drug addicts, petty criminals, the homeless, lesbian, gay, bisexual and transgender (LGBT) people, and human rights defenders.

¹ For more information on the human rights situation see Amnesty International, *Leave us in peace!': targeting civilians in Colombia's internal armed conflict* (AMR 23/023/2008).

In rural areas, the main victims of human rights abuses continue to be Indigenous People, and members of Afro-descendant and peasant farmer (*campesino*) communities, and their leaders.

THE COLOMBIAN AUTHORITIES' RESPONSE TO SPECIFIC HUMAN RIGHTS CONCERNS

Amnesty International welcomes the invitations extended by the Government in 2009 to four Special Procedures. Their visits and reports represent an important opportunity for the UN system to hear victims' testimonies directly and to discuss the human rights situation with Colombian human rights organizations and other representatives of civil society.

Amnesty International also welcomes the commitments made by the Government under the Universal Periodic Review (UPR) and its decision to report back on implementation. The organization urges the Government to report on concrete results achieved in efforts to implement these commitments. AI recommends that a process with deadlines and milestones be put in place to evaluate fulfilment of these commitments and compliance with all UN recommendations.

Amnesty International views as positive the steps taken by the Government to address the long-standing problem of extrajudicial executions (EJEs) by the security forces following the outcry that ensued after the Soacha killings in 2008. Such steps contributed to a reduction in the number of EJEs attributed to the security forces in 2009, but concerns remain that, as in the past, this might lead to a corresponding increase in killings by paramilitary groups.

Impunity: While Amnesty International acknowledges that there have been steps forward in some criminal investigations in key human rights cases – largely due to the work of judicial institutions such as the Supreme Court of Justice – progress has been slow. The vast majority of cases of human rights abuses are characterized by complete impunity. Amnesty International is also increasingly concerned for the safety of witnesses, victims' families, lawyers, prosecutors, and judges involved in some high-profile human rights-related investigations. These include:

- **The DAS scandal.** The massive, long-standing, illegal espionage operation carried out by the civilian intelligence service (Departamento Administrativo de Seguridad, DAS), which operates under the direct authority of the President, against human rights defenders and others led to threats against and killings by paramilitary groups of some of those targeted. Other activists who were subjected to illegal surveillance, particularly those involved in bringing human rights cases before the courts, continue to be subjected to unfounded criminal investigations and accusations linking them to guerrilla groups. This has placed them at risk of attack and undermined their work against impunity. Amnesty International welcomes the decision to charge seven former DAS officials and a former director in connection with the scandal, but stresses that questions remain over who ordered the illegal espionage operation and over whether such surveillance continues.
- **The “parapolitics” scandal.** Some 80 Members of Congress are under criminal investigation by the Supreme Court of Justice for their alleged links to paramilitaries. However, the government has repeatedly sought to undermine the legitimacy of the Supreme Court. Several magistrates investigating the case have been threatened, placed under surveillance and have had their communications intercepted by State institutions. The Inter-American Commission on Human Rights has ordered the Colombian state to adopt protection measures for several Supreme Court magistrates.
- **Extrajudicial executions.** Criminal investigations into some 2,000 extrajudicial executions carried out by the security forces continue to be undermined. In January 2010, around 30 soldiers arrested for their alleged role in the 2008 Soacha killings were released by the courts on procedural grounds. Resistance by the military justice system to accept civilian jurisdiction in these cases, and the decision by the Council

of State to suspend a 2006 agreement between the Attorney General and the Defence Ministry under which civilian rather than military investigators were responsible for removing corpses from the scenes of alleged extrajudicial executions, will undermine the fight against impunity. Lawyers working on these cases, and witnesses and family members of those executed, continue to be threatened or killed.²

- **The Justice and Peace process.** Although some paramilitaries have confessed to some human rights violations and implicated other persons active in politics, business and the military, the Justice and Peace process still falls short of international standards on the rights of victims to truth, justice and reparation. Some 90% of those who demobilized escaped effective investigation. Most of the 18 paramilitary leaders extradited to the USA on drugs-trafficking charges have refused to collaborate with the Colombian justice system in its investigations into human rights violations. Colombian judicial officials have experienced difficulties in gaining access to the few paramilitaries who have agreed to co-operate. Victims or their families participating in the process, their lawyers and those supporting their campaigns for justice as well as judicial officials investigating cases in the Justice and Peace process have been threatened or killed.

Indigenous Peoples: The impact of the conflict on Indigenous Peoples has become increasingly destructive. More than 114 Indigenous men, women and children were victims of homicides in 2009. High-ranking Government and other state officials continue to make statements linking Indigenous leaders and the communities they represent with guerrilla groups. This has encouraged a climate in which abuses against Indigenous Peoples are tolerated, encouraged or facilitated.

During his visit to Colombia in July 2009, the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people described the human rights situation facing Indigenous Peoples as “grave, critical and profoundly worrying.”³ He called on the illegal armed groups to stop the recruitment of Indigenous children and the use of landmines, and he expressed concern about human rights violations committed by the security forces. While acknowledging there had been some progress on Indigenous issues, he said that the country’s laws, government policies and programmes had failed to effectively protect Indigenous People and to safeguard their fundamental freedoms and human rights.

In a ruling on Indigenous Peoples issued in January 2009⁴, the Constitutional Court criticized the inadequacy of the state’s response to the problems faced by Indigenous Peoples in Colombia. The Court gave the Government six months to devise and implement a plan to guarantee the rights of displaced and endangered Indigenous Peoples. More than one year after that ruling, there is little evidence that effective progress has been made in this respect.

Amnesty International welcomes the recent decision by the Office of the Attorney General to charge seven members of the security forces for their alleged role in the killing of Edwin Legarda, the husband of Indigenous leader Aída Quilcué, in December 2008. Amnesty International also welcomes Colombia’s decision to endorse, in 2009, the UN Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly in 2007.

Human rights defenders: Human rights defenders – from national and local NGOs – and their families; community leaders; leaders of Indigenous Peoples and Afro-descendant and *campesino* communities; trade unionists; student and LGBT activists; victims campaigning for justice and their families; lawyers; and journalists continue to be killed, abducted and subjected to enforced disappearance, threatened, stigmatized, harassed, arbitrarily detained,

² See Amnesty International, *Seeking Justice: the Mothers of Soacha* (AMR 23/002/2010).

³ <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/075AAAC613A31BOCC12576010039DA28?opendocument>

⁴ Auto No.004 of 2009, 26 January 2009.

placed under surveillance, or have their offices broken into and sensitive case information stolen.

A climate of hostility towards human rights defenders and other activists exacerbates the ongoing serious situation they face. Such hostility has been fomented by the Government, which appears to perceive human rights and security as mutually exclusive. Senior Government and state officials often seek to equate human rights work with support for the guerrilla or terrorism. Such a systematic, high-profile and public stigmatization has given a powerful incentive to those wishing to threaten and physically harm human rights defenders.

Amnesty International's concerns on the situation of human rights defenders are further detailed in a written statement on the report of the Special Rapporteur on human rights defenders on Colombia submitted to this session of the Human Rights Council.