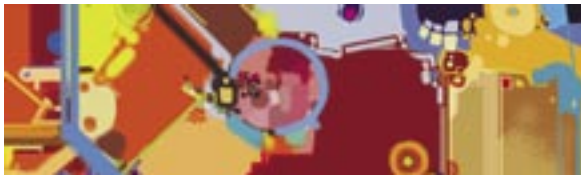




Colombia 2002-2006: Situation regarding human rights and humanitarian law¹



The present document's aim is to present a statistical synthesis of the main violations of human rights and humanitarian law in Colombia, particularly those

related to the rights to life, liberty, and integrity, committed between July 2002 and June 2006; that is, approximately during the four years of the first period of government just concluded (August 7 2002 to August 7 2006).

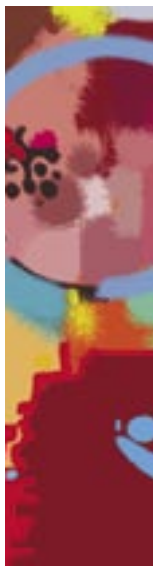
The data for the first semester of 2006 included in this document are incomplete due to the fact that some of the sources usually used by the Colombian Commission of Jurists are not yet ready to be processed. Therefore, the figures that are included in this report regarding this period are lower than would otherwise have been registered in reality.

¹ Unless otherwise indicated, the figures and data contained in this presentation come from the data base of the Colombian Commission of Jurists and the following texts: "Panorama del derecho a la vida en Colombia, enero a junio de 2005" ["Panorama of the right to life in Colombia, January-June 2005"]; "Panorama de infracciones contra el derecho humanitario en Colombia: derecho a la vida" [Panorama of breaches of humanitarian law in Colombia: The right to life, January-June 2005]; "Derecho a la vida, ataques contra defensoras y defensores de derechos humanos en Colombia", enero a diciembre de 2005 (listado) [The Right to freedom, attacks against human rights defenders in Colombia, January-December 2005 (listing)]; "Derecho a la libertad, defensoras y defensores de derechos humanos, detenciones arbitrarias en Colombia, enero a diciembre de 2005 (listado) [The right to freedom, human rights defenders, arbitrary detentions in Colombia, January-December 2005 (listing)]; "Panorama sobre la práctica del secuestro y la toma de rehenes en Colombia, enero a diciembre de 2005" [Panorama on the practice of kidnapping and hostage-taking in Colombia, January-December 2005]; "Panorama sobre el desplazamiento forzado en Colombia, 2005" (listado) [Panorama on forced displacement in Colombia, 2005 (listing)]; "Violaciones a los derechos humanos e infracciones al derecho humanitario presuntamente perpetradas por grupos paramilitares fuera de combate, derecho a la vida, diciembre de 2002 a diciembre de 2005" (listado) [Violations of human rights and breaches of humanitarian law allegedly perpetrated by paramilitary groups out of combat, the right to life, December 2002-December 2005 (listing)]; Series of documents on the legal framework for demobilization and impunity in Colombia. (The documents can be consulted at the CCJ webpage: www.coljuristas.org).



The right to life: General overview regarding socio- political violence²

11.292 persons were registered as assassinated or disappeared out of combat (that is, at home, on the street or at work) as a result of socio-political violence between July 2002 and June 2006. This means that an average of more than seven persons (7.8) were assassinated or forcibly disappeared out of combat each day with socio-political motives in Colombia. During the six previous years (July 1996 to June 2002), the daily average of victims of socio-political violence assassinated or disappeared out of combat was nine.



If the persons who lost their lives in combat are included, the total of dead and disappeared through sociopolitical violence in the same period rises to almost twenty thousand: 19,875. 8,791 persons are registered as having lost their lives in the midst of combat. This means that during the period under study, the total daily average of dead or disappeared people due to socio-political violence was nearly

fourteen, similar to the daily average registered during the six previous years (July 1996 to June 2002) that was also fourteen persons each day. During the period July 2002 to June 2006, the daily average of persons dead in combat was higher than six, in comparison with a daily average of five dead in combat during the six previous years (July 1996 to June 2002).

With regard to the presumed responsibility for the violations that occurred between July 2002 and June 2006, 75,15% of the deaths out of combat whose presumed generic author is known, were attributed to the responsibility of the State: either as a result of direct action by State agents in 14,17% of cases (908 victims); through tolerance or support of violations committed by paramilitary groups in 60,98% of cases (3,907 victims). Responsibility was attributed to the guerrillas in 24,83% of cases (1,591 victims)³.

² "Socio-political violence" is understood to mean the events that constitute attacks on life, security of the person and personal freedom as a result of the abuse of authority by agents of the State, those arising due to political motives, those stemming from discrimination against socially marginalized people, or those caused by the internal armed conflict.

³ The percentages regarding responsibility correspond to the cases for which the presumed generic author is known, or 6,227.

) The unusual increase in violations of the right to life directly attributable to State forces is directly related to the implementation of the “democratic security” policy. The government has insisted in claiming that the subversive groups’ main military advantage is the links they maintain with the civilian population, which take the form of complicity or concealment⁴, and “*the camouflaging of their members among the civilian population*”⁵.

The increase in extrajudicial executions and forced disappearances committed directly by State forces is a direct consequence of the non-observance of the principle of distinction between combatants and civilians, derived from the government’s assertion that a sector of the civilian population is part of the combatant groups that it confronts militarily.



⁴ Speech by the President on September 8, 2003, at the swearing in of the new Air Force Commander.

⁵ Third preliminary paragraph of Decree 2002 of 2002. In its ruling on the constitutionality of this decree, the Constitutional Court warned that such paragraph could not be considered acceptable legal basis for two reasons: i) Accepting it as legal basis would imply “presuming that all the civilians living in Colombia, without distinction, belong to such [armed illegal] organizations, thereby creating a generalized situation of legal insecurity for everyone;” and ii) Accepting it as legal basis would represent the absolute denial of the principle of distinction between combatants and non combatants.” Constitutional Court, Sentence C-1024 of 2002.

Another factor that has a decisive influence on the increase in the violations of the right to life by State forces is the pressure for “positive” results exerted by the President on the State forces. Although high-ranking military commanders and the Minister of Defense deny that the urgency for “positives” to show the success of the war against terrorism encourages this type of human rights violations⁶, some members of the National Army have made public statements to the contrary.

According to five Army officers, “people cannot possibly imagine the psychological torture of having to show results every day”⁷. According



⁶The Army Commander, General Mario Montoya, denied that the pressure to obtain operational results has anything to do with arbitrary violations of the right to life of civilians:

“El Tiempo: Another case is that of the Fourth Brigade and complaints regarding human rights (sic). Do you think the pressure for results has anything to do with these supposed irregularities?

Army Commander, General Mario Montoya: No. I don’t believe it has anything to do with that. If it were a generalized situation, we could think that the fact of demanding results would lead to that.” “These cases should never have occurred”. *El Tiempo*, Bogotá, June 11 2006, pages. 1-7.

In the same sense spoke the Minister of Defense, Camilo Ospina: *“El Tiempo*: Some officers say that they feel under pressure to obtain results and that this explains many mistakes...

“Minister of Defense: The pressure for results happens in a very different way, like in any company. But the results are not the dead or the injured; the results are global figures. The important thing here is that homicides go down, that arrests go up, and that kidnappings decrease; the result is the policy, not the figures on dead individuals or anything of the sort.” “A good opportunity exists to end confrontation,” *El Tiempo*, Bogotá, July 2 2006, pages. 1-3.

⁷ Testimony by “three colonels and two majors, commanders of key battalions in the struggle against the FARC, in the south and the east of the country (and who requested that their names be omitted to avoid retaliation)” “Each day some 17 men leave the Army,” *El Tiempo*, Bogotá, July 2 2006, pages. 1-2.



to a former consultant to the Ministry of Defense, there is *“an insatiable pressure for casualties (...). And that is another reason why the statement seems credible according to which not all the casualties of the Fourth Brigade have been men with guns”*⁸. In the opinion of a former national security adviser, the Army *“has been implementing a troublesome scheme of evaluation [of performance]: it places an excessive value – and sometimes exclusive value – on casualties of the opponent, and it punishes disproportionately its own failures. The consequence: a tendency to obtain casualties without taking risks, without exposing themselves too much or, better still, not at all. The results: defenseless civilians are shown as dead in battles that never occurred”*⁹.

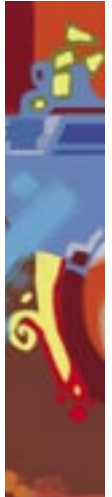
Indeed, a major part of the deaths attributable directly to State forces were perpetrated in the context of large military operations carried out within the framework of the “democratic security” policy. Among them, the following can be highlighted: Operation Espartaco, Operation Ejemplar and Operation Marcial, implemented in Antioquia; Operations Laguna and Tormenta in the Caguán region in Caquetá; Operation Tormenta I and Operation Broca, in Arauca; Operation Holocausto, in North Santander; Operation Imperio I, in Quindío; Operation Júbilo, in the south of Bolívar; Operation Bombardero, in Valle del Cauca; and Plan Patriota, implemented in the departments of Meta, Caquetá, Putumayo and Guaviare.

⁸ Sergio Jaramillo, “The Crisis in the Army”, *El Tiempo*, Bogotá, June 11 2006, pages. 1-7.

⁹ “What is happening in the Army?”, *Cambio Magazine*, Bogotá, n.º 677, June 19-25 2006, page 27.

In the majority of cases, the violations were preceded by arbitrary detentions and, in some cases, by forced disappearances. Afterwards, since military operations demand results, the victims were reported as guerrilla members dead in combat. In one sample of 98 cases of extrajudicial executions perpetrated between July 2002 and June 2006, 46 civilians were presented as dead in combat in one of the military operations mentioned above¹⁰.

Additionally, in this period extraordinarily grave incidents have occurred, such as the torture of soldiers of the Patriots' Battalion in Honda (Tolima)¹¹, six persons in Cajamarca (Tolima)¹², the massacre of Guaitarilla (Nariño)¹³ and the massacre of Jamundí (Valle del Cauca)¹⁴, among others. These deeds demonstrate the presence of profound structural problems within the State forces and are worthy of serious reflexion on the role of the Armed Forces to guarantee the security of everyone in the country.



¹⁰ See the document *Ejecuciones extrajudiciales directamente atribuibles a la Fuerza Pública en Colombia, julio de 2002 a junio de 2006*, (Extrajudicial executions directly attributable to the State Forces in Colombia, July 2002 to June 2006), prepared by the Human Rights and Humanitarian Law Observatory of the human rights NGO coalition *Coordinación Colombia-Europa-Estados Unidos* for hearings of the Inter-American Human Rights Commission in Washington, October 23, 2006 .

¹¹ On January 25 2006, at the Patriots' Battalion of the Sixth Brigade with headquarters in Honda (Tolima), 21 soldiers between 18 and 24 were subjected to torture during a training exercise at the Army's Center for Training and Instruction (CIE in Spanish). The soldiers were beaten with fists, sticks and machetes, kicked, and submitted to fake asphyxiations and drowning, as well as subjected to verbal aggressions and burned on different parts of their bodies. Some were made to eat animal excrements, and others were victims of rape and sexual humiliation.

¹² On April 10 2004, near the hamlet of Potosí, jurisdiction of the municipality of Cajamarca (Tolima), peasant farmers Albeiro Mendoza Reyes, 17 years old; Yamile Urueña Arango, 17; Norberto Mendoza, 24; a child of 14; and a six month-old baby were executed by troops belonging to the Army's Pijao Battalion. The State forces justified what happened as a military error.

¹³ On March 20 2004 in Guaitarilla (Nariño), four civilians and nine members of the State forces belonging to the anti-kidnapping group (Gaula) of the National Police were executed extrajudicially by troops of the Boyacá Battalion of the Army's Third Division.

¹⁴ On May 22 2006, on the rural property La Cristalina in the municipality of Jamundí (Valle del Cauca), 10 men belonging to the Dijin, the antinarcotics elite corps, and an informant were executed extrajudicially by members of the Army.

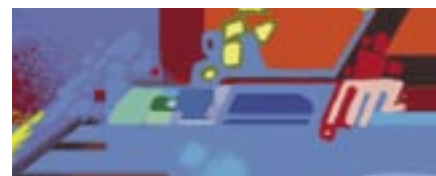
Responsibility of paramilitary groups

Between July 2002 and June 2005, paramilitaries assassinated or disappeared forcibly 976 persons each year. This constitutes an important –though by no means satisfactory– reduction with regard to what occurred in the six preceding years (July 1996 to June 2002), during which the yearly average was 1,756 victims.

This decrease is due to a change in strategy by these groups. Until the year 2001, a large part of the deaths perpetrated by paramilitaries occurred during massacres, in which great numbers of people were assassinated¹⁵.

Some of the greatest massacres of those years were those of El Salado (Bolívar)¹⁶, Ovejas (Sucre)¹⁷ and Upper Naya, in the municipalities of Buenos Aires and Timba (Cauca)¹⁸. Beginning in 2002, the average number of persons assassinated in this type of attacks began to diminish.

Between July 1996 and June 2002, the annual average of deaths in massacres carried out by paramilitaries was 886 persons each year. During the past four years (July 2002 to June 2006) this average of deaths in massacres fell to 227 persons yearly.



¹⁵ In 2000 and 2001, the number of persons presumably assassinated or forcibly disappeared by paramilitaries was more than 2,000 victims each year. During those years, the paramilitaries carried out 352 massacres leaving at least 2,367 victims.

¹⁶ On February 18 and 19, 2000, in El Salado (Bolívar), nearly 200 persons were tortured and assassinated by presumed paramilitaries of the Autodefensas Campesinas (Rural Self-Defense forces) of Córdoba and Urabá. The massacre went on for several days, during which the paramilitaries played the accordion and drank liquor. Several women were raped and then assassinated. These acts caused the forced displacement of the entire town.

¹⁷ On February 16 2000, in Ovejas (Sucre), 42 persons were assassinated, 39 of whom were also tortured, by presumed paramilitaries of the North and Anorí Block of the Autodefensas Campesinas de Córdoba y Urabá (Accu – Rural Self-Defense Groups of Córdoba and Urabá), with the acquiescence and the complicity of troops of the Fusilier Battalion of the Marine Infantry, Bafim 3, First Brigade.

¹⁸ On April 8 2001, in the region of Upper Naya, in the municipalities of Buenos Aires y Timba (Cauca), 46 persons were assassinated by presumed paramilitaries of the Farallones Block of the AUC. The paramilitaries made a round lasting several days, during which they cut the throats of the majority of their victims with machetes and electric saws. Seemingly, the paramilitaries entered the area immediately after it was abandoned by the members of the Third Brigade of the Army, responsible for that area

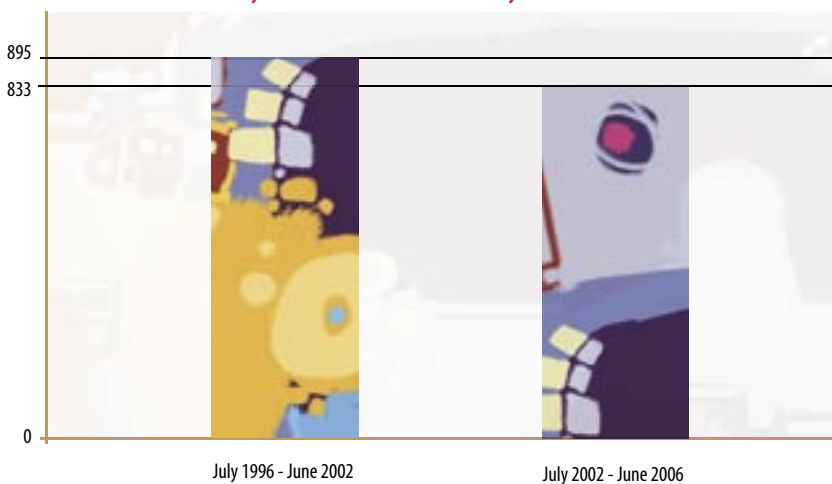
In contrast, the selective murders remain practically at the same level registered since 1996: an annual average of 895 persons between July 1996 and June 2002; and an annual average of 833 persons between July 2002 and June 2006. That means that the paramilitaries continue to use extra-judicial executions as a mechanism for social and political control, hunting down those persons they perceive as obstacles to their consolidation.

Historically, the paramilitary groups are those that have violated the right to life most often in Colombia. If we add the violations committed by such groups since July 1996 to those occurred in the past four years, we obtain a total of 14,444 civilians dead or disappeared out of combat - meaning 71,06% of the deaths for sociopolitical reasons out of combat during the last ten years for which the presumed generic author is known.

In spite of the process of negotiations with the government, paramilitary groups continued to be the greatest violators of the right to life. From the beginning of that process on December 1, 2002 and until July 31, 2006, at least 3,005 persons were allegedly killed or disappeared by paramilitaries. The government has shown no reaction in that regard, in spite of the fact that it had announced that the process was subject to the condition that said groups did not cause one single additional death. On the contrary, the High Commissioner for Peace has declared that “*the cease of hostilities [was] a metaphor that [had to] be handled with great flexibility*”¹⁹.

Graph 2

Annual average of selective murders attributed to paramilitaries
Terms: July 1996 - June 2002 and July 2002 - June 2006



¹⁹ Declaration by the High Commissioner for Peace during a session monitoring the process of negotiations with the paramilitaries (in Bogotá, on February 24 2005, at Residencias Tequendama).

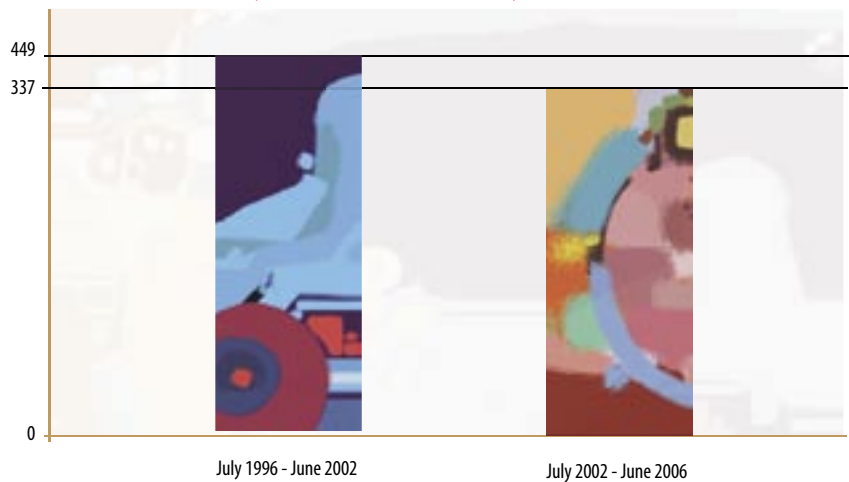
Responsibility of guerrilla groups

The breaches of humanitarian law affecting the right to life committed by guerrilla groups remain at a level that raises concern. Between July 2002 and June 2006, the guerrillas assassinated or disappeared an average of 397 persons out of combat each year. During the preceding six years (July 1996 to June 2002), the average was 449 victims each year.

Besides being a serious aggression by the guerrilla groups against the rights of the people, this is indicative of the lack of efficiency of the democratic security policy to prevent attacks by the guerrillas against the civilian population, in spite of the fact that this is one of the most important declared objectives of that policy²⁰.

Graph 3

Annual average of selective murders attributed to guerrillas
Terms: July 1996 - June 2002 and July 2002 - June 2006



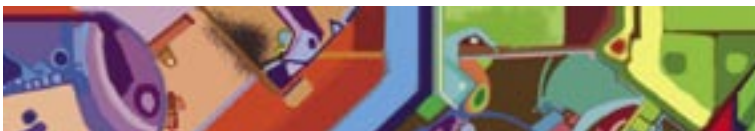
²⁰ It is possible that there is no reduction, and that the drop in the annual average is due to lacks of information in registering breaches of humanitarian law committed by the guerrillas.

Especially vulnerable population groups

Of the total deaths registered from July 2002 to June 2006, 1,324 were women. At least 1,342 young people and 678 girls and boys lost their lives due to the same causes during the same period.

Assassinations and forced disappearances of human rights defenders persist: Between July 2002 and June 2006, at least 52 were assassinated or forcibly disappeared (an average of one victim per month). 13 of the victims were women.²¹ During the preceding years, the monthly average of attacks against human rights defenders was the same: between July 1996 and June 2002, 74 human rights defenders lost their lives, that is, an average of one person each month.

Attacks against labor-union organizations continue. Between January 2003 and December 2005, 90 members of union organizations lost their lives each year (271 victims). During the three previous years (January 2000 to December 2002), the yearly average of union members assassinated or disappeared was 185 victims (555 deaths during the period). This represents a 48% decrease in violations of the right to life. However, there was an increase of 33% in the number of members of union organizations arbitrarily detained each year: between January 2003 and December 2005, an average of 60 union members were deprived of their freedom each year (182 victims). Between January 2000 and December 2002, 18 union members were arbitrarily detained each year.²²



²¹ This figure refers exclusively to persons part of non governmental human rights organizations, members of social organizations whose function within the organization was to carry out tasks of promoting and defending human rights; and State employees that carried out such work. However, the Office of the U.N. High Commissioner for Human Rights, based on Article 1 of the Declaration on the Rights and Duties of Individuals, Groups and Institutions to Promote and Protect Human Rights and Fundamental Freedoms defines human rights defenders as “any person who acts in favor of a human right (or several human rights) of an individual or group”. Applying this criterion, we can state that at least 41 persons were assassinated or disappeared forcibly during 2005. (Office of the U.N. High Commissioner on Human Rights, Los defensores de derechos humanos: protección del derecho a defender los derechos humanos [Human Rights Defenders: Protection of the right to defend human rights.] Information Booklet n.° 29, New York, 2004).

²² Escuela Nacional Sindical (ENS), Informe sobre la violación a los derechos humanos de los y las sindicalistas colombianos en el año 2005 [Report on Violations of the Rights of Colombian Male and Female Unionized Workers in the Year 2005] ENS, area human rights and labor affairs, Medellín, April 2006, page 11, in www.ens.org downloaded June 8 2006.

Disregard for other basic rules of humanitarian law



✦ All combatant groups continued to breach overtly the norms of humanitarian law. Between July 2002 and June 2005, at least 1,741 persons were killed in massacres, violating the principle of distinction²³.

✦ According to official sources, the number of victims of land mines and munitions abandoned without having exploded has risen alarmingly. Between January 1996 and December 2001, at least 728 persons died as victims of the use of this type of arms banned by humanitarian law. That is to say, an average of 121 persons a year, while between January 2002 and September 2006, at least 4,103 persons died due to the same cause, or an average of 820 a year²⁴. Unfortunately, the governmental Observatory on Land Mines does not report on the presumed perpetrators.

²³ This figure does not include persons assassinated in massacres that do not constitute breaches of humanitarian law, such as collective homicides perpetrated by violent groups against socially marginal persons.

²⁴ Presidential Program on Human Rights and International Humanitarian Law, Observatory on Land Mines, Frecuencia de víctimas por minas antipersonal (MAP) / Municiones abandonadas sin explotar (MUSE), 1990 a 1° de septiembre de 2006, [Frequency of victims of land mines/Unexploded forgotten munitions] www.presidencia.gov.co

The right to freedom

Between August 7, 2002 and June 30, 2006, at least 6,912 persons were detained arbitrarily in Colombia (in average, five persons daily). These figures are in contrast with those registered during the six preceding years (July 1996 to June 2002), in which around 2,869 persons were arbitrarily deprived of their freedom (an average of more than one person each day)²⁵.

The practice of kidnappings persists. Between July 2002 and June 2005, 4,650 kidnappings were reported. This means that in average 1,550 persons were kidnapped each year. 2,841 kidnappings (61%) were attributed to the combatant groups: to guerrilla groups, 2,456 (52.81%), and to paramilitary groups, 385 kidnappings (8.2% of the total number). During the period there were cases of persons kidnapped by members of the State forces that were not registered by the national police²⁶.



²⁵ Coordinación Colombia Europa Estados Unidos, Observatorio de Derechos Humanos y derecho humanitario, *Libertad: "Seguridad democrática". Detenciones arbitrarias en Colombia: 7 de agosto de 2002 a 6 de agosto de 2004*, Documentos temáticos No.2, Bogotá, 2006, pg 75 y ss; and databank of the Colombian Commission of Jurists.

²⁶ The present document does not include complete information regarding the number of kidnapped persons in the last year because a right of petition presented to the National Police has not yet been answered, and this is the source upon which the Colombian Commission of Jurists bases its final reports on this topic. However, the statistics of the official entity Fondelibertad indicate that between January 2002 and April 2006, at least 4,115 persons were victims of kidnappings carried out by guerrilla and paramilitary groups. The guerrilla group FARC was the presumed author of 2,211 kidnappings (57.73%), the guerrilla group ELN was the presumed author of 1,389 cases (33.75%). Responsibility for 515 kidnappings (12.5%) was attributed to paramilitary groups, in spite of having declared a cease of hostilities in December of 2002. During the period, there were cases of persons kidnapped by members of the State forces, but these are not registered by Fondelibertad. From 1996 until today, no fewer than 5,461 persons remain in captivity. Fundación País Libre, Carta abierta, March 2006, www.paislibre.org



The right to personal integrity

Between July 2002 and June 2006, 823 victims of torture were registered. Of these, 178 were left alive and 645 were assassinated after being tortured. In 90.1% of the cases for which the presumed generic perpetrator of the torture is known, responsibility is attributed to the State: 31.2% through direct action (167 victims); and 58.9% through omission, tolerance or acquiescence with the actions of the paramilitaries (315 victims). Presumed responsibility was attributed to the guerrillas in 9.9% of the cases (53 victims).

Sexual violence against women and girls persists. In its report for 2005, the Office in Colombia of the U.N. High Commissioner on Human Rights pointed out that it has “*received complaints of sexual violence attributable mainly to members of the public security forces.*

Other complaints have been made against members of the paramilitary groups and the FARC-EP, as well as against persons demobilized from the paramilitary groups. In some of these cases, the victims have been children, young women, and indigenous women”²⁷.



²⁷ U.N. High Commissioner on Human Rights, Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia, U.N. Commission on Human Rights, 62nd Period of Sessions, doc. E/CN.4/2006//9, January 20 2006, Annex 4, Par. 19. The statistical information on sexual violence is greatly underestimated with relation to the number of cases of sexual abuse occurring in the country daily. The main reason is that women do not report this type of violations for fear of reprisals or social sanctions. Another factor that contributes to underreporting is the invisibility of sexual violence, which remains hidden behind other violations of the right to life. In such cases, the death of the victim is investigated but no documentation or investigation is carried out regarding the sexual violation. For these reasons, the Colombian Commission of Jurists does not provide statistical information on these acts.

A Violation of multiple rights: Forced displacement

- More than one million persons were displaced between July 2002 and December 2005: 1'014,647 cases were registered during this period, added to those displaced in previous years. Cases of forced displacement have been registered in 87% of the country's municipalities²⁸.
- The absence of an effective policy for the prevention of human rights violations and forced displacement is evident in the increase in the number of displaced persons. According to the Consultancy on Human Rights and Displacement (Codhes in Spanish), between July and September of 2005, nearly 100,000 persons were forcibly displaced, an increase of 32 percent with regard to the same three-month period in 2004²⁹.
- According to the International Committee of the Red Cross, "*the number of persons displaced as a result of the conflict has increased significantly during the first two months of 2006 with respect to the same period of the previous year.*" This international organization adds that "*the population has suffered greater restrictions in its movement (...) and forced displacement has affected mainly the population living in the departments of Meta, Nariño and Cauca*"³⁰.



²⁸ Consultoría para los Derechos Humanos y el Desplazamiento Codhes [Consultancy on Human Rights and Displacement, Codhes], and Colombian Bishops' Conference, *Desafíos para construir nación* [The Challenges of Nationbuilding], Bogotá, 2006, pages 26 and 34; "No ceden cifras de desplazamiento" ["Displacement figures do not abate"], *El Colombiano*, daily newspaper, December 22 2005, www.elcolombiano.com; http://www.codhes.org/cifra/Dpto_Recp_Pers_2004.pdf

²⁹ "Entre julio y septiembre, cerca de 100.000 personas fueron desplazadas", ["Between July and September, close to 100,000 persons were displaced"] *El Espectador*, daily newspaper, October 26 2005, www.elespectador.com

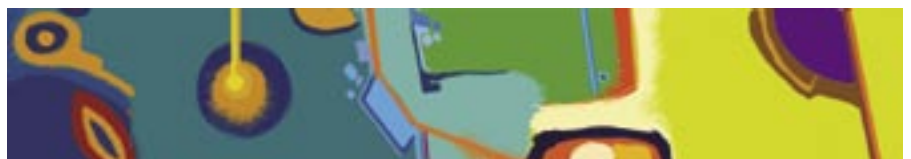
³⁰ International Committee of the Red Cross, ICRC, regional news on March 23 2006, published in www.icrc.org (downloaded July 15 2006).

Inconsistencies of the governmental figures

The government insists in stating that the national indicators on violence show a downward trend. However, as the Office of the U.N. High Commissioner on Human Rights has pointed out, that *“It is important to remember that those indicators do not specifically and separately refer to acts committed by public servants which, either directly or through links with members of paramilitary groups, constitute human rights violations”*³¹.

Furthermore, the Office of the U.N. High Commissioner on Human Rights has stated that the official statistics have serious flaws: *“There has been no progress in the establishment of an official system of statistics that deals adequately with human rights violations and breaches of international humanitarian law (...). The Human Rights Observatory of the Office of the Vice-President does not include extrajudicial executions or arbitrary detentions, nor certain categories of breaches of international humanitarian law”*³².

Figures of the Human Rights Observatory of the Office of the Vice-President are based primarily on the reports issued by the public security forces. These documents present various problems. Some of the reports on deaths in combat are inconsistent and unclear, which makes it doubtful that combat actually took place. In other cases, the State security forces have reported as combatants dead in combat civilians who in reality were victims of extrajudicial executions. The security forces have also attempted to cover up extrajudicial executions of civilians, presenting them in their reports as deaths in the crossfire in confrontations with the guerrilla groups.



³¹ U.N. High Commissioner on Human Rights, Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia, U.N. Commission on Human Rights, 62nd Period of Sessions, doc. E/CN.4/2006//9, January 20 2006, Par. 22.

³² U.N. High Commissioner on Human Rights, Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia, U.N. Commission on Human Rights, 62nd Period of Sessions, doc. E/CN.4/2006//9, January 20 2006, Par. 134.

In other cases, and in spite of the existence of conclusive evidence, the Observatory has abstained from including information on extrajudicial executions. Such is the case of the extrajudicial execution of three union leaders on August 5 2004 in Tame (Arauca) carried out by members of Brigade XVIII of the National Army³³. According to the initial version by the public security forces, the union members belonged to the guerrilla and had been shot down in combat. After evaluating the evidence, the Prosecutor General's Office established that there had been no confrontation and ordered the arrest of an Army sub-lieutenant and two professional soldiers who participated in the military operation, and an informant that accompanied the Army. Nonetheless, up to now the Observatory has abstained from including this case in its register³⁴. The Office of the U.N. High Commissioner on

Human Rights drew attention to this flaw in its report on Colombia for the year 2005³⁵. At a meeting held by nongovernmental organizations with the Government in the presence of the G-24 on April 6 2006, the Director of the Human Rights Observatory of the Office of the Vice-President was asked if these three cases of assassination had been included in the statistics of the Vice-Presidency, in conformity with the recommendation by the High Commissioner in that sense. The Director of the Observatory answered negatively, and she gave as justification the fact that there was no legal ruling declaring the formal responsibility of the State forces. She was asked then if the records of cases attributed to guer-



rilla groups by the statistics of the Observatory were effectively underpinned by a criminal sentence. The director admitted that in such cases the Observatory did not expect to have judicial sentences declaring formally the responsibility of the guerrilla groups or combatants. This shows that the government handles its statistics on human rights violations and breaches of humanitarian law with less than objective criteria

³³ That day saw the extrajudicial executions of union leaders Leonel Goyeneche, treasurer of the union federation Central Unitaria de Trabajadores (Cut), Arauca section; Jorge Prieto, president of Anthoc, Arauca section; and Alirio Martínez, president of the agrarian union, Sindicato Agrícola, and leader of the National Association of Rural Workers, Asociación Nacional de Usuarios Campesinos (Anuc).

³⁴ On September 7 2004, the Office of the General Prosecutor ordered the arrest of Army Sub-lieutenant Juan Pablo Ordóñez Cañón and of the professional soldiers Oscar Saúl Cuta Hernández and John Alejandro Hernández Suárez, who participated in the military operation. According to the General Prosecutor's Office, after evaluating the evidence it was established that no confrontation took place between members of the Army and the union leaders. Ballistic evidence shows that the shots were fired at a short distance and the victims were apparently defenseless. An arrest warrant was issued also against Daniel Roza Caballero, who appears to have been the informant who accompanied the Army on the day of the operation.

³⁵ U.N. High Commissioner on Human Rights, Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia, U.N. Commission on Human Rights, 62nd Period of Sessions, doc. E/CN.4/2006/9, January 20 2006, Par. 22.

Inconsistencies in official information are not fortuitous. The manipulation of the information on security and law and order is a deliberate decision of the Government. The Government has explained that since the beginning of its mandate it “*adopted a procedure of not revealing to public opinion any information related to the topic of security before it is known and analyzed by the Security Council, directed by the President of the Republic, and in which participate the Ministry of Defense, the commanders of the Armed Forces, the National Police, and the Director of DAS [Departamento Administrativo de Seguridad - State intelligence agency]*”³⁶. By means of this proce-

cedure, the Government has censored the publication of information it considers unfavorable. Proof of this is the resignation of the director of the official statistics office (Departamento Nacional de Estadística - Dane) in September 2004, who left his post after denouncing undue pressure by the national Government so he would refrain from presenting the results of a survey on household victimization carried out in the cities of Bogotá, Cali and Medellín³⁷.

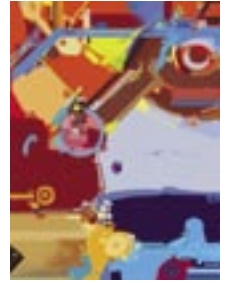


³⁶ “Comunicado de la Presidencia respecto a la renuncia”, [“Press release from Office of the President regarding the resignation”] in *El Espectador*, daily newspaper, September 16 2004, in www.elespectador.com downloaded September 17, 2004.

³⁷ “César Caballero renunció a la dirección del Departamento Administrativo Nacional de Estadística (Dane)”, [“César Caballero resigned from the Direction of the Departamento Administrativo Nacional de Estadística (Dane)”] daily *El Espectador*, September 16 2004, in www.elespectador.com downloaded 17 de septiembre de 2004; “Abrupta salida del director del Dane”, [“Abrupt exit of the Director of DANE”] daily *El Colombiano*, 16 September 2004, in www.elcolombiano.com downloaded 17 de septiembre 2004; “Renunció el director del Dane”, [“DANE Director stepped down”] daily *El Tiempo*, 16 September 2004, pages. 1-15; “Director del Dane relata su salida” [“DANE Director talks about his exit”] daily *El Tiempo*, 17 September 2004, pages. 1-4.

Proposals

In the face of the grave situation of human rights and humanitarian law in Colombia, it is necessary for a comprehensive human rights policy to be put into place that includes a program of truly democratic security, that keeps wide open and develops the spaces for negotiation leading to the political solution of the armed conflict, and that is supported and supervised in a purposeful way by the international community.



A comprehensive human rights policy is needed.

That guarantees both civil and political rights as well as economic, social, and cultural rights.

That has human rights as ends and means of any security operation.

A policy is essential that includes a truly democratic security program.

That confronts all the violent actors.

That is developed for the benefit of all sectors of the population, especially with the displaced population as starting point.

That is executed with a scrupulous respect for the civilian population.

A policy is essential that keeps open, and develops with the greatest decisiveness possible, the appropriate spaces for negotiations toward the political solution of the armed conflict.

For humanitarian accords.

For peace processes based on the respect of human rights.

Of decisive importance is a policy that is more effectively supervised by the international community.

By the Inter-American system for the protection of human rights (Inter-American Human Rights Commission and Court).

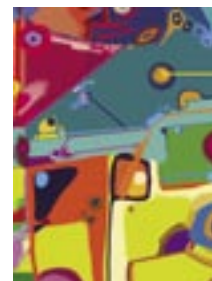
By the United Nations (through the new U.N. Human Rights Council and by strengthening the Office in Colombia of the United Nations High Commissioner for Human Rights).

By the International Labor Organization-ILO (through, among other mechanisms, the recently created Permanent Office of the ILO in Colombia).

By the UN High Commissioner on Refugees (UNHCR) and the United Nations system as a whole.

By countries or communities of countries (like the European Union, the United States, the G-24, and Latin American countries).

And, of course, by the Colombian community, appropriately organized and strengthened for that purpose.



How the Colombian Commission of Jurists (CCJ) processes its information

The CCJ has created a database on sociopolitical violence with the purpose of keeping a daily and permanent record on human rights violations and breaches of humanitarian law that take place in Colombia.

At present the information processed by the CCJ stems from the following sources: 20 national and regional newspapers¹; two weekly news magazines with nationwide circulation²; direct complaints gathered by the CCJ; complaints made to other human rights organizations, national as well as regional, that monitor the situation of human rights and humanitarian law; information submitted by the national authorities (Public Defender's Office, Inspector General's Office, Prosecutor General's Office, Vice-President's Office, Armed Forces and Police) and the publication *Noche y Niebla* (Night and Fog) of the CINEP Data Bank.

The CCJ data base is structured in four broad fields of information. The first one registers general information regarding the victim – date and place of the act, name of the victim, age, sex, and finally information on the person's social status. This last indicator aims to identify elements of the social circumstances of the victim which might explain the attack; for example, if it concerns a displaced person or someone socially marginalized³.

The second field gathers information on the victim's activities. It is structured in four sectors of activity: The first refers to the work sector and registers information on the occupation of the victim. The second refers to labor union-related activities and registers whether the person belonged to an organization of this type, the name of the organization, and the position he or she held in the union. The third refers to social sector and registers information regarding the victim's social activity, pointing out the name and character of the organization as well as the position held by the victim (including human rights defenders). The fourth refers to the political sector and registers information on the political activity of the victim, pointing out whether he or she was a militant in, or belonged to, some type of political party and the office held within it.

¹ *El Tiempo, El Espectador, El Colombiano, Diario del Huila, Diario del Otún, Diario del Sur, El Heraldo, El Liberal, El Meridiano de Córdoba, El Meridiano de Sucre, El Mundo, El Nuevo Día, El País, El Universal, Hoy Diario del Magdalena, La Nación, La Opinión, La Patria, La Tarde, Vanguardia Liberal.*

² *Semana and Cambio.*

³ Socially marginalized persons are indigent people, street children, beggars, prostitutes, homosexuals who practice prostitution, drug addicts, persons with a criminal record, and presumed delinquents.

The third field registers information on human rights violations and breaches of humanitarian law committed in each case, as well as their presumed authors. The data base registers only information on violations to the rights to freedom, personal integrity, and life. As to responsibilities, the register indicates the presumed generic author and subsequently specifies the front, block, or battalion, as the case may be.

Lastly, the fourth field of information records the sources, namely newspapers, magazines, complaints, communications with the authorities, and other sources of information mentioned above.

Procedures for the inclusion of information in the data base

All the information registered in the data base must previously undergo a selection process. Out of the whole of the violent acts registered daily, the ones chosen constitute cases of sociopolitical violence according to the following criteria:

1. Characteristics of the victim: Taken into account is the activity carried out by the victim – that is, whether the victim took part in any kind of political or social activism. Such cases are always included in the data base. Likewise, we take into account social characteristics: for example, if the victim belonged to a sector of the population considered vulnerable, or whether he or she belonged to a socially marginalized group. In such cases, the social circumstances of the victim constitute an indication that the act may be one of sociopolitical violence, but this in itself is not sufficient to include it in the data base. This is why other elements are examined, such as the ones described below.
2. The presumed author of the act: Included in the data base are all cases in which the presumed author is one of the armed groups (State agents, paramilitaries, guerrilla groups). In cases where the presumed author is unknown or is an unidentified armed group, both the characteristics of the victim and the way in which the act was committed are taken into consideration.

3. The way in which the act is committed:

Constant observation of violent deeds has taught us how to identify the *modus operandi* of the armed groups in the country. Therefore, one of the elements to be taken into account when deciding whether to include a case or not is the way in which the act is carried out. Although it is not a determinant factor, it is an element which, when combined with the other two mentioned above, helps to identify cases of sociopolitical violence. The following situations are considered:

- Whether there is evidence of torture
- Whether the persons are on a list of potential or threatened victims
- Whether the victims were removed from their homes by force
- Whether previous threats had been made
- Whether the victims were former militants of a political party, or had previously belonged to a social organization; whether they were labor union members or human rights defenders.

Once the cases have been selected, a process of codification is undertaken of the information to be included in the CCJ data base.

Process of verification of the information

One of the main concerns involved in the work of the CCJ is an adequate verification of the cases included in the data base. To that end, the CCJ has implemented a permanent system of exchange of information with the authorities charged with monitoring the situation of human rights and humanitarian law, and this with two main objectives: on the one hand, to establish that the acts actually took place; and on the other, to establish the state of the investigations related to human rights violations in the country.

The procedure consists in requesting, through rights of petition, information from the Ombudsman's Office, the Inspector General's Office, the General Prosecutor's Office and the Armed Forces and the Police, depending on the case: whether they are aware of the case and what actions have been undertaken in order to shed light on the facts and punish those responsible for the violations.

Likewise, regional organizations are sought out that carry out field work and which, in many cases, may have direct knowledge of the facts. Through these organizations, information is sought from the victims of human rights violations regarding the actions undertaken by them and the response given by the State to their demands and requests.

Finally, the CCJ carries out visits to the regions in order to monitor the human rights situation, during which it gathers information through direct interviews with the local authorities, with organizations that work in the field, and with the victims of human rights violations. During such visits, we have been able to confirm information on cases that were already known to us and gather information on new cases. Through these visits, we have been able to ascertain that the cases registered in the CCJ's data base constitute only an underreported reflection of the real situation.

The listings of victims in the data base can be consulted at the CCJ.

THE COLOMBIAN COMMISSION OF JURISTS: WHO ARE WE?

In accordance with our mandate, through judicial means we seek the full respect of civil, political, economic, social, and cultural rights in Colombia, as well as of humanitarian law, and we acknowledge the universal, indivisible, and interdependent nature of these rights.

According to our by-laws, the work of the Colombian Commission aims to contribute to the development of international human rights law and international humanitarian law in conformity with the purposes and principles of the Charter of the United Nations, as well as to the full force of the social and democratic rule of law in Colombia.

We regard human rights as a value in itself that cannot be subordinated to any other aims. We constitute a pluralist organization, not linked to any confession or political party. We are a nongovernmental organization with consultative status before the United Nations, affiliate of the International Commission of Jurists in Geneva and of the Andean Commission of Jurists in Lima.

To reach our objectives, we gather and analyze information on human rights and humanitarian law; we make public such information; we promote the knowledge and use of the legal instruments that protect human rights and humanitarian law; and we carry out legal protection activities.

We initiated activities on May 2, 1988 and acquired legal status through Resolution 1060 of August 18, 1988, by the Office of the Mayor of Bogotá.

Members of the General Assembly of the Colombian Commission of Jurists:

Ana María Díaz, Gustavo Gallón Giraldo (Director),
Carlos Alberto Marín Ramírez (Deputy Director for Programming),
Luz Marina Monzón Cifuentes, Carlos Rodríguez-Mejía (Deputy Director of Operations),
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