



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2003/NGO/111
12 March 2003

ENGLISH AND SPANISH
ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-ninth session
Item 3 of the provisional agenda

ORGANIZATION OF THE WORK OF THE SESSION

Written statement* submitted by the Colombian Commission of Jurists, a non-
governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2003]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The undersigned Colombian NGOs and social organizations would like to state that, besides the worsening of the human rights situation in Colombia, there is an increasing dismantling of the social and democratic State with the rule of law.

The Office of the U.N. High Commissioner for Human Rights in Colombia (OUNHCHR) is carrying out its mandate appropriately, but the government disobeys its recommendations.

1. Measures taken by the new Government

a. Civilian population in conflict

The government has implemented a network of paid informers, that violates due process, because the information is used without adequately evaluating it. This government has also implemented a program of peasant soldiers, which could lead to members of paramilitary groups joining military forces. All of these events are increasingly involving the civilian population in hostilities, thereby violating the principle of distinction and increasing the risks to the population.

The Colombian Congress is studying a bill allowing the civilian population to carry war weapons.

b. State of emergency

The government declared a “state of internal commotion” in August, 2002, establishing arbitrary restrictions: generalized arrests, raids, telephone wire-tapping, and undue limitation on the right of movement. The government has officially said that guerrillas are blending into the civilian population; for this reason, measures are mainly directed towards this population and not towards combatants. The General Prosecutor’s Office has approved these measures, ignoring fundamental rights.

Decree 2002 of 2002 established “rehabilitation and consolidation zones,” in which civil authorities fall under the command of the military commander. They take a census of the population and register civilians in order to make it easy to find the opposition. The civilian population in these areas is required to inform the authorities of their movements and whether they have telecommunications devices in their possession; otherwise, they will be detained without judicial order.

The government extended the “state of internal commotion” in November, 2002, and obtained the Senate’s authorization to extend it a further 90 days after February, 2003. It also requested that Congress approves as permanent some of the emergency measures, thereby contravening their provisional nature.

c. Dismantling the social and democratic State with the rule of law

The government has announced and proposed measures such as:

- Restrictions to the “writ of protection of constitutional rights”¹.
- Weakening of the Constitutional Court.
- Elimination of some local ombudsmen’s offices and weakening of the General Ombudsmen Office.
- Law of national security: more restrictions on guarantees and a greater involvement of the civilian population in the conflict.
- Dismantling of programs to take care of the displaced, and their return without guarantees.

A labor and retirement pension reform, which affects labor stability and social security, was passed in 2002.

d. New factors of impunity

Congress passed a constitutional reform which grants exorbitant powers to the General Prosecutor so that he can decide which cases should be investigated and how prosecutors should proceed.

Against international recommendations, the government requested that this reform include the granting of judiciary police powers to the military, but without success. It will insist on this proposal in 2003.

The Colombian government did not accept the jurisdiction of the International Criminal Court for war crimes for 7 years, and it will apply an immunity agreement with the United States, which protects its citizens in this Court.

e. Human rights defenders, NGOs

The government has adopted a hostile attitude towards human rights NGOs. It has announced a campaign abroad against the information provided by human rights NGOs. Some defenders have been detained, and the headquarters of some NGOs, social organizations, and programs of international cooperation have been raided. There are obstacles to international humanitarian aid and to obtaining visas for the members of foreign cooperative organizations, some of whom have been expelled from Colombia. The State program to protect the defenders of human rights is almost paralyzed.

f. General Amnesty

In December, 2002, at the government’s urging, Congress eliminated the political nature of armed groups as a requirement for negotiations. The law that was passed foresees general amnesty without respecting the victims’ rights to truth, justice, and redress. It also opens the door to negotiations with the paramilitary groups who are responsible for most of the violations of human rights and attacks against the civilian population.

¹ “Right of protection of constitutional rights” in other countries. It is also similar to the Anglo-Saxon “writ of injunction.”

g. The “Andean Regional Initiative”

The “Andean Regional Initiative” (which includes “Plan Colombia”) promoted by the United States and accepted by Colombia, has been extended from fighting against drugs to fighting against counterinsurgency. Aerial spraying and the forced eradication of illicit crops involve human rights violations, cause forced displacements, and affect the environment.

h. Lack of a policy on human rights and humanitarian law

The government has reduced its policy on human rights and humanitarian law to a security policy. It forgets that it is obliged to implement a serious policy based on international recommendations in order to take care of vulnerable sectors of the population, eliminate impunity, dismantle paramilitarism, promote respect for humanitarian law, guarantee economic, social and cultural rights, and fight against poverty.

i. Non-cooperation with the United Nations

Although the government extended the agreement with the OUHCHR, it ignores its recommendations. When this office expressed its concerns regarding the measures taken under the state of internal commotion and their repercussions on human rights, President Uribe said that his security policy “will not be changed.” “Here (in Colombia) there is a lot of criticism when we do things to overcome violence and there is a lot of silence when violence abounds all throughout Colombia without facing it.”²

In contrast, the government fulfills all the requirements of the World Bank and the International Monetary Fund, even to the detriment of the rights of the population.

2. The situation continues to worsen

a. Sociopolitical violence

On average, twenty persons were killed or forcibly disappeared because of sociopolitical violence between July, 2001, and June, 2002. Ten of them were victims of political homicide, more than one disappeared, one was killed because she belonged to socially marginalized sectors, and eight died in combat and under crossfire.³

Approximately 76% of the homicides of political and socially marginalized individuals and of forced disappearances, in which the generic perpetrator is known, are allegedly attributed to State agents. Five percent (5%) are attributed directly (127 victims), while 71% (1,882 victims), indirectly, because of omission, tolerance, acquiescence, or support to the violations committed by paramilitary groups. 24% (628 victims) of the cases were

² *El Tiempo* newspaper, pages 1-8 and *El Espectador* newspaper.com, October 2, 2002.

³ Statistics on deaths in combats were different during this period when compared to previous periods. For this reason, they are being reviewed, case by case.

allegedly attributed to guerrillas.⁴

Seventeen human rights defenders were murdered or forcibly disappeared between January and December, 2002.⁵

184 trade unionist were killed or forcibly disappeared between January and November, 2002 (177 killings, 7 forced disappearances): 144 between January and July (a monthly average of 20.5), and 40 between August and November (a monthly average of 10).⁶

More than approximately 353,100 people (a daily average of 1,284) were forcibly displaced between January and October, 2002.⁷

Between January and October, 2002, 2,492 people were kidnapped: approximately 61% are attributable to guerrillas, 6% to paramilitary groups, 15% to common delinquency, and 18% to other perpetrators.⁸ There is evidence concerning the participation of State agents in many kidnappings.⁹

b. Vulnerable sectors

International recommendations on displaced people, women, children, indigenous peoples, Afro-Colombian ethnic groups, peasants, prison populations, homosexuals, human rights defenders, social activists, and union workers have not been effectively carried out. Therefore their situation continues to deteriorate.

Within the framework of armed conflict, there have been increases in several crimes against women and in the number of minors dragged into war.

Indigenous populations are the victims of sprayings, machine-gun violence, bombings, raids, and breaking and entering. In addition, the State has not complied with the agreements made with these populations. Armed groups act as occupation armies, forcing young people to join their ranks, and promoting forced displacement, thereby increasing ethnic homicides.

c. Impunity

Impunity due to violations and infringements of rights is nearly 100%. The policies of the current Attorney General's Office worsen this situation. The Unit for Human Rights has been seriously affected. State employees accused of being notorious perpetrators of

⁴ Source: Colombian Commission of Jurists.

⁵ Source: Colombian Commission of Jurists.

⁶ Source: National Trade Union School (Escuela Nacional Sindical).

⁷ Source: Office for Consultancy on Human Rights and Displacement (CODHES), News Bulletin No. 43, Bogotá, November 18, 2002.

⁸ Source: National Police.

⁹ The figures of the National Police do not distinguish the alleged responsibility of State agents in kidnappings. However, current and former agents have participated in committing this crime.

serious human rights violations and of constituting paramilitary groups have been helped in investigations.

d. International humanitarian law

All parties continue to commit infringements against international humanitarian law. Among them, we can mention hostage-taking in kidnappings, and the detention of civilians.

One hundred and nineteen (119) civilians died as a result of combat between paramilitary groups and the Revolutionary Armed Forces of Colombia (FARC) after this guerrilla group launched a missile attack in Bojayá (Chocó) in May, 2002.

A trade unionist was injured as a result of an attack by the National Liberation Army (ELN) in Rionegro (Antioquia) in March, 2002. Later on, this group stopped the ambulance carrying him to the hospital and killed him.

The public forces seriously infringed humanitarian law in Medellín because it ignored the principles of distinction and proportionality. Nine civilians, of whom four were minors, died in “Operation Mariscal” on May 21. “Operation Orion” with helicopter gunships started on October 13. Fourteen people died, 54 were injured (some minors), and hundreds were arbitrarily detained.

3. We ask that this Commission

1. Strongly state its deep concern

Based on the High Commissioner’s report and on other pertinent information, that it express strong concern for the crisis in human rights and humanitarian law in Colombia and because of the non-compliance with its recommendations.

2. Urge the State to comply with all the recommendations, among them:

- a. Not to continue to overuse emergency measures.
 - b. To seek a negotiated political solution to the conflict, respecting human rights, especially those of the victims.
 - c. To promote respect for humanitarian laws.
 - d. To guarantee the independence of the judiciary branch.
 - e. To dismantle and to eradicate paramilitary groups, break their ties with State agents, and investigate and bring their members and collaborators to justice.
3. Support and strengthen the OUNHCHR and the U.N. presence in Colombia:
- a. To request that the High Commissioner present an interim report to the General Assembly on the human rights situation and the state of compliance with his recommendations.
 - b. To appoint a Special Rapporteur for Colombia as an complementary mechanism for the OUNHCHR.
 - c. To create a group to analyze why the Colombian State repeatedly ignores recommendations and to present its report during the following sessions.

- d. To encourage the Colombian State to invite the Commission's thematic mechanisms to Colombia.
- e. To recommend the strengthening of HCR in Colombia, to extend the mandate of protection and to include a follow-up to the recommendations.

December, 2002

The following organizations have signed this statement

1. Asamblea Permanente de la Sociedad Civil por la Paz
2. Asociación Campesina de Antioquia - ACA
3. Asociación Campesina Del Valle Del Río Cimitarra - ACVC
4. Asociación de Familiares de Detenidos Desaparecidos - ASFADDES
5. Asociación de Trabajo Interdisciplinario – ATI
6. Asociación Nacional Afrocolombiana CIMARRON
7. Asociación Nacional de Ayuda Solidaria - ANDAS
8. Asociación Nacional de Usuarios Campesinos – Unidad y Reconstrucción – ANUC-UR
9. Asociación para la Investigación Social Participativa TALLER DE VIDA
10. Asociación para la Promoción Alternativa - MINGA
11. Asociación Santa Rita para la Educación y Promoción - FUNSAREP
12. Asociación Solidarios por la Vida - SOLIVIDA
13. Benposta Nación de Muchach@s
14. Cedavida
15. CEDERNOS
16. Central Cooperativa de Servicios – CENCOOSER
17. Central Unitaria de Trabajadores de Colombia - CUT
18. Centro Cristiano para la Justicia, Paz y Acción No Violenta – JUSTAPAZ
19. Centro de Investigación y Educación Popular - CINEP
20. Centro de Promoción Ecuménica y Social - CEPECS
21. Colectivo de Abogados “José Alvear Restrepo”
22. Comisión Colombiana De Juristas - CCJ
23. Comisión de Derechos Humanos USO - Asamblea por la Paz
24. Comisión Intereclesial de Justicia y Paz
25. Comisión Vida, Justicia y Paz
26. Comisión Vida, Justicia y Paz de la Diócesis de Quibdó
27. Comité Permanente por la Defensa de los Derechos Humanos - CPDH
28. Comité Permanente por la Defensa de los Derechos Humanos - CPDH Caldas
29. Comité Regional de Derechos Humanos “Joel Sierra”
30. Comité Regional de Derechos Humanos - CREDHOS
31. Comunidades Eclesiales de Base – CEBS
32. Confederación de trabajadores de Colombia -CTC
33. Confederación General de Trabajadores Democráticos - CGTD
34. Consejo Regional Indígena Del Cauca – CRIC
35. Consultoría para los Derechos Humanos y el Desplazamiento – CODEES
36. Corporación AVRE - Apoyo a Víctimas de violencia sociopolítica pro Recuperación Emocional
37. Corporación Casa De La Mujer
38. Corporación Fundación para la Defensa de los Derechos Humanos REINICIAR
39. Corporación Jurídica Libertad
40. Corporación para el Desarrollo del Oriente COMPROMISO
41. Corporación Región
42. Corporación Servicios Profesionales Comunitarios SEMBRAR

43. Corporación Utopías
44. Corporación Viva La Ciudadanía
45. Defensa de Niños Internacional - DNI
46. Diócesis de Tibú
47. Enda
48. Escuela Nacional Sindical - ENS
49. Fasol
50. Franciscans International Colombia
51. Fundación Cleber
52. Fundación Comité de Solidaridad con los Presos Políticos - FCSPP
53. Fundación Dos Mundos
54. Fundación Estrella Ortográfica del Macizo Colombiano – FUNDECIMA
55. Fundación Foro Costa Atlántica
56. Fundación Franciscana Santo Tomás Moro
57. Fundación Manuel Cepeda
58. Fundación Menonita colombiana para el Desarrollo - MENCOLDES
59. Fundación para la Educación y el Desarrollo - FEDES
60. Fundación para la Participación Comunitaria - PARCOMUN
61. Fundación para la Promoción de la Cultura y la Educación Popular - FUNPROCEP
62. Fundación Sol y Tierra
63. Fundación Sumapaz
64. Humanidad Vigente Corporación Jurídica
65. Iglesia Presbiteriana de la Costa Norte
66. Instituto Latinoamericano de Estudios Alternativos - ILSA
67. Instituto María Cano - ISMAC
68. Instituto Popular de Capacitación - IPC
69. Organización Femenina Popular - OFP
70. Organización Indígena de Antioquia - OIA
71. Organización Nacional Indígena de Colombia - ONIC
72. Pastoral Social
73. Proceso de Comunidades Negras
74. Promujer
75. Proyecto Agenda Gays Lesbianas Bisexuales y Transgeneristas
76. Sindicato Nacional de Trabajadores de la Industria de Alimentos - SINALTRAINAL