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ORGANIZATION OF THE WORK OF THE SESSION

**Written statement* submitted by the Colombian Commission of Jurists (CCJ),
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.

[3 February 2004]

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

During the year 2003 the situation in Colombia continue to worsen. The Government's "democratic security" policy disregards human rights and humanitarian law, and limits security to a restrictive, arbitrary concept.

The President of the Republic has stated that he does not believe in the principle of distinction, that all Colombians must militarily support the Army, and that in Colombia there are no combatants, only terrorists. The Government intends to annul all distinctions between civil society and the State, by denying the right to opposition and the right to social dissidence.

The Social and Democratic State of Law is being dismantled to establish a "Community State" further empowering the Presidential Branch, eliminating the controls over it, restricting the other branches, and delegating State responsibilities, such as security and justice, to the community. ESCR go unattended.

All this is occurring within the framework of the "war against terrorism", in the name of which human rights have been violated and IHL breached, contrary to 2002 General Assembly Resolution 57/219. The Colombian Government does not guarantee human security under the terms of the OAS Declaration (October 28, 2003).

The Government maintains that "the State's foreign relations are founded on the respect of the principle of self-determination and national sovereignty" and that, therefore, it is not obliged to comply with United Nation's recommendations. It argues that the Statement made by the Chairperson of the Commission in 2003, urging it to not grant judicial powers to the Public Forces, was not consulted with the Government.

1. Figures on Sociopolitical Violence

During the first nine months 2003, an average of almost 20 persons a day were murdered, forcibly disappeared or killed in combat due to sociopolitical violence; that means a yearly average over the past three years of 7,000 persons dead and disappeared because of the sociopolitical violence.

State agents were the authors, during the first nine months 2003, of approximately 77,17% of political homicides, murders of socially marginal persons, and forced disappearances for which the generic perpetrator is known: 7,96% directly attributable to them (152 victims) and 69,21% (1.304 victims) indirectly attributable through omission, tolerance, acquiescence or support to the violations committed by the paramilitary groups. The guerrilla groups were allegedly responsible for 22.82% of the cases (430 victims).

From January to November 2003 1,966 persons were kidnapped: 999 (50.81%) allegedly by the guerrilla groups, 166 (8.44%) by the paramilitary groups, 363 (18.46%) by common criminals, and 438 (22.28%) by unidentified perpetrators. There is evidence of the participation of State agents and former agents in kidnappings.

2. Dismantling the Social and Democratic State of Law

The Government proposes reforming justice to keep the legal “tutela” action (similar to an injunction to protect fundamental rights) from protecting the ESCR and to cut back the Constitutional Court’s powers. It has already reduced salaried incomes and expenditure in social investment and degraded the pension policy for employees.

Through a referendum, the Government attempted to reform the Constitution. As the referendum was not approved, the Government then attempted to have the reforms approved in Congress, but it did not succeed in that either. It has announced that it will insist in its purposes.

3. Judicial Powers for the Military Forces

A constitutional reform was approved granting judicial powers to the military forces, authorizing them to conduct search and seizure actions and detain persons without court order for up to 36 hours. This goes against the recommendations by the High Commissioner in the 2003 report (E/CN.4/2003/13 Paragraph 169) and by the Committee against Torture (CAT/C/DR/31/1 Paragraph 11 b), to name a few, and against the agreement reached in the Chairperson’s Statement in April 2003 (OHCHR/STM/CHR/03/2 Paragraph 13).

4. Impunity

Impunity continues rampant. The Attorney General’s Office does not properly investigate State agents and members of the paramilitary groups who violate human rights, whereas it does prosecute persons massively arrested, accused of belonging to the guerrilla groups.

In August 2003 the National Government submitted to Congress a bill that would suspend the sentence of an armed group that has committed any type of crime. The UNHCHR Office in Colombia stated that the so called “Criminal Alternatives” bill "opens the door to impunity" (see www.hchr.org.co).

5. Massive, Arbitrary Detentions

The Government has generalized massive, arbitrary detentions, in many cases without a court order, or mainly based on manipulated accusations made by members of the Informers’ network and by former combatants. From September 2002 to November 2003, 5,657 persons were detained during mass arrests.

In the Department of Sucre in August 2003, 143 persons were detained, accused of collaboration with the guerrilla; 128 were freed three months later for lack of proof. The Attorney General stated that the prosecutor who ordered their freedom had to be removed, and initiated a criminal investigation against him. The Minister of Defense maintained that the 128 freed persons would be arrested again.

In the Department of Arauca, on October 21, a few days before elections, 31 persons were arrested, many of them opposition candidates, also accused of collaboration with

the guerrilla. In Cumaribo, Department of Vichada, 97 persons were arrested on that same day, fingered by the Army for belonging to or supporting the FARC.

6. Torture

The Committee against Torture stated in its recommendations on Colombia (November 3) that, torture is committed " in a generalized, systematic manner by State forces and security bodies (...) both in armed operations and otherwise"; it also stated that the present security policies favor the practice of torture.

The Committee stated its concern regarding the torture of detainees and overcrowded detention centers (CAT/C/DR/31/1).

7. Forced Displacement

The crisis of forced displacement has worsened, partly due to military operations. From January to September 2003, 175,270 persons suffered forced displacement. The relative decrease is due to the increase in displacement within municipalities and cities, to problems of registration, and to military lockouts and blockades.

The early warning system does not work properly. Return is the condition for receiving State assistance. The State does not offer any guarantees yet demands participation in programs involving the displaced population in the conflict. The communities that do not wish to participate are stigmatized. The budget for assistance to the displaced population is not sufficient.

The indiscriminate fumigation financed by Plan Colombia has provoked food and health crises and has worsened forced displacement.

8. Forcible Disappearance

From January to August 2003, 684 persons suffered forcible disappearance. Although this crime was judicially classified as a crime three years ago, there has been no significant progress in the investigations, and the relatives of those forcibly disappeared have no protection.

9. Human Rights Defenders, Social Leaders, and Union Members

During the National Human Rights Week (September 8, 2003), in a televised military ceremony, President Álvaro Uribe made a speech accusing human rights defenders of being "human rights traffickers" and of defending terrorist interests.

Human rights defenders, union members, and social leaders have been arbitrarily detained for long periods of time without any incriminating evidence. Many have resorted to exile.

In the year 2003, 16 human rights defenders were murdered and one woman defender was forcibly disappeared; 29 community leaders and 23 peasant leaders were murdered or disappeared, and 74 union members were murdered and one disappeared.

10. Sectors in Conditions of Vulnerability

The situation of women, children, youths, the elderly, homosexuals, the peasant population, and socially isolated persons continues worsening. The armed groups continue recruiting and mistreating girls, boys and youths. The bill on mandatory military service would extend this obligation to women and Indigenous peoples.

Women face violence, discrimination, poverty, and exclusion. They are the main victims of forced displacement, of sexual violence, and increasingly, of forced recruitment.

Indigenous peoples are the victims of human rights violations and breaches of humanitarian law that lead to genocide and ethnocide. Their rights to their territory, culture and autonomy are infringed upon and they suffer the presence of armed groups in their territories.

As the Special Rapporteur on Racism became aware of during his 2003 visit, the communities of Afro-Colombians are the victims of racial discrimination and forced displacement. Most of the territories where they live are controlled by the armed groups.

11. Absence of a Peace Process

The Government has not initiated a serious peace process; it maintains an attitude of confrontation towards the guerrilla groups and one of dialog towards the paramilitary groups. The "democratic security policy" makes reconciliation more distant because it involves the population in the conflict, militarizes the country, encourages delation, and lets serious crimes go unpunished.

12. Negotiation with the Paramilitary Groups

The Government is pursuing confidential negotiations with the paramilitary groups, which do not guarantee truth, justice, and reparation as there is no citizen or victim participation in the talks. There was an initial, seriously questionable, demobilization. In spite of their initial commitment to cease hostilities, the paramilitary were allegedly the perpetrators of 748 homicides and disappearances from December 2002 to October 2003. The "criminal alternatives" law would benefit the paramilitary. As the United Nations (recently the CAT) has repeatedly stated, ties between the State forces and the paramilitary groups persist.

13. Breaches of Humanitarian Law

All of the combatants commit serious breaches of humanitarian law. Among them, the taking of hostages, kidnappings and detention of civilians.

To illustrate the many breaches, we mention the following few:

On February 24, 2003, after the indiscriminate aerial bombing perpetrated allegedly by the Army and the Air Force in El Carmen (Department of Norte de Santander), a nine-year old girl died; and her six-year old brother and an 18-year old girl were injured.

Members of the Embera indigenous group, who must travel to Tierralta to buy their food supplies, reported to Inter –American Commission on Human Rights that on many occasions the Public Forces have not let them bring in their food supplies, arguing that they are for the guerrilla.

In the municipality of Saravena (Department of Arauca), on August 8, 2003, the FARC activated a car bomb as an Army truck was passing by. Five persons died, among them, two children; five other persons were injured.

In Cocorná (Department of Antioquia), on April 23, 2003, the ELN murdered a woman educator and union member who had been kidnapped to pressure her father into murdering a paramilitary commander. After her father refused to do so, the daughter was executed.

PETITIONS

We request the United Nations Commission on Human Rights to:

I. Urge the Colombian Government to:

1. Follow the recommendations made by the High Commissioner, by the Special Procedures, and by the Committees.
2. Design and implement a human rights policy in accordance with international legislation.
3. Not incorporate into its legislation norms that contravene human rights or humanitarian law. It must annul the constitutional reform that grants judicial powers to the military forces. It must withdraw the bill of so called "criminal alternatives".
4. Dismantle the Informers' Network and Peasant Soldier programs because they go against human rights.
5. Apply the guiding principles for forced displacement.
6. Seek a negotiated settlement to the armed conflict which respects human rights and guarantees truth, justice, and reparation, in a transparent manner with citizen participation.

II. Strengthen the United Nations' action:

1. Request the High Commissioner to submit to the General Assembly an interim report on the situation of human rights in Colombia and the status of implementation of the recommendations.
2. Name a Special Rapporteur for Colombia as a complementary mechanism to the High Commissioner's Office.
3. Form a group to analyze why the Colombian State has repeatedly disregarded the recommendations and to submit a report during the next period of sessions.

4. Exhort all the United Nations' agencies in Colombia to demand that the Colombian State comply with the recommendations and apply the guiding principles for internal displacement.

As the Colombian Government has repeatedly chosen not to comply with the recommendations, it must not be allowed to be a member of the Commission on Human Rights again until it appropriately meets its obligations.

December 2003

1. Asamblea Permanente de la Sociedad Civil por la Paz
2. Asamblea por la Paz USO
3. Apoyo a Víctimas Pro Recuperación Emocional – A VRE
4. Asociación Campesina de Antioquia (ACA)
5. Asociación Campesina del Valle del Río de Cimitarra - ACVC
6. Asociación Colombiana de Beneficiarios de Reforma Agraria – ACBRA
7. Asociación de Afrocolombianos Desplazados - AFRODES
8. Asociación de Familiares de Detenidos Desaparecidos – ASFADDES
9. Asociación de Familiares de Detenidos Desaparecidos (ASFADDES) – Seccional Bucaramanga
10. Asociación de Familiares de Detenidos Desaparecidos (ASFADDES) – Seccional Cauca
11. Asociación de Familiares de Detenidos Desaparecidos (ASFADDES) – Seccional Medellín
12. Asociación de Familiares de Detenidos Desaparecidos (ASFADDES) – Seccional Huila
13. Asociación de Trabajo Interdisciplinario – ATI
14. Asociación Nacional de Ayuda Solidaria - ANDAS
15. Asociación Nacional de Ayuda Solidaria (ANDAS) - Seccional Medellín
16. Asociación Nacional de Mujeres Campesinas e Indígenas de Colombia - ANMUCIC
17. Asociación Nacional de Usuarios Campesinos del Putumayo
18. Asociación para la Investigación Social Participativa Taller de Vida
19. Asociación para la Promoción Social Alternativa MINGA
20. Asociación Solidarios por la Vida – SOLIVIDA
21. Benposta Nación de Muchach@s Colombia
22. Central Unitaria de Trabajadores – CUT
23. Centro de Investigación y Educación Popular – CINEP
24. Centro de Promoción Ecueménica y Social – CEPECS
25. Centro Cristiano para la Justicia, Paz y acción Noviolenta - JUSTAPAZ
26. Colectivo de Abogados “José Alvear Restrepo”
27. Colectivo de Derechos Humanos Semillas de Libertad - CODEHSEL
28. Comisión Colombiana de Juristas
29. Comisión Intereclesial de Justicia y Paz
30. Comité de Integración del Macizo Colombiano (CIMA –FUNDECIMA)
31. Comité Permanente por la Defensa de los Derechos Humanos
32. Comité Permanente por la Defensa de los Derechos Humanos – Seccional Huila
33. Comité Permanente por la Defensa de los Derechos Humanos "Héctor Abad Gómez"
34. Comité Regional de Derechos Humanos – CREDHOS
35. Comunidades Eclesiales de Base – CEBS
36. Confederación Colombiana de Afrocolombianos
37. Confederación de Trabajadores de Colombia – CTC
38. Confederación General de Trabajadores Democráticos -CGTD
39. Consultoría para los Derechos Humanos y el Desplazamiento – CODHES
40. Corporación CACTUS
41. Corporación FASOL
42. Corporación Jurídica Libertad
43. Corporación para el Desarrollo del Oriente - COMPROMISO
44. Corporación Punto de Vida
45. Corporación REINICIAR

46. Corporación Servicios Profesionales Comunitarios SEMBRAR
47. Defensa Niños Internacionales – DNI
48. Enda América Latina
49. Equipo de Apoyo Eje Cafetero de la Fundación CSPP
50. Foro Nacional por Colombia
51. Fundación Comité de Solidaridad con los Presos Políticos - CSPP
52. Fundación Comité de Solidaridad con los Presos Políticos (CSPP) – Seccional Antioquia
53. Fundación Comité de Solidaridad con los Presos Políticos (CSPP) – Seccional Valle
54. Fundación Comité de Solidaridad con los Presos Políticos (CSPP) – Seccional Atlántico
55. Fundación Comité de Solidaridad con los Presos Políticos (CSPP) – Seccional Tolima
56. Fundación Comité de Solidaridad con los Presos Políticos (CSPP) – Seccional Santander
57. Fundación Cultura Democrática
58. Fundación Dos Mundos
59. Fundación Foro Costa Atlántica
60. Fundación Francisco Santo Tomás Moro
61. Fundación Menonita Colombiana para el Desarrollo – MENCOLDES
62. Fundación para la Educación y el Desarrollo - FEDES
63. Fundación para la Promoción de la Cultura y la Educación Popular – FUNPROCEP
64. Fundación Sumapaz
65. Grupo de Trabajo Suiza – Colombia
66. Humanidad Vigente Corporación Jurídica
67. Iglesia Presbiteriana de la Costa Norte
68. Instituto de Estudios para el Desarrollo y la Paz - INDEPAZ
69. Instituto Latinoamericano de Servicios Alternativos – ILSA
70. Instituto María Cano – ISMAC
71. Instituto Popular de Capacitación - IPC
72. Movimiento Nacional Afrocolombiano CIMARRON
73. Movimiento Social de Desplazados Antioquia - MOSDA
74. Organización Femenina Popular – OFP
75. Organización Nacional Indígena de Colombia - ONIC
76. Pastoral Social de Villavicencio
77. Proceso de Comunidades Negras - PCN
78. Proyecto Agenda: Comunidad Colombiana de Gays, Lesbianas, Bisexuales y Transgeneristas
79. Red Nacional de Mujeres
80. Red Preventiva de Derechos Humanos de Antioquia
81. Sisma Mujer
