

March 4, 2011

I, Thomas M. Davies, Jr. declare:

1. Attached to this Declaration as Attachment A is a true and correct copy of my curriculum vitae.

2. I am a Professor Emeritus of Latin American History, Director Emeritus of the Center for Latin American Studies, and former Chair of Latin American Studies at San Diego State University in San Diego, California. I was at San Diego State (SDSU) for 33 years (1968-2001), and was Director of the Center for 22 years (1979-2001). For more than 40 years, I have devoted my academic studies, teaching, field work, and scholarly research to politics in Latin American countries, with a particular emphasis on Central and South America, Mexico and the Mexico-U.S. border region.

3. I have also held several national-level posts including six (6) years on the Institutional Grant Board of the National Security Education Program in the U.S. Department of Defense, seven (7) years on the Fellowship Board of the Inter-American Foundation, five (5) years as Executive Secretary of the Conference on Latin American History (CLAH) of the American Historical Association, and eight (8) years as the Executive Secretary-Treasurer of the Consortium of Latin American Studies Programs (CLASP). I am also a Past President of both the Pacific Coast Council on Latin American Studies (PCCLAS) and the Rocky Mountain Council on Latin American Studies (RMCLAS).

4. Although my BA, MA and Ph.D. degrees are in history, I have vast experience with and expertise in multi-disciplinary and inter-disciplinary studies of Latin America. As noted above, I was Director of the Center for Latin American Studies at SDSU for 22 years and as such had to learn our faculty's disciplines well enough to be able to make recommendations to the Dean and the Provost on tenure and promotion. Also, I developed an entirely new, multi-disciplinary, inter-disciplinary curriculum.

Moreover, I served long periods on both the Inter-American Foundation Grants Board (1986-1992) and the Institutional Grants

Board of the National Security Education Program in the Department of Defense (1995-2001). Both of those positions required solid expertise in language and area studies. I would never have been appointed to those boards if I did not have a national reputation in multi-disciplinary, inter-disciplinary Latin American Studies.

Over the years, I was asked by 15 university presidents in the United States to prepare formal, outside reviews/evaluations of their programs in Latin American Studies and Language. In each case, I reported directly to the President and Provost of each campus.

In addition, for 22 years, I attended at least one meeting a year in Washington, D.C. at the U.S. Department of Education, concerning the Title VI, National Resource Centers for Latin American Studies Programs. Three times I was asked to chair that meeting. Title VI funded the Center for Latin American Studies at San Diego State University 1976-2003 for a total of over \$4,000,000.00.

Finally, The William and Flora Hewlett Foundation awarded me and Professor Brian Loveman (1997-2002) over \$765,000.00 for collaborative, **interdisciplinary** research on Chile with Chilean scholars, universities and research centers.

5. As part of my research for my first book, Indian Integration in Peru: A Half Century of Experience, 1900-1945 (Winner of the 1973 Hubert Herring Award for the best book on Latin America), I traveled extensively throughout Peru for about two (2) years (by train, car, bus, truck, and on foot) and I know the country as few others do (including the vast majority of Peruvians). I have also traveled extensively in Bolivia, Ecuador, Central America, and, of course, Mexico and the U.S.-Mexico border region. As a direct result of those travels, I learned Hispanic culture and how that culture affects the daily decision-making of people, something very few foreigners are able to accomplish.

6. In addition to my extensive travel, residence and research in Latin America, I read on a daily/weekly/monthly, basis over six (6) magazines and journals from Central America and South America, seven (7) United States newspapers, and more than ten (10) United States and British publications on Colombia and Latin America. These include: NACLA Report on the Americas, The Journal of Inter-American Studies and World Affairs, Guatemala: Bulletin of Guatemala Human Rights Commission/USA, Mesoamerica, Washington Office on Latin America, all the publications by EPICA (Ecumenical Program on Central America and the Caribbean) the U.S. Department of State Human Rights Reports

on Latin American nations, particularly Mexico, Central America and the Andean Republics of Colombia, Peru, Ecuador and Bolivia for the past ten years, CIA World Factbook 2011 (updated February 11, 2011), CIA Regional Reports on the Caribbean, Central America and South America, and other Country Reports, Amnesty International Reports and Updates on Colombia and Latin America, World Watch and Americas Watch publications on Colombia and Latin America, World Refugee Survey 2010 and Refugee Reports of the Immigration and Refugee Services of America, the web pages of all the Latin American Military and Police Forces by Country, and the Latin American Data Base.

7. I am equally conversant with the literature and available materials on LGBT (lesbian/gay/bisexual/transsexual) themes in Latin America. In addition to the above named international human rights organizations I read on a daily/weekly/monthly basis two LGBT magazines, The Advocate and Out, and monitor a number of internet sites, including the International Gay and Lesbian Human Rights Commission, Immigration Equality, the International Lesbian and Gay Association, Immigration Equality (formerly the Lesbian and Gay Refugee Advocacy Project), the Gay Men's Health Crisis, PlanetOut.com, Gay.com, GayToday.com, PinkNews.co.uk and the many sites of LGBT and AIDS support groups in the various Latin American nations, including many in Colombia such as *Colombia Diversa* and *Solidaridad Comunitaria* (Community Solidarity) which are found throughout the nation. Please see also my "Selected and Annotated Bibliography" which is appended to this declaration.

8. Finally, I have installed "Google Alerts" on my computer for Colombia and other Latin American countries and receive, on a daily basis, dozens of e-mails a day, each containing up to 60 individual news articles, i.e., all the articles posted on the internet each day. These include almost every article published in the world from the English-speaking press on Colombia and the other Latin American countries, as well everything on Colombia posted on the internet each day. I also have a "Google Alert" for "Colombia Homosexual."

9. I also taught a course on Modernization and Urbanization in Latin America and a course on Guerrilla Warfare in the Western Hemisphere, with an emphasis on Central and South America. I am often called upon to offer expert opinion on radio and television (including the Voice of America) and have spoken extensively in the greater San Diego community on Mexico, the U.S.-Mexico Border area, Central and South America, as well as U.S.-Latin American relations.

10. I am recognized, both nationally and internationally, as one of the foremost experts on terrorism and guerrilla warfare in Central and South America. Since 1992, I have been asked to serve as an expert witness in over 400 political asylum cases (29 on Colombia) in San Diego, Los Angeles, San Francisco, Sacramento and El Centro, California; Portland and Eugene, Oregon; Seattle and Tacoma, Washington; Eloy, Arizona; Dallas and Harlingen, Texas; Omaha, Nebraska; Chicago, Illinois; Miami, St. Petersburg, Orlando and Jacksonville, Florida; Arlington, Virginia; Baltimore, Maryland; New York and Ithaca, New York; and Boston, Massachusetts. The respondents were from Colombia, Venezuela, Ecuador, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay, Brazil, Panama, Nicaragua, El Salvador, Honduras, Guatemala, Mexico, Haiti and the Dominican Republic. In all but one case (in Dallas, Texas), I was recognized as an expert on Latin America by Judges of the Executive Office of Immigration Review. In that one case I testified by telephone, and it was not until months later that I was told by the attorney for the government, who represented the government in a separate case in which I served as an expert witness, that I was not recognized as an expert by Judge Sims. Unfortunately, I was never able to reach the attorney with whom I worked to confirm that Judge Sims failed to recognize me as an expert. Interestingly, in a later case before Judge Sims, I was recognized as an expert.

11. Within the fields of Central and South American and Latin American Studies, I have concentrated particularly on the role of the military and guerrilla movements in several Latin American countries. Exhibit A details the books, articles, translations of Latin American military documents, papers and lectures I have prepared or presented on this topic. I would point particularly to the two books I have written with Professor Brian Loveman: The Politics of Antipolitics: The Military in Latin America. Third Edition, Revised and Expanded. Wilmington, Del.: Scholarly Resources Press, 1997; and Che Guevara on Guerrilla Warfare. Third Edition, Revised and Expanded. Wilmington, Del.: Scholarly Resources Press, 1997.

The first edition of Che Guevara on Guerrilla Warfare won The Hubert Herring Prize for the best book published in the United States on Latin America in 1985).

Rowan Littlefield recently awarded Professor Loveman and me a contract for the fourth edition of Che Guevara on Guerrilla Warfare.

Che Guevara on Guerrilla Warfare contains extensive treatment of Colombia.

**12.** I also authored an internationally-recognized comprehensive, annotated bibliography of the military in the Andean Republics: "The Military in Bolivia, Ecuador, and Peru," in Errol D. Jones and David LaFrance, eds., Latin American Military History: An Annotated Bibliography. New York: Garland Publishing, Inc, 1992, pp. 277-341.

**13.** In addition, I am a recognized authority on Latin American culture, including Latin American views of sexuality, both heterosexual and homosexual. As noted above, since 1992, I have been asked to serve as an expert witness in over 400 political asylum cases and, while many of those cases dealt with death threats from the military or the guerrillas of a given nation, I have also testified as an expert witness on behalf of 249 homosexual and transgender males and females, all from Latin America, 10 from Colombia.

**14.** My testimony concerning the treatment of Mexican gay males was discussed prominently by the United States Court of Appeals for the Ninth Circuit in the case of Hernández-Montiel v. INS F.3d 1084 (9<sup>th</sup> Cir. 2000). See below.

Subsequently, the 9<sup>th</sup> Circuit Court of Appeals reaffirmed the above decision in *Reyes-Reyes v. Ashcroft*, 384 F.3d 1163, 1172 (9<sup>th</sup> Cir. 2004). I served as the expert witness for the appeal of this case to the 9<sup>th</sup> Circuit Court of Appeals. I also served as the expert witness on the remanded case.

Hernández-Montiel was again reaffirmed in *Boer-Sedano v. Alberto R. Gonzalez*, 418 F.3d 1082 (9<sup>th</sup> Cir.2005). I was consulted several times as this case moved through the court system.

Subsequently, both Hernández-Montiel and Reyes-Reyes were again affirmed in the case of Mr. Jorge Soto Vega (*Vega v. Gonzalez* C.A. 9, 2006). I served as the expert witness in the second hearing of this case which the 9<sup>th</sup> Circuit Court of Appeals remanded back the Immigration Judge.

**15.** Finally, I am very conversant with Mr. Andrew Reding's extensive work on homosexuality in Colombia, Venezuela, Peru, Ecuador, Central America, Mexico and the rest of Latin America. Indeed, I was asked to review a draft of Mr. Reding's as yet unpublished "Conditions for Gay, Lesbian, Bisexual, and Transgendered Persons in Latin America and the Caribbean." That work was then published in December 2003 as Sexual Orientation and Human Rights in the Americas by the World Policy Institute at New School University. In fact, I spoke by telephone with Mr.

Reding for over an hour in early June, 2003 and he has cited me in the final version.

16. For almost twenty-seven years, I was married to a Peruvian national, Eloísa Carmela Monzón Abate de Davies, who died of cancer fifteen years ago. As a result of that marriage, I became part of a very large, extended Peruvian family which contained several homosexuals (none of them "out" to the family because they were/are terrified of the family's reaction). Everyone in the family knows, however, about the incident of one of my aunts-in-law (a lesbian) who was literally driven out of the country by the family. She currently lives in Guayaquil, Ecuador with her partner. Over the past thirty-five years, I have also developed friendships with dozens of male and female homosexuals and transgenders in Peru, Ecuador, Bolivia, Brazil, Argentina, El Salvador, Central American nations, Mexico, and along the U.S.-Mexico border.

17. Moreover, as a result of my marriage, I developed unusually broad and deep personal and professional friendships with military and paramilitary police officials, not just from Peru, but also from a number of South American countries. My Peruvian father-in-law, Gen. José Monzón Linares, was a Lieutenant General (Three-Stars) in and former *Director General* (Commander-in-Chief) of the *Guardia Civil del Perú* (Civil Guard of Peru, the nation's paramilitary police force). General Monzón's brother, Guillermo Monzón Linares was the *Inspector General* (Inspector General) of the *Policía de Investigaciones Peruana* (Peruvian Investigative Police, Peru's FBI). General Monzón Linares' friends were almost all military personnel from Peru and neighboring republics. I thus had an incredible opportunity to know, interact with and develop close interpersonal relationships with dozens of military and police personnel. My more than thirty years living on the U.S.-Mexico border has enabled me to know and interact with dozens of Mexican and Central American military and police personnel, as well. The fact that I was the son-in-law of a Peruvian general, of course, helped me a great deal.

18. All these officers taught me their own particular versions of military lore and ideology, ideologies which were always identical in two areas: the preservation of *La Patria* (The Fatherland) through the maintenance of internal order, and the need to "cleanse" *La Patria* continuously by riding it of traitors and sexual deviates (two groups they believe to be identical).

The truth is that the Peruvian *Guardia Civil*, as well as officers from the Colombia paramilitary police organization, *Policía Nacional* (National Police), DAS (Department of

Administrative Security (*Departamento Administrativo de Seguridad*), and the Prosecutor General's Corps of Technical Investigators (CTI) are often even more vehement in their attacks so as not to appear less patriotic than the regular military. The point of this is that the police and military forces of Colombia, Venezuela, Ecuador Mexico, Central America and South America, etc. are imbued with virulent homophobia from their very first day of service.

**19.** After my arrival in San Diego in 1968, I had 50-60 openly gay and lesbian students and many others who came to me confidentially to discuss their sexual orientation and related issues that they faced in their lives (as have my Peruvian family members and most of my homosexual and transgender friends in Latin America). Over fifty percent of those students were Hispanics who were terrified to tell any of their family members or friends. Several have since died of AIDS, and each of their deaths was, for me, akin to losing my own child. Moreover, between 1979-2001, I had four gay or lesbian Graduate Assistants in the Center for Latin American Studies with whom I worked very closely.

**20.** Moreover, my step-daughter (I remarried after my Peruvian wife's death) is lesbian and very active in gay and lesbian rights and causes. I have worked with her on several occasions and I am now working with various LGBT groups here in Albuquerque, New Mexico.

**21.** For the past nineteen (19) years, I have conducted extensive research on gender and sexuality in Latin America, particularly on LGBT (lesbian/gay/bi-sexual/transsexual) themes. I undertook this research in order to teach the courses listed below and to prepare affidavits for the above mentioned 249 homosexual and transgender males and females for use in Immigration Court.

**22.** I developed three courses which contained extensive treatments of sexuality, family and religion:

- A. Modernization and Urbanization in Latin America, a 500-level course which at SDSU means senior undergraduates and graduate students.
- B. A Graduate Seminar on "The Andean Peoples and Their Cultures: Collision and Syncretism" which dealt with Iberian, pre-Columbian, colonial, mestizo, and Afro-Andean cultures, as well as the development of national culture after independence.

- C. A Graduate Seminar on "Traditional and Syncretic Religion and Medicine in Latin America. The religions covered included indigenous, Roman Catholic, Folk Catholic, Yoruba-based African (Condomblé in Brazil, Santería in the Caribbean and New York, and Vodun in Haiti) and Pentecostal Evangelical Protestantism. Included were in-depth analysis of traditional medicine, medieval Spanish medicine (*casera*), folk medicine and magic, and so-called "modern" medicine. Deeply interwoven into all of these are attitudes on sexuality, homosexuality, family and gender roles and discrimination.

**23.** Finally, I have participated in several panels regarding LGBT themes at national and regional meetings of Latin American Studies professional organizations.

I gave a paper entitled "Human Rights, Amnesty, and INS Cases: Political Asylum and Sexual Orientation-Based Asylum," at the Human Rights Awareness Conference at San Diego State University, April 15-18, 2002.

AT the specific invitation of SALALM, I also gave a paper entitled "Torture and Murder of the Latin American LGBT Community: Political Asylum in the United States?" at the SALALM 52 Conference, April 27-May 1, 2007, held in Albuquerque, New Mexico. SALALM (Seminar on the Acquisition of Latin American Library Materials) is the international, professional organization of Latin Americanist librarians in the United States, Latin America and Europe.

On April 25, 2010, I offered a half-day workshop on political asylum for LGBT peoples from Latin America to the New Mexico Faith Coalition for Immigrant Justice.

Then, on November 18, 2010, I delivered an invited lecture at the University of New Mexico School of Law entitled "LGBT Peoples from Latin America and Political Asylum in the United States."

**24.** The definitions of homosexuality in Anglo-America and Latin America are very different. In Anglo-America, little attention is paid to the "role" of the two sexual partners. Although there are often references to "effeminate" and "swishy" males or "masculine" and "bull dyke" females, Anglo-Americans do not really recognize an appreciable difference, i.e., both of the partners are homosexual and are thus treated equally.



25. In Latin America, on the other hand, a sharp distinction is drawn between the two, each according to his/her supposed role in the relationship, i.e., either the male or the female role. It is assumed that each homosexual partnership has a clearly defined male and an equally clear female. Indeed, this fact is of transcendental importance for male homosexuals, for it literally determines whether one or the other is partially acceptable or totally unacceptable in Latin American society as a whole.

26. Culturally speaking, Latin Americans are Spaniards and Spaniards are much more Moorish than they are European. In fact, I have always taught that Spain belongs to Eastern Mediterranean-North African culture far more than to Western European and must be studied and treated differently.

27. From 711-1492, the Moors occupied the Iberian Peninsula (now Spain and Portugal), transferring to the Iberian population not only their architecture, building skills, etc., but their views of sexuality as well. In Moslem culture (and therefore Spanish and Latin American culture), a male is not considered to be homosexual if he is performing the role of the male, i.e., he inserts his penis into the other. Before marriage, it is considered to be quite normal and even after marriage, it is barely denigrated. For example, Mohammed Daud, a resident of Kandahar, Afghanistan, is unmarried and has sex only with men and boys. But he does not consider himself to be homosexual, at least not in the Western sense. 'I like boys, but I like girls better. It's just that we can't see the women to see if they are beautiful. But we can see the boys'" (quoted in a brilliant article, "Kandahar's Lightly Veiled Homosexual Habits," by Maura Reynolds, *Los Angeles Times*, April 3, 2002. p. 5).

28. For a Mexican viewpoint on this same subject, one need only turn to Octavio Paz, one of the greatest thinkers and writers in Latin American history and recipient of the 1990 Nobel Prize for Literature. In his world renowned *El laberinto de la soledad* (The Labyrinth of Solitude), Paz wrote: "It is likewise significant that masculine homosexuality is regarded with a certain indulgence insofar as the active agent is concerned. The passive agent is an abject, degraded being. This ambiguous conception is made very clear in the word games or battles--full of obscene allusions and double meanings--that are so popular in Mexico City. Each of the speakers tries to humiliate his adversary with verbal traps and ingenious linguistic combinations, and the loser is the person who cannot think of a comeback, who has to swallow his opponent's jibes. These jibes are full of aggressive sexual allusions; the loser is possessed, is violated, by the winner, and the spectators laugh and sneer at

him. Masculine homosexuality is tolerated, then, on condition that it consists in violating a passive agent. As with heterosexual relationships, the important thing is not to open oneself up and at the same time to break open one's opponent" (The Labyrinth of Solitude). Translated by Lysander Kemp (New York: Grove Press, Inc., 1985), pp. 39-40.

29. In his groundbreaking book, Life is Hard: Machismo, Danger, and the Intimacy of Power in Nicaragua (Berkeley: University of California Press, 1992) Roger N. Lancaster explains the passive/active in more explicitly sexual terms. "There is clearly stigma in Nicaraguan homosexual practice, but it is not a stigma of the sort that clings equally to both partners. Only the anal-passive *cochón* is stigmatized. His partner, the active hombre-hombre, is not stigmatized at all; moreover, no clear category exists in the popular language to classify him. ... Indeed, a man can gain status among his peers as a vigorous *machista* by sleeping with *cochones* in much the same manner that one gains prestige by sleeping with many women. I once heard a Nicaraguan youth of nineteen boast to his younger friends: 'I am very sexually experienced, I have had a lot of women, especially when I was in the army, over on the Atlantic coast. I have done everything. I have even done it with *cochones*.' No one in the group thought this a damning confession, and all present were impressed with their friend's sexual experience and prowess. This sort of sexual boasting is not unusual in male drinking talk" (p. 241).

30. Indeed, I have known many Latin American males, who consider themselves to be very manly (*muy macho*) even though they engage in both heterosexual and homosexual relations. Please see my "Selected and Annotated Bibliography" on these subjects which is attached to this Declaration.

31. The view and treatment of the "female" partner (the receptor) could not be more diametrically opposed to that of the "male." The "fem" is despised as the "lowest of the low" and strenuous, even violent persecution of "fems" is not only accepted, it is praised in Latin American society. At the family level, male "fems" are perceived as constituting a threat to the *machismo* of all the males in the family, not to mention a health hazard (homosexuality is very often viewed as "contagious" in Colombia, a disease which must be cured or it will destroy the society).

For a similar view that homosexuality can be "induced" see Marlon I. Morales, "Submitting or Resisting: Exploring the Popular Central American Belief That Homosexuality Can Be

Induced," available on the Internet at:  
eocities.com/WestHollywood/2874/anthro134.html.

**32.** In her brilliant book, How Sex Changed: A History of Transsexuality in the United States (Cambridge: Harvard University Press, 2002), Joanne Meyerowitz cogently describes the evolving definition of the term "sex" and how it came to be defined by the end of the twentieth century.

"By the end of the century the earlier understanding of sex had given way to three categories of inquiry and analysis: 'biological sex' referred to chromosomes, genes, genitals, hormones, and other physical markers, some of which could be modified and some of which could not; 'gender' represented masculinity, femininity, and the behaviors commonly associated with them; and 'sexuality' connoted the erotic, now sorted into a range of urges, fantasies, and behaviors. Once seen as outgrowths of a primary sex division, 'gender' and 'sexuality' no longer seemed to spring directly from the biological categories of female and male. In fact some scholars envisioned sex, gender, and sexuality as constructed categories constantly defined and redefined in social, cultural, and intellectual processes and performances. They thus directly rejected the older belief in a universal, unchanging biological sex that dictated both the behavior of women and men and their sexual desires" (pp. 3-4).

In Colombia, however, the older belief in absolute gender roles is still firmly entrenched.

**33.** It should be noted here that there exists a vast array of vocabulary in Spanish to describe and denigrate LGBT peoples. Some words, such as *maricón* (queer), are used universally throughout the Spanish-speaking world. Others are country and/or region specific. Moreover, as with all slang, new terms come into and go out of usage with blinding speed. Whatever, the word, however, the message is the same, one of hatred and fear. Please see Stephen O. Murray and Wayne R. Dynes, "Hispanic Homosexuals: A Spanish Lexicon," in Stephen O. Murray, Latin American Male Homosexualities (Albuquerque: University of New Mexico Press, 1995), pp. 180-192. See also Andrew Reding, Sexual Orientation and Human Rights in the Americas (New York: World Policy Institute, 2003), particularly pp. 91-93.

**34.** I do not know Mr.XXXX, but I have been asked by his attorney to assist with this case. After reviewing the facts of his case and reading his affidavit with care, I agreed to provide expert testimony regarding the risks that he faces as a gay male in Colombia.

35. The danger to Mr. XXXX is due to the fact that he is a gay male who, if removed to Colombia, would live in a nation where *machismo* is the driving cultural norm and where gay males are viewed as an abomination, a threat to everything that is sacred in Colombia culture.

36. As noted above, male homosexuals are perceived as a threat to the *machismo* of all the males in the family. Indeed, male relatives of the homosexual are, very often, subjected to withering criticism and ridicule from males outside the family who cast aspersions on and even express doubt about the father's own sexuality. This helps to explain why fathers often beat their gay sons because it is widely believed that one can "beat the gayness out of a child."

37. Mr. XXXX's parents are incredibly understanding and loving even though their son's homosexuality was very difficult for them to accept, both culturally and religiously.

"My mother and father are very good parents and I have remained very close to them. My father never raised his hand to me even though corporal punishment is common in my country. **When I was a teenager, I confided in my parents that I was gay. At first their reaction was one of disappointment and incomprehension which is easy to understand given the anti-gay culture and religious traditions of Colombia. Their reaction was to send me to a psychologist to try to make me change my sexual orientation.** I even tried to change my sexual orientation by having a girlfriend but it did not work."

"My parents eventually accepted me for who I am but I know it was very hard for them. They were afraid that I would suffer my whole life because of my homosexuality since Colombian society is so macho and homophobic. I am fortunate to have such loving and understanding parents as most parents in Colombia disown their children when they find out they are gay."

It should be noted here that many Colombians and other Latin Americans believe that homosexuality can be "cured." Please see my essay "Homosexuality and Psychiatry" which is appended to this affidavit.

38. Mr. XXXX knew at an early age that he was gay and he discovered that being gay was dangerous, both from family members and outsiders.

"Since I was very young, I realized that I liked and was attracted to other boys. Because of this, I felt like I was an outsider and not part of Colombian society. **When I was**

**approximately five years old, two of my cousins and their friends forced me to have sex with them and they told me that I had to keep these sexual encounters secret."** Emphasis Mine.

**39.** The best study of behavioral indicators of homosexuality in young children is: Frederick L. Whitham, "The Prehomosexual Male Chile in Three Societies: The United States, Guatemala, Brazil," Archives of Sexual Behavior, Vol. 9, No. 2 (April, 1980), pp. 87-99. See also: Frederick L. Whitham and Robin M. Mathy, Male Homosexuality in Four Societies: Brazil, Guatemala, The Philippines, and the United States. New York: Prager, 1986.

**40.** Like millions of gay men before him, Mr. XXXX dated a young woman, but "it did not work."

**41.** Mr. XXXX encountered great difficulties, abuse and persecution in school because of his sexuality.

**"Eventually, it became apparent to other children that I was different and they would tease and harass me. Some of the students in my school told the principal that they did not want to study with me because I was gay. When I was in sixth grade, one of my friends in whom I had confided that I was gay wrote on the classroom chalkboard that I was gay and that I had a lover name Felipe. After that, my life changed completely. The other male students harassed me and even punched me. They used to leave notes in my locker of naked boys and notes cursing gays. They used to write anti-gay graffiti on the bathroom walls of the school using my name. Nobody wanted to be my friend because of my sexual orientation. At one point, the parents of some of the students tried to have me expelled from school because they did not want me to associate with their sons. This harassment continued for many years until I graduated from high school in 1998."** Emphasis Mine.

There is a widespread belief in Colombia that homosexuality is somehow "contagious," that one can "catch it" simply by associating with or being near someone who is "infected." The parents of the children in Mr. XXXX's school acted within this belief system.

**42.** Indeed, Mr. XXXX's was so horrific and tragic that he tried to commit suicide on three different occasions.

**I tried to commit suicide three times in my life because I felt so desperately alone and ashamed of being gay. I also was having frequent flashbacks of being raped by my cousins and their**

**friends.** Even now, as an adult, I have problems with sexual intimacy because of what my cousins did to me. Emphasis Mine.

**43.** The homophobic abuse and persecution continued into Mr. XXXX's college years.

"After graduating from high school, I started attending a university called "Politecnico Santa Fe de Bogota." In the capital city of Bogota. My major was television production and directing and my goal was to be a producer and director of television shows. I tried to fit in with the other students in my program but it was not possible because of my homosexuality. **I was different from the other men. They thought I was a "sissy" because I did not talk about sex and girls and I did not drink, smoke marijuana, or get into fights. One of my male classmates made a lot of photocopies of one of my photographs and pasted it all over the university with the caption: [www.freegaysex.com](http://www.freegaysex.com) and [maricarica.com](http://maricarica.com) (hotgay.com).**" Emphasis Mine.

"I left this university after three semesters because I was made to feel uncomfortable studying there because of my homosexuality. Often, male students would come up to me very closely and stare at me until I felt intimidated."

**44.** Verbal abuse and persecution are one thing, violent attacks are quite another, particularly when those attacking are police officers, the very ones charged with protection people from attack.

"While I was living in Colombia, I had several relationships with men but we had to keep our relationship secret out of fear. I used to go to gay bars in Bogota once in a while but I was often afraid to go because the police would raid the gay bars and harass the patrons. On several occasions I was present in a gay bar when there was a police raid."

"The first time this happened to me, I was in a popular bar/restaurant called "La Oficina." **I was seated at the bar, having a drink, not talking to anyone, when the Police arrived. I was pushed, hit, screamed at, slapped, touched, and checked for drugs. Thank God I stayed quiet, because the ones who started to fight and talked back were hit with batons and kicked as they laid on the ground in front of everybody. The police called them "trash" while they beat them. Then they were pushed onto a truck and taken to the police station.**" Emphasis Mine.

**45.** Something else I remember about La Oficina is that in the bathroom they post flyers of missing gay people. There was always several hanging on the walls. **On other occasions, the**

police stormed into the bars, turned on the lights and ordered everybody up against the wall. The men who did not line up fast enough were often hit and shouted at by the police who often used the word "maricon" (faggot). I was pushed up against the wall many times by the police who insulted me because of my homosexuality and touched me inappropriately." Emphasis Mine.

"One of my friends names Hector (his nickname was Vicky) told me that he was raped by the police at the police station after he was arrested in Chapinero, the gay area of Bogota."

46. It was also dangerous for Mr. XXXX to walk on the streets because he was often accosted and robbed.

"I have heard of many stories of gay men who were accosted or attacked after leaving these bars. Politecnico, my university, was located in Chapinero. **Walking alone was always very scary because I knew that something could happen to me, like being harassed, robbed or worse by groups of straight men. I was surrounded, pushed around and my personal items stolen so many times, I lost count. I know it was more than five times. I got so tired of it that I started taking taxis the short distance from the University to my house.** My parents called my lazy all the time for taking taxis. I didn't want to worry them so I never told them why I refused to walk." Emphasis Mine.

47. Mr. XXXX did not report these robberies to the police because he knew full well that the police would not do anything to help him.

"I never called the police immediately after these incidents. I knew it would be useless to call them because they would take one look at me, know I was gay, and would not help me. In fact, I thought it would be worse to be harassed and ridiculed by them than having my belongings stolen. Each time I was robbed, I did go to the police station with my father the next day to report the incidents. I had to in order to be able to obtain a photo identification. The police never cared about the fact that I was robbed. Each time, they wrote up the paperwork saying my documents had been "lost." Each time I would take the paper from the police to the government office that issued the ID's and they would give me a provisional paper, as it takes about a year to get a new ID issued. Each time I was robbed I had to go through this process to replace my provisional identification papers."

48. That the police did not care and would not help Mr. XXXX was demonstrated clearly in 2001.

"In 2001, I was leaving a bar around 10pm, and was approached by a woman who pretended like she knew me. I met many people in my job in casting, and I thought I may have known her from my work. **As she greeted me, three men with knives jumped me from behind and forced me to take off my clothes. They stole my backpack, cell phone, wallet and some documents from my work** Before they left me in the street with only my underwear and socks on, they insulted me by calling me a "maricon" and "homosexual de mierda" (shitty gay). I was crying but nobody stopped to help me. Though I had been robbed several times before, this time I had important documents with me from my office which were in my bag that was stolen. **I decided to call the police. I ran into the road in my underwear and stopped a taxi driver who let me use his cell phone to call the police and wait for them in the back of his car. They didn't come. I called again after about 20 minutes. I was told the police were on their way. I waited another 40 minutes, in my underwear. The police never came. Then I asked the taxi driver to take me home. I believe the police refused to investigate the crime because I told them I was calling from the gay area, Chapinero.**" Emphasis Mine.

49. Mr. XXXX also had difficulties at work.

"In 2001, while I was studying, I stated getting practical training as a casting assistant in the largest television channel in Colombia called Cana Caracol. I worked in casting and production of soap operas for Canal Caracol for approximately seven years. I tried to keep my sexual orientation to myself but **there were persistent rumors in Canal Caracol that I was gay. These rumors were confirmed when one of my co-workers saw me kissing in a club with a guy that I used to date. My supervisor called me into his office and warned to that I could lose my job if I kept being seen in gay clubs because Canal Caracol had an image to maintain.**" Emphasis Mine.

50. It was about this time that Mr. XXXX began to receive threatening phone calls, calls which would ultimately drive him out of Colombia.

"In early 2002, I received a call on my cell phone from a male caller whose number was private. He described what I was wearing at that moment so I knew he had to be near me. He said that I was going to be killed because what I did went against nature and gay people should leave the neighborhood because they **set a bad example.** I immediately went into a store and called my boss and told him what happened. He sent a security guard from Caracol to come pick me up. When I got to the office, **my boss, who is also a gay man, received an anonymous call from a man who said, "I know who you are. I'm going to kill you."** My boss, in



shock, handed the phone to me, and I said, "Yes. This is Humberto's phone. How can I help you?" and the caller repeated the phrase several times before I hung up. We were both rattled." Emphasis Mine.

51. Several months later, Mr. XXXX received another anonymous phone call as he was leaving church.

**"A couple of months later, I received a similar call from a man that said I was not welcome in Ciudad Salitre, an upscale neighborhood where the church I attended, Parroquia de la Virgen de la Medillia Milagrosa was located. He told me to stay out of Ciudad Salitre He said it was a clean place, not for dirty freaks. I received this call just after I had finished singing in the church choir and I was walking with my friend Viviana to get something to eat during our break. When we returned to the church, we found graffiti. Written in red paint on the walls .of the church saying "Zona de R.A.S.H." (R.A.S.H. area). I did not know what R.A.S.H. meant until much later. That year, an openly br-sexual man who lived in Ciudad Salitre named Danny was stabbed to death in the street."** Emphasis Mine.

52. RASH is branch of the skinhead movement which began in New York in 1993. It has spread to many parts of the world, including Colombia. RASH is supposedly not racist like other skinhead groups, but they are very homophobic. My very preliminary search on Google produced 2,500,000 sites for skinhead and 219,000 sites for RASH skinheads. I confirmed Mr. XXXX's description of RASH in my internet search.

"I found out when I went online that RASH stands for Red and Anarchist Skinheads. They describe themselves as a left-wing, anti-racist, anti-fascist skinhead group. The internet says that RASH was founded in 1993 in New York City but chapters were formed in other countries around the world, including Bogota, Colombia."

53. The anonymous phone threats which Mr. XXXX received escalated seriously when his parents began receiving them as well.

**"In 2004, my mother received a phone call from a male caller who said that she and my father should quit what they what they were doing. When my mother asked them what she and my father should quit doing, they said 'letting your son go down the wrong path.'** While she was talking on the phone, somebody threw an object though my parents' living room window. My father was in a neighboring town taking care of his sick father, so my mother was

home alone. My mother fled the house out of fear and walked one block away to my grandparents' house." Emphasis Mine.

54. A couple of years later, Mr. XXXX was staying with a friend and she received an anonymous letter in her mailbox threatening both of them.

"After one month, we found a letter in her mailbox addressed to both of us that said, "Los ninos Buenos se acuestan a las 9:00 de la noche; a los demas los acostamos nosotros." (Good children got to bed at nine at night; the others we put to sleep.) After that, I felt like I was a danger to her so I moved back into my parents' house."

55. Several months later, Mr. XXXX's parents received more anonymous phone calls threatening him with death, saying he was a "military target." These calls finally convinced Mr. XXXX that he had to flee Colombia.

56. About a month after having arrived in the United States, Mr. XXXX's parents told him that he could not return to Colombia because they had just received a *sufragio* (the announcement of one's death) from RASH.

"Approximately one month later, I called my parents to tell them that I was thinking of returning to Colombia because I missed them so much and I had a successful career there, and everything I had was there. At that time, **my parents said I shouldn't come home, and that they had received a "Sufragio" which offered condolences for my death and prayers for my soul. It was signed, "RASH." My parents never called the police because they were ashamed that these things were happening because I was gay.**" Emphasis Mine.

"This final death threat truly convinced me from the bottom of my heart that if I remained in Colombia **it was only a matter of time until either I was killed or my parents were injured or killed because of me.** I realized that I couldn't return to my beloved family or my successful career under any circumstances. I sought asylum in the U.S." Emphasis Mine.

57. Returning to Colombia is simply not an option for Mr. XXXX and his partner Joshua Konegni. As noted, Colombia is one of the two most homophobic countries in Latin America. Mr. XXXX is in a legal domestic partnership with Mr. Konegni. There is no way that Mr. XXXX and Mr. Konegni could live together in Colombia. Indeed, there is no way that they could even be seen

in public holding hands or showing affection for each other. The repercussions for both would be disastrous.

Moreover, they will be at extreme risk from the "social cleansing" which has been sweeping the country for a number of years and which has increased markedly in the past two to three years.

58. Mr. XXXX correctly describes the impact of "social cleansing" on the LGBT community.

"My country, Colombia, has one of the highest murder rates in the world, thousands of death squad killings of 'social undesirables' like homosexuals, have taken place, and the Colombian government has systematically refused to protect homosexuals from being killed raped, tortured and murdered on account of their sexual orientation."

59. Mr. XXXX goes on to explain accurately the extreme danger of returning.

"I believe that I could no longer live a lie and continue to hide my homosexuality should I be forced to return to Colombia. **I would face the terrible choice of leaving my life partner behind in the U.S., or else he would have to come to Colombia with me, where we would certainly face physical danger and even death, just for loving each other.**" Emphasis Mine.

60. Moreover, as explained below, it is doubtful that Mr. XXXX would be able to obtain any employment in Colombia better than that of the lowest-paid common laborer. International and Colombian companies simply will not hire homosexuals, out of both homophobia and fear that they will lose many if not most of their clients/customers. Small business owners and shopkeepers would be even more afraid of the consequences of hiring a homosexual.

61. In addition, Mr. XXXX and his partner will find it almost impossible to obtain housing. Owners of apartments and houses will simply not rent to homosexuals, particularly to a homosexual couple. Should they find a place to rent or buy, their neighbors will make it almost impossible for them to live their lives, even to the extent of attacking them physically or killing them.

62. I question whether Mr. XXXX and his partner would be welcome to stay with Mr. XXXX's family.

**63.** At this point it is extremely important to point out that recognition of a person's homosexuality by other members of the society is not an absolute. The physical appearance of homosexual men and women varies greatly, i.e., some homosexuals appear to be more or less homosexual than others, but the process of recognition is much more complex than just physical appearance and includes culture and living patterns. A word commonly used in the gay and lesbian community is "gaydar," a play on the word radar, i.e., the ability to recognize a homosexual person.

Mr. XXXX, for example, exhibits feminine mannerisms and a feminine-like voice and has been "recognized" since he was a child and will be "recognized" immediately should he be forced to return to Colombia. Moreover, he has other personality characteristics which will mark him as homosexual in Colombia. He is very sensitive, quiet, timid and slight of build.

In addition, people in Colombia will quickly pick up on what Mr. XXXX is NOT. He is not aggressive or *macho* (exaggerated manliness). He does not engage in sexist behavior or tell homophobic jokes. He is not a womanizer, does not frequent male drinking establishments and certainly does not engage in bragging about his sexual conquests in male-only situations, where "sexual strutting" is both usual and expected.

**64.** The simple truth is that Colombians and other Latin Americans are constantly "on the lookout" for any signs or mannerisms that might mark a male or female as being homosexual. I am constantly amazed when in super markets or other stores in the United States that no one picks up on the fact that a couple is obviously lesbian or gay. In Colombia and Latin America, on the other hand, someone's perceived gayness is a normal part of conversation in both familial and social occasions. Mr. XXXX's feminine mannerisms, together with his other traits, will result in his being "recognized" as homosexual almost immediately in Colombia.

**65.** In addition, the male homosexual is a threat to all the females of the family because the female is always responsible for the maintenance of family values, family morals and the image of the family in the outside world.

It is here that the Roman Catholic Church's dogma on the role of females and family is particularly visible. The ideal female in Christianity is, of course, the Virgin Mary, Mother of God, who is idealized and revered in Colombia and Latin America to a much greater degree than anywhere else in the world. In Spanish, devout "femininity," i.e., devotion to Mary, is called *marianismo* which is the direct opposite of *machismo*.

This is nowhere better seen than with Pope John Paul II's canonization of Juan Diego Cuauhtlahtoztzin on July 31, 2002. Juan Diego is the Chichimeca Indian to whom the Virgin of Guadalupe appeared in 1531. She is the most revered Virgin in Mexico and Latin America, worshiped as the ultimate, perfect female, the model for every female in the nation.

**66.** A homosexual represents a total rejection of this cultural/religious norm, thereby constituting a direct, frontal attack on the Virgin Mary, the Virgin of Guadalupe and all that is sacred and holy in the Roman Catholic Faith.

Indeed, in recent years, the dangers for LGBT peoples emanating from one of the principal players in Colombian culture and society, i.e., the Roman Catholic Church, have increased enormously. The Catholic Church in Colombia has long been the most conservative and reactionary in Latin America. That conservatism, and the concomitant homophobia, were battle-hardened during the almost century-long religious civil war between the Liberal and Conservative political parties (see below) and the subsequent 40-year long guerrilla war which has devastated the country since the early 1960s.

Indeed, the Church's attack on homosexuality has increased exponentially in the past decade, not only in Colombia, but in all of Latin America and the world as well.

For the pronouncements of Pope John Paul II and Joseph Cardinal Ratzinger (now Pope Benedict XVI), please see my "Homosexuality and the Roman Catholic Church" which is appended to this affidavit.

**67.** The best Colombian example is that of Cardinal Alfonso López Trujillo who rose from parish priest to be the Archbishop of Medellín, Colombia, and a Cardinal before being called to Rome and named President of the Pontifical Council for the Family, the Vatican's Chief Official on Family Issues. Cardinal López Trujillo was a very outspoken opponent of homosexuality, the use of condoms and same-sex marriage.

In 2003, he stated: "The AIDS virus is roughly 450 times smaller than the spermatozoon. The spermatozoon can easily pass through the 'net' that is formed by the condom" (BBC News, October 9, 2003).

Two years later, commenting on the approval of civil unions in Spain, Cardinal López Trujillo said: "What has been done in Spain, and additionally with a very reduced majority, is the destruction of the family brick by brick" (*El Mundo*, April, 2005).

**68.** In 2005 and 2006, Cardinal López Trujillo again condemned both civil unions and same-sex marriage.

"As can often be heard, a spurious argument is made for a so-called free political choice, which would have the primacy over evangelical principals and also over the reference to right reasoning. Juridical positivism would be a sufficient explanation. The ambiguous positions of legislators are quite well known on divorce and de facto couples, which at least implicitly would constitute an alternative to marriage, even though these unions are simply a 'juridical fiction' and 'the circulation of false money.' This is even worse when dealing with 'couples' of the same sex, something unknown in the cultural histories of people and in law, even if they are presented as 'marriage.'"

"Can we allow access to Eucharistic communion to those who deny human and Christian principles and values? The responsibility of politicians and legislators is great. A so-called personal option cannot be separated from the socio-political duty. This is not a 'private' problem: acceptance of the Gospel, the Magisterium and right reasoning is need!" (Intervention of H.E. Cardinal Alfonso López Trujillo at the XI Ordinary General Assembly of the Synod of Bishops, Vatican City, October 7, 2005).

"Couples made up of homosexuals claim similar rights to those reserved to husband and wife; they even claim the right to adoption. Women who live a lesbian union claim similar rights, demanding laws which give them access to ... fertilization or embryo implantation. Moreover, it is claimed that the help of the law to form these unusual couples goes hand in hand with the help to divorce and repudiate" (57-page document released in June of 2006 by the Pontifical Council for the Family).

**69.** An additional Latin American example of the Roman Catholic Church's stand on homosexuality is that of Cardinal Javier Lozano Barragán, a prominent member of the Mexican Church hierarchy who, in October, 2004, denounced a Spanish proposal to legalize same-sex marriages, saying it would be like considering cats or cockroaches part of a family. "They even give cockroaches the rank of family now because they live under the same roof. If there's a cat, a dog, two lesbians and everything living there, it's a family" (*The Los Angeles Times*, October 13, 2004. See also "El Cardenal Mexicano Censura Bodas de 'gays,'" *La Voz del Norte*, 14 de octubre-20 de octubre del 2004).

**70.** Another Latin American example came in 2008, when Bishop Rubén Oscar Frassia of Avellanda, Argentina expressed dismay that many consider gay unions to be equivalent to

traditional marriage: "In no way are they the same, because they do not conform to natural law, which is not dependent upon the whims of the movement and of life."

"What do you want me to say? I really don't understand it, I don't understand. I can see why but I can't justify it. And they want to put it on the same level, they want to make it equal."

"We must be very clear. If we sow wind, we will reap storms. If we take God out of our families, our society, our laws, our personal things or out of nature itself, let's not be surprised at the damage that we ourselves might provoke" (Catholic News Agency, March 17, 2008).

71. Yet another Latin American example came in 2004, in an article which Observatori de Les Llibertats Sexuals posted on its web site entitled "Iglesias de México y Nicaragua Quieren Ahogar Derechos de Trans y Homosexuales (The Churches of Mexico and Nicaragua Want to Smother the Rights of Transsexuals and Homosexuals).

"The Conference of the Mexican Episcopate (CEM) claimed that the Secretary of Health's announced publicity campaign against homophobia is really an effort to characterize homosexuality as "natural" and to "legitimize" the right to follow that sexual preference. The CEM severely criticized the campaign which is to begin this month and reminded everyone what had happened with the "morning after pill," a topic which the Catholic Church has neither forgotten nor accepted.

After presenting the collegial body's document in a press conference called to establish the stance of the Church on that theme, **the president of the Pastoral Commission For the Family, Rodrigo Aguilar Martínez, characterized homosexuality as "a grave disorder" that "has been scientifically proven to be curable."**

"Archbishop Aguilar further stated that one can not accept the idea that some people have a disposition toward a loving heterosexual relationship, while others have the right to a loving homosexual relationship, in the same way persons who are left or right-handed or have a different skin color should be accepted."

"The bishops urged the Secretariat of Health to suspend or modify the tenets of the proposed campaign so that they would truly promote activities which favor the family, marriage and life." Both the translation and the emphasis is mine.

**72.** In addition, the Roman Catholic Church in Colombia has stepped up its attacks on homosexuality through both its own pronouncements and its public support of and adherence to a recent publication in Peru. At the request of the Cardinal of Lima, Archbishop Juan Luis Cipriani Thorne, the Pontifical Catholic University of Peru (*La Pontífica Universidad Católica del Perú*) published (2002) a pamphlet entitled *Identidad Sexual: ¿Es Posible Escoger?* ("Sexual Identity: Is It Possible to Choose?") which describes homosexuality as a curable illness: "There are innumerable psychological studies from the past 40 years that describe childhood problems that form part of the history of persons with homosexual inclinations: distorted maternal and paternal role models; peer group problems in childhood; sexual abuse in childhood, among others. ... Like any other behavioral problem, homosexuality can be reversed" (Centro de Asesoría Pastoral Universitaria de la Pontífica Universidad Católica del Perú, 2002).

Then, in a May 31, 2005, interview with Fides news service Cardinal Cipriani Thorne, said: "We are presented with a new sort of feminism which fails to recognize maternity as God's most valuable gift to women and upholds homosexuality as a sexual option rather than the disordered inclination which it is" (Catholic World News web site).

The concept that homosexuality is "curable" is common in Colombia. Please see my short description of "Homosexuality and Psychiatry" which is appended to this declaration.

**73.** In 2009, Latin American Prelates reaffirmed their positions on homosexuality and same-sex marriage. At the Sixth World Meeting of Families which was held in Mexico City January 14-18, 2009, Cardinal Norberto Rivera Carrera of Mexico City stated: "The Church--we teach respect for marriage between a man and a woman because that is the foundation of the family" (David Agren, "Church Leaders Reaffirm Traditional Family at Meeting in Mexico," *Catholic News Service*, January 16, 2009).

**74.** Then in late January, 2009, the Archbishop of Puebla, Rosendo Huesca Pacheco announced that all applicants for the city's seminaries would be tested for HIV and rejected if the test should come back positive. "'They undergo tests, including HIV, so that someone who is sick can't get in through the cracks,' he said, 'We pay attention to this, we are not asleep, but sometimes things get past us, but if you are sick we do not accept you.'"

"He also reiterated that gay men were banned and said that those who wished to become priests would have to undergo a series of 'psychological' tests as well to make sure they were fit for



priesthood" (Andrés Duque, "Mexico: Puebla Archbishop Bans HIV Positive Men From Priesthood," [www.blabbeando.blogspot.com](http://www.blabbeando.blogspot.com), January 31, 2009).

On February 3, 2009, after an outcry from Mexican human rights advocates, Archbishop Huesca Pacheco said the Church would not test all candidates for the priesthood for HIV because the Church could not afford it. Instead, he "'invited' those interested in joining the priesthood to get a general medical check-up before joining the church" (Andrés Duque, "Update: Puebla Archdiocese Drops Plan to Test Priesthood Hopefuls for HIV," [www.blabbeando.blogspot.com](http://www.blabbeando.blogspot.com), February 5, 2009).

75. Two months later, Bishop Florencio Olvera of Cuernavaca provoked a huge outcry when he issued a pamphlet warning all Catholics not to vote for any political party which favored the legalization of abortion, homosexual unions, euthanasia or pornography. The pamphlet, entitled "Ten Electoral Commandments," was distributed to all the parishes of his diocese and was to be used in determining for whom to vote in the mid-term elections which were held on July 5, 2009 (Matthew Cullinan Hoffman, "Mexican bishop Braves Attacks After Issuing 'Ten Electoral Commandments,'" [www.catholicexchange.com](http://www.catholicexchange.com), April 6, 2009). The pamphlet was in clear violation of the Mexican Constitution which prohibits religious intervention in national politics.

76. Then in December, 2009, Archbishop José Escobar Alas of El Salvador, asked the Salvadoran government to promote "sexual responsibility" instead of condoms as the most effective form of preventing the spread of AIDS.

**"'Certain international agencies are regularly promoting campaigns encouraging condom use, but not even one study exists which proves its effectiveness against this disease,' the archbishop explained in a dialogue with the press."** Emphasis Mine.

"Archbishop Escobar noted that, 'in the African countries where they have distributed the most prophylactics, the virus has spread the most.' Therefore, he recommended programs which emphasize 'fidelity between spouses, and abstinence between singles.'"

**"'It is the life lived in accordance to that which is moral which really combats the disease,' the prelate stated. He also noted that the campaigns which emphasize condom use 'may provoke greater premature sexual activity.'"** Emphasis Mine.

"'It has been shown that condoms do not offer complete security against the transmission of the virus while experts acknowledge that condoms fail more than 20% of the time.' The archbishop recalled that the Catholic Church insists that 'the prevention of AIDS requires the responsibility of the carriers, that the youth postpone their sexual relations, that couples remain faithful to each other, and that dangerous or immoral habits must be changed'" ("Archbishop Encourages 'Sexual Responsibility' to Combat AIDS in El Salvador," *Catholic New Agency*, December 9, 2009, [www.catholicnewsagency.com](http://www.catholicnewsagency.com)).

**77.** The Vatican itself also maintained a very anti-homosexual stance throughout 2006, 2007, 2008 and into 2009. For example, in March, 2007, in an interview with the Zenit News Agency, Father Jean-Baptiste Edart, a leading Biblical scholar with the John Paul II Institute in Rome, cited texts from both the Old and New Testaments and stated that homosexual acts between members of either sex were considered "extremely grave, directly offending the divine Law. This teaching is perfectly consistent with Judaism of that time."

Father Edart went on to list three passages from the Old Testament where to "lie with a male as with a woman" was called "an abomination, wickedness, and wanton crime," and three passages from the New Testament that listed homosexuality and sodomy alongside fornication, adultery, idolatry, and other crimes which were referred to as "degrading passions" ([www.lifesite.net](http://www.lifesite.net), March 19, 2007).

**78.** Finally, in his 2008 "End of the Year" address to the Curia (the Vatican's central administration and the governing body of the entire Roman Catholic Church together with the Pope), Pope Benedict XVI stated that the need to save mankind from a destructive blurring of gender roles is as important as saving the rainforests.

Pope Benedict XVI said that humanity needed to listen to the "language of the creation" to understand the intended roles of man and woman and behavior beyond traditional heterosexual relations was a "destruction of God's work."

"The Church should also protect man from the destruction of himself. A sort of ecology of man is needed. The tropical forests do deserve our protection. But man, as a creature, does not deserve any less."

"What is needed is something like a 'human ecology,' understood in the right sense. It's not simply an outdated metaphysics if the Church speaks of the nature of the human person as man and woman, and ask that this order be respected."

The Pope went on to warn that gender theory blurred the distinction between male and female and thus could lead to the "self-destruction" of the human race.

Just two months earlier, a high Vatican official described homosexuality as "a deviation, an irregularity, a wound" (Nick Allen, "Pope Says Humanity Needs 'Saving' From Homosexuality," [www.telegraph.co.uk](http://www.telegraph.co.uk), December 23, 2008).

There was world-wide coverage of the Pope's remarks. Some of the most important are: "Pope Wants Humanity 'Saved' From Homosexuality," *ABC News*, December 23, 2008; "Pope Attacks Blurring of Gender," *BBC NEWS*, December 23, 2008; Tom Kington and Riazat Butt, "Pope Angers Campaigners With Speech Seen as Attack on Homosexuality," *The Guardian*, December 24, 2008; "Pope Benedict on Homosexuality," *TIMESONLINE*, December 23, 2008; and "Pope Benedict's Latest Outburst 'Justifies' Homophobic Bullying and Attacks," [www.pinknews.co.uk](http://www.pinknews.co.uk), December 23, 2008.

**79.** In November, 2010, Pope Benedict XVI seemingly contradicted his earlier position on condoms by stating that a male prostitute infected with HIV could use a condom to protect his client. A few days later, the Vatican broadened that pronouncement to include heterosexuals and transgenders. More clarifications of this new policy are expected in the future. See: Jason Bartlett, "The Pope's About Turn on Condoms: For Better or Worse," <http://sxnews.gaynewsnetwork.com>, November 29, 2010; and Jessica Green, "Vatican Says Everyone Can Use Condoms to Prevent HIV," [www.pinknews.co.uk](http://www.pinknews.co.uk), November 24, 2010.

**80.** On February 1, 2010, Pope Benedict XVI condemned the recently passed Equality Law in Britain. The law is designed to protect gays and women in the workplace. Speaking before 35 Catholic Bishops from England and Wales, the Pontiff said that the legislation "imposed unjust limitations on the freedom of religious communities to act in accordance with their beliefs." He also complained that the law violated "the natural law upon which the equality of all human beings is grounded and by which it is guaranteed" (Robert Barr, "Pope's Swipe at UK Equality Laws Provokes Foes," *The Washington Post*, February 2, 2010. See also: Jessica Green, "Pope Benedict XVI Criticizes Gay Rights in Equality Bill," [www.pinknews.co.uk](http://www.pinknews.co.uk), February 1, 2010; and "Pope Benedict Attacks Government Over Equality Bill," *BBC News*, February 2, 2010).

**81.** In May, 2010, during a visit to Portugal, Pope Benedict XVI fueled the debate on gay marriage and abortion while saying Mass before 500,000 at the holy site of Fatima in Portugal. The Pope called for pastoral action to tackle both abortion and same-

sex marriage which he called "some of today's most insidious and dangerous threats to the common good." He called abortion a "tragedy" and urged protection of the "family based on the indissoluble marriage between a man and a woman" ("Gay Marriage a 'Dangerous Threat,' Pope Warns," [www.pinknews.co.uk](http://www.pinknews.co.uk), May 13, 2010).

Interestingly, the Portuguese Parliament approved same-sex marriage in January, 2010, at which time the Pope called it an attack on the natural differences between men and women.

**82.** Then in June, 2010, Bishop Jorge Lona of Argentina revisited the question of whether homosexuality is curable by stating that psychiatric treatment can help homosexuals overcome unwanted same-sex attraction.

"The Church can illuminate that person, so that one should never believe that they lack freedom in that homosexual tendency," Bishop Lona said in an interview. "It is demonstrated by psychiatric science."

"The most important psychiatric text of the North American University of Medicine says that people with a homosexual tendency, if they seek to receive psychotherapeutic help and everything that can help them for their attraction, can modify their orientation and have a happy marriage and eliminate their suffering," he added" (Matthew Cullinan Hoffman, "Argentine Bishop States Gays Can Overcome Same-Sex Attraction, Leads Pro-Family March," LifeSiteNews.com, June 21, 2010).

The North American University of Medicine is an off-shore medical school located on the island of St. Kitts in the Caribbean.

**83.** Every religion and every denomination has the right to establish its own doctrines and dogma in matters of faith. What religions do not have the right to do is deny basic human and civil rights to those individuals who do not agree with or do not accept those doctrines or that dogma. The Roman Catholic Church has walked that extremely delicate line on homosexuality for decades, but it has NOT crossed the line.

The problem for this case, however, is that the official Vatican position provides the military and police of Colombia seeming religious support, indeed Divine sanction, for their homophobic attacks on LGBT peoples in their country. They have always claimed that they are doing what they are doing to protect and save *La Patria* and Western Christian Civilization. Now they can, and do claim to be doing God's work as they carry out their

mission of cleansing *La Patria* of all that is evil and corrupt in order to "save *La Patria* and its children."

84. Mr. XXXX himself experienced discrimination, even religious persecution at the hands of his former priest.

"I confided in the priest at my church that I was gay and I told him about the threats I had received. His response to my concerns about my safety was that what I was doing went against nature. After he told me that, I stopped going to church."

85. These are exactly the type of secular and religious attitudes and reactions I have heard and seen in Mexico since I first attended the National Autonomous University of Mexico (UNAM) in 1961. In fact, I have heard such reactions in every Latin American country I have visited over the past 50 years.

86. As a consequence of these beliefs, families have been known to kill homosexual relatives rather than risk provoking hatred and attack on the family from other members of the community.

87. Since the concept of *machismo* is so critical to an understanding of Mr. XXXX's treatment by his family, the police and other members of Colombian society, an explanation or definition is needed here. Please see my brief discussion of *machismo* which is appended to this declaration.

88. Since 1996 I have read well over 400 affidavits by LGBT peoples from Latin America who are seeking political asylum based on their sexual orientation. Mr. XXXX's life experiences of trying to cope with his homosexuality, while extremely tragic, is consistent with everything I have read or heard about homosexuality in Colombia.

89. The religious norms and attitudes described above also permeated the core beliefs of the nation's principal political parties. Founded in 1848 and 1849 respectfully, the *Partido Liberal* (Liberal Party) of Colombia and the *Partido Conservador* (Conservative Party) are the two oldest, continuously-functioning political parties in Latin America. In the beginning, both were composed of different groups of elites who agreed on the basic socio-economic rules of the game, i.e., absolutely no agrarian reform, mobilization of the rural peasantry, or meaningful political participation by anyone outside of the elite.

90. In the late nineteenth century, the two parties were sharply divided along religious lines. The Conservatives wanted the Roman Catholic Church to be the supreme institution in the nation, while the Liberals were imbued with modernizing and secularizing ideas and perceived the Church to be an obstacle to the changes they hoped to bring about. Each party organized armies to oppose the other and both used religious propaganda to win adherents among the lower classes: the Christ-centered Church of the Middle Ages or the blasphemous anti-Christ, the Reformation and the French Revolution.

91. This religious fervency has continued to be important up to the present, but in real political terms, what is really important is that entire extended families for generations have belonged to either the Liberal or the Conservative parties. One's political affiliation was determined before birth; your parents/family belonged to one party or the other and you inherited that affiliation. One married within the party, chose friends, business associates, and, most importantly *compadres* within the party structure. It was the most defining element in one's life.

92. Thus, membership in either the Liberal or Conservative Parties was and is an incredibly powerful combination of political and religious belief structures, all bound together with the trappings of a Latin American extended family structure.

93. As a consequence of these religious and political beliefs, families have been known to kill homosexual relatives rather than risk the opprobrium which will be called down upon them should their relative's sexual orientation be exposed.

94. The simple truth is that regardless of whether he tries to hide it, most Colombians will likely perceive Mr. XXXX as an effeminate, gay male, particularly since he is in a State of California registered domestic partnership with another man.

Therefore, there is no escape for Mr. XXXX. The simple yet horrific fact is that Mr. XXXX faces aggravated opposition from every conceivable direction: his religion, the government, the state security forces, the three guerrilla organizations (FARC-Revolutionary Armed Forces of Colombia; ELN-National Liberation Army; and EPL-People's Liberation Army), the right-wing paramilitaries grouped under the United Self-Defense Forces of Colombia (AUC), neighbors and civilians in the street. His situation could not be more precarious. Moreover, he will suffer this abuse in every corner of the country if he is forced to return to Colombia (see below).

95. Unfortunately, as noted above, the danger to male homosexuals is not confined to the above-named groups. In Colombia, Mexico, Honduras, Panama, Ecuador, Peru, Chile and Argentina for example, it is common for the police, without provocation, to detain gay males and transvestites, beat them up, rape them, insert batons or other foreign objects in the anus, force them to perform oral sex and otherwise abuse them physically, always accompanied, of course, by verbal and psychological abuse. As a result of these beatings/rapes, many gay males and transsexuals have died in those countries, but the perpetrators are almost never prosecuted because such abuse is tacitly accepted and often encouraged.

96. It should be noted here that the Colombian government and police treat crimes which result in the abuse, injury or death of homosexuals as "common crimes," committed by "common criminals," never as hate crimes against homosexuals. This is particularly true, of course, when the police themselves are the perpetrators. These matters will simply be "dropped" and there will never be an official investigation, as there would be if homosexuals were not the target.

97. Colombian police abuse and physical attacks on homosexuals is clear from Mr. XXXX's own description of what has happened to him at the hands of the police. See above.

98. In the United States, of course, one can seek protection from the local police. In Colombia, however, the police are an integral part not only of the state apparatus of repression, but are also heavily infiltrated by both the AUC and the guerrillas. In short, the police are a large part of the problem.

99. The United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia*--AUC) was formed in 1997 as an umbrella paramilitary force specifically to fight the various guerrilla forces operating in Colombia (FARC, ELN, EPL). However, the AUC forces quickly entered the lucrative drug traffic and began to commit as many murders, massacres and general human rights violations as any of the guerrilla forces. The European Union was the first to place the AUC on its list of terrorist organizations. The United States Department of State followed suit in 2001, condemning the AUC for massacres, torture and human rights abuses against the civilian population of Colombia.

Besides engaging in drug trafficking, the AUC also carried out kidnappings for profit and collected forced donations from

both foreign-based and Colombian-owned corporations. For example, in March 2007, the U.S.-owned Chiquita fruit company admitted that it had paid the AUC over \$1.7 million dollars from 1997 to 2004. Chiquita was also involved in smuggling thousands of AK-47 assault rifles and millions of rounds of ammunition to the AUC on its fruit ships. Chiquita subsequently accepted a plea bargain with the U.S. Department of Justice and paid a fine of \$25 million.

The AUC also demanded war taxes (*vacuna*) from local inhabitants of certain regions and infiltrated the Colombian government system from local officials to the national-level Executive, Legislative and Judicial branches.

**100.** Beginning in 2003, the Colombian government and the AUC entered into negotiations designed to lead to the demobilization of all AUC forces. By the end of 2006, the government claimed that approximately 17,000 of the 20,000 AUC forces had surrendered their weapons and demobilized.

For its part, the Colombian government introduced the so-called Justice and Reparation Bill which would have created a legal framework for the demobilization of the AUC forces. Subsequently, the bill was withdrawn in the face of scathing criticism from Colombian human rights organizations and international groups such as Amnesty International and Human Rights Watch.

"The Bill, which failed to respect the right of victims to truth, justice and reparation, could have guaranteed impunity for human rights violators. The government objected to a new draft presented by Congress members which addressed some of these concerns and said it would present a new draft in 2005. Most paramilitaries who reportedly demobilized benefitted from Decree 128, which may have granted de facto amnesties to human rights abusers. Its continued application raised doubts about the government's commitment to confronting impunity" (Amnesty International, 2005 Report-Colombia).

**101.** Despite claims and counter claims regarding demobilization of the AUC, by 2007, it was clear that the so-called demobilization was a farce.

"The Organization of American States Mission to Support the Peace Process in Colombia published a report in August. This stated that some demobilized paramilitaries had regrouped as criminal gangs, that others had failed to demobilize, and that new paramilitary groups had emerged. Paramilitaries continued to commit human rights violations in areas where they had supposedly demobilized. More than 3,000 killings and enforced



disappearances of civilians were attributed to paramilitary groups since they declared a 'cease-fire' in 2002" (Amnesty International, 2007 Report-Colombia).

**102.** For its part, Human Rights Watch in its World Report, 2007, stated:

"The Colombian government claimed in 2006 that it had successfully completed the demobilization of more than 30,000 supposed paramilitaries, but serious questions remain as to the effectiveness of the demobilization process in dismantling paramilitaries' complex criminal and financial structures, and ensuring truth, justice, and reparation."

"Paramilitary commanders have not taken significant steps to give up their massive illegally acquired wealth, return stolen land, or show that they have ceased their lucrative criminal activities. Disturbing indications of their persistent influence in 2006 included: reports of paramilitary infiltration of the Intelligence Service; increasing threats against academics, union leaders, human rights defenders, and journalists; and the formation of new paramilitary groups, as reported by the Organization of American States' (OAS) Mission to Support the Peace Process."

"New paramilitary abuses, including killings and forced disappearances, continued to be reported throughout the year. In October, the Attorney General's office revealed that a confiscated computer owned by an associate of the paramilitary leader known as 'Jorge 40' had turned up evidence of over 500 assassinations committed in just one Colombian state between 2003 and 2005. The computer also pointed to continuing plans by the paramilitaries' Northern Block to expand their political power and territorial control" (Human Rights Watch, World Report, 2007-Americas).

**103.** In its World Report, 2008, Human Rights Watch noted the following about the AUC:

"The Colombian government continues to claim that, thanks to its demobilization program, paramilitaries no longer exist."

"Both the Organization of American States and the Office of the UN High Commissioner for Human Rights in Colombia reported in 2007 that mid-level paramilitary commanders continue to engage in criminal activity and recruitment of new troops."

"The Inter-American Commission on Human Rights noted in a 2007 report that while over 30,000 individuals may have gone through demobilization ceremonies, some may not have been

paramilitaries at all, but persons who played the role to access government stipends."

"Thanks to a 2006 ruling by Colombia's Constitutional Court, paramilitary commanders and others who have applied for reduced sentences under Law 975 of 2005 (known as the "Justice and Peace Law") are legally required to confess and turn over illegally acquired assets. However, confessions moved slowly in 2007, in part due to a lack of sufficient prosecutors and investigators assigned to the unit of the attorney general's office charged with interrogating the commanders."

"Several paramilitary leaders are temporarily in prison, but government officials have publicly stated that they will eventually be allowed to serve their reduced sentences on "agricultural colonies" or farms."

"Dozens of Congressmen from President Uribe's coalition, including the president's own cousin, Senator Mario Uribe, came under investigation by the Supreme Court in 2007 for their alleged collaboration with paramilitaries responsible for widespread atrocities. At this writing, 17 congressmen were under arrest. One of them is the brother of former Foreign Minister Maria Consuelo Araújo, who resigned as a result."

"President Uribe's former intelligence chief from 2002 to 2005, Jorge Noguera, is also under investigation for links to paramilitaries."

"The government has provided funding to the court and spoken of the need for full investigations. However, President Uribe has repeatedly lashed out against the court, accusing it of suffering from an "ideological bias" and personally calling one Supreme Court justice to inquire about ongoing investigations."

In April 2007 President Uribe announced a proposal to release from prison all politicians who are convicted of colluding with paramilitaries. After it became evident that the proposal would be an obstacle to ratification of the US-Colombia Free Trade Agreement, he tabled it" (Human Rights Watch, World Report, 2008-Americas).

**104.** The AUC and other paramilitaries are even more homophobic than either the state security forces or the guerrillas. Andrew Reding, a leading researcher and frequent contributor to publications of the Resource Information Center of U.S. Citizenship and Immigration Services, recently wrote:

**"The paramilitaries espouse policies of 'social cleansing' that target undesirables such as beggars and homosexuals.** They have attacked gay men in Cúcuta and Bucaramanga. In the oil port

of Barrancabermeja on the Magdalena river, they have issued a manual that prescribes proper behavior for city residents. Among other things, the manual calls for banishing homosexuals. **But the paramilitaries' actual practice, according to residents, has been to impose the death penalty for anyone who 'is of no use to society,' including thieves, drug dealers, sex workers and homosexuals"** (Andrew Reding, Sexual Orientation and Human Rights in the Americas. New York: World Policy Institute at New School University, 2003, p. 35). Emphasis Mine.

**105.** There is no doubt that the AUC, other paramilitaries and various skinhead groups represents the greatest threat to Mr. XXXX. First of all, the AUC is every bit as vicious as the FARC (which has received most of the attention inside and outside Colombia), but the AUC is far more hostile to gays and lesbians in both their public pronouncements and their actions. As the U.S. Department of State notes:

"The following violations by paramilitaries were reported during the year: political killings and kidnappings; forced disappearances; torture; interference with personal privacy; forced displacement; suborning and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights, restrictions on freedom of movement; attacks against human rights workers, journalists, and labor union members; recruitment and employment of child soldiers; and harassment, intimidation, and killings of teachers and union leaders" United States Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices-Colombia, March 8, 2006, p. 1). Hereafter cited as 2005 Country Report on Colombia.

"Paramilitaries also prevented or limited the delivery of foodstuffs and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement" (2005 Country Report on Colombia, p. 12).

**106.** The Department of State's 2006 view of the AUC is equally damning.

"Illegal armed groups committed the majority of human rights violations. Despite a unilateral cease-fire declared by the AUC in 2002 and a nationwide demobilization, renegade paramilitary members committed the following criminal acts and human rights abuses: political killings and kidnappings; forced disappearances; torture; interference with personal privacy and with the political system; forced displacement; suborning and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement;

recruitment and employment of child soldiers; and harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists."

"There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from the president and the military high command. Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities."

"Impunity for military personnel who collaborated with members of renegade paramilitary groups remained a problem."

"Renegade paramilitary members committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or lacking a strong government presence" (United States Department of State, Bureau of Democracy, Human Rights, and Labor, 2006 Country Report on Colombia, March 6, 2007, pp. 1, 3). Hereafter cited as 2006 Country Report on Colombia.

**107.** The Department's 2007 analysis of the AUC is even more critical.

"New illegal groups committed numerous human rights abuses. The last United Self Defense Forces of Colombia (AUC) block demobilized in August 2006, but AUC members who refused to demobilize, AUC members who demobilized but later abandoned the peace process, and other criminal groups remained the object of security force action. (The new illegal groups, which the government also described as new criminal groups, consisted of demobilized paramilitaries who returned to violence, individual paramilitaries who never demobilized, common criminals, and narcotics traffickers primarily involved in criminal activity. These new groups lacked the organization, reach, and military capacity of the former AUC and focused primarily on narcotics trafficking and extortion rather than fighting the FARC or ELN. In these circumstances, it was often difficult to determine responsibility for abuses committed.) The AUC demobilization led to a reduction in killings and other human rights abuses, but paramilitaries who refused to demobilize and new criminal groups continued to commit numerous unlawful acts and related abuses, including: political killings and kidnappings; physical violence; forced displacement; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; recruitment and use of child soldiers; and harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists."

"Government steps to improve the human rights and security situation showed demonstrable results. Government statistics indicated that during the year there were decreases in massacres (34 percent) and kidnappings (29 percent). The Justice and Peace Law process helped clarify more than 3,000 crimes and led to the exhumation of 1,196 remains in 1,009 mass graves. The Supreme Court and prosecutor general's investigations of links between politicians and paramilitary groups implicated 52 congressman, 11 governors, and 19 mayors, a number of whom were in jail at year's end."

"Paramilitary members who refused to demobilize and new illegal group members committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or lacking a strong government presence."

"The Jesuit-founded Center for Popular Research and Education (CINEP), a local human rights nongovernmental organization (NGO), claimed there were at least 238 political and unlawful killings, committed by all actors, during the first six months of the year, 77 more than reported in the same period in 2006. Some NGOs, such as CINEP, considered the new illegal groups to be a continuation of the paramilitary groups and attributed reports of human rights violations committed by these groups directly to the government. They also included killings by these groups in their definition of 'unlawful killings.'"

"The government's Presidential Program for Human Rights reported that, during the first seven months of the year, 65 persons died in 15 massacres (defined by the government as killings of four or more persons) perpetrated by illegal armed groups, a 44 percent decrease from the same period in 2006."

"Some members of government security forces, including enlisted personnel, noncommissioned officers, and senior officials, in violation of orders from and president and the military high command, collaborated with or tolerated the activities of new illegal groups or paramilitary members who refused to demobilize. Such collaboration often facilitated unlawful killings and may have involved direct participation in paramilitary atrocities."

"Some reports suggested that tacit nonaggression pacts between local military officers and paramilitaries who refused to demobilize or new illegal groups existed in certain regions, such as eastern Antioquia, Choco, Meta, and Narino departments and indicated that members of the security forces assisted, or sought the assistance of, criminal groups. Impunity for these military personnel remained a problem."

"While civilian courts made some progress on cases against military personnel, impunity for military personnel who

collaborated with paramilitary members who refused to demobilize and new illegal groups remained a problem."

"The Inter-American Court of Human Rights, on May 11 and July 4, issued rulings in two cases related to military collusion with paramilitaries. The government agreed to comply with the rulings in both cases."

"In conformity with the law, military or civilian authorities investigated killings committed by security forces. Civilian courts tried a number of military personnel accused of human rights violations. Investigations of past killings proceeded, albeit slowly. There were significant convictions in high-profile cases against military personnel, including convictions in the cases of Santo Domingo (1998), the La Gabarra massacre (1999), and Arauca (2004)."

"Both governmental and nongovernmental actors used landmines. Preliminary reports indicated that landmines, used primarily by the FARC and ELN, caused 187 deaths and 687 injuries during the year. The government expressed its commitment to removing the remaining 29 government-controlled minefields, as the security situation permits."

CINEP reported that demobilized paramilitaries were responsible for at least 28 cases of torture as of June. For example, CINEP stated that on April 12, demobilized AUC paramilitaries allegedly tortured and killed Uriel Henao, a farmer in La Dorado, Caldas."

"On September 15, the Supreme Court overturned two prior acquittals to convict Major Luis Fernando Campuzano for allowing AUC members unfettered access to La Gabarra, Norte de Santander, which led to the killing of 27 persons in 1999. He was sentenced to 40 years in prison."

"After the last AUC block demobilized in August 2006, the government confronted militarily any groups that did not demobilize as well as new criminal groups. The government reported that during the year it demobilized 155 individual paramilitary members who had previously refused to demobilize, bringing the total number of paramilitaries demobilized to approximately 34,000 since the process began in 2003. The Organization of American States (OAS) continued to verify all stages of demobilization and reincorporation of former combatants into society. The OAS verification mission's 10th report noted "emerging situations of possible rearmament and the appearance of armed groups claiming to be the 'new generation of paramilitaries,'" who in some cases "were recruiting former paramilitary combatants." The OAS estimated that there were approximately 20 new illegal or criminal groups (with 3,000 members) operating in the country" (United States Department of

State, Bureau of Democracy, Human Rights, and Labor, 2007 Country Report on Colombia, March 11, 2008, pp. 1-2, 4, 5. Hereafter cited as 2007 Country Report on Colombia.

**108.** The Colombian government made no gains against the AUC in 2008.

"New illegal groups also committed numerous human rights abuses. The last United Self Defense Forces of Colombia (AUC) block demobilized in 2006, but AUC members who refused to demobilize, AUC members who demobilized but later abandoned the peace process, and other new illegal groups remained targets of security force action. (The new illegal groups consisted of demobilized paramilitaries who returned to violence, individual paramilitaries who never demobilized, common criminals, and narcotics traffickers primarily involved in criminal activity. These new groups lacked the organization, reach, and military capacity of the former AUC and focused primarily on narcotics trafficking and extortion rather than fighting the FARC or ELN. In these circumstances, it was often difficult to determine responsibility for abuses committed."

"The AUC demobilization led to a reduction in killings and other human rights abuses, but paramilitaries who refused to demobilize and new illegal groups continued to commit numerous unlawful acts and related abuses, including: political killings and kidnappings; physical violence; forced displacement; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; recruitment and use of child soldiers; and harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists."

"Government statistics indicated that during the year killings decreased 6.2 percent and kidnappings decreased 14.3 percent compared with the same period in 2007. Through December the JPL process helped clarify over 20,000 crimes and led to the exhumation of 1,788 remains in 1,441 common graves, while the Supreme Court and prosecutor general's investigations of links between politicians and paramilitary groups implicated 70 representatives, 15 governors, and 31 mayors, many of whom were in jail at year's end."

"Paramilitary members who refused to demobilize and new illegal group members committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or without a strong government presence."

"The Jesuit-founded Center for Popular Research and Education (CINEP), a local human rights nongovernmental organization (NGO), claimed there were at least 220 political and

unlawful killings, committed by all actors, during the first six months of the year, 18 more than reported in the same period in 2007. Some NGOs, such as CINEP, considered the new illegal groups to be a continuation of the paramilitary groups and attributed reports of human rights violations committed by these groups directly to the government. They also included killings by these groups in their definition of 'unlawful killings.'"

"The Ministry of Defense reported that 169 persons died in 37 massacres (defined by the government as killings of four or more persons), a 32 percent increase from 2007."

"Some members of government security forces, including enlisted personnel, noncommissioned officers, and senior officials, in violation of orders from the president and the military high command, collaborated with or tolerated the activities of new illegal groups or paramilitary members who refused to demobilize. Such collaboration often facilitated unlawful killings and may have involved direct participation in paramilitary atrocities."

"Some reports suggested that in certain regions, such as eastern Antioquia, Choco, Meta, and Narino departments, there were corrupt dealings between local military officers and new illegal groups or paramilitaries who refused to demobilize. Although impunity for these military personnel remained a problem, the Ministry of Defense carried out investigations and handed over culpable parties to civilian authorities in several high-profile cases during the year."

"After the last AUC block demobilized in 2006, the government confronted militarily any groups that did not demobilize as well as new illegal groups. There were no further paramilitary demobilizations beyond approximately 34,000 that collectively demobilized after the process began in 2003. The Organization of American States (OAS) continued to verify all stages of demobilization and reincorporation of former combatants into society. The OAS estimated that there were approximately 23 new illegal groups operating in the country."

"Paramilitary members who refused to demobilize and new illegal groups killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities, showed leftist sympathies, or were suspected of collaboration with the FARC. They also reportedly committed massacres and "social cleansing" killings of prostitutes, homosexuals, drug users, vagrants, and gang members in city neighborhoods they controlled. New illegal groups, according to CINEP, were responsible for the deaths of 148 civilians from January through June, a 13.5 percent increase from 128 deaths reported during the



same period in 2007" (2008 Country Report on Colombia, pp. 1-2, 6, 7).

**109.** The AUC continued to be a major threat to peace and stability in Colombia in 2009.

"New illegal armed groups and paramilitary members who refused to demobilize also committed numerous human rights abuses. The last United Self Defense Forces of Colombia (AUC) block demobilized in 2006, but AUC members who refused to demobilize, AUC members who demobilized but later abandoned the peace process, and other new illegal armed groups remained targets of security force action. These new groups lacked the organization, reach, and military capacity of the former AUC and focused primarily on narcotics trafficking and extortion. The AUC demobilization led to a reduction in killings and other human rights abuses, but paramilitary members who refused to demobilize and new illegal armed groups continued to commit numerous unlawful acts and related abuses, including the following: political killings and kidnappings; physical violence; forced displacement; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; recruitment and use of child soldiers; violence against women, including rape; and harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists."

"Government statistics indicated that during the year kidnappings decreased 18 percent and mass killings decreased 13 percent compared with the same period in 2008. The Prosecutor General's Human Rights Unit achieved convictions of 421 defendants for human rights crimes, including 157 military personnel for extrajudicial executions, during the year. Through December the Justice and Peace Law (JPL) process, wherein former paramilitary leaders confess their crimes and surrender assets in exchange for reduced sentences, helped clarify more than 38,000 crimes involving 50,000 victims and led to the exhumation of 2,800 remains in 2,300 common graves, while the Supreme Court and prosecutor general's investigations of links between politicians and paramilitary groups implicated 87 members of Congress, 15 governors, and 35 mayors, 66 of whom were detained at year's end. In total, 18 politicians (13 members of Congress, four governors, and one mayor) had been convicted for ties to paramilitary groups at year's end" (United States Department of State, Bureau of Democracy, Human Rights, and Labor, 2008 Country Report on Colombia, March 11, 2010, p. 1). Hereafter cited as 2009 Country Report on Colombia.

**110.** For its part, Amnesty International in its 2010 Report noted the following about the AUC and the paramilitaries.

"Paramilitary groups continued to operate in many parts of the country, sometimes in collusion with sectors of the security forces. Their continued activities belied government claims that all paramilitaries had laid down their arms following a government-sponsored demobilization programme that began in 2003".

"The government claimed that violence attributed to these groups was solely drug-related and criminal in nature. However, the tactics employed by these groups to terrorize the civilian population, including death threats and massacres, reflected those used by paramilitary groups prior to demobilization. Human rights defenders, community leaders and other social activists continued to be targeted by such groups."

"There was evidence that paramilitary groups were again becoming more organized. In a report published in October, the Organization of American States' Mission to Support the Peace Process in Colombia referred to 'these illegal structures' capacity for renewal, especially among their leaders, which is a challenge for the authorities to prevent their restructuring.'"

"There was an increase in killings of people from marginalized social groups in urban areas, mostly carried out by paramilitaries. Victims included young people; the homeless; petty criminals; sex workers; lesbians, gay men, bisexual and transgender people; and drug addicts. According to the NGO Research and Popular Education Centre (Centro de Investigacion y Educacion Popular, CINEP), there were 184 such killings in 2009, compared with 82 in 2008."

"There was an increase in efforts by paramilitary groups to exert social control over communities living in poverty through the mass distribution of threatening leaflets. In 2009, CINEP recorded 83 such threats distributed in many parts of the country, compared with 58 in 2008" (Amnesty International, Amnesty International Report 2010: The State of the World's Human Rights. London: Amnesty International Publications, 2010, pp. 109-110). Hereafter cited as Amnesty International, 2010.

"Only around 3,700 of the 31,000 paramilitaries who had allegedly demobilized since 2003 had participated in the Justice and Peace process by the end of 2009. However, the whereabouts of many of these were unknown. The Justice and Peace process allows former paramilitaries to benefit from reduced sentences in return for confessions about human rights violations. Some paramilitaries confessed to human rights abuses and implicated others, including people in politics, business and the military. However, the process still fell short of international standards on the rights of victims to truth, justice and reparation."

"Some 90 per cent of those who were demobilized continued to escape effective investigation as a result of Decree 128 and Law 782, which grant de facto amnesties to those not under investigation for human rights violations. In June, Congress approved a law to regularize the legal status of 19,000 supposedly demobilized paramilitaries after the Supreme Court ruled in 2008 that they could not benefit from amnesties. The law authorized the Attorney General to suspend, interrupt or abandon investigations against them, thus enabling them to evade justice."

"In July the Supreme Court annulled on procedural grounds the sentence handed down in March by the Justice and Peace Tribunal on the paramilitary Wilson Salazar Carrascal, alias "El Loro". By the end of the year, no paramilitary had been sentenced under the Justice and Peace process."

"Most of the 18 paramilitary leaders extradited to the USA on drug-trafficking charges refused to co-operate with the Colombian justice system in its investigations into human rights violations. Colombian judicial officials experienced difficulties in gaining access to the few who did agree to co-operate."

"Some paramilitaries returned a small portion of the 4-6 million hectares of land stolen by them, but there were concerns that some of these lands could again fall under the control of such groups or their backers. Some of the few original owners whose land was returned were threatened or killed."

"Victims or their families participating in the Justice and Peace process, those accompanying them, and judicial officials investigating human rights violations were threatened and killed. This dissuaded many victims from participating in the process" (Amnesty International, 2010, p. 110).

**111.** High level governmental officials and members of the Congress were also involved with the paramilitaries.

"Some 80 Members of Congress were under criminal investigation in 2009 for their alleged links to paramilitary groups."

"In September, the Supreme Court ruled it was competent to investigate Members who had resigned their posts in an effort to ensure that their cases were investigated by the Attorney General's Office, where they hoped to be treated more leniently."

"Several of the magistrates involved in investigating the scandal who had been threatened and harassed continued to receive protection measures ordered by the Inter-American Commission on Human Rights" (Amnesty International, 2010, p. 109).

**112.** The vast number atrocities committed by the AUC and so-called "demobilized paramilitaries" continued throughout 2010. In November, 2010, the government announced that the president would appoint a five-member "Truth Commission" to study the cases of over 17,000 demobilized paramilitaries who were never tried as part of the demobilization agreement between the AUC and the government of President Uribe ("Truth Commission' to Study Paramilitary Cases," *Colombia Reports*, November 28, 2010).

**113.** The homophobic attitudes espoused by the AUC are nowhere better seen than in official and unofficial views of Acquired Immune Deficient Syndrome (AIDS), or *Síndrome de Inmunidad Deficiente Adquirida* (SIDA) as it is known in Latin America. Latin Americans will rarely admit that AIDS even exists in their country, but if they do they will describe the disease as an abomination, caused by the Devil or an angry God who has cursed a person or a family. That the blame for AIDS always falls upon the "fem" in the homosexual encounter is an even more powerful rationale for persecuting "fems" and cleansing *La Patria* and/or the family of all AIDS. The fact remains, however, that HIV+ or AIDS patients are lumped together into one horrific group whose existence is a threat to every individual, every family, yes, even to the nation (*La Patria*) itself. According to this way of thinking, therefore, abuse of these people is deemed to be deserved.

**114.** Ms. Mirta Roses Periago, Director of the Pan American Health Organization noted: "Important gains in child health and life expectancy in the continent are being swept back by AIDS, destroying the efforts and investments of past decades. The poor get infected, and those infected become poor and isolated by stigma and sickness, rejected from schools and jobs" (quoted in Peter Aggleton, Richard Parker, Mirima Maluwa, "Stigma, Discrimination and HIV/AIDS in Latin America and the Caribbean." Washington, D.C.: Inter-American Development Bank, 2003, pp. 1-2).

**115.** In this same incredibly important report, Peter Aggleton, Richard Parker and Mirima Maluwa stated: "HIV/AIDS plays to some deep-seated fears and anxieties----fear of germs and disease, fear of death, and anxieties about sex. There are major similarities between HIV/AIDS-related stigma and discrimination and some of the negative social reactions triggered by diseases such as leprosy, tuberculosis and cancer."

"But the stigma and discrimination that HIV/AIDS has given rise to is much more than this. All over the world, and especially in Latin America and the Caribbean, it has systematically played to, and reinforced, existing prejudices and anxieties about homo- and bisexuality, about prostitution and sex

work, and about injecting drugs." Please see Peter Aggleton, Richard Parker, Mirima Maluwa, "Stigma, Discrimination and HIV/AIDS in Latin America and the Caribbean." Washington, D.C.: Inter-American Development Bank, 2003, p. 3.

**116.** This becomes an even more dangerous situation when one looks at the increasing prevalence of HIV/AIDS in Colombia. In 2001, the rate was 0.4 percent of adults aged 15-49, two-thirds the rate in the United States. By the end of 2001, UNAIDS estimated there were 140,000 persons living with HIV/AIDS out of a total population of 42.8 million (United Nations Development Programme, Human Development Report 2002. New York: Oxford University Press, 2002, p. 171).

**117.** By 2006, those already disturbing data had worsened horribly. According to the UNAIDS, 2006 Report on the Global AIDS Epidemic, the HIV prevalence rate in Colombia had increased to as much as 2.5%, **(over four times that of the United States)** with as many as 320,000 persons infected with the virus.

**118.** But even this increase is undoubtedly too low. On August 2, 2008, on the even of the XVII International AIDS Conference held in Mexico City, the United States Centers for Disease Control and Prevention (CDC) released a stunning update of the national estimates of the annual number of new HIV infections that occur in the United States. Published in a special HIV/AIDS issue of the *Journal of the American Medical Association*, the study concluded that there were about 56,300 new HIV infections in 2006, about **40 percent higher** than the CDC's long-standing estimate of 40,000 for each of the last several years.

If the United States, with its tremendous economic and scientific resources, is off by 40 percent, one can only imagine how far off are the Colombian estimates. Thus, the true figures for HIV/AIDS prevalence and the number of persons infected in Colombia is far higher than even the UNAIDS, 2006 Report on the Global AIDS Epidemic would indicate.

There was widespread national and international coverage of the CDC report. For the actual report see: United States Department of Health and Human Services, Centers for Disease Control and Prevention, "HIV Incidence, [www.cdc.gov/hiv/topics/surveillance/incidence](http://www.cdc.gov/hiv/topics/surveillance/incidence), August 3, 2008.

**119.** This horrific increase and spread of the disease have increased homophobia exponentially, with the result that the state security forces and mobs in the street have become much

more dangerous to the gay male population, and therefore to Mr. XXXX. Although Mr. XXXX is not HIV+, he exhibits homosexual mannerisms which is the same for Colombians, i.e., all homosexuals are HIV+ (which is false) and all persons infected with HIV+ are homosexual (which is likewise false). Simply stated, there is no way for Mr. XXXX to alter his feminine mannerisms. He is what he is and he is therefore in grave danger.

**120.** Tragically, this also means that the vast majority of health delivery personnel (doctors, nurses, dentists) in Colombia and Latin America simply refuse to treat individuals who are HIV+ (or perceived to be infected) for fear of contracting the disease. Those who do treat HIV+ patients and homosexuals very often do so only grudgingly and are extremely unsympathetic to them.

**121.** There is no doubt that male "fems" and other homosexuals are members of a particular social group and that Mr. XXXX is in danger due to that membership. As The Honorable A. Wallace Tashima, Judge, United States Court of Appeals for the Ninth Circuit wrote in *Geovanni Hernández-Montiel v. Immigration and Naturalization Service*: "Geovanni's female sexual identity must be fundamental, or he would have changed years ago. ... Geovanni should not be required to change his sexual orientation or identity. ... Because we conclude that Geovanni should not be required to change his sexual orientation or identity, we need not address whether Geovanni could change them. Geovanni's credible and uncontradicted testimony about the inherent and immutable nature of his sexual identity compels the conclusion that Geovanni was a member of the particular social group of gay men in Mexico with female sexual identities."

**122.** In that same case, the Honorable Melvin Brunetti, Judge, United States Court of Appeals for the Ninth Circuit, in a concurring opinion stated: "The evidence presented by Professor Davies supports the legal conclusion that in Mexico, gay men who have female sexual identities constitute a particular social group for asylum purposes. Hernández-Montiel's uncontradicted testimony regarding his physical and mental state is sufficient to establish that he is a member of this particular social group. Professor Davies testified that gay men with female sexual identities are persecuted in Mexico. Hernández-Montiel's testimony before the Immigration Judge that he suffered persecution on account of his membership in this social group was found credible by both the Immigration Judge and the Board of Immigration Appeals. Hernández-Montiel is therefore entitled to asylum and withholding of deportation based on his well-founded fear of persecution should he be returned to Mexico."

**123.** The situation in Colombia is actually much worse than in Mexico since the Hernández-Montiel case was heard. As I will show below, Mr. XXXX's life is in much greater danger in Colombia than in any other country in Latin America, with perhaps two exceptions, El Salvador and Guatemala. Indeed, it is my expert opinion, which I will detail below, that Mr. XXXX is an extremely high profile target and would be in grave danger of being killed if he were to return to Colombia.

**124.** The first threat to Mr. XXXX's life, of course, comes from the fact that he is a homosexual who is to be deported back to his native country of Colombia.

**125.** Indeed, given the climate in Colombia and the role the authorities play in denying basic human and civil rights, it is my considered opinion that Mr. XXXX might be detained at the airport and could even be sent to prison. At best, there would be a form of preventive detention with the same end result: Mr. XXXX either going directly to jail or being tortured or killed "while trying to escape," or some such scenario. His chances of avoiding the authorities and detention are nil. Moreover, once incarcerated, the general prison population will immediately target Mr. XXXX for massive abuse and most probably death. As outlined below, neither the government nor the police can or will do anything to help Mr. XXXX.

**126.** In addition to the AUC, other paramilitaries and skinheads, the guerrillas in Colombia (FARC, ELN, EPL) also hold extreme views on homosexuality and sexuality in general. Like most radical revolutionary parties (Mao Tse-tung and Maoism in China, Pol Pot and the Khmer Rouge in Cambodia, Leon Trotsky and Trotskyism in Russia and elsewhere in the western world), the guerrilla leaders were/are rabidly puritanical in all matters sexual because they view strong sexual urges as a threat to their complete control over their followers. Moreover, they are virulently homophobic and emphasize an extreme version of *machismo*. Like their mortal enemies in the AUC and the Colombian military and police forces, the guerrillas seek to eliminate all "sexual deviates."

**127.** Thus, as noted above, Colombian security forces, the various guerrilla groups, the paramilitaries and the skinheads all have extremely strong motives for "exterminating" Mr. XXXX; I can not conceive of a worse situation for him.

**128.** The plain truth is that Colombia is one of the three most homophobic nations in Latin America, El Salvador and

Guatemala being the others. The best and most succinct analysis of homophobia in Colombia is that of Rubén Ardila, Ph.D.:

"Our society, based on the Judeo-Christian faith, has a very negative attitude towards homosexuality. Homosexuality is viewed as a violation, an illness, or a deviation from the norm that threatens normal behaviors and society. This homophobic view has permeated Colombian society throughout its history, although there have been different levels of acceptance, depending on the individual's level of education, rural-versus-urban setting, age, and their affiliation with the Catholic Church. There is a deeply rooted belief that homosexuals are a threat to society, good upbringing, and family values. Similarly, homosexuality is thought to be related to child sexual abuse, AIDS, substance abuse, delinquency, and other serious social problems."

"Homosexuals are discriminated against in education, in the workplace, in housing, in the mass media, and generally in daily living. This homophobia has its origins in the Latin American cultures, which practice *machismo*, emphasize the importance of the family unit, and are highly influenced by the Catholic Church" (Rubén Ardila, "Homoerotic, Homosexual, and Bisexual Behaviors," in: José Manuel González, Rubén Ardila, Pedro Guerrero, Gloria Penagos and Bernardo Useche, "Colombia" (pp. 210-226) in: Robert T. Francoeur and Raymond J. Noonan, eds., The Continuum Complete International Encyclopedia of Sexuality. Updated, With More Countries. New York: Continuum, 2004 (p. 217).

**129.** For an absolutely horrifying account of attacks on and the "social cleansing" of homosexuals up to 1996 see Juan Pablo Ordoñez and Richard Elliott, "Cleaning Up The Streets"-- Human Rights Violations in Colombia and Honduras. Brussels, Belgium: International Lesbian and Gay Association, 1996. The fact is that since that was written the situation has not improved to any measurable degree. On the contrary, as the violence has increased in the country so has violence against gays and lesbians.

**130.** For example, in early 2001, Alvaro Miguel Rivera, a gay activist in Villavicencio near the capital Bogotá began receiving threatening phone calls, as well as being followed by unknown individuals. He filed a complaint with the police, but was told "to wait until something happens before taking action" (International Gay and Lesbian Human Rights Commission, Resumen del año 2001 en américa latina y el caribe. San Francisco: IGLHRC, 2002). Hereafter cited as Resumen del año 2001.

In May, 2001, security personnel at the University of Antioquia in Medellín began to harass anyone who was or appeared



to be gay. The campaign peaked with the severe beating of a gay student activist, Robinson Sánchez (Resumen del año 2001).

On March 1, 2002, an unknown person or persons threw a grenade at the home of Manuel Velandia Mora, who was running as an openly gay candidate in the upcoming parliamentary elections. The home was severely damaged, but Velandia Mora was unhurt. Following the attack Velandia Mora received numerous death threats in anonymous phone calls to his home and to his organization, *Solidaridad Comunitaria* (Community Solidarity), a gay rights organization. He asked the Attorney General for police protection, but the police stayed only two days and then left (see International Gay and Lesbian Human Rights Commission, "Openly Gay Political Candidate Attacked," March 2002).

**131.** On March 23, 2006, Darlyn Acevedo Ramírez, was murdered in the city of Santiago de Calí, Colombia. That murder was just one of the 13 unsolved murders of trans women that had occurred in Colombia in the period 2004-2006.

"Besides these terrible crimes, the physical, psychological and ethical mistreatment suffered by trans women in Santiago de Calí is a serious and continuous problem, and a daily violation of the human and constitutional rights of this community" (Action Alert: Colombia--Demand Investigation Into Murders of Trans Women," *International Gay and Lesbian Human Rights Commission*, April 18, 2008).

**132.** In December, 2007, the leading LGBT organization in Colombia (*Colombia Diversa*) published an incredibly important study entitled Colombia: Derechos Humanos de Lesbianas, Gays, Bisexuales y Transgeneristas en Colombia, 2006-2007 (Colombia: The Human Rights of Lesbians, Gays, Bisexuals and Transgenders in Colombia, 2006-2007).

Authored by Marcela Sánchez Buitrago, the Director of *Colombia Diversa*, the 350-page study carefully details the situation of LGBT peoples in Colombia. There are seven chapters and an Appendix which treat the following subjects: hate crimes; police abuse; prison conditions; social, cultural and economic rights; public policies regarding the guarantee of LGBT rights; how LGBT peoples are treated in the public media; and recommendations for future improvement of the treatment of LGBT peoples (Bogotá: Colombia Diversa, 2007). See also: "Aumentan Agresiones a la Comunidad Homosexual"--Aggression Against the Homosexual Community Increases," *Colprensa, Bogotá*, August 24, 2008).

**133.** The Immigration and Refugee Board of Canada published an analysis of the report in April, 2009 in which they stated the following.

"Colombia Diversa, a gay civil rights advocacy group based in Bogota, published a national report on the human rights of lesbians, gays, bisexuals and transgendered (LGBT) people for 2006-2007. **In the report, the group indicates that it documented the killings of 67 LGBT persons in Colombia in 2006 and 2007** (Colombia Diversa 2006-2007, 2). Of this number, 29 murders occurred in the Valle del Cauca department and 21 killings took place specifically in Cali (ibid.). **Principal homicide victims were identified as transvestites and gay men (ibid.).** The report also notes that there were 31 cases of police abuse reported by transvestites and individuals who visibly showed their sexual orientation or gender identity (ibid., 3). Police abuse cases ranged from arbitrary detention and physical aggression to discriminatory insults and harassment (ibid., 3). While the majority of these cases were reported in Bogota, Cali and Medellin, the report notes that it is in these cities that LGBT organizations are active and filing complaints (ibid.). **Nevertheless, Colombia Diversa maintains that the overall number of human rights cases registered concerning LGBT individuals is under-reported because official government documents do not specify the identity of LGBT persons** (IPS 2 Dec. 2008; see also Colombia Diversa 2006-2007, 8). A Colombia Diversa lawyer stated in an interview with Inter Press Service (IPS) that individuals hesitate to report abuse for fear of reprisals (IPS 2 Dec. 2008). **Moreover, the lawyer noted that homicide statistics presented in their 2006-2007 report were "a very partial figure, the result of a 'first effort' that was limited to the big cities"** (IPS 2 Dec. 2008)." See: Immigration and Refugee Board of Canada, "Colombia: Treatment of Homosexuals; Especially in Bogota and Cali, Availability of State Protection and Support Services, April 14, 2009. Emphasis Mine.

This report certainly helps to explain and to place in context the tremendous surge of homophobic attacks and incidents in 2008. A few of those attacks and murders are listed below.

**134.** In mid-February, several armed men arrived in Ciudadela Pipaton section of the city of Barrancabermeja with a list of people they were looking for. Five of those people who were homosexual were ordered to leave the city within twenty-four hours: "'We don't want to see you in the neighborhood in 24 hours. You are now a military target'" (*Diversidad Humana y Gente en Acción*, February 15, 2008).

The men were also rumored to have another list of over twenty persons whom they were seeking.

The LGBT group which published the report (*Diversidad Humana y Gente en Acción*) complained that threats based on sexual orientation were more and more common in Barrancabermeja and it asked the authorities for protection and guarantees that they could continue to live normal lives.

**135.** In February, 2008, in Manizales, two lesbian high-school students were expelled from the Leonardo Da Vinci High school by the Principal Magola Franco Pérez. Ms. Franco Pérez threatened to resign if the young women were ever allowed to return (which she did not) and organized students to demonstrate against them ("Colombia: 1<sup>st</sup> Day Back in Class for High School Lesbians Who Were Booted Out," April 29, 2008, [www.blabbeando.blogspot.com](http://www.blabbeando.blogspot.com). See also: Luis Fernanda Mejía, "Fuera de Clase por Preferir su Mismo Sexo," *La Patria*, February 22, 2008.

For a very moving interview of one of the young women, Jenny Viviana Rendón, see "Colombia: Student Who Was Kicked Out of High School for Being a Lesbian Speaks Up Against Discrimination," June 4, 2008, [www.blabbeando.blogspot.com](http://www.blabbeando.blogspot.com).

When the two young women attempted to return to the school, the 700 students at the school met them with cries of "We don't want you." The director of the school, Magola Franco Pérez said that she would go to court to prevent the girls from returning. She also took part in the demonstration. See: "Con Protesta Recibieron a Lesbianas que Ganaron Tutela Para Volver al Colegio"--"The Lesbians Who Won the Right to Return to School Are Met With Protests," *El Tiempo*, April 25, 2008.

See also: "La Agresión en un Colegio de Manizales Contra Dos Niñas Lesbianas Demostró que, a Pesar de los Avances Legales, los Actos de Homofobia en el País son Frecuentes"----"The Attack on Two Lesbian Girls at the Colegio de Manizales Shows that Despite Legal Advances Acts of Homophobia in the Country are Frequent," *Simone*, May 3, 2008).

**136.** Homophobia in Colombian schools continued to increase in the years following the incident with the lesbian students described above.

In March, 2009, Hernando Salazar of the BBC published a very revealing article on homophobia in the schools. He recounted how one student had to use the girls bathroom because his male classmates refused to let him into the boys bathroom.

Salazar also cited a study by anthropologist Erik Cantor of the National Pedagogical University which showed that seventy percent of students made fun of their gay and lesbian classmates,

fifty percent of the students rejected them, thirty percent were afraid of them and twenty percent were revolted by them.

Professor Cantor also stated that the attitudes toward homosexuals in the schools reflected well the attitudes of the society in general (Hernando Salazar, "Colombia Mide su Homofobia"--"Colombia Measures its Homophobia," *BBC Mundo*, March 17, 2009).

See also Juan Camilo Maldonada R., "La Homophobia se Toma las Aulas de Clase en Colombia"--"Homophobia Takes Over the Classroom in Colombia," *Caracol*, April 20, 2009.

**137.** Also in February, 2008, one of Colombia's leading LGBT activists was murdered, clearly because of his sexual orientation and LGBT activism.

"On February 16, 2008, unknown assailants killed Fredys Pineda in Apartadó, a city in northwestern Colombia. Pineda was a consultant on enforced displacement for the Ombudsman's Office. In the past, Pineda worked for the rights of LGBT people and in HIV/AIDS prevention in Cordoba, a state in northern Colombia" ("Colombia: Protest the Murder of LGBT Human Rights Defender," *International Gay and Lesbian Human Rights Commission*, March 18, 2009).

**138.** On March 28, 2008, two gay males were gunned down by men on motorcycles in the city of Barranquilla. Although the murders occurred in different parts of the city, the police said that the killers were the same ("Buscan a Sicarios que Mataron a Dos Homosexuales en Barranquilla"--Assassins Who Killed Two Homosexuals in Barranquilla are Being Sought," *El Tiempo*, March 30, 2008).

**139.** During the months of February and March, there were a series of murders of gays and transgenders, many of whom showed signs of torture. One example was a gay male who was carved up and stuffed in a garbage bag in the trunk of his own car.

The authorities dismissed the murders as "crimes of passion" or "murder during robbery," despite the fact that they were clearly homophobic killings (Colombia Diversa, "Colombia: Extrema Crueldad---Extreme Cruelty," April 3, 2008).

**140.** On March 23, 2008, a transgender woman was murdered in the city of Santiago de Cali. This was just one of the thirteen unsolved murders committed in Santiago de Cali over the past two years (International Gay and Lesbian Human Rights Commission,

"Action Alert: Colombia--Demand Investigation into Murders of Trans Women," April 18, 2008).

**141.** On May 10, 2008, the LGBT Santamaría Foundation of Colombia announced that two more transgenders had been murdered in the city of Cali, one from a gunshot to the head, the other stabbed to death. These murders were but two in a growing list of transgenders killed in Cali. The foundation also pointed out that the authorities had refused to investigate the killings (Santamaría Fundación GLTB, "Jueves Sangriento en Cali"--"Bloody Thursday en Cali," May 10, 2008. See also: "COLOMBIA: Sigue la Violencia Contra las Travestis"--"COLOMBIA: The Violence Against Transgenders Continues," <http://boletindiversidad.blogspot.com>, May 11, 2008).

**142.** On May 16, 2008, a young transgender sex worker was shot and killed in the city of Pereira. According to witnesses, his mother and a LGBT activist, her life could have been saved, but the medical personnel at the hospital where he was taken refused to treat him quickly and then they only cleaned the wound, they did not operate.

Wendy Mellisa Mejía, leader of the transgender population of Pereira and Dosquebradas who was at the hospital said: "I am tired of knocking on doors, we are invisible and vulnerable in this society. Even the authorities themselves attack us."

Ms. Mejía went on to point out that a friend of hers who was dying of HIV was refused any medical attention at the same hospital ("Vigilante Asesinó a Travesti en el Centro de Pereira, en la Madrugada del Viernes"--"A Private Guard Assassinated a Transgender in Downtown Pereira in the Early Morning Hours of Friday," *El Tiempo*, May 16, 2008).

**143.** On July 15, 2008 a coalition of NGOs in Colombia issued a report documenting that between 2004 and 2007 more than 340 people were tortured in the country. Entitled "A Report on Torture, Cruel, Inhumane or Degrading Treatment in Colombia," ninety percent of the cases of torture were perpetrated by government officials.

The report contained an analysis of the tortures inflicted on LGBT people in Colombia ("Denuncian que 346 Personas Han Sido Torturadas en Colombia"--"346 People Have Been Tortured in Colombia," [www.aguasdigital.com](http://www.aguasdigital.com), August 6, 2008).

**144.** Even more indicative of the violence facing homosexuals and those who would defend them came in October, 2008, when Norberto Salamanca, the *Notario* of District 76 in Bogotá was assassinated. Mr. Salamanca, who had officiated at nearly 100 same-sex civil unions, was returning to his home when two men on a motorcycle opened fire on him ("*Sicarios Mataron Al Notario 76 de Bogotá, Defensor de las Uniones Gay*," *Canal Caracol y Efe*, October 11, 2008).

**145.** In December, 2008, the LGBT group *Colombia Diversa* published a report which chronicled what the group called "Th Bad News of 2008." The group noted that during the year the press and LGBT rights groups had reported on the murders of and attacks on members of the LGBT community in Colombia.

What *Colombia Diversa* considered the worst news, however, was the following.

"The worst news that did not make the front page of any newspaper are the cases of those who have suffered since early childhood because of their sexual orientation, not being accepted by their families and churches, or hospitals and governmental agencies. The worst of 2008 is the same as it was decades ago: the permanence of a socio-cultural stare that discriminates, denies, rejects and mistreats anyone who is different" (*Colombia Diversa*, "Las Malas Noticias de 2008"----"The Bad News of 2008," *Colombia Diversa*, December 22, 2008).

**146.** In December, 2008, the gravity of human rights violations was presented starkly by Mario Osava in an in-depth article.

"'We are not interested in hiding our sexual preference,' and in this country 'killing is easier' than in others said Diana Navarro, the head of Corporación Opción."

"The lesbian, gay, bisexual and transgender (LGBT) community in Colombia faces state and social discrimination, as is common nearly everywhere in the world. But in their case it is aggravated by the conflicts between several armed groups which are all homophobic."

**"Homosexuals are particularly victimised by 'social cleansing,' a Colombian tradition of eliminating undesirables, and as 'false positives'--people killed by the armed forces to present as guerrillas killed in combat, said Navarro, who did not complete her university law course and is now studying participative social processes." Emphasis Mine.**

"In 2006 and 2007, 67 Colombians were murdered because of their sexual orientation, according to Colombia Diversa, a non-governmental organisation (NGO) for LGBT rights. But this is a very partial figure, the result of 'a first effort' that was limited to the big cities, the NGO's lawyer Mauricio Noguera told IPS."

"This is obviously an underestimate, because LGBT individuals are not specifically identified as such on any official documents, said Navarro. In addition, fear of reprisals prevents people from coming forward and filing complaints, Noguera said."

"The armed conflict in Colombia 'did not originate prejudice, but it exacerbates it and brings about more serious consequences,' the lawyer said."

**"In the areas under their control, illegal armed groups like the far-right paramilitaries or the left-wing guerrillas impose 'normal' behaviour according to their beliefs, driving out prostitutes, drug addicts and homosexuals with threats that include murder if they resist, he said."** Emphasis Mine.

"Another of Navarro's forceful views is that Catholicism is at the root of the violence against sexual minorities. The strong influence the Catholic Church retains in Colombia, and its conservative hierarchy, do heighten pressures against LGBT people, other activists agree."

**"Coming to terms openly with one's homosexuality in Colombia is a 'heroic' act, said Carlos Gaviria,** president of the PDA, speaking at the Seminar on Human Rights, Sexual Diversity and State Policies." Emphasis Mine

"A society can only be democratic if it is 'plural' and allows people to be 'authentic,' that is, that everyone can publicly present their true identity, including their sexual identity, said Gaviria. But this is not the case in Colombia, which is still a democracy 'under construction,' added the politician, who was runner-up in the 2006 presidential elections" (Mario Osava, "Rights-Colombia: Where Homophobia Totes a Gun," *Inter Press Service News Agency*, December 2, 2008).

**147.** By the end of 2008, the human rights situation for LGBT peoples in Colombia had declined so sharply that even the United States Department of State took notice of it for the first time in its 2008 Country Report on Colombia.

"According to CINEP, extrajudicial killings attributed to the government were a combination of false reports of guerrillas

killed in combat and "social cleansing" (including vagrants, homosexuals, and other "undesirables")" p. 6).

"Paramilitary members who refused to demobilize and new illegal groups killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities, showed leftist sympathies, or were suspected of collaboration with the FARC. They also reportedly committed massacres and "social cleansing" killings of prostitutes, homosexuals, drug users, vagrants, and gang members in city neighborhoods they controlled. New illegal groups, according to CINEP, were responsible for the deaths of 148 civilians from January through June, a 13.5 percent increase from 128 deaths reported during the same period in 2007."

"Colombia Diversa, an NGO focused on violence and discrimination due to sexual orientation, reported at least 41 killings during the year due to prejudice regarding sexual orientation. The Constitutional Court recognized the right of same-sex couples to pension benefits and gave greater economic rights to same-sex couples. **In spite of the court rulings, Colombia Diversa reported at least three cases of pension benefits being withheld from same-sex partners. Colombia Diversa also reported cases of police abuse against persons due to their sexual orientation, with the majority of complaints coming from transgender individuals. The group also claimed that violence in prisons against persons due to their sexual orientation remained a problem**" (2008 Country Report on Colombia, pp. 6, 14).  
Emphasis Mine.

**148.** Events in 2009 certainly support the above stated concerns.

**149.** In February, 2009, the prestigious Council on Hemispheric Affairs (COHA) published a report on conditions for LGBT peoples in Colombia. After noting that there had seemingly been some advances, the author of the report, Rachel Godfrey Wood, made it very clear that all is not what some people would argue.

"Sadly, such a view would be premature, and would overlook two key factors. **The first is the same issue which continues to define virtually all areas of Latin American society: class. For so many reasons, the experience of being a middle or upper class lesbian, gay, bisexual or transgender simply cannot be compared with the reality of being a poor one.** The second factor is that society's prejudices are disproportionately born by the "T" of LGBT, the transgender populations of Colombia. Popularly known as



"travestis," this population faces significant discrimination in the workplace, a situation which pushes many into the world of prostitution, leaving them vulnerable to all kinds of abuses and dangers" (Rachel Godfrey Wood, "Parading Towards Equality: Transcolumbia Awakes," COHA, February 23, 2009). Emphasis Mine.

**"On March 6, 2009, unknown men killed the human rights defender Álvaro Miguel Rivera in the City of Cali, Colombia. Álvaro was the representative of a lesbian, gay, bisexual, transgender and intersex (LGBTI) organization, Tinku. He was also a member of Planeta Paz, a national peace network, and of the Polo Rosa, the LGBTI section of a left wing political party. Álvaro was far and foremost a committed activist who worked for the rights of the LGBTI community and people living with HIV. In the past, threats against his life had already made Álvaro flee Villavicencio, a city in Eastern Colombia."** Emphasis Mine.

**"In a March 12, 2009, news release, the Inter-American Commission on Human Rights (IACHR) 'condemned the murder of Álvaro Miguel Rivera Linares' and stated concern 'about the situation of insecurity faced by those who defend the rights of the LGBT community in Colombia, especially in the city of Cali.'** Álvaro himself documented such violence in Cali for Colombia Diversa's 2007 human rights report and, until his death, continued to speak out against the killings of gay men in the city" ("Colombia: Protest the Murder of LGBT Human Rights Defender," *International Gay and Lesbian Human Rights Commission*, March 18, 2009). Emphasis Mine.

See also: "Rechazo por el Crimen de Líder del Grupo LGBT del Polo Democrático Alternativo"--"Denunciation of the Crime Against the LGBT Leader of the Polo Democrático Alternative Party," *El Tiempo*, March 8, 2009; and "Homophobia y Transfobia en Cali"--"Homophobia and Transphobia in Cali," *El Espectador*, March 13, 2009.

Clearly violence against LGBT peoples in Cali continued ("Sigue Violencia Contra la Población LGBT"--"Violence Against the LGBT Population Continues," *El Pacs*, May 1, 2009).

See also: "Denuncian el Homicidio de Transexuales en Cali"--"The Murder of Transgenders in Cali is Denounced," *El Pacs*, September 17, 2009.

**150.** One of the greatest dangers to LGBT peoples in Colombia has been so-called "social cleansing," by all groups in the nation, but most particularly the police, the military and the right-wing paramilitaries. As noted throughout this affidavit, social cleansing is the practice of cleansing the society of all that is evil and dangerous to all Colombians, particularly children and young people.

In March, 2009, there were news reports of social cleansing in Bogotá and demonstrations by LGBT peoples asking for protection ("En Bogotá, los Transexuales le Temen a 'Limpieza Social' de Grupos Armados"----In Bogotá, Transgenders Fear the 'Social Cleansing' of Armed Groups," *AFP*, March 12, 2009).

Also in March, armed men dressed in black circulated flyers in Cartagena which threatened certain groups not to be on the streets after 10:00 pm or they will be killed. Included in the groups were common criminals, drug addicts, prostitutes, and homosexuals. The men also distributed the names of some of their targets and ordered them to leave the city ("Tensión en Cartagena por Homicidios y Aparición de Panfletos Amenazantes"--"Tension in Cartagena Due to Murders and the Appearance of Threatening Flyers," *El Tiempo*, March 25, 2009).

See also: "La Muerte en Forma de Pasquín"--"Death in the Form of a Flyer," *El Espectador*, March 28, 2009.

**151.** In April, 2009, flyers threatening "social cleansing" were distributed in five cities in the Department of Boyacá: Moniquira, Sogamoso, Chiquinquirá, Otanche and Puerto Boyacá. Again,. The flyers threatened prostitutes, homosexuals, drug addicts and thieves and said in part: "The time has come for social cleansing; we have identified those responsible; our organization has decided to attack violence with violence" ("Panfleto que Amenaza Con Iniciar 'Limpieza Social' llegó a Cinco Poblaciones de Boyacá"--"A Flyer Which Threatens to Begin 'Social Cleansing' Were Distributed in Five Cities of Boyacá," *El Tiempo*, April 2, 2009).

This particular incident prompted the United Nations office of the High Commissioner for Human Rights to express its "serious concern over the threatening flyers ("Naciones Unidas, Preocupada por Panfletos Amenazantes en Colombia"--"The United Nations is Worried About the Threatening Flyers in Colombia," *Simone*, April 29, 2009).

**152.** One of the groups most commonly associated with the threatening flyers is the Black Eagles, a right-wing paramilitary organization which came to prominence following the so-called demobilization of the AUC (see above).

Beginning in April and May, the Black Eagles distributed threatening flyers all over Colombia, most particularly to the cities of Bogotá, César, Magdalena and Bolívar. The flyers contained the usual death threats against "the scum or dregs" of society: criminals, drug dealers and users, homosexuales, prostitutes, guerrillas, labor unions and social and political leaders whom they opposed.

What made this distribution different was the fact that the flyers were sent to the Office of the Ombudsman (*Defensoría del Pueblo*), the Social Action office of the President of the Republic (*Acción Social*) and local government officials in the cities and the towns. Many of the flyers were actually personalized with information that could have only be obtained from members of the Colombian security forces ("*Águilas Negras Envían Amenazas Documentadas*"--"Black Eagles Send Documented Threats," *Simone*, May 14, 2009).

**153.** Throughout 2009, there was a veritable flood of threatening flyers which were sent by e-mail, left on buses and other public transportation, sent to government officials and left on door steps of houses.

Moreover, there was an equivalent flood of murders of "social undesirables" as promised in the flyers. For example, in a three-day period in July, there were eleven murders in Bogotá and six more murders in the city of San Cristóbal.

By the end of April, 2009, several hundred thousand flyers had been distributed in at least twenty-four of the nation's thirty-two departments, a clear indication of high levels of organization among the groups involved in the distribution. See Manuel Velandia, "Impunidad Ante la LGBTfobia en Colombia"--"Impunity of LGBT phobia in Colombia," *AGMagazine*, April 30, 2009.

For an in-depth study of the flyers, see Carlos H. Fernández and Silvia Otero Bahamón, "Panfletos y Limpieza Social. Efectos Mortales y no Mortales"----"Flyers and Social Cleansing. Mortal and non Mortal Effects," Centro de Investigación y Educación Popular CINEP, July 31, 2009).

**154.** For its part, the Immigration and Refugee Board of Canada took special note of the social cleansing in Colombia.

"According to a 2 December 2008 IPS news article, while the **LGBT community faces "state and social discrimination" similar to other parts of the world, their situation "is aggravated by the conflicts between several armed groups which are all homophobic." These armed groups are known to carry out "social cleansing" against homosexuals, drug users and vagrants** (IPS 2 Dec. 2008, see also US 25 Feb. 2009). Country Reports on Human Rights Practices for 2008 notes that "[p]aramilitary members who refused to demobilize and new illegal groups" have reportedly carried out executions of, among other groups, homosexuals (US 25 Feb. 2009, Sec.1.g.). **In addition, the Colombian human rights group the Centre for Research and Popular Education (Centro de Investigacion y Educacion Popular, CINEP) notes that unspecified**

**government forces were also reportedly responsible for "'social cleansing'" of various groups, including homosexuals** (ibid.). IPS quotes the lawyer for Colombia Diversa as stating that the presence of these armed homophobic groups "forces sexual minorities to hide their orientation in order to survive, or to migrate to the big cities where they can 'blend in more easily'" (IPS 2 Dec. 2008). See: Immigration and Refugee Board of Canada, "Colombia: Treatment of Homosexuals; Especially in Bogota and Cali, Availability of State Protection and Support Services," April 14, 2009. Emphasis Mine.

**155.** In fact, a poll undertaken by the Office of the Ombudsman (*Defensoría del Pueblo*) clearly showed that the LGBT community feared the government and the police more than any other group:

"There appears to be structural discrimination directed against the [LGBT] community emanating from government institutions and a more direct discrimination manifested through violence, threats and hostility."

"These levels of discrimination affect the community mentally, physically and economically."

In identifying those who most frequently violate the rights of the LGBT community, the police were listed at thirty-four (34) percent, public institutions at twenty-eight (28) percent and the general populace at sixteen (16) percent ("Gays, Lesbianas, Bisexuales y Transexuales piensan que la Policía es la que más vulnera sus derechos"--"Gays, Lesbians Bisexuals and Transgenders Think That the Police are the Ones Who Most Violate Their Rights," *El Tiempo*, April 22, 2009).

See also an article which posits the thesis that it is better to be a drug trafficker than a homosexual (Nelson Camilo Sánchez, "¿Mejor Narco Que Gay?"----"Better to Be a Drug Trafficker Than Gay?," *Simone*, April 27, 2009).

**156.** In April and May, 2009, the attacks became much more directed. On April 30, unknown persons broke into the offices of the pro-LGBT radio station, Radio Diversa, stole the computers and radio equipment, all the files and data bases, as well as the personal data of the employees and sponsors (Manuel Velandia, "RadioDiversa.com de Colombia no Será Callada por los Violentos"--"Radio Diversa. Com Will not be Silenced by Violence," *AGMagazine*, May 1, 2009).

**157.** A few days later, a group calling themselves *La Organización* (The Organization) sent an e-mail threatening all

the employees of RadioDiversa and ordering its director Carlos Serrano to leave the country in days if not hours ("Amenaza a Director de Radio Diversa Prende Alarmas en el Distrito por Agresiones a Sectores LGBT"--"Threats Against the Director of Radio Diversa Sets Off Alarms in the District Due to Attacks on LGBT Sectors," *El Tiempo*, May 7, 2009; and "Amenazan de Muerte a Líder Homosexual"--"Threaten Homosexual Leader With Death," *Simone*, May 8, 2009).

**158.** The death threats against Carlos Serrano increased to such a degree that he did indeed flee the country the second week of May. He stated that he was leaving not only to save his own life, but those of all the employees who had worked for him. Meanwhile, Radio Diversa began to broadcast and work the internet from a clandestine location (Manuel Velandia, "Director de Radio Diversa Obligado a Salir de Colombia"---The Director of Radio Diversa is Forced to Leave Colombia," *AGMagazine*, May 14, 2009); and "Desde la Clandestinidad Emite Emisora de la Comunidad LGBT Tras Amenazas Contra su Director"--LGBT Community Radio Station Begins Broadcasting From Hiding Due to Threats Against its Director," *El Tiempo*, May 21, 2009).

For its part, the United Nations High Commission for Human Rights and its partner the Joint Program on HIV/AIDS condemned the attack on Carlos Serrano and all LGBT peoples in Colombia ("ONU Rechaza Amenazas Contra Director de Radio Colombiana Para Homosexuales"--The United Nations Condemns the Threats Against the Director of Colombian Radio for Homosexuals," [www.laverdad.com](http://www.laverdad.com), May 15, 2009).

**159.** Attacks on the LGBT community continued throughout the summer and fall of 2009 as did indications that the homophobia was increasing.

See, for example: "No Temen al que Dirán Sino a la Homophobia"--They Are not Afraid of What People Say, But Rather of Homophobia," *Caracol*, July 31, 2009; "Agresiones y Discriminación Constante Recibe la Comunidad LGBT"--"The LGBT Community is Constantly Attacked and Discriminated Against," *Caracol*, August 5, 2009; "Denuncian Graves Violaciones Contra los DD.HH a Comunidad LGBT"--"Grave Human Rights Violations Against the LGBT Community Are Denounced," *Caracol*, August 20, 2009; and "Colombia: Denuncian Desapariciones y Asesinatos Contra Gays"--Colombia: Disappearances and Murders of Gays Denounced," *Anodis*, September 10, 2009.

**160.** The backlash against LGBT peoples was particularly evident in the cities and countryside of the Caribbean coast, such as the city of Cartagena. There, notaries refused to

recognize same-sex marriage, teachers in the schools urged students to ridicule and attack students whose sexuality was suspect, radio disk jockeys urged their listeners to "denounce thieves, marihuana users and queers that corrupt your neighborhood."

Moreover, there have been numerous attacks on LGBT peoples who have been subjected to cruel and degrading treatment (Juan Carlos Díaz M., "La Población LGBT de la Costa es Víctima de la Fuerte Presión Moral, Señalan Estudios"--"The LGBT Population on the Coast is the Victim of Strong Moral Pressure as Indicated by Studies," *El Tiempo*, October 21, 2009).

**161.** Equally troubling were surveys which clearly indicated that the backlash against LGBT peoples was deepening. In August, 2009, for example, over eighty percent of the population of the city of Barranquilla stated that they were completely intolerant of gays (Roberto Llanos Rodado, "El Ochenta Por Ciento de los Barranquilleros es Intolerante con la Comunidad LGBT"--Eighty Percent of the People of Barranquilla are Intolerant of the Gay Community," *El Tiempo*, August 24, 2009).

**162.** The backlash against LGBT people was worsened by statements such as that of the Attorney General of Colombia Alejandro Ordóñez. In October he stated that homosexual couples were not really a family and could not adopt children. He went on to add that heterosexual and homosexual unions "were neither comparable, nor natural nor constitutional" ("Procurador: Las Parejas del Mismo Sexo no Son una Familia y no Pueden Acceder a la Adopción"--"Same Sex Couples Are not a Family and Therefore Cannot Have Access to Adoption," *Caracol*, October 2, 2009).

**163.** By the end of 2009, the attacks on and murders of LGBT peoples, particularly transgenders, reached all time highs. In November, the Special Rapporteur of the United Nations Commission on Human Rights, Margaret Sakaggya, noted in her report that LGBT peoples had been assassinated, tortured, mistreated, kidnapped, threatened and arbitrarily detained, displaced by force and driven into exile and their offices ransacked and files destroyed all because of their sexual orientation (Manuel Velandia, "Protesta en Colombia por Asesinato de Trans Trabajadores Sexuales"--"Protest in Colombia Over the Assassinations of Transgender Sex Workers," *AGMagazine*, November 6, 2009).

**164.** Also in November, Diana Navarro, the director of Corporation Option (Corporación Opción) spoke out about the attacks endured daily by the LGBT community. She noted that the LGBT community suffers from the social and governmental

discrimination common in the world, but that discrimination is aggravated tremendously by the presence of so many armed groups in Colombia to the extent that it becomes genuine persecution.

"Homosexuals are among the greatest victims of 'social cleansing,' a Colombian tradition of exterminating undesirables, and that of 'false positives,' as those people assassinated by the military under the pretext of belonging to the guerrillas" ("Colombia: Homophobia Armada"----"Colombia: Armed Homophobia," [www.colegaweb.org](http://www.colegaweb.org), November 11, 2009).

**165.** The Department of State clearly recognized the worsening state of affairs for LGBT people in Colombia in its 2009 Country Report on Colombia.

"Colombia Diversa, an NGO focused on violence and discrimination due to sexual orientation, reported at least 39 killings during the year due to prejudice regarding sexual orientation. LGBT activists were the subjects of "social cleansing" threats and attacks (see section 1.g.). The Constitutional Court recognized the right of same-sex couples to pension; nevertheless, Colombia Diversa reported the law was frequently not applied due to lack of knowledge by government employees. There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. However, Colombia Diversa reported societal discrimination. Colombia Diversa reported cases of police abuse against persons due to their sexual orientation, with the majority of complaints coming from transgender individuals. The group also claimed that violence in prisons against persons due to their sexual orientation remained a problem. Colombia Diversa reported several cases of threats against human rights defenders working on LGBT issues. Colombia Diversa cited a high level of impunity for crimes against members of the LGBT community. Government authorized Gay Pride marches took place in several cities on June 28; there were no reports of insufficient security for the participants."

"There were no confirmed reports of societal violence or discrimination towards persons with HIV/AIDS" (2009 Country Report on Colombia, p. 20).

**166.** As far as LGBT peoples in Colombia were concerned, 2010 began the same as 2009 had ended. On the weekend of February 19-20, 2010, a mob of about twenty people attacked a group of LGBT persons in the city of Tunja, the capital of the State of Boyacá. Armed with knives, the mob first insulted and then threatened the LGBT persons, chasing them when they began to run. One gay male was hit in the face with a brick and required extensive plastic surgery ("Comunidad Gay de Tunja Volvió a Ser

Blanco de Improperios y Amenazas de Muerte"--"The Gay Community of Tunja Was Again the Target of Insults and Death Threats," *El Tiempo*, February 19, 2010).

**167.** The city of Medellín has long been a center of homophobia in Colombia. Between 2007 and 2009, there were over fifty (50) murders of LGBT peoples. The city authorities made some desultory attempts to improve conditions for LGBT peoples, but the police continued their attacks, one on an eighteen-year lesbian and her lover. The police verbally attacked the pair and then one officer beat "Juliana" with his baton (Víctor Hugo Vargas Rodríguez, "Prejuicios Contra la Diversidad Sexual Todavía Persisten en Medellín"--"Prejudices Against Sexual Diversity Still Exist in Medellín," *El Tiempo*, February 26, 2010).

**168.** In March, 2010, Colombia Diversa published a report entitled "Obstacles for the Advancement of Lesbian, Transvestite and Bisexual Women's Rights in Colombia." The subheadings in the report are: "Lack of information systems; Measures are not taken to eliminate the discrimination against women in all matters regarding marriage and family relationships; Absence of neutrality of the Attorney General's Office to defend the rights of same sex couples; Adoption by lesbian women; Violence and police abuse; Prison situation; and Economic, social and cultural rights" (UN Commission on the Status of Women, New York, 2010).

**169.** In April, 2010, there was another attack on LGBT persons in a park in Medellín, this time by a group of skinheads. A group of LGBT young people were in the public park Los Deseos de Medellín when they were approached. The skinheads first made crude references to their sexuality and then attacked them. One adult and three minors were wounded, one with a stab wound in his side (Víctor Hugo Vargas, "Un Grupo Desconocido Agredió a Jóvenes LGBT en el Parque Público Los Deseos de Medellín"--"A Group of Unknowns Assaulted LGBT Young People in the Public Park Los Deseos de Medellín," *El Tiempo*, April 24, 2010).

**170.** One of the most important analysis of the realities of homophobia in Colombia is that by Gregory Theintz. Entitled "Colombia: Liberal in Theory, Homophobic in Practice," Theintz argues that despite some seeming progress in laws, the LGBT community still faces enormous obstacles and danger of attack and murder.

"Sexual minorities in Colombia face a strange disconnect between the country's laws, which are among the world's most progressive in guaranteeing their rights, and the reality of homophobia faced by the LGBT (lesbian, gay, bisexual,



transgender) community. Recent news and polls show that Colombian society remains intolerant of sexual diversity, despite the recent hailing in American press of the country as a 'gay travel hotspot.'" Emphasis Mine.

"The state does not always enforce in reality the rights it guarantees to homosexuals in theory. As NGO Colombia Diversa told Colombia Reports, there is a general lack of state effort to apply laws such as that giving homosexual couples access to the same rights as married couples (except for adoption). Some homosexuals are able to take advantage of their full legal rights, but Colombia Diversa observes that many civil servants are obstructive, finding excuses to avoid performing the "factual matrimonial union" ceremonies for gay couples. This reality undermines the respect for sexual diversity and protection against sexual discrimination guaranteed to LGBT groups by law, thus leading many homosexuals to doubt the authorities' commitment to safeguarding gay rights. Emphasis Mine.

"Though, at least in Colombia's cities, homosexuals and transsexuals can be open about their identity, the country remains dangerous for them. On April 16, a group of young LGBT friends were attacked by homophobic skinheads in a Medellin public park, according to a press release from the city's Ombudsman's Office. The statement called for reinforced security in places where LGBT people socialize. LGBT individuals living in the poorer parts of Medellin also complain about pressure placed on them by illegally armed groups. Obviously homosexuals, transvestites or transsexuals are not the main victims of these violent gangs, but these minorities are clearly in the line of sight of gangs, paramilitaries and guerrillas, as shown by the publishing of pamphlets in various regions of Colombia calling for "social cleansing," meaning the physical elimination of "marginals", including junkies, prostitutes and homosexuals." Emphasis Mine.

"Homophobia remains rife among the general population; on April 15, El Tiempo published the results of a poll conducted by Bogota Mayor's Office, which shows that the group that Bogotans consider to be the most undesirable neighbors are homosexuals, with 24% of the people questioned saying that would not want gay neighbors. The next most undesirable groups were politicians and displaced people. We can assume that most people expressing bigoted attitudes in the poll didn't carry out any overt acts of intolerance against the LGBT community, however, and would not find a gay neighbor as intolerable in practice as they claim. Perhaps more worrying is the poll's finding that over 60% would not want their children to have a homosexual teacher." Emphasis Mine.

"The debate over adoption, as well as the Bogota poll, show that sexual diversity continues to be a cause of mistrust and

**discrimination in social, professional and public life.** On the political battlefield, openly gay figures are sometimes accused on dubious grounds of incompetence or of prioritizing their community's narrow interests, in order to create enmity towards homosexual politicians. **A noteworthy case was reported by Colombian Magazine *Simone* in February, when Blanca Ines Duran, the openly lesbian mayor of a part of Bogota called Chapinero, was accused by a political opponent of being responsible for an increase in "delinquency" in the town. She has also received death threats on the basis of her sexuality"** (Gregory Theintz, "Colombia: Liberal in Theory, Homophobic in Practice," *Colombia Reports*, April 30, 2010. Emphasis Mine.

See also: ("Bogotanos Muestran Indicios de Homophobia, Reveló Encuesta a 13,000 Habitantes"--"Bogotanos Show Signs of Homophobia a Survey of 13,000Inhabitants Shows,").

**171.** A clear indication that homophobia is not declining in Colombia was the forced departure of ten LGBT persons from the city of Cartagena. The ten were the target of both verbal and assaults and had their lives threatened.

"They were also the victims of verbal and physical attacks by the police" ("Denuncian Desplazamiento de Población Gay en Cartagena Por Amenazas Contra Su Vida"--"The Displacement of the Gay Population in Cartagena Due to Threats on Their Lives is Denounced," *Caracol*, September 22, 2010).

**172.** At the end of 2010, there were clear indications that verbal and physical abuse and persecution of LGBT peoples had not declined in Colombia.

"In October, professors at the National University of Colombia published a study which showed that there were high levels of discrimination and attacks on the LGBT population. Eighty-three (83) percent of those interviewed said they had been attacked verbally and physically, twenty-one (21) percent of whom had been attacked by uniformed police ("Colombia Tiene Altos Índices de Homophobia Según Estudio de la Universidad Nacional"--"Colombia Has High Levels of Homophobia According to a Study by the National University," *Caracol*, October 17, 2010).

**173.** Then a survey of 3,165 people in December showed that fifty-three (53) percent of the LGBT community had been attacked because of their sexual orientation or gender identity: sixty-four (64) of transgenders and fifty-seven (57) percent of lesbians ("Bogotá: Un 89% de Lesbian, Gays, Bisexuales y Transgeneristas Han Sido Víctimas de Discriminación"-- "Bogotá:

89% of Lesbians, Gays, Bisexuales and Transgenders Have Been the Victims of Discrimination," *Simone*, December 3, 2010).

**174.** As noted above, Mr. XXXX's homosexuality makes him a particularly high profile target. Both the military and the police, as well as the three guerrilla organizations (FARC, ELN, EPL), the right-wing paramilitary forces (AUC) and the skinheads firmly believe that they are "cleansing" the body politic, and therefore *La Patria*, of all that is dirty, undesirable, and dangerous to the morality of *La Patria* and its children. If Mr. XXXX is deported by the United States, he will shortly be targeted by the police and other groups because of his obviously "feminine" mannerisms.

**175.** Finally, there will be elements of Mr. XXXX's own family and family friends who will also assume that he is HIV positive and will, therefore, shun him as "unclean," as a disease-carrying, despicable, homosexual monster. They may not touch him; they may not allow him into their homes; they may attack him verbally, as a *sidoso* or one who is infected with AIDS and they may attack him physically. Indeed, it is even conceivable that Mr. XXXX's own family may be responsible for his death. His presence constitutes a terrible stain on the family *apellido* or last name, something which has been the most important thing to an Hispanic family since the days of the *Reconquista* (711-1492) in Spain. I have personally seen families react to the news that one of theirs is homosexual and/or infected with HIV/AIDS and it is a terrible, heart-wrenching sight indeed.

**176.** Nevertheless, all of the horrors committed against LGBT peoples described above were seemingly "solved" in January, 2009. In that month, the Constitutional Court of Colombia granted some civil rights to LGBT couples and the international LGBT websites and blogs announced that Colombia had recognized same-sex marriage, something which is simply not true.

**177.** To understand what has really occurred it is necessary to go back to February, 2007. In that month, the Constitutional Court held that homosexual couples who had been together for two years or more should enjoy the same property and inheritance rights as heterosexual couples ("*Overtaking in Colombia*," *Peace Reporter*, February 19, 2007). That decision was never enforced (see below).

**178.** Then in June, 2007, the lower house of the Colombian Congress passed a law which granted couples who were in long-term

relationships (five years or more) the same rights to health insurance, inheritance and social security benefits enjoyed by heterosexual couples. President Uribe had apparently indicated that he would sign the bill.

When the bill went to the Colombian Senate, however, it was rejected when Senator Manuel Virguez Piraquive, a member of an Evangelical Colombian church, demanded a floor vote. At that point, other conservative senators broke ranks with President Uribe's party and voted against it. Many supporters simply left the floor rather than making their vote public ("Colombian Senators Scuttle Rights Bill," [www.planetout.com](http://www.planetout.com), June 20, 2007).

**179.** Then, in October, 2007, the Constitutional Court handed down another decision which granted homosexual couples the same rights of inheritance and health and social security benefits. There was no mention of civil unions or gay marriage.

Moreover, gay rights activist Virgilio Barco warned: "'The only way for us to enact this last provision will be through another appeal to the Constitutional Court. Congress had the opportunity to do it but a small group of senators sabotaged the bill at the last minute'" ("Colombian Court Rules in Favour of Equal Rights For Gay Couples," ([www.pinknews.co.uk](http://www.pinknews.co.uk), October 6, 2007).

Others pointed to the tremendous persecution which LGBT peoples suffered in Colombia. "The war-torn country of 45 million people is heavily Roman Catholic, and many armed militias involve themselves in 'social cleansing,' targeting LGBT people."

"The police have also been accused on numerous occasions for abuse of authority and mistreatment of gay people."

"Social fears around HIV and AIDS and the perceived moral influence of gays and lesbians on children allow paramilitary and guerrilla forces to target LGBT people as part of their desire to control territory."

"Gays and lesbians in cities are also targeted by gangs who routinely rob and blackmail them and attack gay venues" ([www.pinknews.co.uk](http://www.pinknews.co.uk), October 6, 2007).

**180.** The Constitutional Court acted again in April, 2008, ruling that long-term same-sex couples (together five years or longer) had a right to the same pension and health benefits as heterosexual couples. "The court acknowledges that to exclude same-sex partners would violate the principle of non-discrimination and human dignity as the expression of personal autonomy, protected by international law" (Human Rights Watch,

"Colombia: Court Extends Benefits to Same-Sex Couples," April 18, 2008).

**181.** Once again, however, the Constitutional Court's decision was not enforced, leading to yet another decision on January 26, 2009.

"The Jan. 26 ruling granted an estimated 300,000 LGBT couples full inheritance rights and the right to Colombian nationality for a foreigner in a same-sex union with a Colombian in this country. It also states that members of same-sex couples cannot be forced to testify against their partners."

"And in the military, if one of the members of a same-sex couple belongs to the armed forces, his or her partner will enjoy all the special benefits that up to now were only limited to heterosexual couples."

"In addition, in a civil-war-torn country like Colombia, the Court extended to same-sex couples the right to reparations when one of the partners suffers from armed conflict-related crimes like murder, torture, sexual abuse, or forced displacement or disappearance."

"Marcela Sánchez [a lesbian activist who heads *Colombia Diversa*] and Manuel Velandia [a Colombia LGBT activist] both commented that activists would not give up the fight to conquer the only two rights not achieved so far--the right to marry and to adopt. But they also said that for now, their struggle would focus on consolidating the new gains, which do not magically eliminate the homophobia and discrimination suffered by members of the LGBT community in this South American country" (Helda Martínez, "Colombia: Equal Rights For Same-Sex Partners," *Inter Press Service News Agency*, March 2, 2009). See also: Colombia Diversa, "Colombia's Constitutional Court Rules for Equality," January 28, 2009; Steven D. Schwinn, "Colombia Constitutional Court, Same-Sex Marriage and Intersex Children: Saturday Evening Review," *Constitutional Law Prof Blog*, January 31, 2009. The full text of the Constitutional Court's ruling can be found on the Colombia Diversa website: [www.colombiadiversa.org](http://www.colombiadiversa.org).

**182.** Despite all of these decisions, the Constitutional Court itself has stated that implementation of its decision depends upon the Colombian Congress voting changes to the nation's Civil Code, Criminal Code and Military Code. For its part, the Congress has steadfastly refused to pass same-sex legislation, let alone make such changes in the three codes.

**183.** This raises the question of the real power of the Constitutional Court. The United States Department of State has been very clear on this in its Country Reports on Colombia. Indeed, the exact same sentence appears in the last six reports (2004, 2005, 2006, 2007, 2008, 2009):

"The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are co-equal supreme judicial bodies that sometimes issued conflicting rulings and frequently disagreed about jurisdictional responsibilities" 2009 Country Report on Colombia, p. ).

Moreover, the Constitutional Court lacks the power to enforce its decisions, i.e., it has no control over the Colombian security forces and can not order the police or military to do anything.

**184.** A comparable situation came in the Constitutional Court's 2004 decision which held that the living conditions of the Internally Displaced Persons in Colombia were inhumane and unconstitutional and ordered the government to rectify the situation.

Two years later, however, Manuel José Cepeda-Espinosa, one of the nine judges on the Constitutional Court wrote that this simply was not happening.

"In 2004 Colombia's highest court declared that the inhumane living conditions of the country's IDPs were 'unconstitutional' and ordered the authorities to take action. Colombia has, arguably, the world's most progressive IDP legislation but can the state guarantee IDPs their constitutional rights?"

"The Colombian government has recently filed a new report, as required by the Court, indicating how it plans to address these ten critical areas. The Court has had to opt between imposing sanctions - fines or imprisonment of negligent officials - or continuing to order gradual advances towards fulfillment of IDPs' rights. The Court has chosen the latter course and has made substantial progress. Organisations of displaced persons themselves have requested the Court to continue this approach. However, there are those who draw attention to the fact that almost three years have passed since T-025 [the reference number of the decision] was handed down. Some have asked the Court to declare public officials in contempt of court. Not only is its credibility at stake but so too are the prospects of Colombia's IDPs finally achieving their constitutional rights" (Manuel José Cepeda-Espinosa, "How Far May Colombia's Constitutional Court Go to Protect IDP Rights?" Forced Migration Review, University of Oxford, December 5, 2006, pp. 1, 3).

**185.** Amnesty International, Human Rights Watch and the United States Department of State have also condemned the conditions of the IDPs. In its 2009 Country Report on Colombia, the State Department noted the following:

"The internal armed conflict, especially in remote areas, was the major cause of internal displacement. International organizations and civil society identified various factors driving displacement including confrontations between security forces, terrorists, new illegal groups, and paramilitary members who refused to demobilize, competition among illegal armed groups for resources and territorial control, forced recruitment of children, and threats and violence from new illegal groups and paramilitary members who refused to demobilize. Most IDPs were rural peasants displaced to cities. Estimates of the numbers of IDPs varied. During the year Accion Social, the government's internal welfare and foreign coordination agency, registered 111,414 new displacements, a 47 percent decline over the same period in 2008. The GOC's national IDP registry showed an 8 percent decline in new displacements, with 301,817 IDPs in 2008 compared with 328,264 IDPs in 2007. Accion Social cited continued improvement in security and territorial control and improved verification of fraudulent IDP claims as contributing factors in the decline. During the year Accion Social refused approximately 36 percent of registrations as ineligible, compared with a 29 percent refusal rate in 2008."

"The government has registered a total of 3.3 million IDPs since 1995, while CODHES estimated that as many as 4.9 million persons have been displaced since 1985. Accion Social attributed the growth in cumulative IDP registrations in the past year to a 2008 Administrative Court (Consejo de Estado) order requiring the government to include displacements from all previous years. Under the previous system, an IDP only had one calendar year from displacement to register. The government's national registry included registered IDPs whose applications for recognition had been accepted, while CODHES estimated new displacements based on information from the media, civil society, and fieldwork. CODHES also included as IDPs an undetermined number of coca and opium poppy producers who migrated in response to government drug eradication efforts, as well as those who migrated due to poor economic conditions resulting from the armed conflict. During the year the ICRC provided assistance to 51,176 newly displaced persons--11,217 persons from massive displacements (groups of 50 or more persons) and 39,959 persons in individual displacements."

"New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas continued to use forced displacement to gain control over strategic or economically valuable territory, weaken their opponents' base of support, and undermine government control and authority. Illegal armed groups

also used landmines and roadblocks to confine entire villages in order to protect illicit crops and to prevent pursuit by state security forces. The FARC, ELN, new illegal groups, and paramilitary members who refused to demobilize continued to use force, intimidation, and disinformation to discourage IDPs from registering with the government; guerrilla agents often forced local leaders and community members to demonstrate against illicit crop eradication efforts, including causing mass displacements."

"Despite several government initiatives to enhance IDP access to services and knowledge of their rights and notable improvements in meeting their social and economic needs, many IDPs continued to live in unhygienic conditions with limited access to health care, education, or employment. On January 26, the Constitutional Court ordered the government to reformulate its IDP programs and policies, including improving the IDP registration system, to address the continuing "unconstitutional state of affairs" in providing for IDP rights. The court also ordered the government to implement specific protection and assistance programs for displaced indigenous people, Afro-Colombians, disabled persons, and IDP community leaders (a previous 2008 order provided this right for displaced women and children). Several international organizations and domestic nonprofit groups, such as the International Organization for Migration (IOM), the ICRC, and the Colombian Red Cross, worked with the government to provide emergency relief and long-term assistance to displaced populations" (2009 Country Report on Colombia, pp. 9, 11-13).

See also: Maya Wilson, "Colombia: Latin America's, If Not the World's Capital of Internally Displaced People," Council on Hemispheric Affairs (COHA), May 4, 2010; and Michael Solis, "Colombia's Internally Displaced People," [www.huffingtonpost.com](http://www.huffingtonpost.com), September 13, 2010.

**186.** For its part, Amnesty International noted the following in its 2010 Report.

**"The warring parties failed to distinguish between civilians and combatants, resulting in forced displacement, killings of civilians, sexual violence against women, hostage-taking, enforced disappearances, forced recruitment of minors and indiscriminate attacks against the civilian population. There was a sharp increase in violence in some of the country's larger cities. This increase was attributed to the armed conflict, drug trafficking-related crimes, and acts of 'social cleansing.'"**  
Emphasis Mine.

"Some 20,000 enforced disappearances reportedly continued to be investigated by the Office of the Attorney General."



"The number of internally displaced people continued to rise, although at a slower rate than in recent years. **In 2009, more than 286,000 people were newly displaced**, according to the NGO Consultancy for Human Rights and Displacement (Consultoria para los Derechos Humanos y el Desplazamiento, CODHES). Indigenous Peoples and Afro-descendant and campesino (peasant farmer) communities were most affected." Emphasis Mine.

**"The government refused to support a bill, the Victims' Law, which would have granted reparation to victims of the conflict on the basis of nondiscrimination, regardless of whether the perpetrator was an agent of the state or not. The bill was rejected by Congress in June.** Emphasis Mine.

**187.** A more recent example of the Constitution Court's entry into national/international politics came with the controversy over U.S. military access to Colombian military bases.

In October, 2009, then President of Colombia Álvaro Uribe signed an agreement with the United States giving the U.S. military unfettered access to seven army, navy and air force bases across Colombia.

The aim of the agreement was to the United States to monitor Colombia and the eastern Pacific for aircraft and boats which might be transporting cocaine and heroin.

On August 16, 2010, the Constitutional Court ruled that the agreement was unconstitutional and therefore null and void. Newly inaugurated President Juan Manuel Santos said he would review the decision, but in March, 2011, U.S. troops are still on the bases.

There is no better example of the powerless of the Constitutional Court.

See, for example: Sebastian Castaneda, "The Mistake of US Military Bases in Colombia," *Colombia Reports*, July 17, 2009; Simon Romero, "Increased U.S. Military Presence in Colombia Could Pose Problems With Neighbors," *The New York Times*, July 22, 2009; John Otis, "U.S. Military base Plan Puts Colombia in Hot Water," *Time*, August 12, 2009; Charles Lemos, "Colombia's Constitutional Court Rules US Military Bases Agreement Unconstitutional," <http://mydd.com>, August 17, 2010; "Colombian Court Suspends U.S. Military Base Deal," *Reuters*, August 17, 2010; and Juan Pablo Pitarque, "La Corte Colombiana Con la Frente en Alto Respecto al Tema de las Bases Militares Estadoudidenses" ("Colombian Court With Head Held High With Respect to the U.S. Military Bases"), *Council on Hemispheric Affairs*, September 23, 2010.

**188.** Simply stated, the Constitutional Court has no real power of enforcement and implementation of its decisions on LGBT rights will have to wait until the Colombian Congress decides to act. That will most likely not occur in Mr. XXXX's lifetime.

**189.** The issue of same-sex marriage and the Constitutional Court became moot for the time being when, on November 11, 2010, the Constitutional Court itself voted 5-4 to dismiss a lawsuit arguing for a change in the country's civil code that would allow same-sex marriage in Colombia, claiming that there was not sufficient evidence to proceed ("Court Upholds Traditional Marriage in Colombia," *Catholic News Agency*, November 15, 2010).

**190.** In addition, the overall human rights situation in Colombia has continued to deteriorate badly over the past four years. Indeed, it is my expert opinion, which I will detail below, that Mr. XXXX is an extremely high profile target and would be in grave danger of being killed by multiple actors should he be forced to return to Colombia.

**191.** The 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009 Country Reports on Colombia are nine of the worst U.S. Department of State human rights reports I have ever read on Latin America, with the 2006, 2007, 2008 and 2009 reports even worse than the previous four. Indeed, they rival those of Guatemala and El Salvador in the 1980s.

**192.** Massive, ubiquitous violence in Colombia is not only a major contributor to the nation's economic and social chaos, it also contributes to the pervasive climate of terror in which Mr. XXXX lived and which informs the entire society. Even a casual perusal of Colombian history over the past century reveals a pattern of violent upheaval.

**193.** Beginning with a bloody war for independence, Colombians have demonstrated an incredible penchant for butchering each other. The War of the Thousand Days (1899-1902) left more than 100,000 people dead and began the "fratricidal war" that has since characterized Colombian politics.

**194.** In 1948, there began what Colombians term *La Violencia* (The Violence, 1948-1966). When it ended there were between 195,000-200,000 people dead in a totally devastated nation. But it was not a "normal" war. Rather than two armies fighting each other, *La Violence* was marked by incredible savagery on the part of both civilians and military alike. An entirely new vocabulary

emerged to describe particular forms of torture and execution. One was the *Corte de Franela* (the Flannel Cut) in which the skin was torn down from the shoulders to the belly, giving the appearance of a red, flannel shirt.

195. The period of *La Violencia* was followed by 36 years of guerrilla warfare. Tens of thousands have been killed and more die each day. In March, 2011, Colombians are still slaughtering each other. Indeed, Colombia is arguably one of the most dangerous nations in the world and certainly the most dangerous nation in the Western Hemisphere.

196. That Colombia is near political and economic collapse is supported by several facts and factors. First, well over 100,000 Colombians have been murdered in the past ten years and over two and one half million more have been forced from their homes and villages.

197. Second, Colombia is now the world's leading producer of both cocaine and marihuana and the second or third leading producer of heroin in the world. The infamous drug cartels of Cali and Medellín have been replaced by hundreds of smaller operations which are now linked to the major guerrilla units in the nation.

198. Third, unlike the rest of Latin America, Colombia has made no gains whatsoever in its fight against the various guerrilla armies which have been operating in the nation since the early 1960s. Indeed, the three most important (FARC, ELN, EPL) now control between 40-50% of the total national territory (see Loveman and Davies, Che Guevara on Guerrilla Warfare, pp. 233-267).

199. Moreover, Colombia ranks at the top of the world in terms of numbers of federal and state judges and prosecutors who are murdered each year, further justification for its reputation as **the most dangerous country in the Western Hemisphere and one of the most dangerous in the world.**

200. In its 2008 Country Report on Colombia, the United States Department of State noted that:

**"While the law provides for an independent judiciary, much of the judicial system was overburdened, inefficient, and hindered by subornation and intimidation of judges, prosecutors, and witnesses. In these circumstances, impunity remained a**

**serious problem, although the government took action to address these issues.** The CSJ reported that the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees. Implementation of the new criminal accusatory system reduced the time for resolving new criminal cases by over 75 percent, with conviction rates of approximately 60 percent under the new system, compared with 3 percent under the old system. However, a large backlog of old-system cases remained." Emphasis Mine.

**"Judicial authorities were subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees and the Corporate Fund of Solidarity with Colombian Judges, 91 judicial employees solicited varying forms of protection from the Office of Protection in the Prosecutor General's Office for reasons including threats during the year.** Although the Prosecutor General's Office ran a witness protection program for witnesses in criminal cases, witnesses who did not enter the program remained vulnerable to intimidation, and many refused to testify." Emphasis Mine.

"The civilian justice system is composed of four functional jurisdictions: ordinary, administrative, constitutional, and special. The ordinary jurisdiction is the largest and handles all criminal, civil, labor, agrarian, and domestic cases involving nonmilitary personnel. The Supreme Court is the highest court within the civil jurisdiction and serves as its final court of appeal."

"The Constitutional Court is the sole judicial authority on the constitutionality of laws, presidential decrees, and constitutional reforms. The court also may issue advisory opinions on the constitutionality of bills not yet signed into law and acts within its discretion to review the decisions of lower courts on "tutelas," or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process, by any citizen."

"The special jurisdiction of the civilian justice system consists of the justices of the peace program and the indigenous jurisdiction. The CSJ is responsible for the administration and discipline of the civilian justice system."

"The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are co-equal supreme judicial bodies that sometimes issued conflicting rulings and frequently disagreed about jurisdictional responsibilities" (2008 Country Report on Colombia, pp. 3-4).

**201.** The judiciary did not improve its performance in 2009.

"While the law provides for an independent judiciary, much of the judicial system was overburdened, inefficient, and hindered by subornation and intimidation of judges, prosecutors, and witnesses. In these circumstances impunity remained a serious problem, although the government took action to address these issues. The Superior Judicial Council (CSJ) reported that the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees. Implementation of the new criminal accusatory system reduced the time for resolving new criminal cases by over 75 percent, with conviction rates of approximately 60 percent under the new system, compared with 3 percent under the old, inquisitorial system. However, a large backlog of old-system cases remained."

"Judicial authorities were subjected to threats and acts of violence. According to the protection program in the Prosecutor General's Office, during the year 470 judicial employees sought varying forms of protection from the CSJ for reasons including threats. Although the Prosecutor General's Office ran a witness protection program for witnesses in criminal cases, witnesses who did not enter the program remained vulnerable to intimidation, and many refused to testify."

"The UN special rapporteur on the independence of judges and lawyers, Gabriela Carina Knaul de Albuquerque e Silva, reported on a high level of threats and attacks against judicial officials such as judges, defense lawyers, prosecutors, and investigators as well as civilian participants in the justice system such as witnesses and victims. The special rapporteur acknowledged the government had programs in place to provide protection but called for increased measures to ensure the protection of justice officials. The special rapporteur noted that threats against judicial personnel contributed to the high rate of impunity, along with insufficient resources for the administration of justice and inadequate initial investigations."

"The civilian justice system is composed of four functional jurisdictions: ordinary, administrative, constitutional, and special. The ordinary jurisdiction is the largest and handles all criminal, civil, labor, agrarian, and domestic cases involving nonmilitary personnel. The Supreme Court is the highest court within the civil jurisdiction and serves as its final court of appeal."

"The Constitutional Court is the sole judicial authority on the constitutionality of laws, presidential decrees, and constitutional reforms. The court also may issue advisory opinions on the constitutionality of bills not yet signed into law and acts within its discretion to review the decisions of lower courts on "tutelas," or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process, by any citizen."

"The special jurisdiction of the civilian justice system consists of the justices of the peace program and the indigenous jurisdiction. The CSJ is responsible for the administration and discipline of the civilian justice system" (2009 Country Report on Colombia, pp. 4-5).

**202.** Compounding this situation even further is the depth and persuasiveness of corruption. United States governmental estimates place the total value of Colombia's illicit drug traffic at well over \$450 billion (\$450 Thousand Million) per year. With that amount of money, one can buy entire police forces, militaries, judicial systems, and government agencies. There is absolutely no doubt that Colombia is the most corrupted polity in the Western Hemisphere and one of the most corrupted on Earth. Drug lords have bought, outright, police and military officers and entire units, judges, prosecutors, government officials at all levels, and have also infiltrated and taken control of the guerrilla movements, the paramilitaries and the various political parties.

**203.** The United States Department of State put it this way:

"The law provides criminal penalties for official corruption, and the government actively prosecuted cases of governmental corruption; **however, officials sometimes engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that government corruption was a problem. Drug trafficking revenues exacerbated corruption.**"  
Emphasis Mine.

"The JPL process continued to expose corruption and paramilitary ties within the government and security forces, and President Uribe urged the Supreme Court to punish public officials found guilty. The president continued funding for the Supreme Court's investigative unit, which investigated members of Congress and senior government officials."

"On September 8, CNP General Antonio Gomez Mendez was dismissed as a result of alleged ties to narcotics traffickers and former paramilitary leaders."

"Investigations by the Supreme Court and the Prosecutor General's Office of links between politicians and paramilitary groups implicated 70 congressmen, 15 governors, and 31 mayors. By the end of December, 33 congressmen, 22 mayors, and eight governors were in jail."

"Representative Alfonso Antonio Campo Escobar of Magdalena, who resigned in June 2007, was convicted and sentenced to 10 years in prison and fined 1.72 million pesos (\$700) for

collaboration with paramilitary groups. Campo accepted a five-year sentence in exchange for a guilty plea to election crimes and aggravated delinquency" (2008 Country Report on Colombia, pp. 10-11).

**204.** Corruption continued to be an enormous problem in 2009.

"The law provides criminal penalties for official corruption, and the government actively prosecuted cases of governmental corruption; however, officials sometimes engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that government corruption was a problem. Drug trafficking revenues exacerbated corruption."

"On September 21, five senior officials from the Ministry of Transportation and the National Concessions Institute, including its director, were forced to resign after recorded telephone conversations implicated them in soliciting bribes in connection with the Central Magdalena railroad concession. Investigations continued at the end of the year."

"Former agricultural minister Andres Felipe Arias and other ministry officials were implicated in a scandal involving inappropriate use of the Agriculture Ministry's irrigation and drainage loan program. Investigations continued at the end of the year."

"On April 13, the Superior Tribunal of Medellin sentenced the former president of the Antioquia Assembly to eight years and three months for irregularities in contracts."

"In July the Supreme Court's criminal chamber sentenced former representative Teodolindo Avendano to eight years in prison for accepting a bribe to abstain from voting against changing the constitution to allow President Uribe's 2006 reelection."

"The Justice and Peace Law (JPL) process continued to expose corruption and paramilitary ties within the government and security forces. The president continued funding for the Supreme Court's investigative unit, which investigated members of Congress and senior government officials. On August 19, the Supreme Court convicted former representative Karelly Patricia Lara Vence to six years in prison for paramilitary ties. The primary government body to investigate corruption is the Presidential Program for the Fight Against Corruption."

"By law public officials must file annual financial disclosure forms."

"The law provides for public access to government information, and the government generally provided such access in practice. While there are no prohibitive fees to access government information, there were reports that some low-level officials insisted on bribes to expedite access to information" (2009 Country Report on Colombia, pp. 14-15).

**205.** The guerrillas, for their part, have entered the lucrative drug trade and are challenging all parties for control in certain key areas. To operate efficiently, the guerrillas and the paramilitaries have to enjoy complete impunity within the areas they control.

**206.** The truth is that political conditions reached such dangerous proportions that in mid-2000, then President Bill Clinton announced a \$1.6 billion aid package which included over \$1.3 billion for anti-drug and counterinsurgency assistance, a request which the administration of George W. Bush supported and which the Congress approved in spring, 2001, as a part of the Foreign Assistance package. This aid is being sent despite the proven fact that the Colombian police, military forces and their paramilitary allies are responsible for some of the worst human rights violations in the hemisphere (see below). Even before this aid package, Colombia was the third largest recipient of United States security aid, behind only Israel and Egypt, and yet the nation not only failed to improve its situation, but has actually lost substantial ground over the past three years.

**207.** In fact, conditions so deteriorated that President George W. Bush announced in February, 2002, that the U.S. would substantially increase military aid and provide additional U.S. troops in order to avoid a complete collapse of the government.

**208.** Another important factor which will have a tremendous impact on the future of both Colombia and Mr. XXXX is that peace negotiations between the government of President Andrés Pastrana Arango (elected in 1998) and the guerrillas (principally the ELN and the FARC) broke down completely the first week of August, 2001. President Pastrana Arango had come into office promising to end the guerrilla war, a war which took a particularly ugly turn in August, 1996. In that year, the FARC attacked the Las Delicias military base, killing 26 soldiers and capturing and holding hostage more than 60 officers and enlisted men for ten months. The government finally granted the FARC a large segment of the Department of Caquetá.



**209.** In early 2002, the Colombian military re-occupied the huge "reserve" which President Pastrana gave to the FARC in 1998 as an incentive to peace.

**210.** In retaliation, the FARC stepped up its operations all over the country. On March 3, 2002, FARC kidnaped, tortured, and killed a Senator (Martha Catalina Daniels), and, then, on March 17, murdered Archbishop Isaias Duarte Cancino, an act which stunned even Colombians who are so hardened to violence. The near absolute impunity which the guerrillas enjoy is unparalleled in Latin American history.

**211.** Current internal conditions make it extraordinarily dangerous for Mr. XXXX. With the ongoing war, the guerrillas are in a death struggle with both the paramilitary armies and the security forces (military and police). Not one of the three dares to show any weakness or mercy, particularly the AUC which has to carry out its threats.

This violence is on the rise all across the country with the paramilitaries, the guerrillas and the government all pitted against each other. Caught in the midst of this strife is Mr. XXXX.

**212.** Indicative of this newly intensified struggle is that at the end of June, 2002, the FARC mounted an attack on all locally-elected politicians. Specifically, the FARC ordered all the mayors in the critical Department of Antioquia (whose capital city, Medellín, is Colombia's second largest city) to resign or be assassinated. Moreover, their families were threatened with death. The FARC also sent similar letters to an additional 110 mayors and hundreds of municipal workers. Led by Orlando Giraldo, mayor of Guatapé, 22 mayors tendered their resignations the very next day, as did several hundred municipal officials, while other mayors fled to Bogotá. Over the next few days, President Pastrana sent the Colombian military to fortify dozens of towns.

**213.** The warning was extremely well coordinated and supported by the fact that 14 mayors had already been murdered by FARC since mid-2001. The communique sent to Mayor Adalberto Vargas, mayor of the eastern town of Paz de Ariporo began with typical, Latin American courtesy: "Respected Sir, We send you a cordial and revolutionary greeting, wishing you success in your daily work." It went on to condemn and blame United States imperialism and Colombian governmental corruption for hunger, illiteracy, illness, violence and a lack of housing in the country. Finally, the communique concluded with the warning that

if Vargas did not resign by today (June 22, 2002) "the FARC will not be responsible for the consequences of what might occur." For his part Mayor Vargas said: "We want the government to solve this. We feel abandoned" (see Andrew Selsky, "Colombia Will Give Protection to Mayors," San Diego Union-Tribune, June 26, 2002).

214. Although some officials withdrew their resignations in a highly orchestrated, governmental "show," the fact remains that almost a thousand mayors and thousands of municipal employees did not. FARC Still controls hundreds of towns and municipalities and the Colombian government is all but powerless to regain power. The letter to Mayor Nestor León Ramírez of San Vicente del Caguan stated: "For the good of your health, you must leave the city. If you do not, you will become a military target" (T. Christian Miller, "Rebels Push Colombia Toward Anarchy," Los Angeles Times, June 29, 2002).

215. In the nearby town of Puerto Rico, the situation had indeed deteriorated to the point of total anarchy: **"The cinder-block Town Hall in Puerto Rico is mostly empty these days. The mayor is gone. He quit this month, reading his resignation aloud in the town square after receiving a death threat. The City Council fled too. There are no judges or prosecutors. The bridges around town have been blown up. The power substation lies in rubble. The phone exchange is damaged. The roads are under the control of the guerrillas. There has been no electricity, water or phone service for months. There isn't even a town ambulance"** T. Christian Miller, "Rebels Push Colombia Toward Anarchy," Los Angeles Times, June 29, 2002). Emphasis Mine.

216. The FARC's threats to government officials continued during 2006 and 2007. For example, on October 23, 2006, eleven councilors in the municipality of Teorama in Norte de Santander Province resigned after receiving death threats. Clearly, the Colombian government is no closer to establishing internal order than it was decades ago. See *The Miami Herald*, October 24, 2006.

217. The Department of State also took note of these threats in both its 2006 and 2007 Country Reports on Colombia.

**"Both renegade paramilitary groups and the FARC threatened and killed government officials. According to the National Federation of Councils (FENACON), 23 council members were killed during the year, compared with 26 during 2005. FENACON attributed 60 percent of attacks on council members to the FARC."** Emphasis Mine.

**"Scores of local officials throughout the country resigned because of threats from the FARC. In October the press reported that 60 public officials, including seven mayors, tendered their resignations in Norte de Santander Department after receiving death threats from FARC. Also in October senators from POLO [Polo Democratico Alternativo] denounced an 'extermination and intimidation' plan by paramilitary groups against the party in Valle de Cauca Department. A Ministry of Interior and Justice program provided protection to 155 mayors, two former mayors, and 1,914 council members during the year" (2006 Country Report on Colombia, p. 17). Emphasis Mine.**

**218.** Threats increased in 2007.

**"New illegal groups, paramilitaries that refused to demobilize, and the FARC threatened and killed government officials (see section 1.g.). According to the National Federation of Councils (FENACON), 16 council members were killed during the year, compared with 23 in 2006. FENACON attributed 50 percent of attacks on council members to the FARC." Emphasis Mine.**

"Scores of local officials throughout the country resigned because of threats from the FARC. A Ministry of Interior and Justice program provided protection to 330 mayors, one former mayor, and 1,945 council members during the year" (2007 Country Report on Colombia, pp. 9-10).

**219.** Threats and murders of officials continued throughout 2008.

"In 2006 independent candidate Alvaro Uribe won a second term as president in elections that were considered generally free and fair, despite a concerted campaign by the FARC and AUC to disrupt or manipulate the outcome. The OAS electoral observation mission stated that the elections took place 'in an atmosphere of freedom, transparency, and normalcy.'"

"In October 2007 there were local elections for governors, mayors, and department and town councils; according to the OAS electoral mission chief, the elections proceeded smoothly. Although 25 candidates were killed in the preelection period, this number was significantly lower than in previous years."

**"New illegal groups, paramilitaries that refused to demobilize, and the FARC threatened and killed government officials. According to the Presidential Program on Human Rights, three municipal council members were killed during the year, compared with 16 in 2007." Emphasis Mine.**

**"Some local officials throughout the country resigned because of threats from the FARC. A Ministry of Interior and Justice program provided protection to 295 mayors, 60 former mayors, and 2,370 council members during the first nine months of the year"** (2008 Country Report on Colombia, p. 10). Emphasis Mine.

**220.** Officials were still targets in 2009.

"New illegal groups, paramilitary members who refused to demobilize, and the FARC threatened and killed government officials. According to the Presidential Program for Human Rights, eight municipal council members were killed through November, compared with 12 in the same period 2008."

"Some local officials throughout the country resigned because of threats from the FARC. A program by the Ministry of Interior and Justice provided protection to 233 mayors, 29 former mayors, and 3,338 council members during the year" (2009 Country Report on Colombia, p. 14).

**221.** The fact that Mr. XXXX will be forced to leave from the United States to Colombia is also of tremendous importance. First of all, the Colombian authorities will know that he is being deported and therefore so will the guerrillas and the AUC. Second, the United States has become the most serious external threat to the continued success of the guerrillas. In addition to the huge amounts of military aid being sent, the United States Southern Command is heavily engaged in training Colombian military forces and the United States has greatly enhanced the military's intelligence-gathering capabilities. There are also hundreds of United States troops (including several Special Forces units) engaged in operations inside Colombia. With the election of Alvaro Uribe most scholars and analysts agreed that the U.S. would likely increase its already substantial military aid: "President George W. Bush is so keen on him [Uribe] that he might even throw in some U.S. troops" (Gwynne Dyer, *The San Diego Union-Tribune*, June 16, 2002).

**222.** Indeed, in December, 2002, U.S. Secretary of State Colin Powell visited Colombia and announced that the United States would again increase military aid to the country to assist in its war against leftist guerrillas, rightist paramilitary groups, and narcotics traffickers. Powell asserted that the increased aid (\$500 million dollars) was part of the Bush administration's campaign against terrorism and would be used for drug eradication, support for military and police forces and renewal of support for Colombian narcotics interception flights

that rely on intelligence from U.S. spy planes. "We are firmly committed to President Uribe and his new national security strategy. We are going to work with our Congress to provide additional funding for Colombia" (*The San Diego Union-Tribune*, December 5, 2002). In fact, dozens of U.S. Army Green Berets were dispatched to Colombia in January 2003 (*The San Diego Union-Tribune*, January 17, 2003).

**223.** All of this U.S. aid represents a potentially serious challenge to almost every group in Colombia: the drug traffickers, the guerrillas, corrupt officials and compromised military and police officers. In fact, it is not just a challenge, it is an open death threat to their very existence.

**224.** But the anger against Mr. XXXX is not confined to those groups alone. Just a little over a month after Secretary Powell's visit, the United States announced that it was suspending all aid to an elite Colombian Air Force unit for failing to investigate the bombing four years before which killed eighteen (18) civilians, including seven (7) children. The Colombian Air Force commander-in-chief reacted angrily and lashed out saying the United States was really to blame (see *The Los Angeles Times*, January 14-16, 2003).

Thus, the United States had now alienated a critical element of the Colombian armed forces. Unfortunately, all four parties of Colombia's civil war genuinely hate the United States: the Armed Forces and other security forces, the paramilitaries, the drug traffickers, and the guerrillas. That hatred (Yankee phobia) substantially increases the danger for Mr. XXXX because all four groups will view Mr. XXXX's deportation to Colombia with suspicion.

In an obvious attempt to placate the United States, the Colombian government accepted the decision of the Tribunal of Arauca which "ordered the Government to pay approximately \$870,000 (2 billion pesos) to the families of 17 persons killed in the Air Force bombing of the village of Santo Domingo, Arauca Department, in December 1998. The civilian criminal trial of the helicopter pilot, co-pilot, and navigator continued at year's end" (2004 Country Report on Colombia, p. 11).

**225.** The situation deteriorated so badly in 2005 that on March 26, 2006, the U.S. government announced for the first time that it would be willing to send U.S. combat troops to defeat the FARC. Given the United States' massive commitment in Iraq and Afghanistan, this clearly represents not only an incredible alteration in U.S. policy, but an admission of how powerful the FARC has become. See: Garry Leech, "U.S. Willing to Deploy

Combat Troops to Colombia," *Colombia.Journal.Online*, March 27, 2006.

226. In its 2008 Country Report on Colombia, the United States Department of State took note of the massive human rights violations committed by the guerrillas.

**"The FARC and ELN committed the following human rights abuses: political killings; killings of off-duty members of the public security forces and local officials; kidnappings and forced disappearances; massive forced displacements; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; widespread recruitment of child soldiers; attacks against human rights activists; and harassment, intimidation, and killings of teachers and trade unionists."** Emphasis Mine.

**"FARC and ELN guerrillas killed journalists, religious leaders, candidates for public office, local elected officials and politicians, alleged paramilitary collaborators, and members of government security forces.** In many areas of the country, the 8,000- to 9,000-member FARC and the 2,000-member ELN worked together to attack government forces or demobilized paramilitary members; in other areas, especially in Arauca, Valle, Cauca, and Narino departments, they fought each other." Emphasis Mine

"The Presidential Program for Human Rights reported that during the first nine months of the year, the FARC killed at least 250 persons, while another 84 persons were killed in massacres in which the perpetrators remained unidentified. The Presidential Program for Human Rights reported that between January and September, the FARC killed 286 members of the public security forces and the ELN killed 44.

#### MEDICAL/INJURED KILLINGS

**"Guerrillas failed to respect injured and medical personnel. Both the FARC and the ELN frequently executed injured prisoners, threatened and harassed doctors and nurses, and killed enemy combatants receiving medical care."** Emphasis Mine.

"On April 16, members of the FARC in Yarumal, Antioquia, attacked a military ambulance and killed the two injured soldiers inside."

"On July 18, in Tibu, Norte de Santander, FARC members intercepted an ambulance with an injured civilian and killed the driver; the civilian died of his original injury due to lack of medical assistance."

"On December 7, in San Vicente de Caguan, Caqueta, FARC members attacked a medical mission, killing eight, including two civilian medical workers from the Colombian Family Welfare Institute."

"New illegal groups also prevented or limited the delivery of food and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement" (2008 Country Report on Colombia, pp. 1, 7,8).

**227.** The FARC and the ELN continued to murder civilians across the country in 2009.

"The FARC and ELN committed the following human rights abuses: political killings; widespread use of landmines; killings of off-duty members of the public security forces and local officials; kidnappings and forced disappearances; massive forced displacements; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; widespread recruitment of child soldiers; attacks against human rights activists; violence against women, including rape and forced abortions; and harassment, intimidation, and killings of teachers and trade unionists."

"Guerrillas, notably the FARC and ELN, committed unlawful killings."

"FARC and ELN guerrillas killed journalists, religious leaders, candidates for public office, local elected officials and politicians, alleged paramilitary collaborators, and members of government security forces. On December 22, the FARC kidnapped and killed the governor of Caqueta. In many areas of the country, the 8,000- to 9,000-member FARC and the 2,000-member ELN worked together to attack government forces or demobilized paramilitary members; in other areas, especially in Arauca, Valle del Cauca, Cauca, and Narino departments, they fought each other. Various courts convicted members of the FARC secretariat in absentia on various charges including aggravated homicide, such as the 2001 massacre of 22 people in Tierralta, Cordoba, and the 1999 attack on Puerto Lleras that left 10 civilians and 11 police dead."

"The FARC killed persons it suspected of collaborating with government authorities or paramilitary groups. The Presidential Program for Human Rights reported that during the first 11 months of the year, the FARC killed at least 220 civilians, while another 106 persons were killed in massacres in which the perpetrators remained unidentified."

"On January 13, the FARC's 29th Front attacked the town of Roberto Payan, Narino, with improvised mortars, killing six civilians, including three children, and injuring 11 others."

"On January 27, the FARC bombed a Blockbuster video store in Bogota, killing two civilians."

"On February 12, the ELN killed three police officers and three civilians in an ambush in Convencion, Norte de Santander."

"The ELN first killed a married couple to serve as bait and, from the cover of high ground, attacked police first responders and civilians on the scene. Seventeen persons were wounded" (2009 Country Report on Colombia, pp. 1-2, 9).

**228.** In its 2010 Report, Amnesty International stated the following about the guerrillas.

"The FARC and the National Liberation Army (Ejercito de Liberacion Nacional, ELN) continued to commit human rights abuses and serious and repeated violations of international humanitarian law, including the killing of civilians, the recruitment of children and hostage-taking."

"Widespread use of anti-personnel mines by the FARC continued. In 2009, more than 111 civilians and members of the security forces were killed and 521 injured by landmines."

"The FARC launched indiscriminate attacks in which civilians were the main victims."

"On 13 January, the FARC launched an attack using explosive devices in the urban centre of Roberto Payan Municipality in Narino Department. Six people died, including three children."

"According to government figures, the overall number of kidnappings fell to 213 in 2009, from 437 in 2008. Most kidnappings were attributed to criminal gangs, but guerrilla groups were responsible for the majority of conflict-related kidnappings."

"On 21 December, the FARC kidnapped and killed the Governor of Caqueta Department, Luis Francisco Cuellar."

"In February, the FARC released several high-profile hostages. Among them were Sigifredo Lopez, a Deputy in the Valle del Cauca Assembly, who had been held captive since 2002; and former Governor of Meta Department Alan Jara, held since 2001. That same month, the FARC also released three police officers and a soldier" (Amnesty International, 2010, p. 110).



**229.** As noted above, the United States response to this escalation of violence has been to vastly increase military aid. Colombia, the largest recipient of United States aid after Israel and Egypt, has received by far the most assistance--both military and economic--in the region for the last several years and the sheer volume of aid as a proportion of all aid going to Latin America dominates the region as a whole. A breakdown of this assistance is very revealing. In 2003, Colombia received \$605 million for military aid compared to only \$137 million in economic and social aid. For 2004, the Bush Administration has request \$553 million in military aid, yet only \$136 million for economic and social aid.

**230.** A report issued by three foreign policy groups in Washington, D.C., stated that "over half of all U.S. military and security aid and trainings in Latin America is attributed to counter-narcotics work by security agencies. But it stresses that this distinction is increasingly unimportant as the U.S. blurs the line, especially in Colombia, between counter-insurgency and counter-narcotics. Indeed, most of the training for counter-narcotics programs are directly applicable to counter-insurgency work as well" (Jim Lobe, "Sharp Increase in U.S. Military Aid to Latin America," *OneWorld*, September 23, 2003). The report goes on to note that: "Pentagon control not only effectively reduces the amount of information the administration is required to produce but also transfers jurisdiction for their oversight to Congressional committees that are less attuned to foreign policy priorities, human rights, and civilian control over militaries. It also reduces the State Department's leverage."

**231.** Sadly, for the Colombian people and for the future of Mr. XXXX, United States aid to the nation is just as skewed to the military as it has been since 2002. A breakdown of this assistance is very revealing. Indeed, both the total dollar amount of economic aid, as well as the percentage of economic aid to military support has remained approximately the same as can be seen in the following tables.

**UNITED STATES AID TO COLOMBIA**

	<b><u>02</u></b>	<b><u>03</u></b>	<b><u>04</u></b>	<b><u>05</u></b>	<b><u>06</u></b>	<b><u>07</u></b>
Military	400.7	624	555.6	642.5	590.9	623.6
Economic	115.5	136.7	134.5	134.7	132.2	132.3

## ECONOMIC/MILITARY AID AS PERCENTAGE OF TOTAL

	<u>02</u>	<u>03</u>	<u>04</u>	<u>05</u>	<u>06</u>	<u>07</u>
Military	71%	78%	76%	79%	78%	79%
Economic	29%	22%	24%	21%	22%	21%

## AVERAGE ECONOMIC/MILITARY PERCENTAGES, 2002-2007

**MILITARY-----77%**

**ECONOMIC-----23%**

Center for International Policy, "Colombia Program' U.S. Aid to Colombia Since 1997: Summary Tables.  
[ciponline.org/colombia/aidtable.htm](http://ciponline.org/colombia/aidtable.htm)

**232.** In its 2010 report, Amnesty International commented on U.S. military aid to Colombia.

"In 2009, the USA allocated some US\$662 million in military and non-military assistance for Colombia. This included US\$543.5 million from the State and Foreign Operations funding bill, of which US\$305 million was earmarked for the security forces; 30 per cent of this was conditional on the Colombian authorities meeting certain human rights requirements. In August, US\$55 million in security assistance withheld in 2008 was released following "positive steps" by the Colombian government on human rights. By November 2009, US\$19 million in security assistance funds from 2008 and US\$31 million in security assistance funds from 2009 was being withheld by the US Congress because of ongoing human rights concerns" (Amnesty International, Amnesty International Report 2010: The State of the World's Human Rights. London: Amnesty International Publications, 2010, p. 111).

**233.** Also in 2010, the Fellowship of Reconciliation and the U.S. Office on Colombia published a major study on U.S. military aid to Colombia, questioning in part whether that assistance had helped fund military units guilty of gross human rights violations. In the Executive Summary, the report said the following.

"The scale of U.S. training and equipping of other nations' militaries has grown exponentially since 2001, but there are major concerns about the extent to which the U.S. government is implementing the laws and monitoring the impact its military aid is having on human rights. This report by the Fellowship of

Reconciliation (FOR) and U.S. Office on Colombia examines these issues through a detailed case study of U.S. military aid, human rights abuses, and implementation of human rights law in Colombia."

**"The experience of US military funding to Colombia shows alarming links between Colombian military units that receive U.S. assistance and civilian killings committed by the army.** To prevent similar errors in Afghanistan and Pakistan, relevant Congressional committees and the State Department Office of the Inspector General must thoroughly study the Colombia case and implementation of U.S. law designed to keep security assistance from going to security force units committing gross human rights violations." Emphasis Mine.

"While researching this report over a period of two years, we drew on a rich set of data about more than 3,000 extrajudicial executions reportedly committed by the armed forces in Colombia since 2002 and on lists of more than 500 military units assisted by the United States since 2000. **FOR found that U.S. officials neglected their duties under the Leahy law, and that many Colombian military units committed even more extrajudicial killings during and after the highest levels of U.S. assistance to those units"** (Fellowship of Reconciliation and the U.S. Office on Colombia, "Military Assistance and Human Rights: Colombia, U.S. Accountability and Global Implications," July, 2010, p. iii). Emphasis Mine.

**234.** In March, 2010, the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, delivered a report to the Human Rights Council of the General Assembly in which he said in part.

"Security forces have carried out a significant number of premeditated civilian murders and fraudulently presented the civilians as "killed in combat". Although it appears that these so-called *falsos positivos* (false positives) were not carried out as a matter of State policy, they were also not isolated occurrences. The killings were committed around the country and by a large number of military units. They occurred because military units felt pressure to show success against the guerrillas through "kill counts". There were incentives: an informal incentive system for soldiers to kill and a formal one for civilians who provided information leading to the capture or killing of guerrillas. The latter system lacked oversight and transparency. Overall, there was a crucial failure of accountability, with problems at all stages of the investigatory and disciplinary processes."

"Guerrilla forces continue to kill civilians, especially those caught in an impossible middle-ground between the guerrillas and State Armed Forces. Civilians are also killed by the guerrillas' indiscriminate use of force and illegal use of landmines. The Government's security strategy may contribute – even unintentionally – to the precarious situation of civilians when the Armed Forces adopt a "you're either for us or against us" approach to civilians, seeing them as potential enemies to be stigmatized as opposed to neutral individuals or victims."

"Other non-State armed actors, including groups composed of formerly demobilized paramilitaries, have also carried out many killings and the numbers are rising. The groups' existence and growth are largely due to demobilization and transitional justice processes that have resulted in impunity for paramilitaries' human rights violations. Neither victims nor the nation at large have seen justice done. The truth of why tens of thousands died and who was responsible remains hidden, and victims and their loved ones have been deprived of reparations" (Philip Alston, "Mission to Colombia," <http://bit.ly/ColombiaKillings>, pp. 1-2).

**235.** As is clear from the above, the torture and murder of Mr. XXXX will not be random acts, but rather conscious efforts at terrorizing further an already terrorized population, thereby maintaining an even application of force and a climate of fear. After all, if the guerrillas wantonly murder children, patients in hospitals and ambulances, and torture horribly prisoners of war, why would they not do the same to Mr. XXXX, a gay male? The answer, of course, is that they will indeed torture and murder him.

**236.** Since the outbreak of the Iraq war, the huge surge in Afghanistan and the tremendous expenditure of ammunition in the Mexican drug cartel war, 2007-2011, however, the United States' ability to furnish the military aid required has been vastly diminished. In fact, the United States military is so woefully short of ammunition that live-fire exercises have been curtailed at many U.S. military bases. The simple truth is that the United States munitions industry can not keep pace with the demands in Iraq and Afghanistan, let alone provide the munitions needed by the Colombian Armed Forces.

That severe ammunition shortage became absolutely critical toward the end of 2005. Writing in the *The Independent/UK*, Andrew Buncombe noted that: **"US forces have fired so many bullets in Iraq and Afghanistan--an estimated 250,000 for every insurgent killed--that American ammunition-makers cannot keep up with demand. As a result the US is having to import supplies from Israel. A government report says that US forces are now using 1.8 billion rounds of small-arm ammunition a year. The total has**

more than doubled in five years, largely as a result of the wars in Afghanistan and Iraq, as well as changes in military doctrine" ("US Forced to Import Bullets From Israel as Troops Use 250,000 for Every Rebel Killed," *The Independent/UK*, September 25, 2005). Emphasis Mine.

In keeping with the drastic shift in its policy and military strategy in Colombia, i.e., increase military aid and even send U.S. troops, the United States Embassy in Bogotá announced in February, 2006, that help was on the way.

"The U.S. Embassy in Bogota currently is looking to arrange a swift shipment of millions of machine-gun bullets and tracers to Colombia, revealing an urgent need to bolster the lethality of Colombian military and national police forces."

**"The Embassy late last week began soliciting U.S.-based ammunition vendors for cost estimates on the delivery of 4 million 5.56 bullets with body-tearing 'penetrators.' The shipment of these 62-grain, high-energy projectiles-known as full-metal jacket boat-tail bullets-will be accompanied by an additional 3 million tracer bullets for use in M-249 machine guns"** (Stephen Peacock, "Massive, Rush Shipment of Ammo Soon en Route to Colombia," *Narco News Bulletin*, February 13, 2006. Emphasis Mine.

**237.** Since neither the AUC nor the FARC depend upon U.S. arms and munitions, the Colombian Army finds itself in a particularly delicate position, leading to widespread charges that the Bush Administration had reduced its opposition to the AUC believing that AUC forces are necessary to fight the guerrillas. There is a growing literature on the AUC, the attempts to bring it under the fold of the Colombian Government, and change in United States policy.

See for example see: Ruth Morris, "Colombia's Peace Process Grinds to a Halt," *The Los Angeles Times*, April 2, 2004; Juan Forero, "Colombia Paramilitary Chief Gains Power," *The New York Times International*, April 25, 2004; Ruth Morris, "Peace in Colombia Up in Air as Militia Leader Vanishes," *The Los Angeles Times*, April 28, 2004; Ruth Morris, "Colombia, Militias Start Peace Bid," *The Los Angeles Times*, July 2, 2004; "Colombia/Venezuela: Paramilitaries Spark Turmoil," NACLA Report on the Americas, Vol. 38, No. 1 (July-August, 2004), pp. 44-45; "U.S./Colombia: Demobilizing the AUC?" NACLA Report on the Americas, Vol. 38, No. 2 (September-October, 2004), pp. 42-44.

**238.** Amnesty International has been extremely critical of the human rights situation in Colombia for years. In its 2010 Report, Amnesty noted the following.

"The internal armed conflict continued to have devastating consequences on the civilian population, with Indigenous communities particularly hard hit. All the warring parties - including the security forces, guerrilla groups and paramilitary groups - were responsible for serious human rights abuses and violations of international humanitarian law. Although fewer civilians were extrajudicially executed by the security forces and forcible displacement increased at a slower rate than in previous years, other human rights abuses intensified. There was a rise in killings of members of marginalized social groups and Indigenous Peoples, and in threats against human rights defenders and other activists. Witnesses to killings and victims of human rights violations and their families were threatened and harassed."

"In September, the government announced it would disband the civilian intelligence service (Departamento Administrativo de Seguridad, DAS) after evidence emerged that it had illegally intercepted the communications of human rights defenders, journalists, opposition politicians and judges for at least seven years, and colluded with paramilitary groups."

"The Supreme Court of Justice investigation into the "parapolitical" scandal continued to make progress. Some 80 Members of Congress -most belonging to parties from the ruling coalition - were under investigation for their alleged links to paramilitary groups."

"Tensions increased with several countries in the region, especially Venezuela, following the government's decision to allow the US military to use seven military bases in Colombia" (Amnesty International, 2010, p. 108).

**239.** In its 2008 Country Report on Colombia, the U.S. Department of State took very seriously the miserable state of human rights in Colombia.

"Although problems remained, the government's respect for human rights continued to improve, which was particularly evidenced by progress in implementing the Justice and Peace Law (JPL). **The following societal problems and governmental human rights abuses were reported during the year: unlawful and extrajudicial killings; forced disappearances; insubordinate military collaboration with new illegal groups and paramilitaries who refused to demobilize; torture and mistreatment of detainees; overcrowded and insecure prisons; arbitrary arrest; a high number of pretrial detainees, some of whom were held with convicted prisoners; impunity; an inefficient judiciary subject to intimidation; harassment and intimidation of journalists; unhygienic conditions at settlements for displaced persons, with limited access to health care, education, or employment;**

**corruption; harassment of human rights groups; violence against women, including rape; child abuse and child prostitution; trafficking in women and children for the purpose of sexual exploitation; societal discrimination against women, indigenous persons, and minorities; and illegal child labor"** (2008 Country Report on Colombia, p. 1). Emphasis Mine.

**240.** Clearly the human rights situation worsened in 2009.

"Although significant human rights abuses remained, the government continued to make efforts to confront and address these abuses. The following societal problems and governmental human rights abuses were reported during the year: unlawful and extrajudicial killings; insubordinate military collaboration with new illegal armed groups and paramilitary members who refused to demobilize; forced disappearances; overcrowded and insecure prisons; torture and mistreatment of detainees; arbitrary arrest; a high number of pretrial detainees, some of whom were held with convicted prisoners; impunity and an inefficient judiciary subject to intimidation; illegal surveillance of civilian groups, political opponents, and government agencies; harassment and intimidation of journalists; unhygienic conditions at settlements for displaced persons, with limited access to health care, education, or employment; corruption; harassment of human rights groups and activists, including unfounded prosecutions; violence against women, including rape; child abuse and child prostitution; trafficking in women and children for the purpose of sexual exploitation; some societal discrimination against women, indigenous persons, and minorities; and illegal child labor" (2009 Country Report on Colombia, p. 1).

**241.** Unfortunately for Colombia and for Mr. XXXX, there is little prospect for the level of economic growth which is necessary to undercut guerrilla strength and help to alleviate guerrilla pressure on the Colombian government. On the contrary, in 2006, the Department of State noted:

"The government establishes a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, which is set by tripartite negotiations among representatives of business, organized labor, and the government, was approximately \$187 (433,700 pesos), a 6.3 percent increase from the previous year. **The national minimum wage did not provide a decent standard of living for a worker and family. Approximately 59 percent of the workforce was employed in the informal sector, which is not covered by the minimum wage"** (2006 Country Report on Colombia, p. 25). Emphasis Mine.

There is no better proof of this than in a report published in May, 2006, by the Economics Department at the University of

the Andes. The study showed that 500,000 children (12 percent of the minor population) suffer from chronic malnutrition. "The central Colombian province of Boyaca and the southeast province of Narino have the highest malnutrition rates, with 20 percent of their minors malnourished. In Bogota, the capital city, the malnutrition rate runs at 15 percent. The study said that between 1995 and 2000, height-related malnutrition fell from 30 percent to 12 percent. But in the last five years, malnutrition has been on the rise again" ("Over 500,000 Children Suffer From Malnutrition in Colombia," *Mathaba. Net News*, May 1, 2006).

**242.** Increasing violence in 2008 impacted the economic situation in 2008.

"The government establishes a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, which is negotiated by a committee of representatives of business, organized labor, and the government, was approximately 433,700 pesos (\$176), a 6.3 percent increase from the previous year. If the negotiation process fails to reach agreement, as occurred during the year for the fifth time in the last eight years, the president can set the minimum wage unilaterally. **The national minimum wage did not provide sufficient income to purchase the basic market basket of goods for a family of four. Furthermore, it was difficult to enforce the minimum wage in the informal sector.**" Emphasis Mine.

"The law provides comprehensive protection for workers' occupational safety and health, which the MSP enforced through periodic inspections. **However, a scarcity of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. Workers in the informal sector sometimes suffered physical or sexual abuse.** The law provides workers with the right to remove themselves from a hazardous work situation without jeopardizing continued employment, and the government enforced this right. Nonunion workers, particularly those in the agricultural and in some parts of the flower sector, reportedly worked under hazardous conditions because they feared losing their jobs if they criticized abuses. However, the flower growers' association implemented voluntary principles on environmental and worker safety and reduced the use of pesticides by more than 60 percent" (2008 Country Report on Colombia, pp. 16-17). Emphasis Mine.

**243.** Overall economic conditions certainly did not improve in 2009.



"The government establishes a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, which is negotiated by a committee of representatives of business, organized labor, and the government, was approximately 496,900 pesos (\$250), a 7.6 percent increase from the previous year. If the negotiation process fails to reach agreement, as has occurred frequently in the past, the president can set the minimum wage unilaterally. The national minimum wage did not provide sufficient income to purchase the basic market basket of goods for a family of four. Furthermore, it was impossible to enforce the minimum wage in the informal sector."

"The labor code provides for a regular workweek of 48 hours and a minimum rest period of eight hours within the week. The code stipulates that workers are entitled to receive premium compensation for additional hours worked over the regular workweek of 48 hours and for work performed on Sundays. Compulsory overtime is permitted only in exceptional cases where the work is considered essential for the company's functioning."

"The law provides comprehensive protection for workers' occupational safety and health, which the MSP enforced through periodic inspections. However, a scarcity of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. Moreover, workers in the informal sector sometimes suffered physical or sexual abuse. The law provides workers with the right to leave a hazardous work situation without jeopardizing continued employment, and the government enforced this right. Nonunion workers, particularly those in the agricultural and in some parts of the flower sector, reportedly worked under hazardous conditions because they feared losing their jobs if they criticized abuses. The Colombian Flower Industry Association (ASOCOLFLORES) continued to implement voluntary principles on environmental and worker safety practices and reduce the use of pesticides. Nevertheless, problems remained, particularly among producers who remained unaffiliated to ASOCOLFLORES" (2009 Country Report on Colombia, pp. 22-23).

**244.** In its 2011 The World Factbook (updated on February 11, 2011), the United States Central Intelligence Agency presents startling figures on the Colombian economy. 50 percent of the population is below the poverty line; the lowest 10 percent of the population receive less than one (1) percent of the total income while the top ten (10) percent receive forty five (45) percent.

For its part, Colombia's National Council for Economic and Social Policy (CONPES) stated that more than 68 percent of Colombia's rural population is poor, and of those, 27.5 percent live in abject poverty. Moreover, 42.3 percent of urban dwellers

live in poverty and 10.2 percent of those live in complete poverty ("Colombia, Half of Population is Poor," *Agencia Informativa Prensa Latina*, October 16, 2006).

**245.** Mr. XXXX's economic situation is far graver because the vast majority of Colombian and foreign-owned companies simply will not hire a homosexual. If an employee is discovered later to be homosexual, he/she will be summarily fired.

Moreover, Mr. XXXX and his partner have formed a legal domestic partnership, but it would be almost impossible for them to live together in Colombia and Mr. XXXX certainly could not live openly with his partner and to hang on to whatever job he might obtain.

**246.** Colombia's atrocious human rights record was worsened considerably by continuing reports of torture by state security forces.

**"Although the law prohibits such practices, there were reports that the police, military, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture were tried in civilian rather than military courts. CINEP asserted that, during the first six months of the year, government security forces were involved in 74 incidents of torture, a 46 percent increase compared with the first six months of 2007. CINEP also reported that, during the first six months of the year, there were 66 victims of torture by the armed forces"** (2008 Country Report on Colombia, p. 2).

**247.** Colombian security forces continued to employ torture during 2009.

**"Although the law prohibits such practices, there were reports that the police, military, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture were tried in civilian rather than military courts. CINEP asserted that during the first six months of the year, government security forces were involved in 16 incidents of torture, a 78 percent decrease compared with the first six months of 2008. The Prosecutor General's Office charged four members of the armed forces with torture during the year."**

CINEP reported, for example, that:

On January 1, in Caloto, Cauca, troops assigned to the Eighth Infantry Battalion "Battle of Pichincha" allegedly arbitrarily detained and tortured Gerardo Barona Avirama and James Barona Avirama."

"On February 28, in Paya, Boyaca, members of the army allegedly tortured 16-year-old Neftali Blanco to force him to confess to being a guerrilla."

"On March 10, in Argelia, Cauca, the National Police allegedly arbitrarily detained, tortured, and threatened Oscar Gomez Zapata, a member of ASCAMTA, an NGO that focuses on agrarian rights issues."

"CINEP reported that demobilized paramilitary members were responsible for at least 24 cases of torture as of June, compared with 19 in the same period of 2008."

"Cases of military hazing were reported. On April 13, an army captain was arrested for torture committed in October 2006. On August 26, the Special Circuit Court of Ibague sentenced 13 soldiers to between 15 and 16 years in prison for their involvement in torturing 37 lower-ranked soldiers at the Piedras military base in Tolima in January 2006" (2009 Country Report on Colombia, p. 3).

**248.** Clearly indicative of widespread disregard for human rights in Colombia is the state of the nation's prisons.

"With the exception of new facilities, **prison conditions were poor, particularly for prisoners without significant outside support.** The National Prison Institute (INPEC) runs the country's 139 national prisons and is responsible for inspecting municipal jails." Emphasis Mine.

"**Overcrowding, lack of security, corruption, and an insufficient budget remained serious problems in the prison system. As of year's end, more than 69,000 prisoners were held in facilities designed to hold fewer than 50,000;** overcrowding rates exceeded 27 percent in 139 installations. Many of INPEC's 13,000 prison guards and administrative staff were poorly trained. The NGO Committee in Solidarity with Political Prisoners noted that improved training, increased supervision, and more accountability for prison guards has helped, but expressed fear that greater privatization of the prisons system may lead to further corruption." Emphasis Mine.

"**Constrained budgets adversely affected prison conditions. INPEC spent 4,941 pesos (\$2.00) per day on each inmate for food. Private sources continued to supplement food rations of many prisoners.**" Emphasis Mine.

"INPEC reported that during the year there were 40 violent deaths among inmates related to fighting and riots. From January to September 30, there were 14 riots at various penal institutions. The Prosecutor General's Office continued to

investigate allegations that some prison guards routinely used excessive force and treated inmates brutally. According to the Superior Judicial Council (CSJ), there were four judgments for excessive force made against prison guards during the year."

"Pretrial detainees were held with convicted prisoners. Minors were not held with adults; however, minor children of female prisoners were able to stay with their mothers in some cases.

"The government permitted independent monitoring of prison conditions by local and international human rights groups, and such monitoring occurred during the year. The FARC and ELN continued to deny the International Committee of the Red Cross (ICRC) access to police and military hostages" (2008 Country Report on Colombia, pp. 2-3).

**249.** There was absolutely no improvement in prison conditions in 2009.

"With the exception of new facilities, prison conditions were poor, particularly for prisoners without significant outside support. The National Prison Institute (INPEC) runs the country's 139 national prisons and is responsible for inspecting municipal jails."

"Overcrowding, lack of security, corruption, and an insufficient budget remained serious problems in the prison system. As of year's end, more than 77,000 prisoners were held in facilities designed to hold fewer than 55,000; overcrowding rates exceeded 34 percent. Many of INPEC's 5,746 prison guards were poorly trained. The NGO Committee in Solidarity with Political Prisoners noted that improved training, increased supervision, and more accountability for prison guards had helped but expressed fear that greater privatization of the prisons system may lead to further corruption."

"Constrained budgets adversely affected prison conditions. INPEC spent 5,300 pesos (\$2.65) per day on each inmate for food. Private sources continued to supplement food rations of many prisoners."

"INPEC reported that there were 27 violent deaths among inmates related to fighting and riots during the year. Through November, 22 riots occurred at various penal institutions. The Prosecutor General's Office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally. According to INPEC, three prison guards were convicted of extortion and conspiracy during the year."

"The law prohibits holding pretrial detainees with convicted prisoners, although some cases were reported. Minors were not held with adults; however, minor children of female prisoners were able to stay with their mothers in some cases."

"The government permitted independent monitoring of prison conditions by local and international human rights groups, and such monitoring occurred during the year. The FARC and ELN continued to deny the International Committee of the Red Cross (ICRC) access to police and military hostages" (2009 Country Report on Colombia, pp. 3-4).

**250.** These incredible levels of violence show no signs of abating. On the contrary, it is exceedingly clear, after almost fifty years of conflict, that none of the groups involved in this war--left-wing insurgent groups, right-wing paramilitary organizations, and the government's security forces--has the capability to win the war militarily. At the same time, it is extremely difficult to rein in the shocking levels of political violence, threats to regional stability, and increased drug production and trafficking as long as the war continues. Simply stated, Mr. XXXX will be yet one more victim of the senseless killing if he is deported back to Colombia.

**251.** Moreover, President Uribe's prestige and popularity and that of the government suffered a serious blow, something they could not afford in their struggle against the AUC and the guerrillas. In 2007-2008, the FARC scored one of the greatest propaganda coups in its nearly 50-year history by entering into negotiations to release the 45 hostages it had held since 2002.

In April, 2002, the FARC kidnapped 12 Deputies from the Department of Valle del Cauca. Others were captured subsequently, including Ingrid Betancourt, a French-Colombian politician who was running for president, her running mate Clara Rojas, 14 army officers, 20 policemen and three U.S. military contractors. Then FARC began to issue periodic videos to prove that the hostages were still alive. FARC demanded that the Uribe government free all the captured guerrillas they held (400-500) and release them overseas. FARC also asked the government to demilitarize an area of approximately 44,000 square miles (115,000 square kilometers) in the Departments of Putumayo and Caquetá.

**252.** Over the next five years, the FARC and the government offered several proposals and the governments of France, Spain and Switzerland also became involved, in large part due to Ms. Betancourt, but none of these proposals/plans, however, came to

fruition despite constant negotiations between the FARC and the Europeans. Then on June 28, 2007, the FARC announced that eleven of the original 12 hostages had been killed in a crossfire.

President Uribe charged that the FARC had "executed" the hostages, adding that the Colombian security forces could not have been involved since they had no idea where the hostages were located. The truth was that the President had ordered the military to find the hostages and free them.

The European negotiators, led by newly inaugurated French president Nicolas Sarkozy, immediately protested to both the FARC and President Uribe and began to apply intense international pressure. President Uribe responded by appointing opposition Senator Piedad Córdoba Márquez to work with the Europeans and Venezuelan President Hugo Chávez who had announced on September 1, 2007, that he had agreed to meet FARC representatives to the end of releasing the hostages.

**253.** Over the next six months there was a blitzkrieg of offers and counter offers from the FARC, President Uribe, the French and even U.S. President George W. Bush who announced that the United States was willing to negotiate the release of the three military contractors. All of this was orchestrated by President Chávez, a consummate military populist who clearly delighted in being on the world stage and on the front pages of the international press. Chávez had face-to-face meetings with FARC leaders, gave extensive interviews to the international press, postured on Venezuelan television, even called one of Colombia's top military commanders in November and tried to negotiate directly with him, an egregious violation of diplomatic protocol which President Uribe vehemently denounced. Chávez then began a war of words with President Uribe and called him a peon, a liar, a coward, a mafia boss, and a lackey of George Bush.

Then on January 10, 2008, the FARC released two female hostages (Clara Rojas and Consuelo González) to Venezuelan government representatives in a mission coordinated by the International Red Cross, but it held onto to its most famous captives, including Ingrid Betancourt. Then in late February, 2008, the FARC released four more hostages to Venezuelan authorities: former Senator Luis Eladio Pérez, former Congresswoman Gloria Polanco, former Rep. Orlando Beltrán, and former Senator Jorge Eduardo Géchem.

**254.** President Chávez basked in his new found fame and international praise, even though the elation of the moment was tempered by the FARC's announcement that it would not free another hostage until President Uribe met all of their demands, including the release of hundreds of FARC prisoners and the

creation of a huge militarized zone in southern Colombia, demands which President Uribe has rejected out of hand.

Still, the FARC had vastly improved its international image and its fight against the Colombian government (and the United States) was legitimized with President Chávez's announcement granting the FARC the status of a "combatant," as opposed to that of "terrorist." President Uribe also lost not only a tremendous amount of popularity, but also a great deal of political clout in the western world.

Finally, President Chávez had clearly bested his two most outspoken opponents, Presidents Uribe and Bush, and enhanced his self-proclaimed role as Liberator of the Andes.

There is veritable plethora of literature on the hostages and the attempts to free them, far too voluminous to mention in this affidavit. Indeed, there are hundreds of thousands of "hits" on the search engine Google, a good place to begin for articles in the world press, including those in *The New York Times*, *The Los Angeles Times*, *The Miami Herald*, etc.

**255.** Then on March 1, 2008, President Uribe sent the Colombian Army across the Ecuadorian border and attacked a FARC base, killing the number two FARC leader, Luis Edgar Devia Silva, (aka Raúl Reyes) and 17 other FARC soldiers. The raid touched off a firestorm of criticism of President Uribe and greatly enhanced the claim of the FARC to be a "combatant" force, rather than a "terrorist" group.

**256.** President Rafael Correa of Ecuador recalled his ambassador to Colombia and said that the incursion was "the worst aggression Ecuador has suffered on the part of Colombia." He went on to state that "They were bombed and massacred while they slept, using pinpoint technology that found them at night, in the jungle, for sure with the collaboration of foreign powers" (Juan Forero, "Chávez Sends Troops, Tanks to Venezuela's Border With Colombia," *The Washington Post*, March 3, 2008).

President Chávez of Venezuelan moved to take advantage of the situation by closing the Venezuelan Embassy in Bogotá and stating on national television: "Move 10 battalions to the Colombian frontier immediately, tank battalions, military aviation. We are not going to permit the North American empire, which is the ruler, to allow his lapdog, President Uribe and the Colombian oligarchy, to divide or weaken us. We will not permit it" (Juan Forero, "Chávez Sends Troops, Tanks to Venezuela's Border With Colombia," *The Washington Post*, March 3, 2008).

**257.** President Correa also moved troops to the border with Colombia and asked the Organization of American States to intervene and condemn the Colombian incursion. Nicaragua promptly broke relations with Colombia and Chilean president Michelle Bachelet issued a statement stating: "A situation of this nature without a doubt merits an explanation. The most important thing today is that we can avoid an escalation of this conflict" (Pablo Bachelet, "OAS to Discuss Ecuador-Colombia Border Dispute," *The Miami Herald*, March 3, 2008).

**258.** For his part, President Bush firmly backed President Uribe and his actions: "I told the president that America fully supports Colombia's democracy and we firmly oppose any acts of aggression that could destabilize the region. I told Uribe that America will continue to stand with Colombia as it confronts violence and terror and fights drug traffickers" (Pablo Bachelet, "OAS to Discuss Ecuador-Colombia Border Dispute," *The Miami Herald*, March 3, 2008).

**259.** After two days of deliberations, the OAS approved a resolution which stated that Colombia had violated Ecuador's "territorial integrity," but the organization fell short of actually condemning Colombia. Nevertheless, Myles Frechette, a retired Foreign Service officer who served as U.S. Ambassador to Colombia, noted repairing relations in the area would be a challenge: "Uribe has got to go down there, meet with Correa, calm him down, and he's going to have Chávez fuming at the border. Uribe is in a pickle, in the sense that diplomatically he's got to get himself out of this corner that he's got himself in" (Juan Forero, "Chávez Sends Troops, Tanks to Venezuela's Border With Colombia," *The Washington Post*, March 3, 2008).

**260.** The crisis gradually calmed down, but not before President Uribe had lost additional prestige in the region and the FARC had enhanced its international reputation even further.

**261.** Finally, the AUC suffered another blow to their pride and prestige in May, 2008, when 13 of their commanders (including Black Eagle strongman Carlos Mario Jiménez, aka "Macaco") were extradited by the Uribe government to stand trial in the United States. Prior to those extraditions, the Colombian government had always touted the effectiveness of its special tribunals which were designed to try commanders for crimes committed in the nation's long, fratricidal conflicts. Now, those same commanders were being treated like common drug traffickers. See: Juan Porero, "Colombia Sends 13 Paramilitary Leaders to U.S.," *The Washington Post*, May 14, 2008; Tyler Bridges, "Colombian Paramilitary Warlords Extradited," *The Miami Herald*, May 13,



2008; and Simon Romero, "Colombia Extradites 14 Paramilitary Leaders," *The New York Times*, May 14, 2008.

262. The importance for this case of all the above is that the AUC must try somehow to enhance their own prestige and power. After all the AUC and the FARC recruit among the same pool of people and right now the FARC has the upper hand. Thus, the AUC must take drastic measures to climb back into the struggle. Therefore, there is an even greater urgency for them to reestablish their network of terror which, in this case, means carrying out all the threats they have made in the past, including those to Mr. XXXX. To allow him (and others whom they have threatened) to live after so many threats would only serve to diminish their reputation even further.

263. The terror and pain that awaits Mr. XXXX is nowhere better stated than in his own words.

**"Being a homosexual in Colombia has caused me a life of pain, suffering self-loathing and fear. Homosexuality in Colombia is considered a sickness and an abnormality that should be eradicated from society.** Even the Catholic Church treats homosexuality as a sin I have been subjected to homophobia my whole life and I often have been the target of discriminatory behavior because of my sexual orientation. **Homosexuals can not count on government authorities to prevent and deal with violence and hate, crimes against them;** often government rulings and practices tend to be homophobic or ignore violence toward sexual minorities." Emphasis Mine.

**"I have been the Object of ridicule and hate since I was a child because of my sexual orientation. I have been humiliated and pushed up against the wall by police, and inappropriately touched by a customs agent.** I was the victim of a hate crime in which I was robbed and disrobed and insulted at knife point due to my sexuality, and the police refused to take a report on this frightening and degrading incident. **My parents and I have received threatening telephone calls, letters, and a condolence card announcing my own death signed by a skinhead group called RASH.** I believe these threats against me came from several sectors of society: guerrillas, police, skinheads and homophobes."

264. Given this scenario of life in Colombia, it would be absolutely impossible for Mr. XXXX to receive any type of protection from state security forces. If they wantonly torture, murder and illegally detain their citizens, otherwise violate basic human rights of women, children, indigenous people, racial and ethnic minorities, homosexuals and the disabled, how could

anyone expect them to respect Mr. XXXX's human rights? The answer is that they will not and they will harass and very likely kill Mr. XXXX very soon after his arrival in Colombia.

**265.** If not death, then torture and vicious physical abuse without any degree of safety, is the most likely fate for Mr. XXXX. Moreover, if Mr. XXXX is forced to return to Colombia from the United States, his arrival will be well known to all relevant government agencies. His name will be on the flight manifest and if he should enter by land, he will be logged in and his whereabouts known immediately.

**266.** Regarding the general question of whether or not the respondent could simply move to another region of the country, thereby evading the vigilance of their enemies, my response is an unequivocal and unqualified "NO."

**267.** Colombia, like all other Latin American republics has elaborate systems of identification documents which must be carried on one's person at all times. Although the exact terminology might vary from country to country, they all use the following: military ID (for males), electoral identification, and tax identification. All of these must contain current address information under penalty of arrest and incarceration. Colombian citizens may be and are stopped by security forces, AT WILL, and they had better have up-to-date documents (which Mr. XXXX does not) or they will be immediately detained. Thus, Mr. XXXX's whereabouts will always be known.

**268.** In sum, then, Mr. XXXX clearly will be in extreme danger if he were forced to return to Colombia. It is my considered, professional opinion that both the Colombian security forces, as well as the Colombian guerrillas and paramilitaries (particularly the FARC and the AUC), not only possess the desire to eliminate all persons they might deem to be undesirable (read homosexual), they have the power necessary to find and eliminate Mr. XXXX with a high degree of efficiency.

I declare the foregoing facts to be true and correct and this declaration is made by me under penalty of perjury under the laws of the State of California.

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Thomas M. Davies, Jr.  
Professor Emeritus of Latin American History  
Director Emeritus, Center for Latin American Studies  
Former Chair, Latin American Studies

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Date

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Jacobo Schifter, Ph.D., Regional Director of ILPES (the Latin American Health and Prevention Institute) has made major contributions to our knowledge of LGBT issues, particularly as they relate to gay males. Most of his research deals with Central America, but the findings and conclusions are equally applicable to the rest of Spanish America. See his six books, all published by The Haworth Press, Inc. in New York: From Toads to Queens: Transvestism in a Latin American Setting (1999); Lila's House: Male Prostitution in Latin America (1998); Latino Truck Driver Trade: Sex and HIV in Central America (2001); Macho Love: Sex Behind Bars in Central America (1999); Public Sex in a

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## THE MEANING OF MACHO

Some years ago, the great Chicano writer and thinker, Rudolfo Anaya, wrote: "The word *macho* has one of the shortest definitions in the Spanish language dictionary, and yet the cult of macho behavior (machismo or the macho image) is as ambiguous and misunderstood as any aspect of Hispanic/Latino culture. To be macho is to be male, that's simple, but when the term is applied to Hispanic male behavior, then the particulars of the role are defined according to the particular culture. From Spain to Latin America, from Mexico to the Chicanos in the USA, one gets a slightly different definition of the macho image at every turn" (see Rudolfo Anaya, "'I'm the King:' The Macho Image," in: Ray González, ed., Muy Macho: Latino Men Confront Their Manhood. New York: Anchor Books Doubleday, 1996, p. 59).

In Anglo-American culture (i.e., The United States), *machismo* is usually defined simply as male domination of females, or as Omar S. Castañeda noted, "reduced to self-aggrandizing male bravado that flirts with physical harm to be sexual, like some rutting for the right to pass on genes" (see Omar S. Castañeda, "Guatemalan Macho Oratory" in: Ray González, ed., Muy Macho: Latino Men Confront Their Manhood. New York: Anchor Books Doubleday, 1996, p. 37).

In the end, the complexity of the word *macho* derives from the fact that it can be used in both a negative and a positive manner. In a brilliant book on the subject, Alfredo Mirandé offers two very contradictory lists of descriptors:

Bravado	Brave
Cowardly	Courageous
Irresponsible	Responsible
Disrespectful	Respectful
Selfish	Altruistic
Pretentious	Humble
Loud	Soft-Spoken
Abusive	Protective
Headstrong/Bullish	Intransigent
Conformist	Individualistic
Dishonorable	Honorable

Hombres y Machos: Masculinity and Latino Culture. Boulder: Westview Press, 1997, p. 78.

Stated simply, "historical" *machismo* is actually male dominance of other males in all aspects of life: bravery, fighting, drinking, gambling, domination of females, etc. This concept, however, is changing in the "cradle" of *machismo*—the nation of Mexico. See Matthew C. Gutmann, The Meaning of Macho: Being a

Man in Mexico City. Berkeley: University of California Press, 1996. Still, as is often the reality in matters of ideology, the "taught" have lagged behind the "teacher."

Moreover, of tremendous importance for this case is the warped definition of *machismo*, often held by police and the military in Latin America, which holds that harassment, abuse, assault, even rape of homosexual males somehow makes a man even more *macho*. One must remember that these attacks also serve as "reassertions" of the absolute and unmitigated control over all people sought by security forces in Latin America. See Brian Loveman and Thomas M. Davies, Jr., The Politics of Antipolitics: The Military in Latin America. Third Edition, Revised and Expanded. Wilmington, Del.: Scholarly Resources Press, 1997;

Use of *machismo* by Latino gangs in the United States is very similar, but even more exaggerated. Perhaps Rudolfo Anaya said it best: "As more Chicano families become single-parent families, the traditional role of the father and the extended-family males will not be as influential in shaping the behavior of boys. The boys are being conditioned instead by the behavior they see on TV, in movies and music videos. Boys loose in the hood are being shaped by the gang instead of the father. *La Ganga* shapes behavior, provides initiation, belonging, *la vida loca*, cruising, drinking, drugs, and guns" (see Rudolfo Anaya, "'I'm the King:' The Macho Image," in: Ray González, ed., Muy Macho: Latino Men Confront Their Manhood. New York: Anchor Books Doubleday, 1996, p. 64).

## HOMOSEXUALITY AND PSYCHIATRY

Latin American parents/families (like their counterparts in most of the world) have often sought to "cure" their gay/lesbian relatives by sending them to psychologists/psychiatrists for medical "treatment." Beginning in the 1930s, homosexuality was formally defined as a mental disorder, a type of psychopathic personality disorder. In 1952, in its first *Diagnostic and Statistical Manual of Mental Disorders* (DSM), the American Psychiatric Association (APA) "included a category called sexual deviation as a subtype of sociopathic personality disturbance. Homosexuality was mentioned as one example of the sexual deviations. In the second edition (*DSM-II*), published in 1968, the reference to homosexuality continued to be included under the heading for personality disorders, a type of sociopathic personality disorder, and specifically as one of the sexual deviations."

Then, "the APA reviewed the findings from more recent research on gay men and lesbians. Following a period of intense political engagement and of considerable scientific evaluation, the Board of Trustees of the APA voted in December 1973 to remove homosexuality from its list of mental disorders. ... Remnants of the diagnosis of homosexuality as a type of disease were finally removed from the official list of diagnoses in 1986, and currently sexual orientation is not a consideration in defining mental health or illness in American psychiatry."

"Hostility toward homosexuality persisted among some psychiatrists after the nomenclature change and is maintained today by groups of psychiatrists and other mental health professionals who continue to advocate an illness model of homosexuality and offer treatment for it. These professionals do not represent the official view of American psychiatry regarding homosexuality and gay men and lesbians" (see Terry S. Stein, M.D., "Psychiatry and Homosexuality," in Bonnie Zimmerman and George E. Haggerty, The Encyclopedia of Lesbian and Gay Histories and Cultures, Volume II, George E. Haggerty, ed., Gay Histories and Cultures: An Encyclopedia, New York: Garland Publishing Inc., 2000, pp. 713-715). See also Dr. Stein's articles "Psychological and Psychoanalytic Perspectives on Homosexuality," and "Psychotherapy" in ibid, pp. 715-718.

Psychiatrists, psychologists and other health professionals in Latin America, however, continue to view homosexuality as a "treatable, curable illness," and families continue to seek medical treatment for their families and friends. I personally know of members of my extended family in Peru who have been sent to psychiatrists to "be cured." Moreover, my Mexican-American son-in-law's mother wanted to send her younger son to a psychiatrist for that same reason.

## HOMOSEXUALITY AND THE ROMAN CATHOLIC CHURCH

There exists a voluminous literature on the Roman Catholic Church and homosexuality, but one must begin with Joseph Cardinal Ratzinger's two Letters to the Bishops of the Catholic Church. Cardinal Ratzinger, then Prefect of the Congregation for the Doctrine of the Faith and now Pope Benedict XVI, issued the first on October 1, 1986. Entitled "Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons" it is the document most often cited by people on both sides of the controversy: "Explicit treatment of the problem was given in this Congregation's 'Declaration on Certain Questions Concerning Sexual Ethics' of December 29, 1975. That document stressed the duty of trying to understand the homosexual condition and noted that culpability for homosexual acts should only be judged with prudence. At the same time the Congregation took note of the distinction commonly drawn between the homosexual condition or tendency and individual homosexual actions. **They were described as deprived of their essential and indispensable finality, as being 'intrinsically disordered,' and able in no case to be approved of.**

In the discussion which followed the Declaration, however, an overly benign interpretation was given to the homosexual condition itself, some going so far as to call it neutral, or even good. **Although the particular inclination of the homosexual person is not a sin, it is a more or less strong tendency ordered toward an intrinsic moral evil; and thus the inclination itself must be seen as an objective disorder.**

**Therefore special concern and pastoral attention should be directed toward those who have this condition, lest they be led to believe that the living out of this orientation in homosexual activity is a morally acceptable option. It is not."** Emphasis Mine.

Appended to the Letter is the following statement: "During an audience granted to the undersigned Prefect, His Holiness, Pope John Paul II, approved this Letter, adopted in an Ordinary session of the Congregation for the Doctrine of the Faith, and ordered it to be published."

The second Letter is entitled "Letter to the Bishops of the Catholic Church on the Collaboration of Men and Women in the Church and in the World," was published on May 31, 2004, and stated the Question as follows:

"Recent years have seen new approaches to women's issues. A first tendency is to emphasize strongly conditions of subordination in order to give rise to antagonism: women, in

order to be themselves, must make themselves the adversaries of men." ...

"A second tendency emerges in the wake of the first. In order to avoid the domination of one sex or the other, their differences tend to be denied, viewed as mere effects of historical and cultural conditioning. In this perspective, physical difference, termed sex, is minimized, while the purely cultural element, termed gender, is emphasized to the maximum and held to be primary. The obscuring of the difference or duality of the sexes has enormous consequences on a variety of levels. **This theory of the human person, intended to promote prospects for equality of women through liberation from biological determinism, has in reality inspired ideologies which, for example, call into question the family, in its natural two-parent structure of mother and father, and make homosexuality and heterosexuality virtually equivalent, in a new model of polymorphous sexuality.** Emphasis Mine.

Appended to the Letter is the following statement: "The Sovereign Pontiff John Paul II, in the Audience granted to the undersigned Cardinal Prefect, approved the present Letter, adopted in the Ordinary Session of this Congregation, and ordered its publication."

Pope John Paul II was a strident foe of homosexuality as indicated by his approval of the Cardinal Ratzinger's two Letters and this statement in his last book, published just before his death in April, 2005: "Nor are other grave violations of God's law lacking. I am thinking, for example, of the strong pressure from the European Parliament to recognize homosexual unions as an alternative type of family, with the right to adopt children. **It is legitimate and even necessary to ask whether this is not the work of another ideology of evil, more subtle and hidden, perhaps, intent upon exploiting human rights themselves against man and against the family**" (Pope John Paul II, Memory and Identity: Conversations at the Dawn of a Millennium. New York: Rizzoli International Publications, Inc., 2005, p. 11).

As had been widely predicted, Pope Benedict XVI pledged to follow the strict line of Pope John II and defend traditional Catholic teachings from "fashionable" ideas that threaten to destroy the faith. "In his first sermon at St. John's in Lateran, his Cathedral as the Bishop of Rome, the former Cardinal Joseph Ratzinger confirmed expectations that he would maintain Pope John Paul's conservative stance on issue like homosexuality and abortion."

"A pope's duty, he said 'is to ensure the word (of God) remains present in its greatness and resounds in its purity so that it is not shattered by constant changes in fashion.'"

"A pope must constantly bind himself and the Church to the obedience of the word of God in the face of all the attempts to adapt it or water it down,' he told the packed congregation. 'That's what Father John Paul II did when faced by all such attempts which were seemingly benevolent towards man.'" See Robin Pomeroy, "Pope Pledges to Defend Faith Against Fashion," Reuters, May 7, 2005.