

May 2, 2002

I, Thomas M. Davies, Jr. declare:

1. Attached to this declaration as Exhibit 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 for thirty-three years (1968-2001), and was Director of the Center for twenty-two years (1979-2001). For more than 30 years, I have devoted my academic studies, teaching, field work, and scholarly research to politics in Latin American countries, with a particular emphasis on South America and the Andean nations of that continent. As a part of my research I have traveled extensively in Mexico, Central America, and South America.

I have also held several national-level posts including six years on the institutional grant board of the National Security Education Program in the U.S. Department of Defense, seven years on the Fellowship Board of the Inter-American Foundation, five years as Executive Secretary of the Conference on Latin American History (CLAH) of the American Historical Association, and eight years as the Executive Secretary-Treasurer of the Consortium of Latin American Studies Programs (CLASP).

3. 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, Bolivia and Ecuador for about two (2) years (by train, car, bus, truck, and on foot) and I know the countries as few others do.

4. In addition to my extensive travel in Latin America, I read on a daily/weekly/monthly, basis over six (6) magazines and journals from South and Central America, three (3) United States Newspapers, and more than ten (10) United States and British publications on Latin America. I also taught regularly a course on Modernization and Urbanization in Latin America and a course on Guerrilla Warfare in the Western Hemisphere, with an emphasis

on Peru, Colombia and South America, as well as a graduate seminar on the military in Latin America. I am also called upon to offer expert opinion on radio and television (including the Voice of America) and speak extensively in the greater San Diego community on Central America, South America (particularly Peru, Ecuador and Colombia), and U.S.-Latin American relations.

5. For almost twenty-six (26) years, I was married to a Peruvian national, Eloísa Carmela Monzón Abate de Davies, who died of cancer in 1994. As a part of that relationship and my scholarly endeavors, I spent a considerable amount of time in the nation of Peru and neighboring Andean nations. I spent two (2) years, 1966-1968; three (3) months in 1971; three (3) months in 1973; fifteen (15) months, 1976-1977; three (3) months in 1981; fifteen (15) months, 1985-1986; one (1) month in 1989; three (3) months in 1991; and three (3) months in 1996, for a total of four (4) years, ten (10) months.

6. Moreover, as a result of my marriage, I enjoyed close relationships with a number of very high ranking Peruvian, Chilean, Argentine, Ecuadorian and Colombian military and police officers. My father-in-law, José Monzón Linares, was a Three-Star General in and former Director General of the Peruvian *Guardia Civil*, Civil Guard, the para-military national police force of Peru, while my uncle-in-law Guillermo Monzón Linares was the Chief Inspector (Inspector General) of the *Policía de Investigaciones Peruanas*, Peru's FBI. In addition, my brother-in-law was one of the four Vice Presidents of the National Bank of Peru (Banco de la Nación) and other relatives held high positions in government and business.

Military and police officers from Colombia, Argentina and Chile were frequent guests at General Monzón's home. Particularly important were the ones from Argentina (Peru's ally in the South American power balance) and Colombia (Peru's ally against Ecuador). Over the decade I spent with General Monzón (From 1966 until his death in 1976), I had the opportunity to meet and talk with literally dozens of military and police officers. I have maintained close contact with many of them and renewed those ties in 1996.

Each of these military 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 *Guardia Civil* and police officers were 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 Peru, Colombia, Argentina, etc. are imbued with virulent homophobia from their very first day of service.

7. I am recognized, both nationally and internationally, as one of the foremost experts on terrorism and guerrilla warfare in Latin America, particularly Peru. Since 1992, I have served as an expert witness in over 90 political asylum cases in San Diego and Los Angeles, California; Portland, Oregon; Seattle and Tacoma Washington; Las Vega, Nevada; Boston, Massachusetts; and New York City and State.

8. Within the fields of Andean American and Latin American Studies, I have concentrated particularly on the role of the military and guerrilla movements in several Latin American countries, including Colombia. 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 this work won a national prize, the 1985 Hubert Herring Award for the best book of the year on Latin America). Both contain extensive treatments of Colombia.

9. I am also a recognized authority on Latin American culture, including Latin American views of sexuality, both heterosexual and homosexual. When I married my Peruvian wife, I became part of a very large, extended Peruvian family which contained several homosexuals (none of them "out" to the family). Over the past thirty-five years, I have also developed friendships with dozens of male and female homosexuals in Peru, Ecuador, Bolivia, Brazil, Argentina, Mexico, and, particularly, along the U.S.-Mexico border.

As noted above, since 1992, I have been asked to serve as an expert witness in over 80 political asylum cases and, while most of those cases dealt with death threats from the military or the

guerrillas of a given nation, I have also testified on behalf of fifteen homosexual males and females, all from Latin America.

10. Since my arrival in San Diego in 1968, I have been an active supporter of gay and lesbian rights. I have had 50-60 openly gay and lesbian students and many others who came to me confidentially (as have my Peruvian family members and most of my homosexual friends in Latin America). Over fifty percent of those students have been Hispanics who were terrified to tell any of their family members or friends. Several have since died of AIDS, which, for me, was akin to losing my own child.

11. Between 1979-2001, I had four gay or lesbian Graduate Assistants in the Center for Latin American Studies with whom I worked closely. Moreover, my step-daughter (I remarried after my Peruvian wife's death) is lesbian and very active in promoting gay and lesbian rights and causes.

12. My testimony concerning the treatment of gay men with "female" sexual identities was discussed prominently by the States Court of Appeals for the Ninth Circuit in the case of Hernandez-Montiel v. INS F.3d 1084 (9th Cir. 2000). (See Below)

13. Finally, I taught two courses which contain extensive treatments of sexuality in Latin America, an undergraduate lecture course "Urbanization and Modernization in Latin America;" and a graduate seminar on "Traditional and Syncretic Religion and Medicine in Latin America."

14. 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 help because I find his situation to be particularly compelling and very typical of any like person in his circumstances.

15. Although the percentage of homosexuals in Latin America is the same as it is everywhere, Latin Americans, historically and to the present, have refused to recognize it as anything other than "a demonic lifestyle." The view and treatment of homosexuals, particularly males, is that they are the "lowest of the low" and strenuous, even violent persecution of them is not only accepted, it is praised in Latin American society.

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.

16. 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. The importance of this fact for male homosexuals is of transcendental importance, indeed, for it literally determines whether one or the other is acceptable or unacceptable in Latin American society as a whole.

17. Culturally speaking, Latin Americans are Spaniards and Spaniards are as much or 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 Europe and that they must be studied and treated differently.

18. 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. 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.

19. The view and treatment of the "female" partner (the receptor) could not be more diametrically opposed. The "fem" is despised as the "lowest of the low" and strenuous, even violent persecution of them 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, particularly to the father of the individual. In addition, the male "fem" is a threat to all the females because the female is responsible for the maintenance of family values, family morals and the image of the family in the outside world. Simply stated, families have been known to kill the male "fems" rather than risk the opprobrium called down upon them by their "fem" relative.

Mr. Cortes Murcia's heart-breaking Asylum Application describes the above very well. Moreover, Mr. Cortes Murcia's description of being denigrated all of his life and his account of what happened to him in the army at the hands of Major Urbina is consistent with everything I have read, heard or studied. Indeed, his experience follows with what I have written, i.e., the sharp difference made between roles of the "male" and "female" in the relationship (Major Urbina is clearly the dominating male which Mr. Cortes Murcia is the female or "fem.")

20. Unfortunately, the danger to male homosexuals is not confined to the family. In Peru, Colombia, Mexico, Honduras, El Salvador, Ecuador, Chile and Argentina for example, it is common for the police, without provocation, to detain gay males, beat them up, rape them with batons or other foreign objects in the anus, and otherwise abuse them physically, always accompanied, of course, by verbal and psychological abuse. As a result of these beatings/rapes, many gay males have died in these countries, but the perpetrators are never prosecuted because such abuse is tacitly accepted and often encouraged.

21. Moreover, Latin American and particularly Colombian police never investigate charges of violence against homosexuals, nor do they ever prosecute those who have attacked the homosexuals. In fact, gay males in Colombia (and the rest of Latin America) can not count on protection from assault on the part of any civil or military official in local, state or national governments. On the contrary, gay males are a threat to *La Patria* and must be eliminated so that *La Patria* will be "clean."

This is no where 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. The fact remains, however, that HIV+ or AIDS patients are lumped together into one horrific abomination, *maricones* (queers), whose existence is a threat to every individual, every family, yes, even to the nation (*La Patria*) itself.

22. It must be noted here that homophobia is particularly virulent in Colombia where the military and police have a long history of extreme political views and of even more extreme violence against its people. Indeed, the Colombian military has ruled the country even more than the militaries of most Latin American nations.

Moreover, Colombia has the dubious distinction of being the most violent nation in the Western Hemisphere. 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 characterized the rivalry between the Liberals and the Conservatives since.

Then in 1948 there began what Colombians term *La Violencia* (The Violence, 1946-1966). When it ended there were between 195,000-200,000 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.

The period of *La Violencia* was followed by 36 years of guerrilla warfare. Thousands have been killed and more each die each day. In April, 2002 Colombians are still slaughtering each other.

23. There is no doubt that 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."

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. Hernandez-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. Hernandez-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. Hernandez-Montiel is therefore entitled to asylum and withholding of deportation based on his well-founded fear of persecution should he be returned to Mexico."

24. As noted above, Mr. XXXX's homosexuality makes him a particularly high profile target. Both the military and the police 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.

The U.S. Department of State put it this way: "There continued to be incidents of social cleansing--including attacks and killings--directed against individuals deemed socially undesirable, **such as drug addicts, prostitutes, transvestites, homosexuals, beggars and street children.** The CCJ attributed one social cleansing killing to security forces during the period from June 2000 to June 2001; attributed 319 killings to paramilitary groups, and 10 to the guerrillas.

AUC [United Self Forces of Colombia] social cleansing killings of homosexuals, prostitutes, drug users, and mentally ill persons were reported in Barrancabermeja, Cucuta, and numerous other municipalities. Barrancabermeja residents also

have reported AUC attempts to impose "social controls" (such as curfews or dress codes) and the exercise of vigilante and the exercise of vigilante justice" (Emphasis Mine) (2001 Country Reports on Human Rights Practices-Colombia, Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, March 2001, p.13. Hereafter cited as 2001 Country Report on Colombia).

Since Mr. XXXX will be deported by the United States, the government, the police, and the military will not only know of the exact date and time of his arrival, they will all view him as an individual who is some type of criminal and one who is most definitely a despicable homosexual.

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 will be arrested at the airport and sent directly 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 and 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.

Finally, Mr. XXXX's own family, friends and circle of acquaintances will shun him as "unclean," as a disease-carrying monster. They will not touch him; they will not allow him into their homes; they will attack him verbally, as a *sidioso* or one infected with the AIDS virus and they will attack him physically. Indeed, it is even conceivable that Mr. XXXX's own family will 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.

25. Colombia is the very epitome of a country which has been devastated by neo-liberal economic policies and senseless internal violence. "In 1999 the country suffered its first recession in over 60 years, with a decrease in gross domestic product (GDP) of 4.3 percent and record unemployment of over 18 percent. The economy grew approximately 2 percent during the year, and unemployment stood at 16.8 percent at year's end. The

inflation rate at year's end was 7.65 percent. . . .high levels of violence greatly inhibit business confidence. Narcotics traffickers continued to control large tracts of land and other assets and exerted influence throughout society, the economy and political life. Income distribution is highly skewed; much of the population lives in poverty. Per capita GDP was approximately \$2,087" [one of the lowest in the Western Hemisphere]. 2001 Country Report on Colombia, p. 1.

Since that was written, the economic situation has declined precipitately. Latin America and particularly Colombia has slipped into massive depression (a situation which has worsened demonstrably since the horrific events of September 11 in New York and Washington, D.C. See report of the World Bank, October 3, 2001).

26. Most scholars and analysts now believe that the standard of living is so low that, in real terms, the vast majority of the population not only lives in poverty, but many are starving to death, either slowly or rapidly depending upon the individual case.

By no stretch of the imagination could these data be twisted enough to show that Mr. XXXX could earn enough money to pay for his medical treatment, let alone for the medicine he needs even if such medicines were available, which **THEY ARE NOT!**

27. The natural result of such economic collapse is almost always a breakdown in law and order and a diminution of basic human and civil rights. On page one (1) of the U.S. State Department's 2001 Country Report on Colombia is this statement: "The Government's human rights record remained poor; there were continued efforts to improve the legal framework and institutional mechanisms, but implementation lagged, and serious problems remained in many areas. A small percentage of total human right abuses are attributed to state security forces; however, government security forces continued to commit serious abuses, including extrajudicial killings. Impunity remained a problem. Despite some prosecution and convictions, the authorities rarely brought higher-ranking officers of the security forces and the police charged with human rights offenses to justice" (p. 1).

"Members of the security forces collaborated with paramilitary groups that committed abuses, in some instances allowing such groups to pass through roadblocks, sharing information, or providing them with supplies or ammunition.

Despite increased government efforts to combat and capture members of paramilitary groups, security forces also often police, as well as among local civilian populations in many areas (2001 Country on Colombia, pp. 1-2).

As the U.S. Department of State stated: "The 2 main guerrilla armies, the FARC--Revolutionary Armed Forces of Colombia; the ELN--Army of National Liberation; as well as the much smaller EPL--Army of Popular Liberation) commanded an estimated 21,645 full-time guerrillas operating in more than 100 semiautonomous groups throughout the country. These groups undertook armed actions in nearly 1,000 of the country's 1,097 municipalities. Both the FARC and the ELN systematically attacked noncombatants and violated citizens' rights through the use of tactics such as killing, forced disappearances, the mutilation of bodies, attack on churches, attacks on hospitals, attacks on ambulances, and executions of patients in hospitals. Numerous credible sources reported cases of murder, rape, kidnaping, extortion, robbery, threats, detention and the forced recruitment of adults and children, as well as impediments to free speech and fair trial, and interference with religious practices" (2001 Country Report on Colombia, p. 3).

28. 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 also heavily infiltrated by the guerrillas and the extreme, ultra-right paramilitary groups all of them viciously homophobic. For Mr. XXXX to call the police would be akin to inviting your executioner over for lunch. Moreover the guerrillas and the paramilitary groups would find out as well, thereby vastly increase the number of people looking for Mr. XXXX.

Prisons are equally horrible: "Prison conditions are harsh, especially for those prisoners without significant outside support. Severe overcrowding and dangerous sanitary and health conditions remained serious problems. In early June, the Supreme Court of Valledupar, Cesar Department, ruled in favor of Valledupar prison inmates who had filed a writ of appeal complaining of lack of water, sanitation, natural light, and prolonged isolation from contact with relatives. . . ."

"Only three prisons--Valledupar, Bogota's La Picota prison, and Acacias--appear to meet international standards for treatment of prisoners. In the country's other prisons, inmates pay to eat, drink, sleep on a mattress, wash clothes, or make telephone

calls, and also pay protection fees to fellow inmates or to corrupt prison guards. According to the committee for Solidarity with Political Prisoners, outside, private sources continued to provide the majority of prisoners' food in most prisons. In 1999 INPEC reported that the daily food allowance for each prisoner \$1.44 (2,700 pesos)"

29. That position is supported by several facts and factors. First, well over 60,000 Colombians have been murdered in the past ten years and one and a half million more have been forced from their homes and villages. In the year 2001 alone, "The country's internal conflict caused the deaths of between 3,000 and 3,500 civilians during the year" (2001 Country Report on Colombia, p. 1).

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. **Colombia is the most dangerous country in the Western Hemisphere and one of the most dangerous in the world.**

Second, Colombia is now the world's leading producer of both cocaine and marijuana and the second or third 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.

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 60-75% of the total national territory. On the very first page, of its 2001 Country Report on Colombia the U.S. Department of State stated that: "The Government continued to face serious challenges to its control over the national territory, as longstanding and widespread internal armed conflict and rampant violence--both political and criminal--persisted. The principal participants in the conflict in the conflict were government security forces, paramilitary groups, guerrillas, and narcotics traffickers" (p. 1)

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 \$400 billion (\$400 Thousand Million) per year. With that amount of money, one can buy entire police

forces, militaries, judicial systems, and government officials. 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 and the various political parties.

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

30. Indeed political conditions reached such dangerous proportions that in mid-2000, then President Clinton announced a \$1.6 billion aid package which included over \$1.3 billion for anti-drug and counterinsurgency assistance, a request which the Bush administration 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. 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 year.

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.

31. 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 70 officers and enlisted men for ten months. The government finally granted the FARC a large segment of the Department of Caquetá.

Then in September, 1997, the military responded by attacking supposed guerrilla positions south of Cali, but despite deploying 3000 men and expending more than 3000 rounds of ammunition and over 300 bombs, the attack killed no guerrillas, just nine Indians and 40 cows. Finally, in December, 1997, the FARC attacked another army base in the Department of Nariño), killing nine soldiers and taking 18 prisoners.

Most recently (February 23, 2002), the Colombian military re-occupied the huge "reserve" which President Pastrana gave to the FARC in 1998 as an incentive to peace. Located in the Department of Putumayo, the area is twice the size of New Jersey and has over 100,000 residents.

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.

President Pastrana Arango has spent three difficult years desperately seeking peace, and his failure is not only bad news for all Colombians, but for Mr. XXXX as well. With the resumption of 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 for an admitted homosexual whose presence is equally abhorrent to all three groups. Indeed, it is my firm belief that they actually compete to the kill the *maricón*.

32. That Mr. XXXX would be deported from the United States is also of great importance because the United States has become the most serious 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.

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. Indeed, it is not just a challenge, it is an open death threat to their very existence.

33. Not only will Mr. XXXX be killed, but it is almost a certainty that he will be tortured as well. This is done commonly in order to "teach others a lesson," i.e., an example of what will happen to others who would challenge the powers that be, as well as violate the heterogeneous norm of Western Christian Civilization. The U.S. Department of State stated: "Both the FARC and the ELN systematically attacked noncombatants and violated citizens' rights through tactics such as killings, forced disappearances, the mutilation of bodies, attacks on churches, attacks on hospitals, attacks on ambulances, and executions of patients in hospitals. Guerrilla groups also were responsible for multiple abuses of religious and medical personnel with protected status and of the wounded" (2001 Country Report on Colombia, p. 22).

Just last year, the 2000 Country Report on Colombia noted that: "The bodies of many persons detained and subsequently killed by guerrillas showed signs of torture and disfigurement. For example, one soldier captured by the FARC was subjected to several machete blows to the head until the entire left side of his head was destroyed. While he was still alive, his genitalia were cut and acid was poured on his face" (p. 22). Almost as horrible is that "FARC and ELN guerrillas killed as many as 200 children during the year" (p. 10).

As is clear from the above, the torture and murder of Mr. XXXX will not be a random act, but rather a conscious effort 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 not they do the same to Mr XXXX? The answer, of course, is that they will torture and murder him.

34. It is exceedingly clear after forty 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 another victim of the senseless killing if he is deported back to Colombia.

Moreover, people in all cultures begin to look for scapegoats to explain THE CRISIS THROUGH WHICH THEY ARE PASSING AND ON WHOM THEY CAN VENT THEIR FRUSTRATIONS. Homosexuals have been singled out for centuries and it is no different in the Peru of 2002. Mr. XXXX will be in danger not only from the security forces, but also from the mobs in the street which have become increasingly larger and bolder.

35. Regarding the general question of whether or not the respondent could simply move to another region of the country, thereby evading the vigilance of his/her enemy, my response is an unequivocal and unqualified "NO." I base that opinion on several familial and cultural factors which are unique to Colombian society, and to most of Latin America.

In the first place, Latin American and Colombian culture is predicated almost exclusively on the concept of an extended family, i.e., a family which includes distant as well as close relatives. My "immediate family" in Peru which gathers every Sunday is composed of more than 50 individuals. The "whole family" numbers in the hundreds.

Moreover, in Colombia and Latin America there is a system of ritual kinship called compadrazgo which is totally alien to Anglo-American culture. When a couple names godparents for the baptism of their children, those individuals become their comadres or compadres. The relationship between the parents and the godparents is so extremely important that they often are closer to each other than even siblings.

The point is that there is an incredible networking system in place which can be utilized for finding someone or something in a very short time frame. One need only call relatives and compadres seeking their help and the number of people that can be mobilized is almost unbelievable. Indeed, these familial networks are often more efficient than the intelligence services of most nations.

In May, 1996, I decided to test the system by using my own

familial and compadrazgo networks in Peru in order to find someone who had caused my Peruvian family no little grief. In 1977, a young man impregnated a cousin of mine, stole all her money, and promptly disappeared. The family made a few desultory attempts to find him, but then dropped the matter out of deference to the young woman. If the system indeed worked as I have argued, this case would provide an ideal test.

Over the next few days, I made a number of long distance phone calls to Peru and sent a few cables and a couple of letters by international courier service. Frankly I did not expect to hear back for several months, but eleven (11) days after I had finished my contacts, I received word that the young had been found using a false identity in a remote jungle area of eastern Peru. If I can do that 20 years after the incident and 8000 miles, it is clear that Colombian guerrilla and military, who possess their own intelligence services, can accomplish the task even quicker than I could.

36. Even should Mr. XXXX escape persecution (by some incredible miracle), he will still be living under a death sentence. There is very little medicine in the Peru even for the very wealthy, and there are absolutely no drugs to treat HIV, let alone AIDS itself which requires a very complex and extraordinarily expensive combination of medicines, commonly known as the "AIDS COCKTAIL."

I live ten miles from the richest city in the Third World, Tijuana, México, and even citizens of that city are unable to buy the drugs they need. They must cross the border into San Diego, but they can only do that if they are extremely wealthy by Mexican standards because the cost of the medicine is prohibitive. In fact, there exists a large and very active organization in San Diego, Los Angeles and Tijuana which collects unused medicine from those who have just died and sends it into the interior of Mexico.

Neither are there AIDS facilities in Tijuana or really anywhere in Mexico, for that matter. My Mexican friends with AIDS have all come to San Diego for help. They range from the very poor to the quite wealthy. Money is of little use if there is nothing to "buy."

Compared to much of the Third World, Mexico is an economic

paradise with all the amenities and advantages of the First World. But Mexicans are still unable to secure proper medical treatment for AIDS.

37. If not death, then jail, without medical care, is the most likely fate for Mr. XXXX. Moreover, since Mr. XXXX will be deported 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.

38. It is exceedingly clear after forty 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, Ms. Mr. XXXX will be yet another victim of the senseless killing if she is deported back to Colombia.

39. Regarding the general question of whether or not the respondent could simply move to another region of the country, thereby evading the vigilance of his/her enemy, my response is an unequivocal and unqualified "NO." I base that opinion on several familial and cultural factors which are unique to Peruvian society, and to most of Latin America.

In the first place, Latin American and Peruvian culture is predicated almost exclusively on the concept of an extended family, i.e., a family which includes distant as well as close relatives. My "immediate family" in Peru which gathers every Sunday is composed of more than 50 individuals. The "whole family" numbers in the hundreds.

Moreover, in Peru and Latin America, there is a system of ritual kinship called compadrazgo which is totally alien to Anglo-American culture. When a couple names godparents for the baptisms of their children, those individuals become their comadres or compadres. The relationship between the parents and the godparents is so extremely important that they often are closer to each other than even siblings.

The point is that there is an incredible networking system in place which can be utilized for finding someone or something

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Finally, Peru, like all other Latin American republics, has an elaborate system of national identity 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 a photo, current address information under penalty of arrest and incarceration. Peruvian citizens may be and are stopped by security forces, AT WILL, and they had better have up-to-date documents or they will be sent directly to jail. Thus, Mr. XXXX's whereabouts will always be known.

I would add here that Mr. XXXX's health would prevent him from engaging in some kind of "hide and seek" with the Peruvian authorities, thereby facilitating his immediate capture if he had indeed found some way to escape in the first place.

40. In sum, then, due to that fact that he is an admitted homosexual who is HIV+, Mr. XXXX is a high profile target who is

clearly in extreme danger if he were forced to return to Peru. It is my considered, professional opinion that the Peruvian military and police not only possess the desire to eliminate all criminals, gang members, undesirables and moral deviates (read homosexual) and thereby "cleanse" the polity, they have the power necessary to find and eliminate Mr. XXXX

Moreover, it is my judgment that they will indeed kill Mr. XXXX either in the short run or the long run, with a high degree of effectiveness.

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Date