

October 21, 2008

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 2008, 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 2008 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 *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 300 political asylum cases (28 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 which 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 300 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 170 homosexual and transgender males and females, all from Latin America, 9 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 eleven 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 thirteen (13) 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 170 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.

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.

**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](http://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.** 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.

**34.** 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.

**35.** 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 father's often beat their gay sons because it is widely believed that one can "beat the gayness out of a child."

**36.** Mr. XXXX knew at an early age that he was different from the other boys.

"When I was a child, I would always play with girls. I remember playing "house" and being the only boy so I had to be the daddy or the brother, but I deeply wanted to be the mommy or sister. I grew up with a lot of girls who were my friends until my brother was old enough to play with me. I liked playing girl games like hopscotch or skipping games. I also remember playing dolls with them and my teachers or parents would try to take them away from me and give me stereotypic boy toys like cars and blocks."

"My sister was the only girl in our family so I would play with her. She loved Barbie dolls and dolls of all kinds and I would help her dress them and brush their hair and pretend play all the time. Some days I helped my mom out by doing my sister's

hair. My mom just thought I was being a responsible older brother."

37. Mr. XXXX also did other things that set him apart from other boys.

"I started playing with and brushing hair of most of my aunts and girl friends. They didn't mind as much because it felt good to them as long as I wouldn't do it in front of my uncles, boy cousins or male friends. My mom told me to stop after a while because she told it wasn't things boys do. She would say don't do those things that faggots do. I still had no clue what that meant."

38. The best study of behavioral indicators of homosexuality in young children is: Frederick L. Whitham, "The Prehomosexual Male Child 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: Praeger, 1986.

39. Mr. XXXX's cousins picked up on this "difference" and harassed him, in effect teaching his brothers to disrespect him.

"My cousins would bother me all the time and tell me that I was too girly. I didn't know what they meant. I felt I was being the boy I knew how to be. I was taunted and pushed around by them because of the way I acted. **My brother learned from them and would follow their every lead.**" Emphasis Mine.

40. Mr. XXXX's cousins in Peru likewise "recognized" that he was different.

"Since my dad is Peruvian, we would go and visit family in Peru a lot. I didn't like going there because my cousins were older than me and my siblings and sometimes would pick on me when no adult was looking. The pushing and shoving got physical. Physical to the point that they would pinch my nipples and slap my butt like I was some piece of meat. I couldn't tell on my cousins because they would threaten me and tell me if I said anything that they would do worse things to me."

41. Mr. XXXX's father was away on business for much of his childhood and apparently did not pay much attention to the children.

"My dad was pretty uninvolved while we were growing up. When he was home, he would stick to safe subjects like school and family issues. He never questioned my sexuality or my femininity. I think he thought if I don't say anything it'll go away. He did frown when he heard I was beat up again or if I was still doing girl stuff."

**42.** Nevertheless, Mr. XXXX's father did react negatively when his son became involved in art and dance.

"My only outlet was art. In high school, I got into art classes and dance classes. My dad found out about that and he quickly told my mom I couldn't go. He said that that was for sissies and no son of his is going to do that. So I stopped going to classes but I kept on doing it as a hobby. I would hide my paintings and drawings in a special place in my room in fear that my dad would find them"

Moreover, since Mr. XXXX has come out, his father all but rejects him.

"My dad and I are in speaking terms now but mostly for my mom. Things will never be the same between him and me."

**43.** Mr. XXXX's school mates also noticed that he was different and made his school life miserable.

"At school, boys would bother me for the same reasons. I was the most organized, the cleanest, and the nicest boy and for that I got teased. I think I tried my best to be all those things to be liked by everyone but I guess it didn't work."

"I got into the choir because the music teacher thought I was good at singing. I was one of the only boys, so I was picked on for that too. I was told only girls are supposed to sing and dance. But I couldn't control the love I had for both."

"I focused on my schoolwork but sometimes it would be too hard because I would break down and cry from all the harassment in school. My self esteem was shot down and I turned to comfort food. Every time I was teased or bothered by my cousins or classmates I would eat chips or candy alone or with the girls. I felt at home with the girls."

**44.** Even when Mr. XXXX transferred to new schools, it did not take long before the boys harassed him.

"As I grew up, my family moved at least four times. In a way I felt like I was saved from all the bullying but in other ways I

felt sad because I hated starting a new school. Not knowing what to expect. I would think "Are the students going to be accepting of me or reject me again like my last school?" Four schools I went to, at all of them I would be called the same. They would call me 'marica', 'maricon de mierda', 'puto', or 'loca'. Pretty much all meaning 'faggot' or 'queer.'"

**45.** 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.

**46.** Even Mr. XXXX's teachers took note of his "difference."

"My parents wouldn't get calls from school but sometimes at teacher-parent conferences my teacher would tell them his or her concerns about my friendships with most of the boys. As a result I tried to be a perfect "saint" and not have my parents worry about me. I stayed out of trouble, I hardly spoke in class. I went to the library during recess and lunch and sometimes in the mornings. Sometimes I would go to the bathroom and stay in the stalls and read a book."

"I also started skipping classes hiding out in the far end of the volleyball courts or in the bathrooms. Sometimes I would get caught but most times I would get away with it."

"Many times there were days I didn't want to go to school so I would pretend to be sick and I found ways of acting it or giving myself fake fevers so my mom would believe me."

**47.** The harassment and ridicule continued even after Mr. XXXX went to college.

"Living in Colombia, I graduated from high school and decided to go to college there. I had a bilingual schooling until I got to college, the Pontificia Universidad Javeriana. All classes were in Spanish and I couldn't deal with it. Everyone was very judgmental. Everyone looked at me funny. In some ways it felt harder than high school. I was being ridiculed in every

class. I had someone through a bottle at me once and twice I was mugged by my own classmates. I couldn't believe I had to run to the bus being chased by bullies still after high school."

**48.** Mr. XXXX's family in the United States also treated him with ridicule and disgust.

"They are Colombian and Peruvian too. I lived with my uncle and his family for a year and with my aunt and her family for 3 ½ years. I was so happy to move out of their homes. I couldn't call that home. Constantly having to act a certain way so that I wouldn't have to get ridiculed or them having to constantly call my dad and tell him all these lies and atrocities about me."

**49.** His family in the United States also feared him and here again is the belief that homosexuality is somehow contagious.

"They didn't trust me taking care of their children because they didn't want their children to become like me. One time my aunt's husband said I was a walking disease or something in Spanish. I would constantly close my door and be alone. I only went there to sleep, eat & sometimes write papers on the computer."

**50.** 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 overt feminine mannerisms and is "recognized" at first glance. Moreover, he has other personality characteristics which will mark him as homosexual in Colombia. He is very sensitive and quiet. He has endured horrific abuse in his childhood.

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.

**51.** 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.

**52.** 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.

**53.** 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.

**54.** 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).

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).

**55.** One 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).

**56.** 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).

**57.** 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.

**58.** 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.

**59.** The Vatican maintained a very anti-homosexual stance throughout 2006, 2007 and into 2008. 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).

**60.** 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."

**61.** It was within this religious and culture milieu that Mr. XXXX's mother reacted to his effeminate mannerisms. As noted above, she did tell him not to brush the hair of his aunts and girl friends. At the same time, she seemingly did not notice that he was suffering at school in the beginning.

"My mom was so clueless of what was going on. She didn't know what I had to go through in school."

However, she did become very concerned when he was at the University (*Pontífica Universidad Javeriana*).

"My mom was fearful at that point for me. She wished she knew why people would pick on me. She nearly always thought out loud and prayed with her rosary everywhere."

62. Nevertheless, Mr. XXXX's mother has been very supportive of him and has constantly begged him to return to Colombia for visits. He is very fortunate indeed to have such a supportive mother. Other Colombian and Latin American mothers have reacted in negative, even violent ways to their homosexual children.

63. 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 47 years.

64. 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.

65. 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.

66. At the same time, however, there will often be family members and/or friends of the family who will seek to take sexual advantage of the gay male in the family. Such was the tragic case of Mr. XXXX.

"One time, the oldest of the cousins, Julio, decided that since I was so effeminate I would do stuff girls would do. I was about eight years old at the time. I had to share a room when we were visiting them."

"He would wake me up in the middle of the night or go into the bedroom and make it dark and lay in the bed close to each other. In the darkness he would tell me to do things to him, like touch his privates or put his privates in my mouth. I thought I was doing something wrong so sometimes I would cry or be nervous if someone saw us. Sometimes he would want me to watch him pee in

the bathroom but I would tell him no and he said he would tell everyone what I had done. He also said "That's what you get for being a faggot!" in Spanish."

**67.** On another occasion, Mr. XXXX's uncle sexually assaulted him.

"At home, since my dad wasn't around too much, my uncle (my mom's brother) would come over sometimes and we would talk. He would always be drinking beer. One time he asked me about girls. I wrestled around the thought of telling him I didn't think I liked girls so I told him I had dates here and there but nothing."

"My uncle is big bulky very straight man or so I thought. One time we were all alone in the back of the house. Everybody was out at my grandma's house. He comes and tells me that he loves me and that he thinks I'm a great kid. We were hugging and next thing you know he was kissing me and then pushing me down to his privates."

"I was struggling to have him let go but he was still pushing me down. I looked up at him and he said "it's okay, I won't tell anybody". I was scared but I ended up giving him a blowjob. I threw up after he left and I think I cried myself to sleep because I was so embarrassed. I remember also saying 'forgive me, God, forgive me!'"

**68.** When Mr. XXXX was also molested the father of one of his friends.

"My friend's mom was home but the dad wasn't. It was really late I think when I woke up to go to the bathroom. It was dark in the big house. The dad came home and tripped over my teddy bear and threw it across the room to me. He looked at me and said to come to him."

"He was very forceful. I remember him saying I had soft skin and nibbling on my earlobe and then sucking on my ear. I remember sitting on him and feeling something I had never felt before. It was his privates. He was getting turned on by rubbing my butt on his penis. He started pulling down my pants and touching my bare butt. He didn't cum. The light turned on and it was his wife. He had the biggest hard on but he still had his clothes on. His wife got mad at me and told me to go to bed. She pulled her husband to the room and my friends didn't wake up but I do remember having a hard time sleeping that night. Nothing was ever told to my parents or friends and we didn't even talk about it in the morning."

69. Since 1996 I have read well over 200 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.

70. 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.

71. 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.

72. 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.

73. 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.

74. As a consequence of these beliefs, families have been known to kill homosexual relatives rather than risk the opprobrium which will be called down upon them.

75. The simple truth is that regardless of whether he tries to hide it, most Colombians will recognize Mr. XXXX as an effeminate, gay male. Indeed, Mr. XXXX describes himself as "*pasivo*" or passive, what Roger N. Lancaster terms a *cochón* (see #29 above).

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).

76. 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.

77. 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.

78. Proof of Colombian police abuse and physical attacks on homosexuals lies in Mr. XXXX's description of a police raid on a gay bar where he was.

"The clubs and bars are all underground there [Bogotá]. You can't even tell it's a gay club. I had been chatting with some gay men online to find out where I could go. I went to a couple of bars that cold October night since they were real close to



each other. The last one I went to something happened. I went in for no more than 10 minutes when all of a sudden a policeman came in with his patrol and raided the place. Told everyone to get out or our lives were at stake. They said we needed to have our papers ready meaning our I.D. and military service papers. He said he would take down everybody's information so that city hall would know who was gay."

"Meanwhile, all of us were lined up against the wall of the parking lot across the street from the bar. I saw from far the policeman that came in first to raid the bar was taking three guys into a corner of the parking lot where there was a booth where normally the watchman or guard would be."

"One by one, they would go in and come out with blood coming out of their nose. I asked someone what was going on, and he told me that **he was telling them to give him a blowjob and then hitting them for doing it.** I got all scared. I could hear grown men crying and sobbing and one of them screaming "Auxilio!" asking for help in Spanish." Emphasis Mine.

"A big muscular guy fell to the floor and started a commotion. He looked like he was having a epileptic attack. All the patrol men were needed to control the guy and hold him down. I saw a lot of men start running out of the parking all scattered to different places. **I took a chance and ran for my life. I didn't look behind but I heard gunshots.** I got the first taxi I saw and told him to take me to my parent's house. I was so afraid for my life. Thank God nothing happened to me." Emphasis Mine.

**79.** 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.

**80.** 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.

**81.** 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).

**82.** 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).

**83.** 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).

**84.** 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).

**85.** The 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.

86. There is no doubt that the AUC 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).

87. 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.

**88.** 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 (see section 1.g.). 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.

89. 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.

90. 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).

91. 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.

92. 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).

93. By 2006, those 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.

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 XXXX to alter his feminine mannerisms. He is what he is and he is therefore in grave danger.

94. 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.

95. There is no doubt that male "fems" and other homosexuals are members of a particular social group and that 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."

96. 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."

97. The situation in Colombia is actually much worse than in Mexico since the Hernández-Montiel case was heard. As I will show below, 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 XXXX is an extremely high profile target and would be in grave danger of being killed if he were to return to Colombia.

98. The first threat to 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.

99. 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 XXXX might be arrested 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: 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 XXXX for massive abuse and most probably death. As outlined below, neither the government nor the police can or will do anything to help XXXX.

100. 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 Colombian military and police forces, the guerrillas seek to eliminate all "sexual deviates."

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

102. 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).

**103.** 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.

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 Antioquía 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).

**104.** 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)).

For a very moving interview of one of the young women, Jenny Viviana Rendon, 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).

**105.** 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).

**106.** As noted above, 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) and the right-wing paramilitary forces (AUC) 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 XXXX is deported by the United States, he will shortly be targeted by the police because of his obviously "feminine" mannerisms.

**107.** Finally, XXXX's own family 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 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.

**108.** The situation in Colombia has continued to deteriorate badly over the past four years. As I will show below, Mr. XXXX's life is in much greater danger in Colombia than in any other country in Latin America, even 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 by the FARC if he were forced to return to Colombia.

**109.** The 2001, 2002, 2003, 2004, 2005, 2006 and 2007 Country Reports on Colombia are seven of the worst U.S. Department of State human rights reports I have ever read on Latin America, with the 2005, 2006 and 2007 reports even worse

than the previous four. Indeed, they rival those of Guatemala and El Salvador in the 1980s.

**110.** 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 Ms. 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.

**111.** 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.

**112.** 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.

**113.** 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 November, 2006, 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.

**114.** That Colombia is near political and economic collapse is supported by several facts and factors. First, well over 70,000 Colombians have been murdered in the past ten years and two and one half million more have been forced from their homes and villages.

**115.** 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.

116. 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 (see Loveman and Davies, Che Guevara on Guerrilla Warfare, pp. 233-267).

117. 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.**

118. In its 2005 Country Report on Colombia, the United States Department of State noted:

**"While the law provides for an independent judiciary, the judicial system was overburdened, inefficient, and hindered by the suborning and intimidation of judges, prosecutors and witnesses. Impunity remained a serious problem.** According to the Supreme Council of the Judiciary, a perpetrator was punished in less than 1 percent of crimes. The administrative chamber of the Supreme Council of the Judiciary (CSJ) reported that the civilian judiciary, suffered from a backlog of cases to be processed. These backlogs led to large numbers of pretrial detainees." Emphasis Mine.

**"Judicial authorities frequently were subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees and the Corporation Fund of Solidarity with Colombian Judges, 14 judicial branch employees were killed and 53 received threats against their lives. One employee was kidnapped, one was 'disappeared,' and four left the country in self-imposed exile because of death threats. Some judges and prosecutors assigned to small towns worked out of departmental capitals because of security concerns. Witnesses were even more vulnerable to intimidation and many refused to testify."**

"There were reports that judicial workers were killed during the year. For example during a March investigation into the February San Jose de Apartado massacre, a commission of investigators from the offices of the prosecutor general, the human rights ombudsman, and the inspector general were attacked with mortar shells and machine gun fire, killing the police escort accompanying the commission."

"In April suspected paramilitaries killed a police captain and prosecutor generals's office investigator Susana Castro. The



pair was conducting an investigation in La Hormiga, Putumayo Department."

"In September five members of a judicial commission conducting an investigation in Tumaco, Narino Department disappeared after members of the FARC attacked and sunk their river transport boat. The bodies of a prosecutor and a technical investigator on the commission were found three days later" (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.

**119.** The situation certainly did not improve in 2006.

"While the law provides for an independent judiciary, the judicial system was overburdened, inefficient, and hindered by the suborning and intimidation of judges, prosecutors, and witnesses. In these circumstances, impunity remained a serious problem. The Supreme Council of the Judiciary (CSJ) reported that the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees."

"Judicial authorities frequently 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, eight judicial branch employees were killed and 31 received threats against their lives. One employee was kidnapped, one 'disappeared,' and five left the country in self-imposed exile because of death threats. Some judges and prosecutors assigned to small towns worked out of departmental capitals because of security concerns. Witnesses were even more vulnerable to intimidation, and many refused to testify."

"January press reports indicated that Alvaro Lopez Giraldo, the prosecutor for the Fourth Specialized Court of Huila, Tolima, and Caqueta departments, fled the country after receiving death threats from the FARC. Lopez Giraldo was in charge of investigations that led to the capture of 1,050 FARC members associated with the Teofilo Forero Mobile Column."

"In May the media reported that the ELN kidnapped prosecutor Javier Enrique Gaviria in Narino Department while he was traveling on a boat near Tumaco. Military forces rescued Gaviria in June" (United States Department of State, Bureau of Democracy, Human Rights, and Labor, 2006 Country Report on Colombia, March 6, 2007, p. 6). Hereafter cited as 2006 Country Report on Colombia.

**120.** The state of the judiciary declined even further in 2007.

"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. The Supreme Judicial Council (CSJ) reported that the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees."

"Judicial authorities frequently 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, no judicial branch employees were killed, but 63 received threats against their lives. Unlike the previous year, no employee was kidnapped, "disappeared," or obliged to leave the country in self-imposed exile because of death threats. Unlike in previous years, judges and prosecutors assigned to small towns did not need to work out of departmental capitals due to security concerns. Although the Prosecutor General's Office ran a witness protection program for witnesses in criminal cases, witnesses who did not enroll in the program remained vulnerable to intimidation, and many refused to testify."

"The civilian justice system is composed of four functional jurisdictions: civil, administrative, constitutional, and special. The civil jurisdiction is the largest and handles all criminal, civil, labor, agrarian, and domestic cases involving nonmilitary personnel. The Supreme Court of Justice 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 Constitutional 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 coequal supreme judicial bodies that sometimes issued conflicting rulings and frequently disagreed about jurisdictional responsibilities" (2007 Country Report on Colombia, p. 3).

121. 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.

The U.S. Department of State put it this way: **"The country suffered from endemic corruption and graft in both the public and private sectors, exacerbated by drug trafficking revenues that made corruption as effective a tool as violence for illegal armed groups and large drug trafficking organizations."** Emphasis Mine.

"According to the Colombian Confederation of Chambers of Commerce, 'Confecamaras,' **estimates of income lost to corruption varied between \$2.5 million (5.75 million pesos) and \$5 million (11.5 million pesos) annually. The World Bank estimated that corruption in government procurement cost the country \$480 million (1.1 trillion pesos) annually.** Government and private sector analysts agreed that a black market of illegal commissions governed incentives for many business transactions" (2004 Country on Colombia, pp. 16-17). Emphasis Mine.

122. Conditions did not improve in 2005. **"The country suffered from endemic corruption and graft in both the public and private sectors. Drug trafficking revenues exacerbated corruption, which was as effective a tool as violence for illegal armed groups and large drug trafficking organizations.** The NGO Transparency International noted that perceptions of corruption improved slightly during the year." Emphasis Mine

"Government and private sector analysts agreed that a black market of illegal commissions governed incentives for many business transactions."

"For example in September the prosecutor general's office opened a case against the governor of Meta Department to investigate irregularities in the awarding of \$64,700 (149 million pesos) contract for school supplies. In August the inspector general barred Bogota city official German Ruiz Silva from holding public office for five years for fraud in the granting of construction licenses. In October the mayor of Villavicencio and the former minister of health were barred from

public service for 10 and 12 years, respectively, for accepting bribes in the awarding of hospital contracts."

"In February authorities canceled 9.3 percent of the 2002 Senate election results because the National Electoral Commission detected fraud in the ballots. New elections were held in March."

**"Corruption related to illegal armed groups was a serious problem. For example in October DAS Director Jorge Noguera and DAS Deputy Director Jose Miguel Narvaez both resigned following allegations that Narvaez had ties (including information sharing) to paramilitaries. In November new DAS Director Andres Penate fired regional DAS directors suspected of ties to paramilitaries"** (2005 Country Report on Colombia, p. 19). Emphasis Mine.

### **123.** Corruption continued to be a problem in 2006.

"The country suffered from endemic corruption and graft in both public and private sectors. Drug-trafficking revenues exacerbated corruption by enabling trafficking organizations to suborn government officials."

"The government actively prosecuted cases of governmental corruption. For instance, in October authorities sentenced Rafael Enrique Garcia, former director of the DAS computer department, to 18 years' imprisonment for tampering with a database and erasing criminal records pertaining to drug traffickers wanted for extradition."

"The Justice and Peace Law exposed corruption and paramilitary ties within the government and security forces. President Uribe publicly urged the Supreme Court to pursue all leads and punish officials found guilty. The president increased funding for the Supreme Court, which investigates members of Congress and senior government officials, to allow it to have its own investigative unit. President Uribe stated that the accusations related to the conduct of individuals, not institutions, and Congress continued to function normally."

"On November 9, the Supreme Court ordered the arrest of three congressmen-senators Alvaro Garcia and Jairo Merlano and representative Erik Morris-charged with aggravated conspiracy to commit criminal activity based on allegations of ties with paramilitary groups. In early December the Supreme Court questioned eight senators, three representatives, and the governor of Magdalena on similar allegations. Since the Supreme Court only has power to investigate acting government officials, in mid-November the Prosecutor General's Office opened investigations into former office holders and businessmen and ordered them to appear for questioning. Among those summoned

were former DAS director Jorge Noguera, former Sucre governor Salvador Arana, former Sucre assembly deputy Angel Daniel Villarreal, businessman Jose Joaquin Garcia, cattle rancher Miguel Nule, and engineering contractor Octavio Otero. In addition, in September the Prosecutor General's Office arrested four deputies in Sucre Department for ties with paramilitary groups."

"In January the Inspector General's Office opened an investigation into Edilberto Castro Rincon, governor of Meta Department, for spending public funds for personal electoral benefit. According to investigators, Rincon signed contracts amounting to 28 percent of the department's budget in less than one month's time leading up to elections."

"On December 4, the Inspector General's Office ordered Cali mayor Apolinar Salcedo removed from office and prohibited him from holding public office for 16 years. The Inspector General's Office accused Salcedo of mismanagement of the tender and ward of a public contract for collecting city taxes. Salcedo's appeal of the decision remained pending at year's end."

"On December 2, an appellate court placed Barranquilla Mayor Guillermo Hoenigsberg under house arrest as part of a criminal proceeding for cost overruns on the renovation of Barranquilla's City Hall. Hoenigsberg was under investigation for embezzlement and public contract fraud."

"The Inspector General's Office barred a number of former officials from public office for up to 13 years for engaging in corrupt practices. Those barred included the former governor of Atlantico, Luis Daniel Vargas Sanchez; the former governor of Boyaca, Miguel Angel Bermudez Escobar; and the former president of the Social Security Instituto, Guillermo Fino Serrano" (2006 Country Report on Colombia, pp. 17-18).

#### **124. Corruption remained pervasive in 2007.**

"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."

"In January the Prosecutor General's Office charged two members of the governor's staff in Guajira with defrauding the government of more than \$150,000 (300 million pesos) by illegally adjusting pensions."

"The Justice and Peace Law 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 investigates members of Congress and senior government officials."

"Investigations by the Supreme Court and Prosecutor General's Office of links between politicians and paramilitary groups implicated 52 congressmen, 11 governors, and 19 mayors; 18 congressmen, 14 mayors, and two governors were in jail at year's end. On December 19, Erik Morris became the first sitting congressman convicted of paramilitary ties; he was sentenced to six years' imprisonment and fined \$480,000 (960 million pesos)."

"In January 2006 the Inspector General's Office opened an investigation into Edilberto Castro Rincon, governor of Meta Department, for spending public funds for personal electoral benefit. According to investigators, Rincon signed contracts amounting to 28 percent of the department's budget in less than one month's time leading up to elections. The Inspector General's Office conducted seven different investigations involving Rincon, three of which resulted in charges against him."

"In December 2006 an appellate court placed Barranquilla Mayor Guillermo Hoenigsberg under house arrest as part of a criminal proceeding for cost overruns on the renovation of Barranquilla's City Hall. Hoenigsberg remained under investigation for embezzlement and public contract fraud."

"In December 2006 the Inspector General's Office charged the mayor of Cali, Apolinar Salcedo, with receiving kickbacks from public contracts and prohibited him from serving in office for 16 years. In May the Inspector General's Office charged Salcedo with corruption but reduced the period of ineligibility to serve in office from 16 to 14 years. Salcedo appealed his case, and a decision was pending at year's end" (2007 Country Report on Colombia, p. 10).

**125.** 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.

**126.** 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.

**127.** 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.

**128.** 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.

**129.** Then in September, 1997, the military responded by attacking supposed guerrilla positions south of Cali, but despite deploying 3000 men and expending more than 80,000 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.

**130.** 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.

**131.** 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.

**132.** Current internal conditions make it extraordinarily dangerous for Mr. XXXX. 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 the FARC 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 are Mr. XXXX and his family.

**133.** 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 Guatape, 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.

**134.** 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).

**135.** 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).

136. 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.

137. That this situation did not improve in 2004 is clear from the U.S. Department of State 2004 Country Report on Colombia: "The FARC continued to threaten and commit acts of violence against government officials. The assassination of President Uribe remained a FARC priority. During the first 10 months of the year, **12 former mayors, 1 serving mayor, 1 former governor, and 18 serving city council members were killed.** ... Emphasis Mine.

**"Scores of other local officials throughout the country resigned because of threats from the FARC. More than 30 mayors who left office in January fled the country or were preparing to do so because of looming death threats. The Office of the Human Rights Ombudsman reported that at least 300 mayors conducted business from regional capitals via telephone and messenger because they were not safe in their own towns. In the first 3 months of the year, 32 city council members were displaced to capitals from their local offices. The Ministry of Interior operated a program for the protection of vulnerable populations that provided protection to 424 mayors, former mayors, and council members during the year"** (2004 Country Report on Colombia, p. 17). Emphasis Mine.

138. Clearly, there was no relief in 2005.

**"FARC and ELN guerrillas committed unlawful killings, kidnapping civilians and military personnel, displacing populations, and recruiting child soldiers. They killed journalists, religious leaders, candidates for public office and local elected officials and politicians, alleged paramilitary collaborators, and members of the security forces. CINEP reported that guerrillas were responsible for 120 unlawful killings during the first 6 months of the year. The government's Presidential Program for Human Rights reported that, as of June, the FARC killed at least 14 persons in 3 massacres, although another 109 persons were killed in massacres in which the perpetrators remained unidentified." Emphasis Mine.**

"In January authorities attributed to the FARC the shooting death of Ever Conda, governor of the indigenous reserve of La Ciria in Miranda, Cauca Department. Also in January the FARC accepted responsibility for the kidnapping and death of Efren Pascal Nastacuas, governor of the Kuambi Yalasbi indigenous reserve of Ricaurte, Narino Department."

"In February three FARC members killed the mayor of Genova, Quindio Department, and his escort. In March two FARC gunmen assassinated Oscar Gonzalez, congressional representative of Caldas Department. In October authorities sentenced Andres Felipe Ramirez Gomez and Diusley Delgado Hernandez to 52 ½ years and 26 years and 3 months in prison respectively for their roles in the killings."

"In April the FARC attacked the town of Toribio, Cauca Department. Combat between the military and the FARC resulted in the deaths of four indigenous people. The attack also resulted in the displacement of thousands of persons."

"In August a suspected FARC member shot and killed parish priest Jesus Adrian Sanchez in Chaparral, Tolima Department. A taped conversation of a FARC deserter indicated that FARC Eastern Bloc Commander Jorge Briceno ordered the killing."

"On August 15 the ELN attacked a car carrying priests Jesus Emilio Mora and Vicente Rosso Bayona, killing them both. The ELN publicly declared responsibility for the killings on August 19, asking for forgiveness from the families of the victims for having committed an error in attacking the car."

"On December 3, former congressman and governor of Huila Department Jaime Lozada Perdomo was killed. Authorities suspected the FARC's Teofilo Forero Front was responsible. Lozada paid ransom in 2004 to the FARC to release his two kidnapped sons, who had been held for three years. Lozada's wife, Representative Gloria Polanco, was kidnapped by the FARC in 2001 and remained a hostage."

"There were several FARC massacres of public security forces. Reuters reported that, as of September, the FARC had killed 300 members of the public security forces" (2005 Country Report on Colombia, pp. 1-13).

**139.** The FARC's threats to government officials continued during 2006 and 2006. 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.

**140.** 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.

**141.** 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).**

142. As predicted, over the past few years the violence levels did increase exponentially. Colombian President Alvaro Uribe, (elected in May, 2002), is a hard-line, right-wing politician who promised to crush the guerrillas, particularly the FARC which assassinated his father in 1983 and made numerous attempts on his life as well. The first President in a century who is not affiliated with either the Liberal or Conservative Parties, Uribe "is committed to doubling the size of the Colombian army, recruiting a million volunteers into a vigilante militia and winning a military victory over the rebels" (see an excellent article by internationally-known journalist, Gwynne Dyer, *The San Diego Union-Tribune*, June 16, 2002).

143. As the FARC gained more and more territory and Colombian military incursions multiplied, FARC brutality and viciousness also increased exponentially: "The guerrillas have become increasingly brutal during military confrontations. Last month, nine soldiers on leave were stopped at a rebel blockade outside San Vicente del Caguan. **Their mutilated bodies were found days later. Army Col. César Delacruz said some of the men's genitals were cut off. Others were found without fingernails**" (T. Christian Miller, "Rebels Push Colombia Toward Anarchy," Los Angeles Times, June 29, 2002. See below for corroboration of FARC and other guerrilla torture and murder. Emphasis Mine.

144. 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).

145. 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).

**146.** 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.

**147.** 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).

**148.** 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.

**149.** 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. In its 2000 Country Report on Colombia, the U.S. Department of State 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 off and acid was poured on his face**" (p. 22). Just as horrible is that "FARC and ELN guerrillas killed as many as 200 children during the year." United States Department of State, Bureau of Democracy, Human Rights, and Labor, 2000 Country Reports on Human Rights Practices: Colombia, p. 3 (hereafter cited as 2000 Country Report on Colombia). Emphasis Mine.

The next year 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." United States Department of State, Bureau of Democracy, Human Rights, and Labor, 2001 Country Reports on Human Rights Practices: Colombia, p. 3 (hereafter cited as 2001 Country Report on Colombia). Emphasis Mine.

**150.** That the situation has worsened exponentially is clear from the U.S. Department of State's last three Country Reports on Human Rights Practices in Colombia. In its 2002 Country Report on Colombia (March 31, 2003), the Department stated: "During the year, guerrillas, particularly the FARC, appeared to have committed a higher percentage of the nation's unlawful killings than they did the previous year, often targeting noncombatants. The MOD [Ministry of Defense] attributed 70 percent of civilian deaths, or 916 killings, to guerrillas between January and November. The MOD had attributed 51 percent of civilian deaths in 2001 to guerrillas." Moreover, "Guerrillas failed to respect the injured and medical personnel. **Both the FARC and ELN**

**frequently executed wounded prisoners and threatened and killed doctors and nurses."** United States Department of State, Bureau of Democracy, Human Rights, and Labor, 2002 Country Reports on Human Rights Practices: Colombia, pp. 6 & 18 respectively (hereafter cited as 2002 Country Report on Colombia). Emphasis Mine.

In the 2003 Country Report on Colombia, the Department noted that: "Internal armed conflict continued between the Government and terrorist groups, particularly the FARC (Revolutionary Armed Forces of Colombia, the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC). The conflict caused the deaths of between 3,000 and 4,000 civilians during the year, including combat casualties, political murders, and forced disappearances" (p. 1).

**"Guerrillas, particularly the FARC, committed hundreds of unlawful killings. According to the CCJ [Colombian Commission of Jurists], guerrillas were responsible for 427 unlawful killings during the first 9 months of the year, 203 of them massacres.** The MOD [Ministry of Defense] attributed 70 percent of civilian deaths to guerrillas in 2002. The Presidential Program for Human Rights reported that the FARC killed at least 150 persons in massacres, although another 259 persons were killed in massacres in which the perpetrators remained unidentified" (p. 5). Emphasis Mine.

Guerrilla attacks on injured and the medical staffs seeking to help also continued in 2003: "Guerrillas failed to respect the injured and medical personnel. **Both the FARC and the ELN frequently executed wounded prisoners, threatened and murdered doctors and nurses, and killed enemy combatants receiving medical care.** For example, on April 22, ELN combatants entered a medical facility in the town of Fortul, Arauca department, and executed two wounded soldiers. On April 5, FARC guerrillas in Norte de Santander department opened fire on an ambulance carrying a critically ill 6-month-old girl and her family" (p. 15). Emphasis Mine.

Guerrillas also committed acts of torture. "The CCJ reported 10 cases of torture by guerrillas between July 2002 and June; **the bodies of many persons kidnapped and subsequently killed by guerrillas showed signs of torture, and former guerrilla hostages reported severe deprivation, denial of medical attention, and physical and psychological torture during captivity.** The MOD reported that guerrillas tortured, mutilated, and killed soldiers and police who surrendered. In May, for example, FARC guerrillas tortured and killed two police officers they forced off a bus traveling between the towns of Villanueva and Arenal, Bolivar Department" (2003 Country Report on Colombia, p. 8). Emphasis Mine.

151. For its part, the 2004 Country Report on Colombia makes it clear that there has been little if any change in the situation. "FARC and ELN terrorists were responsible for a large percentage of civilian deaths attributable to the internal armed conflict. **Guerrillas, particularly the FARC, committed hundreds of intentional illegal killings and killed and injured hundreds of civilians in random terrorist bombings and landmine incidents. The FARC also continued to kidnap, torture, and murder off-duty members of the public security forces.** The FARC engaged in a concerted campaign to destabilize municipal governments by killing local officials and threatened to execute others. The FARC and ELN kidnapped hundreds of civilians to help finance subversion and put political pressure on the Government. Guerrillas caused mass displacements both intentionally and as by-products of military offensives and engaged in widespread recruitment of child soldiers. The FARC and ELN announced a policy of strategic cooperation to combat the security forces and declared that neither group would enter peace negotiations with the Government. FARC and ELN terrorists threatened and attacked human rights activists. They also engaged in widespread recruitment of minors and used female conscripts as sex slaves" (2004 Country Report on Colombia, p. 2). Emphasis Mine.

152. Scattered throughout the 27-page 2004 Country Report on Colombia are a great number of statements that confirm the fact that the murder, torture, kidnappings, massacres, etc. continue.

In addition to those cited above, for example, one finds the following statements:

"Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings" (p. 2).

"The Jesuit-founded Center for Popular Research and Education (CINEP), a prominent local human rights NGO, claimed there were at least 382 political murders and extrajudicial killings, committed by all actors, during the first 6 months of the year. The Government's Presidential Program for Human Rights reported that 238 persons died in 43 massacres, committed by illegal armed groups, through November, a 49 percent decrease in the number of victims from 2003" (p. 2).

"According to CINEP, state security forces were responsible for 124 extrajudicial killings during the first 6 months of the year" (p. 2).

"There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from civilian leaders, including the



President, and the military high command. Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities" (p. 3).

"Paramilitaries committed numerous political and unlawful killings, primarily in areas they disputed with guerrillas and generally in the absence of a strong government presence. According to CINEP, paramilitaries were responsible for at least 304 such killings during the first 6 months of the year. Paramilitaries targeted journalists, human rights activists, labor leaders, indigenous leaders, local politicians, and others who threatened to interfere with their criminal activities or showed leftist sympathies" (p. 4).

"According to the Presidential Program for Human Rights, 13 persons died in paramilitary massacres as of August, compared with 18 in 2003, 54 in 2002, and 281 in 2001. However, the Colombian Commission of Jurists (CCJ) blamed paramilitaries for far more massacres, reporting that paramilitaries killed at least 46 persons in massacres through August" (p. 4).

"Forced disappearances--many of them politically motivated--continued to be a problem. The law specifically defines forced disappearance as a crime. CINEP reported 65 cases of forced disappearance during the first 6 months of the year, and accused the security forces of direct responsibility for 17" (p. 5).

**"Although the number of kidnappings continued to decline, kidnapping, both for ransom and for political reasons, remained a serious problem.** According to the Presidential Program for Human Rights, there were 1,250 kidnappings through November, a reduction of approximately 42 percent from the 2,200 kidnappings reported in 2003" (p. 5). Emphasis Mine.

"Prominent human rights NGOs complained that the Government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. According to CINEP, the security forces arbitrarily detained over 495 persons during the first 6 months of the year" (p. 8).

"The country's 40-year internal conflict--among government forces, a right-wing paramilitary movement, and two leftist insurgent groups--continued. The internal armed conflict, and the narcotics trafficking that both fueled it and prospered from it, were the central causes of violations of human rights and international humanitarian law. ... However, some members of the security forces violated human rights" (p. 11).

"Some members of the public security forces--principally enlisted personnel and NGOs, but also some more senior officials--collaborated with or tolerated the activities of

illegal paramilitaries. Evidence suggested there were tacit nonaggression pacts between local military officers and paramilitary groups in some regions, and some members of the security forces actively assisted or sought the assistance of paramilitary groups" (p. 11).

"Paramilitaries were responsible for numerous violations of international humanitarian law and human rights. Although estimates varied, there were approximately 12,000 paramilitary fighters in the country. The largest and most influential paramilitary organization was the terrorist AUC, which operated as a loose confederation of disparate paramilitary groups" (p. 11).

"Critics from across the ideological spectrum, including major domestic and international human rights groups, expressed concerns about the legitimacy of the paramilitary demobilization process, the real motivations of the paramilitaries, and the potential for impunity for confessed human rights abusers" (p. 12).

All of the above quotes are from the 2004 Country Report on Colombia.

**153.** The Department of State could not offer any hope of improvement in its 2005 report.

**"The FARC and ELN committed the following human rights violations: unlawful and political killings; kidnappings; forced disappearances; killings of off-duty members of the public security forces; killings of local officials; massive forced displacements; suborning 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; harassment, intimidation, and killings of teachers and union leaders; and use of female conscripts as sex slaves" (2005 Country Report on Colombia, p. 2). Emphasis Mine.**

**"FARC and ELN guerrillas committed unlawful killings, kidnapping civilians and military personnel, displacing populations, and recruiting child soldiers. They killed journalists, religious leaders, candidates for public office and local elected officials and politicians, alleged paramilitary collaborators, and members of the security forces. CINEP reported that guerrillas were responsible for 120 unlawful killings during the first 6 months of the year. The government's Presidential Program for Human Rights reported that, as of June, the FARC killed at least 14 persons in 3 massacres, although another 109 persons were killed in massacres in which the perpetrators remained unidentified." Emphasis Mine.**

"In August a suspected FARC member shot and killed parish priest Jesus Adrian Sanchez in Chaparral, Tolima Department. A taped conversation of a FARC deserter indicated that FARC Eastern Bloc Commander Jorge Briceno ordered the killing."

"On August 15 the ELN attacked a car carrying priests Jesus Emilio Mora and Vicente Rosso Bayona, killing them both. The ELN publicly declared responsibility for the killings on August 19, asking for forgiveness from the families of the victims for having committed an error in attacking the car."

"On December 3, former congressman and governor of Huila Department Jaime Lozada Perdomo was killed. Authorities suspected the FARC's Teofilo Forero Front was responsible. Lozada paid ransom in 2004 to the FARC to release his two kidnapped sons, who had been held for three years. Lozada's wife, Representative Gloria Polanco, was kidnapped by the FARC in 2001 and remained a hostage."

"There were several FARC massacres of public security forces. Reuters reported that, as of September, the FARC had killed 300 members of the public security forces" (2005 Country Report on Colombia, pp. 1-13).

**"The FARC continued to hold political hostages taken in previous years, including former presidential candidate Ingrid Betancourt; former Senator Jorge Eduardo Gechem; former members of congress Orland Bernal, Luis Eladio Perez, Francisco Giraldo, and Consuelo Gonzalez; Congresswoman Gloria Polanco; former Governor of Meta Department Alan Jara; 12 former regional legislators from Valle del Cauca Department; and at least 4 foreign-born persons"** (2005 Country Report on Colombia, p. 14). Emphasis Mine.

**"Guerrillas failed to respect the 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. In March the FARC kidnapped six Caqueta Institute of Health workers who were vaccinating the population of Florencia, Caqueta Department. The FARC released the workers five days later."** Emphasis Mine.

"Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and remove potential government or paramilitary collaborators from strategic zones. **Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example in April the FARC blockaded the town of Toribio, laying landmines on the road to prevent vehicles from delivering food. In August the FARC blockaded major roads in Putumayo, cutting off the delivery of food and supplies. In October the FARC blockaded the border with**

**Venezuela for 23 days cutting off food supplies to the region"**  
(2005 Country Report on Colombia, pp. 15).  
Emphasis Mine.

In addition to the above, there are a huge number of FARC and ELN atrocities listed on pp. 12-15 of the 2005 Country Report on Colombia.

**154.** The guerrillas, particularly the FARC, increased their attacks in 2006.

**"The FARC and the ELN committed the following human rights violations: political killings; killings of off-duty members of the public security forces and local officials; kidnappings and forced disappearances; massive forced displacements; suborning 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; harassment, intimidation, and killings of teachers and trade unionists."** Emphasis Mine.

**"Guerrillas, particularly the FARC, committed unlawful killings. Guerrillas killed teachers, journalists, religious leaders, union members, human rights activists, candidates for public office, elected officials and other politicians, alleged paramilitary collaborators, and members of the government security forces."** Emphasis Mine.

"Renegade paramilitaries, the FARC, and the ELN continued the practice of kidnapping. There were numerous reports that guerrillas killed kidnapping victims."

"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."

"Renegade paramilitaries and guerrillas, particularly the FARC and the ELN, continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as pawns in a prisoner exchange."

"The country's 42-year-long internal armed conflict, involving government forces, a right-wing paramilitary movement, and two leftist insurgent groups, continued although the paramilitary demobilization was concluded during the year. The conflict and the narcotics trafficking that both fueled and prospered from it were the central causes of multiple violations of human rights."

"In many areas of the country, the 12,000-member FARC and the 2,000-member ELN worked together to attack government forces or demobilized paramilitary members; in other areas, especially in Arauca Department, they fought each other. There were an estimated 1,990 guerrilla desertions during the year."

"FARC and ELN guerrillas committed unlawful killings, kidnapped civilians and military personnel, displaced citizens, and recruited child soldiers. They killed journalists, religious leaders, candidates for public office, local elected officials and politicians, alleged paramilitary collaborators, and members of government security forces. The Presidential Program for Human Rights reported that during the year the FARC killed at least 40 persons in seven massacres, although another 143 persons were killed in massacres in which the perpetrators remained unidentified. Examples of representative incidents included the following:

- In early February press reports indicated FARC members killed a family of six in Llanos del Encuentro, Antioquia Department, when they fired on the family's home.
- On February 26, FARC members of the 10<sup>th</sup> Front killed Juan Ramirez Villamizar, governor of the indigenous group Guahibos Makaguan.
- On February 28, FARC members from the 10<sup>th</sup> Front killed teacher Luz Myriam Farias in Tame, Arauca Department, as she returned from recovering the body of her husband, Juan Ramirez Villamizar, who was killed by FARC members two days earlier.
- On March 31, FARC members killed indigenous leader John Jairo Osorio Piraza, while he was on the way to the funeral of indigenous teacher Arcelio Pena Guatico, whom the FARC had killed the previous day.
- On July 24, a specialized judge in Pereira, Risaralda Department, sentenced Norbey Garcia Orozco and Javier Augusto Rendon of the FARC's Teofilo Forero Mobile Column to 36 years for their role in the April killing of Liliana Gaviria Trujillo, the sister of former president Cesar Gaviria.
- On May 13, in Sabana de Torres, Santander Department, the ELN killed six civilians, according to press accounts. Authorities asserted that the massacre was directed against individuals who had failed to alert ELN forces of army presence in the area."

"On January 24, authorities sentenced Lizardo Valderrama Rojas to 11 years in prison for his role in a terrorist attack against CATAM Air Force Base in 2003."

"On March 23, a judge in Antioquia Department sentenced 16 FARC members to 40 years' imprisonment for their role in the 2003

kidnapping and murder of then governor Guillermo Gaviria Correa and his assistant Gilberto Echeverri Mejia."

"On March 7, the Prosecutor General's Office detained a member of the FARC's Teofilo Forero column for his role in a 2005 massacre of city council members and their family members in Campoalegre, Huila Department."

"On April 6, the Prosecutor General's Office detained Manuel Mendoza Rodriguez ('Guzman'), for his role in the 2001 kidnapping and killing of Consuelo Araujo Noguera, former minister of culture."

"Various courts indicted members of the FARC secretariat in absentia on charges ranging from kidnapping and terrorism to aggravated homicide."

"There were several FARC massacres of public security forces. The Presidential Program for Human Rights reported that between January and October, the FARC had killed 391 members of the public security forces and the ELN killed 24.

- "On February 6, FARC members killed six members of a police unit guarding manual eradicators of coca in Sierra Nevada de la Macarena National Park.
- On April 20, suspected FARC members ambushed and killed 17 DAS [Department of Administrative Security] agents and members of an army unit that were pursuing Victor Navarro ('Megateo'), a leader of the People's Liberation Army in Astilleros, Norte de Santander Department.
- On July 4, FARC members in Arenillo, Valle de Cauca, attacked and set fire to a police station, killing six police officers and injuring 10 others.
- On November 1, approximately 450 FARC members from the Fifth, 18<sup>th</sup>, and 58<sup>th</sup> fronts attacked a police station in Tierradentro, Cordoba Department, killing 17 police officers and three civilians. The FARC members allegedly launched their attack from civilian homes."

"The FARC also killed persons it suspected of collaborating with government authorities or paramilitary groups. For example, in July the press reported that FARC members killed 10 agricultural workers whom they suspected of working for paramilitaries in Arquia Limon, Choco."

"According to the government's Tracking, Monitoring, and Evaluation System, 368 demobilized paramilitaries were killed during the year. Unknown gunmen killed the following former AUC members:

- On December 27, former paramilitary leader Salvatore Mancuso's deputy in the Sinu and San Jorge Blocs, Jairo Angarita, killed in Medellin;
- On November 25, former paramilitary leader Don Berna's close associate, Daniel Mejia ('Daniel') disappeared and presumed killed in Medellin;
- On November 19, former paramilitary leader Jorge 40's lieutenant, Jefferson Martinez ('Omega'), killed in the outskirts of Medellin."

" In October the Fourth Criminal court of the Villavicencio Specialized Circuit sentenced three former AUC leaders to 40 years in prison for the kidnapping and summary execution of a fellow paramilitary known as 'Alicate' in 2003."

"According to the Presidential Program for Human Rights, guerrillas committed 646 terrorist acts during the year, compared with 611 in 2005. For example, in February suspected FARC members detonated explosives on a horse-drawn cart outside a police station in Cali, Valle de Cauca Department, killing two civilians and injuring five pedestrians. In April suspected FARC members planted explosives on two public buses in Bogota; the explosions killed three children and injured 17 others. The FARC and ELN continued to commit numerous kidnappings. Fondelibertad reported that during the year guerrillas were responsible for 119 kidnappings (48 percent of those in which a perpetrator was identified); the FARC kidnapped 75 persons; and the ELN 44 persons."

"In May four suspected FARC members kidnapped Claudia Teresa Buenaventura Paredes, daughter of the former secretary general of the Tolima departmental government."

"Kidnapping for ransom remained a major source of revenue for both the FARC and ELN."

"The FARC continued to hold political and foreign-born hostages taken in previous years.

- Taken in 2003: Foreign citizens Marc Gonsalves, Thomas Howes and Keith Stansell; in the same incident, foreign citizen Tom Janis and Colombian Luis Alcides Cruz were killed by the FARC. The FARC did not provide proof-of-life for these hostages during the year.
- Taken in 2002: former presidential candidate Ingrid Betancourt; former senator Jorge Eduardo Gechem; former member of congress Francisco Giraldo, and 12 former regional legislators from Valle del Cauca Department.
- Taken in 2001: former governor of Meta Department Alan Jara and former members of congress Orlando Bernal, Luis Eladio Perez, Gloria Polanco, and Consuelo Gonzalez and at least four foreign-born persons."

"In other cases, the FARC released proof-of-life videos during the year, which stirred debate over the possibility of an exchange of hostages for imprisoned FARC members. The hostages' families, national and international NGOs, foreign governments, and prominent public figures pressured the government to agree with the FARC for an exchange."

"According to the Antipersonnel Landmine Observatory, during the year 1,091 landmine explosions killed 230 persons and injured 861 others; military personnel accounted for 779 of the victims, while 312 were civilians. Guerrillas were responsible for an estimated 59 percent of landmine incidents during the year. Landmine incidents attributed to former paramilitary groups constituted less than 1 percent of the total; those responsible for the remaining 40 percent were not identified."

"Guerrillas failed to respect the 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. In January FARC members stopped an ambulance near Santa Elena, Putumayo Department, stole medicine and equipment, and set the vehicle ablaze."

"In October the FARC attacked an ambulance near Florencia, Cauca Department, and killed the driver. The ambulance was transporting two officials from the San Pablo Hospital in Narino Department."

"Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and remove potential government or paramilitary collaborators from strategic zones. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, in May an indigenous community in the rural district of Bagado, Choco Department, reported that the FARC had imposed a curfew barring community members from traveling to their farms after noon. The community complained of crop and animal losses due to the curfew. In January FARC members illegally detained a WFP [World Food Programme] truck and stole humanitarian food bound for displaced families in Antioquia Department."

"The National Indigenous Organization (ONIC) reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted their freedom of movement, and blockaded their communities."

"In October the IACHR [Inter-American Commission on Human Rights] Special Rapporteur on the Rights of Women reported that 'violence against women is employed as a strategy of war by the actors of the armed conflict' and that they employ different forms of psychological, and sexual violence to 'wound the enemy'



by dehumanizing the victim, injuring her family circle and/or spreading terror in her community'" (2006 Country Report on Colombia, pp. 11-13).

155. Unfortunately for the Colombian people, the FARC grew even stronger and more active in 2007.

**"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.

"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. In many areas of the country, the 9,500-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. Various courts indicted members of the FARC secretariat in absentia on charges ranging from kidnapping and terrorism to aggravated homicide. The entire FARC secretariat was convicted in November in absentia for the 1998 massacre in Billar, Caqueta."

"The Presidential Program for Human Rights reported that during the year the FARC killed at least 17 persons in three massacres, while another 111 persons were killed in massacres in which the perpetrators remained unidentified. There were several FARC massacres of public security forces. The Presidential Program for Human Rights reported that between January and October, the FARC had killed 65 members of the public security forces and the ELN had killed four."

"Representative incidents included:

"January 21: In Buenaventura, Valle de Cauca, the FARC detonated two explosives during a police patrol, killing six persons, including two police officers; 14 others, including six police officers, were injured."

"March 3: Members of the 27th and 43rd FARC fronts attacked army personnel in Guayaabero, Meta, killing seven soldiers and injuring four others. "

"April 14: In Valle de Guamuez, Putumayo, members of the 32nd FARC front detonated an explosive during a police patrol, killing three officers and injuring four others. "

"May 10: In Tulua, Valle de Cauca, members of the Victor Saavedra column of the FARC attacked an army patrol, killing 10 soldiers and injuring 16 others."

"September 3: The ICRC recovered the bodies of 11 departmental legislators killed while being held by the FARC. Although the FARC claimed the 11 hostages were killed in a cross-fire with government security forces in Narino Department on June 18, forensic evidence developed by an international commission and the Prosecutor General's Office indicated the FARC executed them."

"The FARC also killed persons it suspected of collaborating with government authorities or paramilitary groups. According to the government's tracking system, the FARC killed 130 demobilized paramilitaries during the year."

"On March 7, the Prosecutor General's Office detained a member of the FARC's Teofilo Forero column for his role in a 2005 massacre of city council members and their family members in Campoalegre, Huila. Six others were linked to the case, five of whom were captured. Two of those linked to the case were convicted and incarcerated."

#### Abductions

"New illegal groups, paramilitaries that refused to demobilize, and FARC and ELN terrorists continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as pawns in a prisoner exchange. The National Indigenous Organization (ONIC) stated that through July the FARC kidnapped 12 indigenous persons."

"New illegal groups often abducted persons suspected of collaboration with guerrillas, almost all of whom were presumed dead."

"The National Foundation for the Defense of Personal Liberty (Fondelibertad) reported that new illegal group members continued to be responsible for kidnappings during the year, but those numbers were not differentiated from kidnappings due to common crime, since the government statistics considered new illegal groups as criminals. Common crime accounted for 244 kidnappings

(or 61 percent of those in which a perpetrator was identified) during the year."

"The FARC and ELN continued to commit numerous kidnappings. Fondelibertad reported that during the year guerrillas kidnapped 149 persons (38 percent of those in which a perpetrator was identified), the FARC 121 persons, and the ELN 28 persons."

"Kidnapping for ransom remained a major source of revenue for both the FARC and ELN. The FARC continued to hold political and foreign-born hostages taken in previous years, including:

"In 2003: U.S. citizens Marc Gonsalves, Thomas Howes and Keith Stansell. Although the FARC did not provide proof-of-life-for these hostages, military forces seized proof-of-life materials during a November operation."

"In 2002: Former presidential candidate Ingrid Betancourt; former senator Jorge Eduardo Gechem; former member of congress Francisco Giraldo; the former governor of Meta, Alan Jara; and former members of Congress, Orlando Bernal, Luis Eladio Perez, Gloria Polanco, and Consuelo Gonzalez; and at least four foreign-born persons."

"When proof-of-life videos were obtained, debate arose over the possibility of an exchange of hostages for imprisoned FARC members. In December President Uribe agreed to create an encounter zone to conduct negotiations on a humanitarian exchange with the FARC. The FARC rejected the offer but said it would unilaterally release three Colombian hostages, although the initial attempt at year's end was unsuccessful."

#### Physical Abuse, Punishment, and Torture

"According to preliminary reporting from the Presidential Program of Integrated Action Against Anti-personnel Mines, 1,774 landmine explosions killed 187 persons and injured 687 others during the year; 154 of the victims were military personnel, while 33 were civilians. The International Campaign to Ban Landmines stated that the FARC continued to be the largest individual user of landmines and that the ELN also continued to use landmines."

#### Child Soldiers

**"Guerrillas used children as soldiers. The Ministry of Defense estimated that 4,620 FARC members and 1,330 ELN members were minors and that most guerrilla fighters had joined the guerilla ranks as children. Human Rights Watch reported that there were approximately 11,000 child soldiers, stating the percentage of those in the FARC and the ELN had increased**

**relative to those who may have joined new criminal groups."**  
Emphasis Mine.

#### Other Conflict-Related Abuses

**"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. On February 28, members of the Tulio Varon Front of the FARC in Venadillo, Tolima, attacked a marked Red Cross ambulance, injuring a nurse, Maribel Sanabria."**  
Emphasis Mine.

"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."

"Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and remove potential government or new illegal group collaborators from strategic zones. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, ONIC reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted their freedom of movement, and blockaded their communities."

"Paramilitary members who refused to demobilize and new illegal groups continued to displace civilians residing along key drug and weapons transit corridors or suspected of collaborating with guerrillas."

"New illegal groups and FARC and ELN guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although often for political rather than religious reasons (see section 1.g.). The Presidential Program for Human Rights reported that illegal armed groups, especially the FARC, made numerous threats against priests and other religious workers"  
(2007 Country Report on Colombia, pp. 1, 6-8).

**156.** 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, an effeminate gay male? The answer, of course, is that they will indeed torture and murder him.

**157.** Since the beginning of 2003, the violence levels have increased exponentially and the United States has responded in kind. In January 2003, the United States sent dozens of Army Green Berets to assist the Colombian Army (Associated Press, January 17, 2003). The FARC itself responded to these new threats on January 24 by kidnaping five foreigners, three of them journalists. Then the FARC really stepped up its attacks on civilians, first with a deadly bomb attack on Bogotá's most elite club, killing 32 and wounding 160 (*Los Angeles Times*, February 8-10, 2003).

**158.** Later that same month, a massive bomb ripped through a house in Neiva, in the Department of Huila (which borders the Department of Valle del Cauca and the Department of Cauca) that was being searched by the Colombian Army trying to prevent the assassination of President Alvaro Uribe who was due to arrive in a matter of hours (*The San Diego Union-Tribune*, February 15). Then a third massive explosion ripped through a shopping center in Cúcuta on the Colombian-Venezuelan border, killing 7 and wounding 20 (*The San Diego Union-Tribune*, March 6, 2003).

**159.** Meanwhile, the FARC intensified its attacks on military targets as well, including a heretofore unheard of attack on the U.S. military. On February 15, 2003 the FARC shot down a small plane which was on an "intelligence" mission over the very stronghold of the guerrillas. A U.S. civilian and a Colombian Army Sergeant were executed on the spot and three U.S. citizens were seized (*The San Diego Union-Tribune*, February 16. See also Frida Ghitis, "With the U.S. Diverted, Colombia Has Begun to Boil," *Los Angeles Times*, February 19, 2004). As of the beginning of November, 2004, the three U.S. agents kidnaped were still being held by the FARC despite energetic efforts by the U.S. Embassy and government to secure their release (See an update by Andrew Selsky, "Colombian Journalist Gives Account of Rebel-Held Americans," *The San Diego Union-Tribune*, September 13, 2003).

**160.** Despite the President's attempt to crack down on the guerrillas and the right-wing paramilitaries, the violence continued to escalate (see T. Christian Miller, "Violence Soars in Colombia Despite President's Initiatives," *The Los Angeles Times*, April 27, 2003). In May, in a botched attempt to rescue 13 hostages held by the FARC, the guerrillas murdered 10 of the hostages in cold blood (Margarita Martinez, "Colombia Defends Rescue Raid in Which 10 of 13 Hostages Died," *The San Diego Union-Tribune*, May 8, 2003). Then in June and July, the right-wing paramilitaries began to fight not only the FARC and the Government, but themselves as well, leading to even more bloodshed (Rachel Van Dongen, "Paramilitaries Infighting Batters

Delicate Colombian Peace Process," *Los Angeles Times*, June 9; and Ruth Morris, "In Colombia, Peace Talks With Paramilitaries Don't Quell Fear," *Los Angeles Times*, July 21, 2003).

In mid-September, the FARC kidnaped 8 foreign tourists, raising the total of kidnaped persons to over 3,000 in 2003 (Margarita Martinez, "8 Foreign Tourists Seized in Mountains of Colombia," *The San Diego Union-Tribune*, September 15, 2003), and in October, the FARC murdered a candidate for the mayorship of Chivor in the Department of Boyaca, just as they had promised to do in June of 2002. In fact, nearly 160 candidates for state governors, mayors, city council members and state legislators pulled out of the October 26, 2003 elections because of death threats from the FARC (*The San Diego Union-Tribune*, October 5, 2003).

**161.** Since the outbreak of the Iraq war, 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 'pentrators.' 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.

162. 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 has 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.

163. Amnesty International is equally critical in its 2004 Report: "In Colombia as a whole, grave violations of human rights and breaches of international humanitarian law by all parties to the long-running internal armed conflict--the armed forces, army-backed paramilitaries and armed opposition groups--remained widespread. **In 2003, more than 3,000 civilians were killed for political motives and at least 600 'disappeared.'** Around 2,200 people were kidnapped, more than half by armed opposition groups and army-backed paramilitaries. The civilian population continued to bear the brunt of the armed conflict. **The government and security forces stepped up their campaign to undermine the legitimacy of human rights defenders, peace activists and trade unionists. This coincided with paramilitary threats and attacks against their groups. Congress passed legislation granting judicial police powers to the military, thereby strengthening impunity for human rights abuses.** On 15 July, the government signed an agreement on the eventual demobilization of the umbrella paramilitary organization *Autodefensas Unidas de Colombia* (AUC), United Self-Defense Forces of Colombia, following their cease-fire in December 2002. Killings by paramilitaries, however, continued unabated, and

there were fears that they were being incorporated into new legal paramilitary structures" (Amnesty International, Report 2004. United Kingdom: The Alden Press, 2004, p. 107). Emphasis Mine.

**164.** Clearly Amnesty International discerned absolutely no improvement in the situation in 2005

"Negotiations between the government and the United Self-Defence Forces of Colombia, (*Autodefensas Unidas de Colombia*, AUC), an army-backed paramilitary umbrella organization, led to the reported demobilization of over 2,500 AUC combatants in 2004. Serious concerns remained about the process, principally over the issue of impunity, violations of the AUC cease-fire and continuing serious and widespread human rights violations by paramilitaries. The process also raised fears that paramilitaries were being 'recycled' into the conflict."

"AI continued to document strong links between the security forces and paramilitaries. Despite a fall in certain indicators of political violence such as kidnappings and massacres, reports of extrajudicial executions carried out directly by the armed forces increased in 2004. **Cases of 'disappearances' and torture remained high. Civilians were targeted by all sides in the armed conflict-the security forces, paramilitaries and armed opposition groups. In the first half of 2004, at least 1,400 civilians were killed or 'disappeared.'** During the year, around 1,250 people were kidnapped and 287,000 were forced to flee their homes. Hundreds of civilians were subjected to mass and often irregular detentions by the security forces." Emphasis Mine.

"The government continued to make statements equating the defence of human rights with the promotion of 'terrorism.' In December the government pardoned 23 prisoners belonging to the armed opposition group Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, FARC), but the FARC refused to release any of its hostages in return. Talks to initiate peace talks with the smaller National Liberation Army (*Ejército de Liberación Nacional*, ELN) continued. **The FARC and ELN were responsible for serious and widespread breaches of international humanitarian law, including hostage-taking and the killing of civilians**" (Amnesty International, 2005 Report). Emphasis Mine.

**165.** Amnesty International saw no change in 2006.

"Although the number of killings and kidnappings in some parts of the country fell, serious human rights abuses committed by all parties to the conflict remained at critical levels. Of particular concern were reports of extrajudicial executions carried out by the security forces, killings of civilians by



armed opposition groups and paramilitaries, and the forced displacement of civilian communities. Paramilitaries who had supposedly demobilized under the terms of a controversial law ratified in July continued to commit human rights violations, **while armed opposition groups continued to commit serious and widespread breaches of international humanitarian law. Individuals who may have been responsible for war crimes and crimes against humanity were not brought to justice.**" Emphasis Mine.

"The FARC and ELN continued to commit serious and repeated breaches of international humanitarian law, including hostage-taking and civilian killings."

**"On 15 August, the ELN killed two priests and two other civilians on the Teorema-Convención highway in Norte de Santander Department"** (Amnesty International, 2006 Report). Emphasis Mine.

**166.** Given all of the above, it is extremely difficult to discern how the U.S. Department of State could state the following in its 2004 Country Report on Colombia: "During the year, there were significant improvements in several human rights indicators. Killings decreased by 16 percent, terrorist massacres by nearly 50 percent, killings of trade union leaders by 25 percent, kidnappings by 42 percent, and according to government figures, forced displacements by over 37 percent. In November and December, government negotiators succeeded in demobilizing nearly 3,000 fighters from 5 separate AUC paramilitary blocs. Hundreds of municipal officials returned to their municipalities after the Government established a permanent police presence in every urban center in the country" (2004 Country Report on Colombia, p. 2).

Part of the answer comes from the Department of State itself: "The Government and prominent local NGOs tended to differ in their analysis of a serious and complex human rights situation. In particular, government statistics and evaluations of the human rights situation often contrasted with NGO statistics and analyses. These drastically divergent understandings of the human rights situation deepened already profound mutual suspicions."

"Discrepancies between government and NGO statistics partially could be explained by differences in terminology and methodology. For example, the Government defined a massacre as the intentional killing of four or more persons at the same time and place, while NGOs defined a massacre as the deaths of three or more persons. CINEP strictly followed legal conventions that define 'human rights violations' as crimes that only can be committed by the State or state-sponsored actors, which led it to attribute, directly or indirectly, all 'human rights violations'

to the Government. The Government, on the other hand, defined human rights violations to encompass crimes by all illegal armed groups, whether paramilitaries or guerrillas, as well as the State. The Government based its data on information reported to government authorities, supplemented by press reports and confirmable NGO statistics. NGOs, on the other hand, relied primarily on citizen complaints and press reports, which in some cases were difficult to substantiate. The differing reporting techniques resulted in a government tendency to underreport violations and an NGO tendency to overreport violations" (2004 Country Report on Colombia, p. 18).

**167.** Amnesty International offered another explanation: "Some key indicators of politically motivated violence, such as kidnappings and numbers of internally displaced people, fell sharply in 2003. However, this masked some significant regional variations. **The human rights situation in the special security areas, known as Rehabilitation and Consolidation Zones (RCZs), which covered a number of departments, deteriorated during the period these zones were in operation, as did the situation in several conflict zones. Reports of a decline in certain human rights violations coincided with a context in which the work of human rights defenders was made increasingly difficult**" (Amnesty International, Report 2004. United Kingdom: The Alden Press, 2004, p. 107). Emphasis Mine.

**168.** In its 2005 Country Report on Colombia, the U.S. Department of State certainly did take note of the seriousness of the human rights situation in Colombia.

"The 41-year internal armed conflict continued between the government and Foreign Terrorist Organizations, particularly the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and certain blocs of the United Self-Defense Forces of Colombia (AUC) that were not involved in demobilization negotiations with the government. While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted in violation of state policy."

"Although serious problems remained, the government's respect for human rights continued to improve. All actors in the internal armed conflict committed human rights violations; the majority of violations were committed by illegal armed groups. There were improvements in certain human rights categories related to the government's concentrated military offensive and ongoing demobilization negotiations with the AUC. The following human rights categories and societal problems were reported:

- unlawful and extrajudicial killings

- insubordinate military collaboration with paramilitary groups
- torture and mistreatment of detainees
- overcrowded, underfunded, insecure prisons
- arbitrary arrest
- high number of pretrial detainees
- pretrial detainees held with convicted prisoners
- impunity
- an efficient, significantly overburdened judiciary
- harassment and intimidation of journalists
- journalistic self-censorship
- significant internal displacement
- unhygienic conditions at internal displacement campos, with limited access to health care, education, or employment
- corruption
- harassment of human rights groups
- violence against women that was exacerbated by the conflict and displacement, 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
- illegal child labor"

2005 Country Report on Colombia, p. 1.

**169.** The state of human rights in Colombia declined in 2006.

"Although serious problems remained, the government's respect for human rights continued to improve, which was particularly evident in actions undertaken by the government's security forces and in demobilization negotiations with the AUC [United Self Defense Forces of Colombia]. The following society problems and governmental human rights abuses were reported during the year: unlawful and extrajudicial killings; forced disappearances; insubordinate military collaboration with criminal groups; torture and mistreatment of detainees; overcrowded and insecure prisons; arbitrary arrest; 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" (2006 Country Report on Colombia, p. 1).

170. Almost unbelievably, human rights in Colombia were even more precarious in 2007.

"Although serious problems remained, the government's respect for human rights continued to improve, which was particularly evident by progress in implementing the Justice and Peace Law. 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; 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" (2007 Country Report on Colombia, p. 1).

171. After a relatively "slow start" in 2005, FARC sharply increased its attacks in June, 2005. *New York Times* correspondent Juan Forero noted in July that **"Colombia's armed forces still are not large enough to take control of this vast country, where two Marxist rebel groups and a powerful right-wing militia have been battling for four decades. The proof lies in a new wave of rebel attacks. Three hundred soldiers have died just this year, with 25 killed on June 25."** Emphasis Mine.

**"The violence has sent a clear signal that Colombia's largest rebel group, the Revolutionary Armed Forces of Colombia, or FARC, is far from finished"** (Juan Forero, "Increase in Guerrilla Attacks Tests Colombia's Popular President," *The New York Times*, July 3, 2005). Emphasis Mine

172. Then in July, 2005, FARC all but took over the Department of Putumayo. "Marxist rebel attacks have brought a southern Colombian province to a virtual standstill, leading President Alvaro Uribe to promise to move his government there if necessary to restore order. President Uribe sent hundreds of troops to Putumayo, but they were insufficient to halt FARC's occupation."

173. Indeed, the United Nations High Commissioner for Refugees, Jennifer Pagonis, issued a world plea to help the population which was literally stranded between the FARC forces and the Colombian military. "Confining the civilian population in a conflict zone is harming the people of Putumayo and Nariño and we call for their freedom of movement and rights to be respected."

**"The disruption in transportation is leading to a severe shortage of food and other essential items. Prices have skyrocketed in the area. Gasoline and electricity are in short supply following attacks on petroleum installations."** Emphasis Mine.

"We urge all parties to allow persons in the combat zones to move to safer areas and to permit humanitarian workers to reach people in need of assistance. We are working with local authorities to develop and implement a humanitarian assistance plan for the civilian populace. Freedom of movement is essential in order to deliver aid where it is needed" (UN News Service, July 29, 2005).

In fact, the situation became so desperate that the Colombian government was forced to fly food into the area. **"For more than a week, residents of this ramshackle city have been living in fear and deprivation since rebels declared the state of Putumayo in southern Colombia a no-drive zone and began blowing up bridges, electrical towers and oil production facilities."** Emphasis Mine.

"As the crisis deepened, a Colombian Air Force C-130 on Thursday airlifted out 82 stranded civilians from Puerto Asís--Putumayo's main city--after ferrying in 12 tons of food."

"'We are enduring uncertainty,' Julio Rodríguez said as he joined locals crowding the airport gate to watch soldiers unload sacks of rice, sugar and other staples from the yawning belly of the Hercules cargo plane. 'We don't know what's going to happen. For example, we hear the outlawed groups may be surrounding the town. During the night we hear explosions'" (Andrew Selsky, "FARC Blockade Paralyzes State," *The Miami Herald*, July 30, 2005).

174. Meanwhile, as the FARC stepped up its attacks and presence in various parts of the country, President Uribe's highly vaunted plan to disarm and demobilize the rightist paramilitaries (AUC) all but disintegrated when Uribe ordered the police to storm a paramilitary safe haven and arrest the principal AUC leader, Diego Fernando Murillo Bejarano, ejecting him from the year old negotiations. "'The peace process and the

safe haven cannot serve as a paradise of impunity,' the president said in a statement."

"Mr. Murillo, who is better known to Colombians as Don Berna, had for months been a symbol of all that has been wrong with disarmament negotiations with the country's largest paramilitary organization, the United Self-Defense Forces of Colombia."

**"A former underworld assassin, Mr. Murillo has been indicted in New York for extensive cocaine trafficking and was seen by critics of the talks as the leader of a drug-trafficking faction much more involved in the cocaine trade than in fighting Marxist rebels.** Though financed through drugs and extortion, the paramilitaries *raison d'être* has been to erode support for guerrillas by systematically killing their supporters, sometimes in bloody massacres in rural villages" (Juan Forero, "Colombia's Disarmament Talks Thrown into Disarray," *The New York Times*, May 25, 2005). Emphasis Mine.

**175.** During the last few months of 2005 and the first quarter of 2006, the FARC continually demonstrated its ability to strike in small, as well as large-scale attacks. For example, on December 17, 2005, over 500 guerrillas attacked the village of San Marino, about 170 miles west of Bogotá, killing at least five police officers and kidnapping six more. 27 more officers were missing and probably were abducted as well (Dan Molinski, "500 Rebels Attack Village in Western Colombia, Killing at Least Five Police Officers," Associate Press, December 18, 2005).

Then on December 26, 2005, FARC guerrillas attacked a column of Colombian Army troops near Vista Hermosa, 105 miles south of Bogotá, killing at least 24 (Dan Molinski, "Rebel Attack Kills 23 Colombian Soldiers," *The Miami Herald*, December 27, 2005).

On February 11, 2006, there was a violent clash between Colombian Army troops and FARC guerrillas in which at least nine army troops and 35 guerrillas died ("Fighting Kills 44 People in Southwest Colombia," *China View*, February 12, 2006).

**176.** Then in a campaign reminiscent of tactics it employed in 2005, the FARC imposed a traffic ban in southern Colombia to protest President Uribe's announcement that he would seek a second presidential term.

"Guerrillas of the Revolutionary Armed Forces of Colombia, or FARC, have already torched three trucks and a school bus that defied the ban, said Pedro Aguilar, head of the Colombian Truck Drivers Association.

"We have 1,000 trucks paralyzed in southern Colombia due to the armed traffic ban," he said."

"Aguilar urged the government to regain control of the region, adding that the trucking industry is losing \$177,000 per day as food rots and drivers pass the days sleeping in hammocks tied to their rigs."

"The FARC on Thursday began circulating fliers and making anonymous calls to radio stations, warning that any commercial or personal vehicles on the region's highways would be burned."

"More than 1 million of Colombia's 44 million people are affected by the ban, which spans parts of the southern states of Putumayo, Caqueta, Meta and Guaviare, a region where the rebels have long exercised considerable control."

"Meanwhile, gasoline is practically impossible to buy in Putumayo State, which borders Ecuador, said government spokesman William Vargas."

"Mocoa (the capital city of Putumayo) is all out of gasoline. There's no transport, and the few vehicles that travel on the highways are doing so at their own risk," Vargas said" (Javier Baena, "Rebels' Traffic Ban Cutting Off Food, Gasoline Supplies," *The Miami Herald*, February 21, 2006).

**177.** Then on February 27, 2006, FARC guerrillas attacked a hotel and killed seven town council members in an apparent attempt to sow terror and threaten the legislative elections which were held in March, 2006.

"Twelve men, armed and dressed in camouflage, broke into a recreational center known as Los Gabrieles in the town of Rivera and shot dead seven of the eight council members present and injured a policeman and two other civilians, National Police spokesman Sgt. Alberto Cantillo said."

"This is a terrible thing, but it's the FARC's strategy to impede elections, to create panic so that no one wants to campaign in the areas where they have influence," political analyst León Valencia added" (Steven Dudley, "Seven Council Members Killed," *The Miami Herald*, February 28, 2006).

**178.** Finally, in April, 2006, the UN High Commissioner for Refugees (UNHCR) announced that there was another massive crisis arising out of continued clashes between the FARC and the Colombian military.

"The UN High Commissioner for Refugees (UNHCR) has rushed personnel the town of Sanchez to help the municipality deal with the crisis, especially in terms of providing protection. Since the start of the year, more than 4,000 people have been forced to flee their homes in Nariño."

"Since last Friday, more than 1,400 people have left their homes in remote, mountainous settlements in northern Nariño to take refuge in the village of Sanchez, UNHCR spokesman Ron Redmond told a news briefing in Geneva. They say they fled because of air-to-ground fighting between army helicopters and members of an irregular armed group encamped in the mountains."

"The situation in Sanchez itself is now getting under control after a very difficult first few days when local authorities struggled to find shelter, food and drinking water for the newcomers," he said" (UN News Service, April 28, 2006).

**179.** The Administration of George W. Bush has been one of President Uribe's strongest supporters, even to the extent of publically backing a very controversial law (approved June 22, 2005) which human rights groups says lets paramilitary killers and drug traffickers off the hook if they surrender. "The Justice and Peace Law, an underpinning of President Álvaro Uribe's goal of pacifying Colombia, was hailed by government officials as a way to lay the groundwork for removing one of the three illegal armed groups battling in Colombia. 'We are proud of this instrument,' said Luis Carlos Restrepo, the country's peace commissioner." Please see also, Amnesty International, "Colombia: New Report Reveals Paramilitary Demobilisation Strategy is a Deadly Illusion," news release, September 2, 2005.

"But congressional leaders say that in exchange for disarming up to 20,000 fighters, paramilitary commanders are shielded from serious punishment or extradition on drug charges to the United States."

"This is a law that brings no justice, no peace," said Senator Jimmy Chamorro. 'It should be called what it really is, a law of impunity and immunity'" (Juan Forero, "New Colombian Law Grants Concession to Paramilitaries," *The New York Times*, June 23, 2005).

In fact, in a serious reversal for the United States anti-drug policies, this very law was subsequently used to deny a United States extradition request. "Colombia has decided not to extradite a known right-wing paramilitary leader to the United States, where he is wanted on drug trafficking charges. Instead, Diego Murillo will remain in Colombia on the orders of President Alvaro Uribe, *El Tiempo* reported Friday" ("AUC Leader to Remain in Colombia," UPI, September 30, 2005).



180. Despite this and other setbacks, the Bush Administration has continued to offer its full support to the Uribe government. In fact, President Uribe flew to the President's ranch in Crawford, Texas on August 2, 2005 for talks. President Bush not only agreed to extend Plan Colombia (a U.S.-funded offensive against guerrillas and drug traffickers), but also promised to continue helping Colombian authorities ground or even shoot down planes suspected of transporting drugs. "The program was put on hold in 2001 when a small plane carrying American missionaries was shot down over Peru. Bush resumed surveillance flights over Colombia on an annual basis in August 2003, but the program still remains on hold in Peru."

"The Colombians are working to minimize the loss of innocent life, Bush said Wednesday in a memo" (*The Miami Herald*, "U.S. to Continue Aiding Colombian Air Patrol," August 18, 2005). See also: Pablo Bachelet, "Uribe Pitches Peace Plan to Bush," *The Miami Herald*, August 5, 2005; Michael Hedges, "Bush, Uribe Confer on Trafficking," *The Houston Chronicle*, August 5, 2005; and an editorial in *The Los Angeles Times*, "Standing by Colombia," August 3, 2005.

181. 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 2003, the Department of State noted: "Economic growth for the year [2003] was estimated at 2.5 percent, while inflation measured 6.5 percent. Income distribution was highly skewed, with 55 percent of the population living in poverty. Unemployment fell to 14.5 percent; however, per capita GDP also fell to \$1,704 (4.7 million pesos)" (2003 Country Report on Colombia, p. 1).

The data for 2004 is hardly better: "Economic growth for the year was estimated at 3.8 percent, while inflation measured 5.5 percent. Income distribution was highly skewed, with 59 percent of the population living in poverty" (2004 Country Report on Colombia, p. 1).

In addition, the wage scale was woefully inadequate: "The monthly minimum wage, set by tripartite negotiations among representatives of business, organized labor, and the Government was approximately \$140 (358,000 pesos). **Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation. The national minimum wage did not provide a decent standard of living for a worker and family. An estimated 47 percent of workers earned wages that were insufficient to cover the costs of the Government's estimated low-income family shopping basket**" (2004 Country Report on Colombia, pp. 26-27). Emphasis Mine.

**182.** Although the Department of State changed its format for reporting economic conditions in its 2005 Country Report on Colombia, the data is still very revealing:

"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 \$167 (380 thousand pesos). **The national minimum wage did not provide a decent standard of living for a worker and family**" (2005 Country Report on Colombia, pp. 27). 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).

**183.** Economic conditions worsened in 2006.

"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).

**184.** Increasing violence in 2007 impacted the economic situation in 2007.

"The government establishes a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, which is negotiated among representatives of business, organized labor, and the government, was approximately \$205 (433,700 pesos), a 6.3 percent increase from the previous year. If the negotiation process fails to reach agreement, the government 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."

"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. 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, claimed they often continued working in hazardous conditions because they feared losing their jobs if they criticized abuses. However, the flower growers' association recently implemented voluntary principles on environmental and worker safety and reduced use of pesticides by more than 60 percent" (2007 Country Report on Colombia, p. 15).

**185.** In its 2007 The World Factbook (updated on June 10, 2008), 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 8 percent of the total income while the top 10 percent receive 35 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).

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

187. Moreover, the human rights record of the Colombian government is hardly one which would endear it to the citizenry of the nation, an absolute *sine qua non* in any guerrilla war (see Loveman and Davies, Che Guevara on Guerrilla Warfare, pp 3-37). In its 2003 Country Report on Colombia, the U.S. Department of State stated: "The Government's human rights record remained poor; however, there were significant improvements in some areas. An increasingly small percentage of total human rights abuses reported were attributed to security forces; however, **some members of the security forces continued to commit serious abuses, including unlawful and extrajudicial killings. Some members of the security forces collaborated with the AUC terrorist group that committed serious abuses.** Allegations of forced disappearances and kidnappings remained. Police, prison guards, and military forces mistreated detainees. Conditions in the overcrowded and underfunded prisons were harsh, and prisoners frequently relied on bribes for favorable treatment. There were allegations of arbitrary arrests and detentions and prolonged pretrial detention remained a fundamental problem. **Impunity remained at the core of the country's human rights problems.** The civilian judiciary was inefficient, severely overburdened by a large case backlog and undermined by corruption and intimidation. Despite some prosecutions and convictions, **the authorities rarely brought high-ranking officers of the security forces charged with human rights offenses to trial**" (p. 1). Emphasis Mine.

188. It is difficult to discern much improvement in the 2004 Country Report on Colombia. "Although serious problems remained, the Government's respect for human rights improved in some areas. While nongovernmental organizations (NGOs) claimed that the security forces's share had increased, the percentage of total human rights abuses reported attributed to security forces was low; however, **some members of the security forces continued to commit serious abuses, including unlawful and extrajudicial killings and forced disappearances. Some members of the security forces continued to collaborate with the terrorist AUC, which committed serious abuses.** Police, prison guards, and military forces mistreated detainees. Conditions in the overcrowded and underfunded prisons were harsh, and prisoners frequently relied on bribes for favorable treatment. There were allegations of arbitrary arrests and detentions, and prolonged pretrial detention remained a fundamental problem. **Impunity remained at the core of the country's human rights problems. The civilian judiciary was inefficient,** severely overburdened by a large case backlog, and undermined by corruption and intimidation. Despite prosecutions and convictions of some members of the security forces, no high-ranking officers were convicted of human rights offenses." Emphasis Mine.

**"The authorities sometimes infringed on citizens' privacy rights. Three journalists were killed during the year, and**

journalists continued to work in an atmosphere of threats and intimidation, primarily from terrorist groups, but also in some instances from corrupt local officials. Journalists practiced self-censorship to avoid reprisals. There were some restrictions on freedom of movement within narrowly defined geographic areas, generally because of security concerns." Emphasis Mine.

"Violence and instability displaced at least 137,000 civilians during the year, and the total number of internally displaced persons (IDPs) may have exceeded 2 million, including 800,000 children. There were reports that members of the security forces harassed members of human rights groups. Violence and extensive societal discrimination against women, child abuse, and child prostitution remained serious problems. Trafficking in women and girls for the purpose of sexual exploitation was a problem. Extensive societal discrimination against indigenous persons and minorities continued. Child labor was a widespread problem" (2004 Country Report on Colombia, p. 1). Emphasis Mine

189. Torture continued to be a frightening problem all over the country. In its 2003 Country Report on Colombia, the U.S. Department of State declared: "The Constitution and criminal law explicitly prohibit torture, and cruel, inhuman, or degrading treatment or punishment; however, there were reports that the police, military, and prison guards sometimes mistreated and even tortured detainees. ... In November, the U.N. Committee against Torture expressed 'concern over the large number of cases of torture and mistreatment allegedly committed in a generalized and habitual manner by state security forces and bodies...both in and out of armed operations'" (2003 Country on Colombia), p. 8. Emphasis Mine.

190. The 2004 Country Report on Colombia continues to report massive torture by all parties: "The Constitution and criminal law prohibit such practices; however there were reports that the police, military, and prison guards sometimes mistreated and even tortured detainees" (p. 7).

"CINEP reported that, as of June 30, paramilitaries were responsible for at least 44 cases of torture" (p. 7).

"Guerrillas also committed acts of torture. The bodies of many persons kidnapped and subsequently killed by guerrillas showed signs of torture, and former guerrilla hostages reported severe deprivation, denial of medical attention, and physical and psychological torture during captivity. The Ministry of Defense reported that guerrillas tortured, mutilated, and killed captured soldiers and police. CINEP reported 5 cases of torture by guerrillas as of June 30" (p. 7). Emphasis Mine.

191. 2005 did not see any improvement. Under the section entitled "Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment," the U.S. Department of State noted:

**"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 are tried in civilian, rather than military, courts. CINEP asserted that, as of June, security forces were involved in 25 incidents of torture, a 67 percent decrease compared with the first 6 months of 2004. CINEP also reported that during the first 6 months of the year there were 97 victims of torture: 5 victims resulting from abuse of authority and social intolerance by 'direct and indirect' state agents; 75 victims resulting from political persecution by direct and indirect state agents; and 17 victims resulting from political persecution or social intolerance when the perpetrator was unknown. Of these victims, 66 victims implicated the armed forces." Emphasis Mine.

"For example CINEP reported that in January troops accredited to the army's Mobile Brigade arbitrarily detained and tortured Ferney Vargas Hernandez in Cartagena de Chaira, Cauca Department. The troops accused Vargas of being a guerrilla sympathizer."

"In February authorities indicted three police officers for torturing and killing Edison Watsein in Medellin, Antioquia Department in 2002" (2005 Country Report on Colombia, p. 4).

192. Torture remained a serious problem in 2006.

"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, as of June, government security forces were involved in 40 incidents of torture, a 50 percent increase compared with the first six months of 2005. CINEP also reported that during the first six months of the year there were 32 victims of torture by the armed forces. On January 25, a group of soldiers allegedly tortured army conscripts at a training center in Tolima. The Prosecutor General's Office investigated five officers, nine noncommissioned officers, and one soldier in the case and placed six of them in preventive detention. They were all under indictment."

"CINEP reported that on February 1, soldiers assigned to the 40<sup>th</sup> Battalion Heroes de Santuario tortured Mario Varela in Puerto Rico, Meta Department."

"In February CINEP alleged that army soldiers tortured William Alberto Idagarra Agueirre in Arauquita, Arauca Department."

"A judgment was pending in the civilian judicial system against three police officers for the 2002 torture and killing of Edison Watsein in Medellin, Antioquia Department" (2006 Country Report on Colombia, p. 4).

**193.** Colombian citizens continued to be tortured in 2007.

"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, as of June, government security forces were involved in 74 incidents of torture, a 46 percent increase compared with the first six months of 2006. CINEP also reported that, during the first six months of the year, there were 66 victims of torture by the armed forces. On June 27, authorities detained three army officers for involvement in the torture of 27 soldiers in Tolima."

"On February 9, army troops and local police allegedly arbitrarily detained and abused an indigenous person, Nasa Jimi Vladimir Ascue, in Toribio, Cauca. He was held in a local police station, where he was accused of being a member of a local militia, beaten, and pressured to sign a statement that he was not mistreated before his release. The investigation ordered by the Prosecutor General's Office had not begun by year's end."

"On March 11, in Barrancabermeja, Santander, National Police officers allegedly detained and tortured local unionists Ariel Corzo Diaz, an officer of the National Assembly of the Union Sindical Obrera (USO), and Fredy Hidalgo, the USO's local attorney. At year's end the Prosecutor General's Office had not opened an investigation in the case."

"According to CINEP, on June 25, in the municipality of Tulua, Valle, troops of the army's Third Brigade arbitrarily detained, sexually abused and tortured farmers Viviana Herminia Mosquera, Maria Eugenia Mosquera, Alcibiades Granada Mosquera, Fair Granada, and Gerson Ladino Suarez and looted their property. The Prosecutor General's Office did not open an investigation in the case" (2007 Country Report on Colombia, p. 2).

**194.** Human rights violations were also common in the nation's prison system: "With the exception of new facilities, prison conditions remained harsh, especially for prisoners without significant outside support. Many of INPEC's 8,906

prison guards and administrative staff were poorly trained or corrupt. Severe overcrowding and dangerous sanitary and health conditions were serious problems. Private sources continued to supplement most prisoners' food. INPEC spent an average of approximately \$1.50 (3,870 pesos) per day per inmate on food, education, and health care. ... In other facilities, inmates paid to eat, drink, sleep on a mattress, wash clothes, or make telephone calls, and many were forced to pay protection money to fellow inmates or corrupt prison guards. According to INPEC, overcrowding was the prison system's most serious problem. As of September, the country's prisons and jails held 68,240 inmates, almost 30 percent over their intended capacity of 49,645. ... On October 18, local press reported that the medium- and high-security prisons in Valledupar, La Dorada, and Giron faced water shortages, affecting approximately 5,000 inmates. During the year, inmates at the Dona Juana Prison in La Dorada, Caldas Department went on a hunger strike to protest the lack of water" (2004 Country Report on Colombia, p. 7). Emphasis Mine.

195. The situation certainly did not improve in 2005.

"With the exception of new facilities, prison conditions were poor, particularly for prisoners without significant outside support."

"Many of INPEC's [National Prison Institute] 8,757 guards and administrative staff were poorly trained or corrupt. Overcrowding, insecurity, corruption, and an insufficient budget continued to be serious problems. As of March there were more than 69 thousand prisoners held in spaces designed to accommodate fewer than 50 thousand, an overcrowding rate of nearly 40 percent. In 13 institutions overcrowding exceeded 100 percent, and in Bucaramanga's penitentiary, where more than 2 thousand prisoners lived in a space designed for 664, the rate surpassed 200 percent. INPEC representatives estimated that nine thousand guards would be needed to provide adequate security. The Committee in Solidarity with Political Prisoners (CSPP) noted a decrease in corruption resulting from improved training, increased supervision, and more accountability for prison guards." Emphasis Mine.

"Budget problems affected prisons in many ways. At Combita Prison lack of money to pay sanitation fees led to water rationing. During the year INPEC spent approximately \$2 (4,990 pesos) per day on each inmate for food. Private sources continued to supplement many prisoners' food. CSPP reported that the doctor to patient ration was as low as 1 to 1,200 in some institutions and noted that INPEC failed to negotiate a nationwide healthcare contract for all its facilities." Emphasis Mine.



"Authorities sometimes failed to prevent deadly violence among inmates. INPEC reported that from January to June, there were 20 violent deaths among inmates related to fighting and riots. In March a fight between inmates at Villahermosa jail in Cali resulted in two deaths. During this period there were 56 escapes, including 44 because of security failures and 1 with the aid of outside assistance."

**"Inmates typically rioted to force changes in administrative policies. From January to June there were 28 riots at various institutions motivated principally by inmates' attempts to force changes in administrative policies, including acts of civil disobedience and hunger strikes motivated by poor water quality, mistreatment by guards, and changes in medical assistance. For example in April inmates at Modelo Prison in Barranquilla, Magdalena Department staged a protest that evolved into a riot. Prisoners protested the poor quality of food and overcrowding. The prisons was built to hold 493 inmates but held 781. The regional human rights ombudsman met with the inmates to discuss their situation. The prosecutor general's office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally" (2005 Country Report on Colombia, pp. 4-5). Emphasis Mine.**

**196.** Prison conditions certainly did not improve in 2006.

"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. Although part of the ministry of Interior and Justice, INPEC has an independent budget and administrative decentralization."

"Many of INPEC's 14,000 prison guards and administrative staff were poorly trained, and overcrowding, lack of security, corruption, and an insufficient budget continued to be serious problems. As of July more than 62,000 prisoners were held in space designed to accommodate fewer than 52,000, an overcrowding rate of nearly 18 percent, an improvement compared with nearly 40 percent overcrowding in 2005. In five institutions the number of prisoners was more than twice the designed capacity, and in Itagui's penitentiary, more than 5,000 prisoners lived in a space designed for 2,000. The Committee in Solidarity with Political Prisoners (CSPP) noted a continued decrease in corruption resulting from improved training, increase supervision, and more accountability for prison guards."

"Budget problems affected prisons in many ways. At Combita Prison lack of money to pay sanitation fees led to water rationing. An October report by the Inspector General's Office

on Combita Prison found violations of health standards, such as lack of potable water and a proliferation of insects and rodents. During the year INPEC spent approximately two dollars (4,990 pesos) per day on each inmate for food. Private sources continued to supplement many prisoners' food. CSPP reported that there were up to 1,200 patients per doctor in some institutions."

"INPEC reported that from January 1 to August 31, there were nine violent deaths among inmates that were related to fighting and riots. From January to August, there were 11 riots at various institutions, which were sparked principally by inmates' internal fights; demands regarding working rights, food, and health care; and rebellion against prison discipline. The Prosecutor General's Office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally. There was no information available on prosecutions."

"Pretrial detainees were held with convicted prisoners."

"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.

"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. Although part of the ministry of Interior and Justice, INPEC has an independent budget and administrative decentralization."

"Many of INPEC's 14,000 prison guards and administrative staff were poorly trained, and overcrowding, lack of security, corruption, and an insufficient budget continued to be serious problems. As of July more than 62,000 prisoners were held in space designed to accommodate fewer than 52,000, an overcrowding rate of nearly 18 percent, an improvement compared with nearly 40 percent overcrowding in 2005. In five institutions the number of prisoners was more than twice the designed capacity, and in Itagui's penitentiary, more than 5,000 prisoners lived in a space designed for 2,000. The Committee in Solidarity with Political Prisoners (CSPP) noted a continued decrease in corruption resulting from improved training, increase supervision, and more accountability for prison guards."

"Budget problems affected prisons in many ways. At Combita Prison lack of money to pay sanitation fees led to water rationing. An October report by the Inspector General's Office on Combita Prison found violations of health standards, such as lack of potable water and a proliferation of insects and rodents.

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"Pretrial detainees were held with convicted prisoners."

"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" (2006 Country Report on Colombia, p. 4).

**197.** The of the nation's prisons was even worse in 2007.

"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 141 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 September, more than 62,600 prisoners were held in facilities designed to hold fewer than 52,600; overcrowding rates exceeded 66 percent in 11 installations. Many of INPEC's 8,881 prison guards and administrative staff were poorly trained; The NGO Committee in Solidarity with Political Prisoners (CSPP) noted a continued decrease in corruption in the prison system resulting from improved training, increased supervision, and more accountability for prison guards."

"Constrained budgets adversely affected prison conditions. An October report by the Inspector General's Office on Combita Prison found violations of health standards, such as a lack of potable water and a proliferation of insects and rodents. INPEC spent \$2.23 dollars (4,459 pesos) per day on each inmate for food. Private sources continued to supplement food rations of

many prisoners. CSPP reported that there were 315 patients per doctor in the prisons."

"INPEC reported that, from January 1 to July 31, there were seven violent deaths among inmates related to fighting and riots. From January to July, there were 11 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 Supreme Judicial Council, there were no 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" (2007 Country Report on Colombia, p. 2).

**198.** 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.

**199.** 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."

**200.** 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**

	<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	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)

**201.** These incredible levels of violence show no signs of abating. On the contrary, 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 one more victim of the senseless killing if he is deported back to Colombia.

**202.** Moreover, President Uribe's prestige and popularity recently suffered a serious blow, something he can not afford in his 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.

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.

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.

**203.** 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.

**204.** 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.

**205.** 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).

**206.** 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).

**207.** 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).

**208.** 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).

**209.** 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.

**210.** 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.

**211.** 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.

**212.** 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.

**213.** 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.

**214.** 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."

**215.** 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.

**216.** 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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## 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.