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AS ENACTED IN THE MILITARY CONSTRUCTION APPROPRIATIONS

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COLOMBIA 60 DAY HUMAN RIGHTS REPORT

In Colombia, the civilian-led Ministry of Defense is responsible for internal security and oversees both the armed forces and the National Police, although civilian management of the armed forces is limited. The security forces include armed state law enforcement, investigative, and military authorities, including the National Police, army, air force, navy, marines, coast guard, the Administrative Department of Security (DAS), and the Prosecutor General's Technical Corps of Investigators (CTI). The army, air force, navy, marines, coast guard, and National Police fall under the direction of the Minister of Defense. The DAS, which has broad intelligence gathering, law enforcement, and investigative authority, reports directly to the President, but is directed by a law enforcement professional. The police are charged formally with maintaining internal order and security, but in practice law enforcement responsibilities often were shared with the army, especially in rural areas.

The Attorney General's office (Procuraduria) investigates misconduct by public officials, including members of the military and police. Its constitutional mandate only provides for the imposition of administrative sanctions; it has no authority to bring criminal prosecutions. Although the Attorney General's office may refer cases to the Prosecutor General's office for investigation and prosecution, it regularly fails to do so. The Attorney General's Office can draw upon a nationwide network of hundreds of government human rights investigators covering the country's 1,085 municipalities. However, since it cannot impose criminal sanctions, it is incapable of adequately punishing human rights abusers.

The Supreme Court elects the Prosecutor General (Fiscal) for a 4-year term, which does not coincide with that of the President, from a list of three candidates chosen by the President. The Prosecutor General is tasked with investigating criminal offenses and presenting evidence against the accused before the various judges and tribunals. However, this office retains significant judicial functions and, like other elements of the civilian judiciary, it is struggling to make the transition from a Napoleonic legal system to a mixed one that incorporates an adversarial aspect.

As you will see, the status of a number of cases in the Colombian judicial system is, at the present time, unclear to us. Over the next six months, as we continue to implement our Plan Colombia supplemental, we expect to acquire more comprehensive, detailed information on the status of these cases and include this information in the next report.

A description of the extent to which the Colombian Armed Forces have suspended from duty Colombian Armed Forces personnel who are credibly alleged to have

committed gross violations of human rights, and the extent to which such personnel have been brought to justice in Colombia's civilian courts, including a description of charges brought and the disposition of such cases.

At the present time the Colombian Armed Forces have only limited authority to dismiss from duty Armed Forces personnel credibly alleged to have committed gross violations of human rights or to have aided/abetted paramilitary groups. Currently only officers with 15 years or more of service may be removed. A proposed reform of the military career personnel statutes, which is expected to be enacted by decree prior to September 14, 2000, would create the authority to dismiss officers with less than 15 years of service. Non-commissioned officers will continue to be subject to removal for cause by a senior military commander.

Military commanders and the Attorney General's Office (Procuraduria) have the legal authority to suspend members of the armed forces as a preventative or disciplinary measure. For example, in the case of the August 15, 2000 killing of six schoolchildren reportedly mistaken for a guerrilla patrol by a group of soldiers, approximately 25 soldiers were taken off active duty pending results of both military and civilian investigations. More commonly, soldiers or officers have been suspended, usually by order of civilian authorities, after formal criminal charges were brought against them. Examples include Lt. Colonel Jesus Maria Clavijo Clavijo, suspended in March 2000 after being arrested on charges of paramilitary collaboration and involvement in "social cleansing" killings. In April 1999, Brigadier General Jaime Uscategui was ordered suspended for 90 days by the Procuraduria for his alleged involvement in the July 1997 paramilitary massacre at Mapiripan, Meta.

In many other cases, however, military personnel were not relieved of their regular duties while under either military or civilian formal investigation. In some cases, an officer has remained at his post pending the outcome of his appeal, even after the first instance finding (initial judicial finding) was against the officer. It is not clear how often military commanders exercise their suspension authority.

The Procuraduria human rights delegate has ordered 136 sanctions against military personnel since January 1997. The nature and details of these sanctions are not available. According to the Ministry of Defense, in 1999, 207 public force members were sanctioned by the military justice system for violations of human or fundamental rights.

Military investigations in most cases proceeded slowly. The military judiciary announced no new developments in investigations against Brigadier General Fernando Millan (now retired) for complicity in arming a paramilitary group in Lebrija, Santander in 1997. The Superior Judicial Council (CSJ) had turned Millan's case over to the military justice system in October 1998, effectively ending the Prosecutor General's investigation. In September 1999, military proceedings against several officials on charges arising out of the 1988 Nueva Segovia massacres were dropped, although civilian court convictions of some of the same personnel were upheld in April of that year.

Nevertheless, the Government of Colombia has demonstrated an increased willingness to remove from duty security force officers who failed to respect human rights, or ignored or were complicit in abuses committed by paramilitary groups, or otherwise failed to meet performance standards. President Pastrana has forced the retirement of several general officers. In addition, on April 9, 1999 President Pastrana formally retired from service Brigadier Generals Fernando Millan and Rito Alejo del Rio; both had links to paramilitary groups. On August 30, 1999, the government relieved of command three top regional security force commanders - Brigadier General Alberto Bravo Silva (commander of the army's 5th Brigade), the departmental police chief, and the head of the regional Department of Administrative Security (DAS) - for failure to act to prevent an August 20-22 massacre, one of a series which took place in the Tibu area over the

previous months. In September 1999, General Bravo Silva was separated from service on orders of President Pastrana. According to the Colombian Ministry of Defense, 32 members of the Armed Forces were separated from service in 1998 and 1999 for presumed human rights violations. During that same period the military justice system also discharged 65 police officers.

The military high command, under the leadership of Defense Minister Luis Fernando Ramirez and General Fernando Tapias, stated repeatedly that it would not tolerate collaboration between military personnel and paramilitary groups. However, security force actions in the field were not always consistent with leadership positions. In one instance elements of the Fourth Brigade claimed to have killed two guerrillas who in fact were leaders of the Socialist Renewal Current (CRS) kidnapped and murdered by paramilitaries the previous day. Senior military officials also expressed concern over civilian investigations of their colleagues. Credible allegations of cooperation with paramilitary groups, including instances of both silent support and direct collaboration by members of the armed forces, in particular the army, continued. In some instances, individual members of the security forces actively collaborated with members of paramilitary groups- passing them through roadblocks, sharing intelligence, and providing them with ammunition. The Civilian Criminal Procedure Code authorizes restriction to base as an acceptable substitute for imprisonment when military prisons are unavailable. Escape from such confinement has often proven not to be difficult.

The civilian justice system took an aggressive role in investigating military violations of human rights. The Constitutional Court ruled in 1997 that certain crimes committed by the military, including certain gross violations of human rights, could not be considered acts of service, and therefore should be tried in civilian courts. This interpretation was not always accepted by the civilian Supreme Judicial Council (CSJ), which has responsibility over jurisdictional disputes. In July 2000, however, a CSJ decision to send a human rights case to military jurisdiction was overturned by the Constitutional Court, which instructed the CSJ to reconsider its previous ruling. The CSJ ultimately sent the case to civilian jurisdiction. The Supreme Military Tribunal reports that from 1997 to July 2000, 864 cases were transferred from military to civilian jurisdiction in accordance with the 1997 decision (365 cases from the army, 29 from the air force, 150 from the navy, and 320 from the police). However, it is unclear how many of those cases involve human rights violations.

During 1999 the human rights unit of the Prosecutor General's office reported 303 ongoing criminal proceedings against members of security forces, 465 proceedings against members of paramilitary groups, 149 proceedings against guerrillas and 86 proceedings against civilians. The unit arrested 248 persons in the course of the year, and other state entities arrested a further 87 persons against whom the unit had cases outstanding.

The Attorney General and Prosecutor General often launched investigations parallel to, and sometimes in competition with, each other's or the military's investigations. The results were sometimes confusing, but their actions demonstrate a commitment on the part of civilian investigative agencies to pursue the truth. For example, in April 2000 the Attorney General dropped its administrative investigation into charges that Col. (ret.) Jorge Plazas had been involved in the killing of Benjamin Khoudari; the Prosecutor General's office continued its criminal investigation nonetheless. As noted above, civilian courts sentenced one police officer and four army officers to 18 years in prison for complicity (while clearing others of involvement) in the 1988 Nueva Segovia massacres, even as the military closed its investigation. A civilian court absolved Col. (ret.) Hernando Navas Rubio of involvement in the same massacre in August 2000; Navas was previously absolved from involvement by a civilian court in a 1987 massacre of merchants in Magdalena Medio.

In April 1999 the Attorney General suspended Brigadier General Jaime Uscategui from his post for 90 days in connection with the 1997 paramilitary massacre at Mapiripan. The Prosecutor General ordered Uscategui's arrest on May 20, 1999. Uscategui surrendered at an army school where he was held pending trial on Prosecutor General charges of multiple aggravated homicide by omission, aggravated kidnapping by omission, and falsification of public documents. Uscategui's resignation letter was accepted by the President in August 1999, to become effective January 2000. However, on August 10, 1999 the CSJ ruled that Uscategui's case should be tried in military courts; in November Uscategui was released after the maximum pre-trial 180 days of detention because the military investigation had not proceeded. Also in November the Attorney General ordered Uscategui removed from service for dereliction of duty in the October 1997 judicial convoy massacre at San Juan de Arama, Meta; this rendered Uscategui's previous resignation null and void. One other defendant (Lieutenant Colonel Hernan Orozco) in the Mapiripan case was remanded to military justice; another nine military, paramilitary and civilian defendants were in detention awaiting trial in civilian courts at the end of 1999. According to press reports, Brigadier General Uscategui and Lt. Colonel Orozco were remanded to a first instance military hearing by Air Force General Velasco in 2000.

Uscategui was one of five Army generals under investigation by the Attorney General in mid-2000. Four generals, including Uscategui, and a lieutenant colonel were under investigation for failing to protect residents of Puerto Alvira, Meta from a May, 1998 paramilitary attack. General Bravo Silva and four other officers were under investigation for failure to act to prevent the August 21-22, 1999 massacre in the areas of Tibu and La Gabarra.

An assessment of the efforts made by the Colombian Armed Forces, National Police and Attorney General to disband paramilitary groups, including the names of Colombian Armed Forces personnel brought to justice for aiding or abetting paramilitary groups and the names of paramilitary leaders and members who were indicted, arrested and prosecuted.

The Government of Colombia has increasingly tried to integrate efforts to confront paramilitaries while admittedly giving priority to attacking guerrillas, who often present a more direct threat to military, police, infrastructure and civilian installations. The government's efforts encompass the inclusion of paramilitary massacres in the cases which the Vice-President's Office monitors in order to ensure full and vigorous investigation. They also include the creation of a "search block" ("bloque de busqueda"), or specialized military force designed to target paramilitaries, as well as a Coordination Center for the Fight Against Illegal Self Defense Groups formed in February 2000. By September of this year, however, it was not clear if these entities, were in fact operational or whether they had contributed to a more effective effort against paramilitaries, especially given the increase in paramilitary massacres nationwide.

As of July of this year, the human rights unit of the Fiscalía had 139 investigations, 33 plea bargains in process, 281 indictments, 475 detainees bound over for trial, 212 detainees, and 301 total warrants against paramilitaries. Among those arrested were Mario James Mejia, charged with leading a February 28 Barrancabermeja massacre; eight persons associated with the AUC paramilitary group for the 1997 murders of two CINEP workers; paramilitary leader Reynel Gomez Correa in connection with the 1994 "Trujillo II massacre;" and Adolfo Upegui Lopez, also implicated in the CINEP crime although arrested under other charges. Adan Rojas Ospino and Arnoldo Segundo Meza, both close associates of Carlos Castano and key figures in the AUC, were captured in February 2000. In June 2000 six members of a paramilitary organization were sentenced to 40 years prison each for complicity in at least ten homicides, according to press reports.

According to the Ministry of Defense, public security forces including the Prosecutor General's technical police (CTI) captured a total of 556 members of paramilitary groups and killed more than 26 during 1999. According to the Vice President's office, state security forces captured 188 members of paramilitary groups between January and September 1999 and killed 37 during the same period.

Outstanding arrest warrants for paramilitary notables including AUC leader Carlos Castano, Alvaro Noriega, Juan Carlos Gonzalez Jaramillo and many others raised questions, since Castano made himself available to journalists for two lengthy interviews in 2000 but apparently eluded justice and security officials. Moreover, the increase in paramilitary massacres, including a series of three brutal massacres in Northern Colombia in February, and paramilitary attacks against guerrilla emplacements including ELN headquarters in July 2000 led many to question the government's commitment to confronting paramilitaries. Allegations and evidence of collaboration between individual members of the military and paramilitaries, as discussed in the first section above, contributed to doubts about the government's intentions.

A description of the extent to which the Colombian Armed Forces cooperate with civilian authorities in investigating and prosecuting gross violations of human rights allegedly committed by its personnel, including the number of such personnel being investigated for gross violations of human rights who are suspended from duty.

During the Pastrana administration there has been a gradual, but steady, improvement in the cooperation between civilian authorities and the Colombian Armed Forces in the investigation, prosecution, and punishment in the civilian courts of military personnel who are credibly alleged to have committed gross violations of human rights. More remains to be done. However, President Pastrana has demonstrated his government's commitment to human rights in several ways, including the dismissal of four generals (Fernando Millan, Jaime Uscategui, Rito Alejo del Rio, Alberto Bravo Silva) and numerous mid-level officers and NCOs for collaboration with paramilitaries or for failure to confront them aggressively. The military high command, under the leadership of Defense Minister Ramirez and General Tapias, stated repeatedly that it would not tolerate collaboration between military personnel and paramilitary groups. However, security force actions in the field are not always consistent with this policy.

The human rights unit of the Prosecutor General's Office (Fiscalia) investigated, indicted, or prosecuted 303 security force members during 1999, including at least 12 officers, on a variety of charges including homicide, torture, and sponsorship of paramilitary groups. The Attorney General's Office (Procuraduria) and the security forces demonstrated a greater willingness during the year to comply with instructions from civilian authorities that those ordered arrested be removed from their duties, denied the right to wear a uniform, or turned over to civilian judicial authorities.

The military judiciary has demonstrated an increased willingness to turn cases involving security force officers accused of serious human rights violations over to the civilian judiciary. However, civilian authorities, including the Prosecutor General, have expressed concern over the number of security force personnel who have escaped from military confinement while awaiting trial in civilian courts.

A description of the extent to which attacks against human rights defenders, government prosecutors and investigators, and officials of the civilian judicial system in Colombia are being investigated and the alleged perpetrators brought to justice.

The Prosecutor General's Human Rights Office generally has responsibility for

investigating crimes against human rights defenders, union members, journalists and religious workers. The sheer number of the crimes, the difficulty of investigating them, and the reluctance of witnesses to testify because of limited protection options make investigation and prosecution extremely difficult. In March 2000, for example, seven members of the Prosecutor General's technical police (CTI) were abducted by paramilitaries. In 1998 two CTI members were killed by ELN guerrillas. Nonetheless, the Prosecutor General's Human Rights Office is generally credited with conducting aggressive, painstaking investigations that, when circumstances permit, can bring strong cases to the justice system for determination. As of July 2000 the Unit had over 800 open investigations, 22 percent of which involved paramilitaries (however, 55 percent of the cases were unattributed). Included in these investigations are the 1999 murders of journalist and human rights activist Jaime Garzon, National University professor Jesus Bejarano, local ombudsman Carlos Arturo Pareja, CSPP members Everardo de Jesus Puerta and Julio Ernesto Gonzalez, and others. In the Garzon case the suspected hitmen are in custody; a warrant has been issued for paramilitary leader Carlos Castano in connection with the case.

Cases in which there was progress include the September 1998 killing of human rights activist Jesus Maria Valle. Ten persons went on trial in June 2000 for that crime.

The Colombian Vice President's Office oversees human rights policies, and the Vice President chairs a committee that reviews the protection needs of individuals associated with human rights, the labor movement, or other civil society groups. This committee, in conjunction with the Ministry of Interior and the Department of Administrative Security (DAS), oversees a \$4.3 million fund for protection of human rights advocates and labor activists associated with 88 NGOs or union movements. The funds were dedicated to security measures for individuals as well as for the headquarters of the NGOs, an emergency radio network, and funding for travel abroad for particularly threatened individuals. However, NGOs complained that needs by far outweighed the resources available, and criticized the government for being too slow to disburse what assistance was available.

An estimate of the number of civilians displaced as a result of the "push into southern Colombia", and actions taken to address the social and economic needs of these people.

There is a possibility of increased numbers of Internally Displaced Persons (IDPs) resulting from the increased counterdrug activity within Colombia. It is difficult to predict what the numbers will be, but for planning purposes, we are estimating that 3,000 families and 15,000 day pickers may need alternative support in CY2001.

To counter this problem, our assistance package includes targeted funding for humanitarian assistance for those affected, as well as alternative development assistance to help growers switch to licit crops and other legal enterprises.

Funding is also included to support civil society in peri-urban areas in order to anchor internally displaced people living there.

It is important to note, however, that the ongoing Paramilitary-guerrilla confrontations in Putumayo have created displacement even before the Government's effort was launched. In fact, the Advisory Committee for Human Rights and Displacements (CODHES), a Colombian NGO, reported in 1999 that about 4,500 residents were displaced from seven urban areas in Putumayo.

A description of actions taken by the United States and the Government of Colombia to promote and support a negotiated settlement of the conflict in Colombia.

President Pastorens has made bringing an end to Colombia's civil strife through a peace

President Pastrana has made bringing an end to Colombia's civil strife through a peace agreement with the various insurgent groups a central goal of his administration. Peace negotiations between the Government of Colombia and the largest guerrilla group, the Revolutionary Armed Forces of Colombia (FARC), have been ongoing and informal discussions with the National Liberation Army (ELN) have begun. The U.S. Government believes that ending the civil conflict and eliminating ~ll of that conflict's harmful side effects is central to solving Colombia's multi-faceted problems. A peace agreement would stabilize the nation, help Colombia' s economy to recover and allow for further improvement in the protection of human rights. A successful peace process, in concert with counterdrug efforts, would also restore Colombian government authority and control in the drug producing regions.

To support the peace process, the United States will help train government negotiators and advisors on managing conflict and negotiating. This training will draw on the lessons learned in Northern Ireland, the Middle East, and Central America and will use techniques for reintegrating ex-combatants into civil society.

The Administration's support for the Government of Colombia has been stated publicly numerous times at all levels of the U.S. Government. As President Clinton stated on January 11 when he announced the supplemental package, "Today I am sending an urgently needed request to Congress for funding to assist Colombia in vital counter-drug efforts aimed at keeping illegal drugs off our streets. It will also help Colombia promote peace and prosperity and deepen its democracy." The Secretary of State hailed the package as ... a major initiative in support of Colombian President Pastrana's plan for achieving peace, fighting crime, promoting prosperity and improving governance throughout his country." The Secretary also confirmed that we have a profound interest in helping Colombia to achieve these closely linked goals" and that "we will continue to encourage Colombian authorities to take appropriate action against violators of human rights whether. those violators are military, paramilitary, guerrilla or just plain criminal."

These public statements in support of the Government of Colombia are in addition to the many made by various other United State Government officials in numerous congressional testimonies, speeches, and public statements.

Most recently, President Clinton publicly declared his support for the peace process at various times during his August 30 trip to Cartagena. He reaffirmed this support during his television address to the Colombian people and during the joint press conference with President Pastrana, Speaker Hastert, and Senator Biden where President Clinton stated, "I reaffirmed to the President our support for the peace process. The people of Colombia have suffered long enough, especially in the area of human rights. No good cause has ever been advanced by killing or kidnapping civilians, or by colluding with those who do. Insurgents and paramilitaries alike must end all human rights abuses, as must the security forces themselves."



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