

A negotiated political settlement and democracy:

The way forward for Colombia¹

Colombia urgently needs to defend and strengthen the rule of law,² a negotiated political settlement to the internal armed conflict and full guarantee of human rights and humanitarian law. These elements are the surest way forward in the search for peace and democracy. Consequently, we support international cooperation that reinforces initiatives in agreement with these principles. Such initiatives should not contravene norms of human rights or humanitarian law, nor attempt to dismantle the rule of law nor encourage war and the escalation of the conflict, thus worsening a terrible humanitarian crisis.

I. Our organisations' assessment of the causes and nature of the crisis in human rights and humanitarian law and of the armed conflict

For many years, Colombia has suffered a serious political and social crisis reflected in the high levels of socio-political violence,³ a crisis aggravated by an internal armed political and military conflict. The solution to this crisis should be the culmination of a political negotiation with the participation of civil society and include solutions to political, social and economic problems. In this conflict, the guerrillas, paramilitary groups and state agents

often perpetrate actions against the civilian population in violation of human rights. Political assassination, enforced disappearance, murder of socially excluded people, torture, kidnapping, rape,⁴ the use of non-conventional weapons, attacks on protected personnel such as the staff of medical missions, forcible displacement and many other forms of socio-political violence have been part of the Colombian reality for many years and have increased alarmingly during the last decade. One very clear aspect of the gravity of this situation is the murder of trade unionists, which has cost the lives of “more than one thousand five hundred alone in the past decade”, as Parliamentary Under-Secretary at the British Foreign Office, Bill Rammell, stated during his recent visit to Colombia.⁵ The consequences of the crisis continue to be felt. Between July 2002 and June 2003, an average of more than 19 persons a day were murdered, forcibly disappeared, or killed in socio-political violence. Another aspect of this grim reality is that the great majority of these crimes go unpunished.⁶

One of the causes of this crisis, in which human rights violations have been massive and generalised, is the deterioration of the social and economic situation of most of the population. The inequity, exclusion and poverty in which the great majority of the country's inhabitants live – and most especially women, girls and boys, small farmers, Afro-Colombians and indigenous people – are an obstacle to their full enjoyment of human rights. The dominant economic model excludes such groups and in the last decade there has been a downward trend in social indicators. The Gini coefficient, which measures concentration of wealth, increased from 0.54 in 1980 to 0.58 in 2001, placing Colombia above the Latin American average.⁷ Fifty-two per cent of income is concentrated in 20% of the wealthiest homes, while 60% of the population lives below the poverty level.

The population living in extreme poverty has increased during the last ten years from 20% to 23%.⁸ Approximately 8 million rural inhabitants (69% of this population group) live below the poverty level, of whom more than 4 million live in extreme poverty.⁹ Over 57% of landowners with plots of less than 3 hectares own 1.7% of the total rural land, while 0.4% of landowners have estates of over 500 hectares and own 61.2% of total rural land.¹⁰ Peasant organisations indicate that out of 120,000 families who have benefited from agrarian reform, 70,000 have been forcibly displaced from their lands. Sixty per cent of the displaced population is made up of peasant families.

Inequality and injustice especially affect those sectors of the population that have historically suffered discrimination.

Women, for example, constitute nearly 52% of the total population and represent 54% of the population living in poverty.¹¹ The fact that 80% of the Afro-Colombian population lives in extreme poverty¹² is an indication of the racial segregation and exclusion of ethnic minorities. The unemployment rate ten years ago was 11% and is now 16% while health care coverage reached only 53% of the population in 2002 – a decrease of 4.6% since 1997.¹³ The Ombudsman's Office has indicated that nearly 3 million children of school age, 21.5% of the total child population, do not go to school.¹⁴ The present development model has also created an environmental crisis through decline in levels of biodiversity, the destruction of eco-systems and an increase in pollution throughout the country.

These elements of inequity, discrimination and social exclusion, as well as the absence of institutional mechanisms for dealing with difference, are closely related to the generation and duplication of conflicts such as that in Colombia. As the United Nations High Commissioner for Human Rights stated, in order to confront terrorism, armed conflict and violence in general, it is necessary to implement not only short-term but also structural measures, confronting the causes of insecurity, among them oppression and discrimination. The High Commissioner reminded us of the commitments assumed by states in the 1993 Vienna Declaration and Programme of Action, founded on a broad-based, universal focus on human rights and requiring states to grant equal importance to all rights, whether civil, political, economic, social, or cultural. She also said that extreme poverty and discrimination continue to be among the major causes of human insecurity.¹⁵

II. Our organisations' assessment of solutions to the crisis

Colombia is facing an indefinite prolongation of its internal armed conflict in the midst of a serious humanitarian and human rights crisis. This is accompanied by a deterioration of social and economic conditions for the majority of the population and a reversal in political policy. Such changes tend to restrict democratic freedoms and are aimed to dismantle the building of a social, democratic rule of law and acknowledging human rights as enshrined in the 1991 Constitution.

The government proposes forming a "community state", in which state functions are transferred to communities, without

giving them the mechanisms or resources to perform them, especially in the area of security. This undermines essential elements of the rule of law, such as the independence of the judiciary and acknowledgment and guarantees of human rights and fundamental freedoms, while annulling specific judicial measures for the protection of such rights. The government is proposing reforms in the following areas:

- limiting the powers of the Constitutional Court;
- restrictions in the use of citizens' rights to serve an injunction (*tutela*), particularly in cases of economic, social and cultural rights;¹⁶
- granting judicial police powers to the armed forces such as the power to detain people and to intercept communications without a court order;¹⁷
- an end to the independence of the judiciary vis-à-vis the Executive.

Many of these reforms are being proposed despite repeated international opposition to them.¹⁸

Labour, pension, fiscal and tax reforms, as well as restructuring public enterprises initiated during the past year have affected the conditions of the Colombian population unfavourably and workers in particular and have led to the loss of an important part of the public domain through liquidation and privatisation. These reforms have been based on agreements reached by the government with the IMF (International Monetary Fund) and have ignored the state's obligation to progressively guarantee economic, social and cultural rights. Other reforms, such as the National Environmental System reforms, centralise and tend to privatise environmental management and to decrease present holdings. There is no acknowledgment of the need to confront inequity and respect international human rights and humanitarian law, including ILO (International Labour Office) accords and recommendations, as well as the precepts of humanitarian law, as a basis for achieving peace and sustainable development.

The failed peace talks promoted by the previous government resulted in a shift from peace to war, reaching its zenith with the increasingly debased violence of the guerrillas and the paramilitaries and the policies of the current government. A political, negotiated settlement has slipped further away and today all participants in the conflict are committed to the war without taking account of the social, economic, humanitarian, cultural and political costs for the people. Threats, murder and

forced displacement of local authorities, the diversion of public resources, the restriction of citizens' political freedom are all practiced by the guerrillas and the paramilitaries and represent a grave threat to the very foundations of the social, democratic state of law.

The war is also encouraged by the bellicose international environment, the internationalisation of the conflict and by the US government's unconditional support of President Álvaro Uribe's "democratic security" policy. This support takes the form of additional military resources, an increase in the number of military advisors and greater involvement in the conflict. The government's policy of internationalising the conflict encourages multilateral intervention.

The "democratic security" policy, the axis of the National Development Plan, is based on the co-responsibility of the state and its citizens in matters of security.¹⁹ It goes against the Constitution of Colombia and contravenes recognised principles of international human rights law. Under it, the population does not have any rights, nor does it receive state protection but is considered primarily an instrument of war. The militarisation of the state has resulted in persecution of diverse social sectors, such as trade unionists, community leaders, women's organisations, human rights defenders and the poor living in areas of guerrilla activity.

Although, on several occasions, the government has declared it is promoting a security policy that respects human rights, the truth is that a fundamental axis of this policy is disregard for the distinction between combatants and civilians. The government's banner programme, the creation of a national civilian informers' network "under the control, supervision, and evaluation of military and police commanders and State security bodies", is evidence of such disregard.²⁰

President Uribe has declared that he does not believe that the principle of distinction between combatants and civilian population is valid in Colombia. In his opinion, everyone in Colombia is a combatant, there is no internal political conflict and the civilian population not only has the right but also the obligation to support the armed forces and to join their ranks as combatants. The distinction between combatants and civilians, as established in international law, demands respect for civilians' rights in armed conflict. Rather than being an impediment to the development of state policies or recognition of dissident armed groups, it is a principle that generates obligations for all armed groups: the guerrillas, armed forces and paramilitaries. There is

an obligation on all of these to respect civilians and to distinguish them from non-combatants, so that unarmed citizens do not become victims of the war.²¹

In this climate peace talks and a negotiated political settlement to the conflict are marginal or almost non-existent in government policy. Although negotiations with the paramilitary groups have begun, they are hardly transparent. Therefore, it would be difficult for the state to prevent paramilitaries who have abandoned their weapons from continuing the conflict – but now in a legally recognised manner – for example, by joining the informers' network or among the ranks of the peasant soldiers.²²

Of equal concern is the fact that the government has proposed these negotiations without any guarantees that war crimes and crimes against humanity will be punished. Decree 128 of 2003, permits granting a pardon to demobilised combatants, by the simple fact of abandoning their weapons. The only exemption is for those being prosecuted for grave crimes against human rights and humanitarian law. As a result, perpetrators of human rights violations and humanitarian crimes who do not face prosecution – the majority of cases – can be pardoned or receive an amnesty.²³ This policy of reinstatement ignores the state's obligation to guarantee the rights of victims of serious violations of human rights and humanitarian law to truth, justice and reparation. Further, the President has announced that from 20 July 2003 he will promote a law granting parole to those responsible for grave crimes against human rights. Reinstatement has become a substitute for direct negotiations with the guerrillas as well as a means to promote individual desertion and denunciation; the result is to extend the conflict instead of ending it.²⁴

Impunity continues to be of great concern as it permits crimes against human rights and humanitarian law to continue. The current National Prosecutor General has cancelled the advances that the Human Rights Unit achieved in the past, creating additional grounds for impunity.²⁵

Likewise, it is essential to address seriously the humanitarian catastrophe of the immense numbers of people forcibly displaced every day in Colombia due to the conflict, the aerial spraying of illicit crops or the actions of companies that prioritise their business interests over the well-being of people living in the territories where they are involved. The government must develop a formal policy to prevent forced displacement and provide protection for internally displaced people. It must also respond to the population affected by these actions and facilitate their return and the restitution of their property.

Further, in the document “*Una coalición mundial por la paz*” (A world coalition for peace),²⁶ the government proposes “to do away with the distorted view of the Colombian reality that international public opinion has”. In the context of the conflict and the climate of persecution in Colombia today, this statement runs the risk of seeking to sideline social, peace, and human rights organisations and their analysis of events in the country along with their denunciation of human rights violations and breaches of humanitarian law. It is also of great concern that the government’s security and defence policy document states that “it is in the interest of the government and NGOs to ensure outlawed persons are not allowed to use the resources of these organisations, which has occurred in some cases; fortunately they are the exception”.²⁷ The apparently careful tone of this comment does not fully hide the prejudiced attitude of the government towards NGOs and other social and community organisations, as evidenced by the persecution and arbitrary confinement of several of their members.

To summarise, government policy is based on:

- non-compliance with agreements entered into with the international community in the area of human rights and humanitarian law;
- disregard for the principle of distinction between combatants and the civilian population;
- failing to seek a negotiated political settlement;
- the absence of policies aimed at confronting inequity and exclusion as a basic requirement for peace and democracy in Colombia.

In short, government policy further harms the civilian population, aggravates the humanitarian and human rights crisis and worsens social inequity.

III. The type of cooperation Colombia needs

A. General criteria

Achieving citizen security is a valid goal for any government. However, security cannot be understood as an objective that conflicts with protection of human rights and the consolidation of democracy.

As it should be, one of the pivotal points of European and Canadian aid to Colombia has been respect for human rights,

humanitarian law and democratic structures. Likewise, we must appreciate the positive role that the UN has played in its attempt to obtain compliance with such goals. The government must direct its actions and policies to following UN recommendations, not undermining the UN's work. It must give material support, not just verbal support, to the efforts of the UN in Colombia.

At the same time, we draw attention to the inappropriateness of assistance to the military as this encourages more human rights violations. A condition of all military cooperation should be verification that the government and the armed forces fully respect the norms of human rights and humanitarian law and that legal procedures are in place to prevent or penalise all abuses that occur.

B. Proposals

Based on the above, we, the civil society organisations who have signed this document, make the following proposals:

- 1. Development cooperation is essential to strengthen the establishment of the rule of law with full respect for human rights and humanitarian law, as a strategy for building peace.** Along these lines, we propose that a condition of all cooperation provided to the Colombian government be compliance with the recommendations of UN human rights bodies and Inter-American human rights organisations, as well as respect for the rule of law. Cooperation should aim to strengthen mechanisms to monitor full and timely compliance with these recommendations.
- 2. Cooperation must support the search for peace.** We propose that cooperation for peace be aimed at creating and implementing a *public peace policy* with clear strategies for the whole of society. All those who perpetrate acts of violence must participate in peace talks and negotiations, bearing in mind the need to strengthen UN input to restore international governmental support. In this way there is a possibility of seeking peace with the guerrillas and other combatants based on the sincere commitment of all parties involved.

All peace negotiations must be public and include civil society in discussing negotiation models, while observing the principles of transparency and truth. They must be based on an integral respect for human rights and humanitarian law, both as a means and as an end. In order

to compel armed groups to respect humanitarian law, it is also essential they enter into humanitarian agreements.

We propose encouraging regional and local peace initiatives, humanitarian dialogue, citizen participation and social accords such as departmental and municipal constituent assemblies, peace laboratories and specific proposals for the south Colombian region. A condition of European support for the peace laboratories²⁸ should be an end to forced displacement and guaranteed safety for the public, community organisations and their leaders, as well as strengthening local and regional capabilities. To be successful, this must be founded on respect for human rights and there must be a guarantee that in these areas there will be no “peasant soldier” or informer programmes as these will only aggravate the conflict and increase forced displacement and attacks on civilians.

3. **Cooperation must overcome impunity.** A condition of cooperation must be that the Colombian state guarantees a full, independent, impartial investigation of violations of human rights and humanitarian law, with an end to contacts between state agents and members of paramilitary groups and a guarantee of independence and autonomy for the judiciary.

Any dialogue with armed groups, including paramilitary groups, must be based on respect for, and guarantee of, the right of victims and their relatives to truth, justice and reparation in cases of grave violations of human rights and humanitarian law. Likewise, all policies aimed at reinstatement must be for the purpose of ending the war, not merely transforming it by involving demobilised persons in other war tactics, such as informer networks or “peasant soldiers”. To verify that peace talks move in this direction, we propose the formation of an international group to make the necessary recommendations and oversee the negotiation process.

4. **Cooperation to achieve an authentically democratic security policy.** We support truly democratic security policies that include all combatants and guarantee the basic needs of all. A policy of genuinely democratic security means that all citizens can be confident the state guarantees their rights and clearly observes the distinction between combatants and civilians. Military operations must be limited to engagements between combatants, they must

not be aimed at controlling or attacking the civilian population.

5. **Cooperation to respond to the humanitarian crisis.** All cooperation efforts in this area must be conditional on the existence of an effective policy to prevent forced displacement. It must protect communities and address all the causes of the crisis. At the same time, it must be based on full respect for the international rights of refugees.

Given the magnitude and gravity of forced movements or displacement, cooperating countries could unite to support the UN Humanitarian Action Plan as a complementary mechanism to the state's responsibility as well as support for national and international civil society efforts to provide such assistance. These countries should insist that the Colombian government provide full guarantees for humanitarian relief operations, allowing affected communities to receive aid without restriction. Combatants must accept the independence and impartiality of such assistance and it is essential the armed forces do not interfere with humanitarian assistance.

6. **Cooperation to protect and strengthen ethnic groups, the peasant sector and promote agrarian reform.** We propose incorporating a formal policy for the farming and livestock sector and especially for small farmers. This policy will guarantee food security and food sovereignty and strive to conserve and preserve the ancestral territories of native Indian, Afro-Colombian, and peasant communities, by protecting their rights and traditional cultures. It must also take into account the proposals of the organisations which signed the Agrarian Mandate. There must be political acknowledgment that the peasant population, Afro-Colombians and native Indian tribes have specific rights and are distinctive social groups with a unique identity – a just recognition of their significant, indispensable contribution to Colombia. Also, agrarian holdings seized during the armed conflict must be returned to their owners.
7. **Cooperation that takes gender into account.** We propose that cooperation should promote public care policies for the various groups of organised women and for female victims of the Colombian conflict. These policies must have a specific, positive focus that favours the victims, recognises the particular needs of distinct population groups and guarantees justice against gender inequalities.

- 8. Cooperation for sustainable development and protection of the environment.** We propose that development policies be founded on dialogue with communities, local authorities and civil society organisations. Policies to confront drug trafficking must aim to replace fumigation with manual eradication and include agreements with communities for alternative development projects which take into account the social causes which encourage illicit crops. Specifically, there must be programmes to benefit more than 300,000 people who are involved in some way with coca leaf crops. They are not criminals but the weakest link in the drug chain. We propose forming an international commission of experts to evaluate anti-drug strategies and alternative development policies. In addition, agreements on preferential tariffs for product merchandising are required, with clear, democratic, sustainable rules for peasants and producers.
- 9. Cooperation for strengthening civil society.** Democratisation must begin by strengthening and legitimising civil society, while respecting its differences. Respecting means not stigmatising or boycotting the work of organisations and groups which express their dissidence to the government. Furthermore, direct bilateral cooperation with civil society organisations such as trade unions, groups for peace, for peasants, for women, for native Indian tribes and for Afro-Colombians must be preserved, as well as the different expressions of social and ethnic diversity in our country; they all carry out activities which strengthen community organisations and networks.

IV. Follow-up mechanism

For the purpose of facilitating a serious dialogue in the area of cooperation, we propose establishing a permanent mechanism and follow-up on such dialogue by means of a discussion agenda and schedule. This mechanism must take into account local and regional processes for peace and democracy. In this way, we can contribute to building and strengthening local and regional democracy, as well as promoting citizen participation in the different public decision-making fora.

In conclusion, we believe that international community support and cooperation are an indispensable contribution to helping Colombia overcome the grave crisis of human rights and

humanitarian, social, environmental, and democratic law we are suffering. The international community must ensure that its cooperation and valued efforts are not wasted in backing policies aimed at internationalising the conflict. To do so would disregard a negotiated political settlement, the rule of law, international recommendations on human rights issues and the principle of distinction set forth in humanitarian law. Development cooperation directed to Colombia should be based on the UN member states' agreements: in other words, their commitment to base the search for peace and security on full respect for human rights and humanitarian law, beginning with respect for the principle of distinction between civilians and combatants and on a negotiated political settlement.

List of signatory organisations

Asamblea Municipal Constituyente de Mogotes; Asamblea Municipal Constituyente del Huila; Asamblea Municipal Constituyente del Tolima; Asamblea Permanente de la Sociedad Civil por la Paz; Asociación Campesina Integral del Atrato Medio –HACIA; Asociación Colombiana de la Reforma Agraria y Reactivación Agropecuaria –ACBRA (Cundinamarca, Huila, Caquetá, Santander, Nariño, Risaralda, Valle del Cauca, Tolima); Asociación de Afrocolombianos Desplazados –AFRODES; Asociación de Chicos con Futuro; Asociación de Cooperativas y Empresas Solidarias del Huila –ASOCOPH; Asociación de Desarrollo Integral Comunitario –ADEICOM; Asociación de Ganaderos y Agricultores del Meta; Asociación de Proyectos Comunitarios; Asociación de Trabajo Interdisciplinario –ATI; Asociación Nacional de Mujeres Campesinas, Indígenas y Negras de Colombia –ANMUCIC; Asociación Nacional de Usuarios Campesinos –ANUC –UR; Asociación Nacional de Usuarios Campesinos Putumayo; Asociación para la Promoción Social Alternativa –MINGA; Asoda; Benposta –Nación de Muchachos Colombia; Casa de la Mujer; Central Unitaria de Trabajadores –CUT; Centro Cristiano para Justicia, Paz y Acción Noviolenta –Justapaz-; Centro de Investigación y Educación Popular –CINEP; Comisión Colombiana de Juristas –CCJ; Comisión Intereclesial de Justicia y Paz; Comité de Integración del Macizo Colombiano –CIMA; Comité de Solidaridad con los Presos Políticos –CSPP; Comité Permanente de Derechos Humanos; Confederación de Trabajadores de Colombia –CTC; Confederación General de Trabajadores Democráticos –CGTD; Consejo Comunitario Mayor de la Asociación Campesina Integral del Río Atrato –COCOMACIA; Consejo Comunal de Juventudes de Ibagué; Consejo de Planeación Local de Santa Fe –CPL; Consejo Nacional Campesino –CNC; Consejo Nacional de Planeación –CNP; Consejo Regional Indígena del Cauca –CRIC; Consultoría para los Derechos Humanos y el Desplazamiento –CODEES; Cooperativa de Mujeres

-COOMUJER- Norte de Santander; Coordinador Nacional Agrario - CNA; Coordinación de Derechos Humanos de Barranquilla; Coordinación Costa Norte; Corporación AVRE - Apoyo a Víctimas de Violencia Socio-política pro Recuperación Emocional; Corporación Cactus; Corporación Comunal; Corporación Ecofondo; Corporación Educativa Alfa; Corporación Mujeres y Economía; Corporación Nuevo Arco Iris; Corporación Observatorio para la Paz; Corporación Región; Corporación Semillas de Agua; Corporación Social para la Asesoría y Capacitación Comunitaria -COS-PACC; Corporación Sunahisca; Corporación Unidades Democráticas para el Desarrollo -CEUDES; Corporación Viva la Ciudadanía; Convergencia Campesina, Negra e Indígena de Colombia - CNI; Enda América Latina; Federación Acción Campesina Colombiana -ACC-; Federación Nacional de Cooperativas Agropecuarias - FENACOA; Foro Nacional por Colombia; Foro Interétnico de Solidaridad Choecó; Fundación Cultura Democrática; Fundación Dos Mundos; Fundación Hemera; Fundación Horizontes de Libertad; Fundación Menonita Colombiana para el Desarrollo - MENCOLDES; Fundación Mujer Arte y Vida; Fundación Nueva República; Fundación Penca de Sábila; Fundecima; Iglesia Presbiteriana de Barranquilla; Instituto de Mujeres Populares -IMP; Indepaz; Iniciativa de Mujeres por la Paz - IMP; Instituto Sindical María Cano - ISMAC; Instituto Popular de Capacitación -IPC; Liga Internacional de Mujeres por la Paz y la Libertad; Mesa Permanente de Organizaciones Sociales del Tolima; Movimiento Comunal; Movimiento de los Sin Tierra de Colombia; Movimiento de Lesbianas, Gays, Bisexuales y Transexuales - LGBT; Movimiento Popular de Mujeres; Movimiento Popular Comunitario; Movimiento por la no Violencia; Organización de Afrocolombianos Región Caldas; Organización Femenina Popular - OFP; Organización Indígena de Antioquia - OIA; Organización Nacional Indígena de Colombia - ONIC; Organización Quindiana de Ambientalistas -Orquídea-; Organización Trabajo y Cultura -OTC ; Planeta Paz; Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo; Podion - Punto de Apoyo; Proceso de Comunidades Negras - PCN; Programa de Desarrollo y Paz del Magdalena Medio; Programa por la Paz, Compañía de Jesús; Red Colombiana de Radio Comunitaria - RECORRA; Red de Jóvenes Promotores y Defensores de Derechos Humanos; Red de Mujeres de Casanare; Red Nacional de Iniciativas Ciudadanas por la Paz y contra la Guerra - Redepaz ; Red Nacional de Mujeres; Redepaz - Planeta Paz -Caquetá; Reiniciar - Corporación para la Defensa y Promoción de Derechos Humanos; Ruta Pacífica de las Mujeres; Sindicato de Trabajadores Agrarios del Tolima - SINTRAGRITOL; Sisma Mujer; Sub directiva CUT- Risaralda.

Bogotá, July 2003

Footnotes

- ¹ This document was presented by Colombian peace and human rights organisations during a meeting held in London on 9-10 July 2003.
- ² This concept emphasises the protection of rights by the law. It embraces the demands of the welfare state but goes a step further to include political participation, democratic pluralism and multiculturalism.
- ³ Socio-political violence, (or politically motivated violence), encompasses all acts against life, physical integrity and personal freedom involving the abuse of state power which are motivated by political considerations or discrimination against the socially marginalised, as well as attacks which take place during the course of the conflict.
- ⁴ According to one report from the office of the United Nations High Commissioner for Human Rights in Colombia: "Women have been victims of different forms of violence, particularly sexual violence, perpetrated by various illegal armed groups whose goal is to sow terror or show their might and territorial control", *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, Doc. E/CN.4/2003/13, 24 February 2003, Annex, "Situation of human rights and international humanitarian law, main violations and breaches, paragraph 47.
- ⁵ "During my recent visit to Colombia, I was struck by how exposed trade unionists are to intimidation and violence The statistics are shocking. More trade unionists have been murdered in recent years in Colombia than have been killed in all the rest of the world"; see www.cambio.com.co/html/mundo/articulos/1215.
- ⁶ It is not true that during the office of the current government there has been a downward trend in the number of persons killed in politically motivated violence. The average numbers killed per day has risen in recent years to 20 while during July 2002 to June 2003 19 persons a day were murdered, suffered enforced disappearance or killed in combat. Statistics for this period follow the trend observed during the past three years. Government statements indicating a downward trend are simply not true.
- ⁷ National Planning Department, 2002. When the Gini coefficient approaches 1, the level of wealth concentration is the highest.
- ⁸ Controller General's Office of Colombia, www.controlariagen.gov.co
- ⁹ Colombian Institute of Agrarian Reform (INCORA), www.incora.gov.co
- ¹⁰ Agustín Codazzi Geographic Institute and Colombian Corporation for Agricultural and Livestock Research (CORPOICA), *Zoning of conflicts over land use in Colombia*, Bogota, 2002
- ¹¹ National Planning Department (DNP), Bogota, 2002
- ¹² Office of the Vice-President of the Republic of Colombia, Presidential Programme for Human Rights, *Observations on Human Rights in Colombia*, Bulletin no.22, Bogota, May 2002, p.7
- ¹³ National Planning Department (DNP), www.dnp.gov.co
- ¹⁴ Ombudsman's Office, *Information Log, 1999-2000*, Bogota, May 2000, p.187
- ¹⁵ *Human Rights as a Framework for Unity*, report by the UN High Commissioner for Human Rights and follow-up to the World Conference on Human Rights presented to the Human Rights Commission, United Nations document E/CN.4/2002/18, 27 February 2002
- ¹⁶ Articles 42 -76 the Political Constitution of Colombia
- ¹⁷ Contrary to the recommendations of the UN High Commissioner for Human Rights and the UN Human Rights Commission, on 25 April 2003, the

government proposed a bill in Congress to grant judicial police powers to the armed forces. In reply to the Colombian state's non-compliance with its recommendations, the Director of the UN Office of the High Commissioner for Human Rights in Colombia, Michael Fruhling, recommended that Congress members withdraw the constitutional reform bill as it goes against the norms of international law on human rights. During the debate on 19 May 2003, the Minister of Defence stated that she was unaware of the commitments that the Colombian government had made to the UN and that any such commitment was made without the knowledge of the President of the Republic.

- 18 International human rights bodies have lobbied the Colombian government on several occasions: "That it abstain from adopting laws and other measures that limit the efficacy or scope of persons' injunctions (*tutela*) or that limit access to this judicial remedy", Inter-American Commission on Human Rights, *Third Report on the Situation of Human Rights in Colombia*, Document OEA/Ser.L/V/II.102, 26 February 1999, chapter II, G, paragraph 5. Regarding security and public order policies, the government was explicitly requested "not to introduce into Colombian law, norms that empower members of the Armed Forces to perform functions belonging to the judicial police, or others that are incomparable with the independence of justice", Recommendations for Colombia, contained in the "Report of the UN High Commissioner for Human Rights regarding the situation of human rights and international law in Colombia, Year 2002", Bogota, March 2003, letter C.
- 19 The government's security and defence policy states: "The primary responsibility for overseeing citizens' rights and liberties belongs to the State, in compliance with its constitutional obligations. However, security is also a product of the collective effort of the citizenry: it is everyone's responsibility", Office of the Presidency, Ministry of National Defence, *Defence and Democratic Security Policy*, Republic of Colombia, 2003, p.17, paragraph 18.
- 20 Office of the President of the Republic, National Planning Department, *Foundations of the National Development Plan, 2002-2003: Towards a Community State*, Bogota, 2002, p.36
- 21 So serious was the government's statement regarding this matter that the Office of the United Nations High Commissioner for Human Rights in Colombia released a press communiqué, stating that, according to international humanitarian law, an armed internal conflict exists in Colombia and that the principle of distinction between civilians and armed groups in conflict is applicable. Equally, the UN agency drew attention to the importance of interpreting this principle properly, so as leave no doubt about the armed groups' obligation to respect humanitarian law, as well as avoiding any threat to organisations engaged in humanitarian work; Colombia office of the UN High Commissioner for Human Rights, "Regarding the importance of the humanitarian principle of distinction in the internal armed conflict", 30 June 2003, www.hchr.org.co.
- 22 The Vice-President, Francisco Santos, has allowed members of demobilised paramilitary groups to form part of the informers' network: *El Tiempo*, "No a paras desmovilizados en Ejército" (No to demobilised paramilitaries in the Army), 17 January 2003, pp.1-3.
- 23 Article 21, Decree 128 of 2003 states: "None of the benefits mentioned can be granted to those *being tried or to those who have been sentenced for crimes*, who, according to the Political Constitution, the law, or international treaties subscribed to and ratified by Colombia, are not entitled to receive this type of benefit" (italics added).

- ²⁴ In fact, Articles 9 and 10, Decree 128 of 2003 outline the benefits of denouncing and supplying information on the activities of armed organisations.
- ²⁵ In this regard, there have been repeated recommendations from various UN bodies and the Inter-American System. Among others, the Office of the United Nations High Commissioner for Human Rights has stated: "The Office received denouncements of cases of prosecutors removed from their position by the National Prosecutor General without just cause, among them, several belonging to the Human Rights and International Humanitarian Law Unit. The fact that several prosecutors from this Unit have been removed or transferred appears to have weakened their accumulated experience and the effectiveness of the investigations and questions the institution's commitment to the struggle against impunity for violations of human rights.... The High Commissioner has urged the National Prosecutor General to establish, within the Human Rights and International Humanitarian Law Unit of the National Prosecutor General's Office, a specialised investigative body for looking into possible links between members of the armed forces and paramilitary groups. At the same time, he has urged that organisations of international cooperation support this initiative.... The High Commissioner requested the National Prosecutor General to ensure and strengthen the independence of the Human Rights and International Humanitarian Law Unit of the National Prosecutor General's Office, guaranteeing the protection of its members and providing them with the resources required to carry out their investigations"; *Report made by the United Nations High Commissioner for Human Rights regarding the Situation of Human Rights in Colombia*, Office of the High Commissioner for Human Rights, Doc. E/CN.4/2003/13, 24 February 2003, paragraph 78; Recommendations for Colombia, contained in the "Report of the UN High Commissioner for Human Rights regarding the situation of human rights and international law in Colombia, Year 2002", Bogota, March 2003, letter C.
- ²⁶ Presented by the government at the donors' table preparatory meeting, London, 25 June 2003; this meeting was called by the United Nations Development Programme.
- ²⁷ Office of the President of the Republic, Ministry of National Defence, *Defence and Democratic Security Policy*, Bogota, 2003, p.18, paragraph 19
- ²⁸ Peace laboratories are an initiative supported by the EU consisting of participative social processes and institution building at local and regional levels in selected conflict zones. They seek to bring about the economic, social, cultural and political transformation needed to build collectively the conditions for lasting peace.