

# COLOMBIA

## BEYOND NEGOTIATION International Humanitarian Law and its Application to the Conduct of the FARC-EP

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## 1. SUMMARY AND RECOMMENDATIONS

Whether they live in Bogotá or in remote rural areas, Colombian civilians bear the brunt of the country's violent armed conflict. Thousands have been killed in recent years, and thousands more have been kidnaped for ransom. Their children, some as young as thirteen or fourteen, have been recruited into the irregular forces – guerrillas and paramilitaries – that play a primary role in the conflict. Fleeing their homes to protect themselves and their families, some two million Colombians have become internally displaced or have left their country as refugees.

Human Rights Watch abhors the conflict's heavy civilian toll and supports ongoing efforts to achieve peace. Yet we insist on the protection of civilians even in the absence of peace. The international humanitarian law norms applicable to the conflict were designed to shield civilians from war, and to protect sick and wounded combatants as well as those who have surrendered. In Colombia, to the great discredit of the warring parties, these norms are largely ignored.

In June 2000, Human Rights Watch representatives met with commanders of the Revolutionary Armed Forces of Colombia -People's Army (*Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo*, FARC-EP) to discuss the application of international humanitarian law standards to the conduct of their troops. Thought to include some 17,000 members, the FARC-EP is the largest guerrilla force in Colombia.

Several FARC-EP commanders were accessible and open to discussion. Yet, faced with an inventory of FARC-EP abuses that included extrajudicial executions and kidnappings, they asserted that these standards do not apply to the FARC-EP and are, in fact, inappropriate to the Colombian context.

The FARC-EP's reaction to Human Rights Watch's criticisms was notably more hostile in July 2001, when we released a public letter to Manuel Marulanda, the supreme commander of the FARC-EP. The letter, issued on July 10, detailed the FARC-EP's responsibility for the killing and abduction of civilians, hostage-taking, the use of child soldiers, grossly unfair trials, the cruel and inhuman treatment of captured combatants, and the forced displacement of civilians. Further, the letter explained, FARC-EP forces have continued to use prohibited weapons, including gas cylinder bombs that wreak havoc and cause appalling fatalities and injuries, and to attack medical workers and facilities in blatant disregard of international legal norms.

Human Rights Watch called on Commander Marulanda to make a public commitment to upholding international humanitarian law standards. We also urged him to issue clear and strict instructions to FARC-EP forces to cease all activities that violate these standards.

The FARC-EP dismissed our appeal. "There is no doubt," said the FARC-EP's public reply, "that, as during the wars of conquest, the ships of yankee interventionism are approaching our country disguised as humanitarian action." The response went on to accuse Human Rights Watch of being part of the propaganda machinery that supports U.S. foreign policy and, indeed, of acting "under Washington's orders." (See Appendix.)

This response, dated July 22, in no way addressed the substance of Human Rights Watch's letter. Rather than attempting to defend the FARC-EP's actions on the merits, the response simply impugned Human Rights Watch's motives for criticizing FARC-EP abuses. In doing so, it made numerous misstatements regarding the work of Human Rights Watch. Besides asserting that Human Rights Watch seeks to impose the views of the U.S. State Department on Colombia, and to encourage "fascist sectors" who support Colombia's paramilitary groups, it also wrongly stated that we have failed to criticize U.S. policy toward Panama, Iraq, Yugoslavia, and Cuba.<sup>1</sup>

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<sup>1</sup> Human Rights Watch has monitored human rights conditions in Colombia since 1982, publishing numerous reports that document paramilitary abuses. See, for example, Human Rights Watch, "The Ties That Bind: Colombia and Military-Paramilitary Links," A Human Rights Watch Short Report, Vol. 12, No. 1(B), February 2000. Several of our reports have also criticized the U.S. role in Colombia. See, for example, Human Rights Watch/Americas (now the Americas Division of Human Rights Watch) and the Arms Project, *Colombia's Killer Networks: The Military-Paramilitary Partnership and the United States* (New York: Human Rights Watch, 1996).

Despite this discouraging episode, Human Rights Watch continues to insist that the FARC-EP conform its conduct to the requirements of international humanitarian law. Not only do FARC-EP abuses evidence a clear disregard for these requirements, but they make it all the more difficult to build the mutual trust and confidence necessary to bring an end to Colombia's long and bloody conflict. In light of increasing international participation in the Colombian peace process, we especially encourage representatives of outside countries to call upon the FARC-EP to abide by minimum humanitarian rules.

Human Rights Watch also believes it important to emphasize that these rules, and the FARC-EP's compliance with them, are not open to negotiation. The applicable international standards, notably article 3 common to Geneva Conventions of 1949 and the 1977 Protocol II Additional to the Geneva Conventions, impose binding legal obligations on the FARC-EP as a party to the conflict in Colombia. They should therefore be embraced fully and without conditions.

Among the FARC-EP's gravest violations is the abduction and killing of civilians. Human Rights Watch directly investigated three cases of abductions followed by suspected extrajudicial executions, and received information regarding over twenty more suspected executions. For the year 2000, human rights groups reported that the FARC-EP killed 496 civilians nationwide, many accused of being paramilitary or government sympathizers.

Of great concern, as well, is the FARC-EP's use of indiscriminate weapons that cause significant and avoidable civilian casualties. Primary among these are gas cylinder bombs, which are impossible to aim accurately and often strike homes and other civilian buildings. In March 2000, for example, the FARC-EP attacked the town of Vigía del Fuerte, Antioquia, with gas cylinder bombs, killing six civilians.

Hostage-taking (commonly known in Colombia as kidnaping) is another appalling frequent abuse. Persons held for ransom by the FARC-EP may be held for months or even years. According to the U.N. High Commissioner for Human Rights (UNHCHR), among those taken hostage in 2000 were Andrés Felipe Navas Suárez, three years old, and Clara Olivia Pantoja, five years old. Both children were held for ransom; as of this writing, only one has been released. Although the number of persons currently held hostage by the FARC-EP is not known, País Libre, an independent nongovernmental organization that studies the issue, attributed 701 hostage-takings to the FARC-EP in 2000.

Besides being required to respect the lives of civilians, the FARC-EP is also obliged to extend humane treatment to all members of opposing forces in its custody. In June and July 2001, the FARC-EP released 350 police and soldiers, including some who had been held for over three years. Although this was clearly a positive step, the releases also underscored the desperate conditions in which these men had been kept, without adequate shelter, medical care or clean water. At present, the FARC-EP acknowledges holding forty-seven such detainees. These men should, at a minimum, be granted visits by the International Committee of the Red Cross (ICRC), whose mandate includes promoting compliance with the Geneva Conventions.

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Human Rights Watch's work in other parts of the world has been similarly untainted by any pro-U.S. bias. We conducted a mission to Panama in January 1990, later publishing a report on violations of the laws that occurred during the short-lived hostilities that followed the December 20, 1989 invasion by the United States. The report concluded that the tactics and weapons utilized by U.S. forces caused an inordinate number of civilian victims, in violation of the Geneva Conventions. See "The Laws of War and the Conduct of the Panama Invasion," An Americas Watch Report, May 1990. We have, in addition, long criticized U.S. policy toward Cuba. See, for example, Human Rights Watch, *Cuba's Repressive Machinery* (New York: Human Rights Watch, 1999), pp. 204-13. We also documented U.S. violations of the laws of war during the invasion of Iraq, and violations committed by the U.S.-led NATO force during the Kosovo conflict. See Middle East Watch (now the Middle East Division of Human Rights Watch), *Needless Deaths in the Gulf War: Civilian Casualties in the Air Campaign and Violations of the Laws of War* (New York: Human Rights Watch, 1991); Human Rights Watch, "Civilian Deaths in the NATO Air Campaign," A Human Rights Watch Short Report, Vol. 12, No. 1(D), February 2000.

Another particularly deplorable abuse is the FARC-EP's recruitment of child soldiers. Human Rights Watch interviewed one former child soldier who was thirteen years old. We also spoke to several families who had lost children to the FARC-EP. Although we did not find cases of forcible recruitment, we did find that once integrated into the FARC-EP, children are typically barred from leaving.

In an encouraging move, FARC-EP commanders have acknowledged, at least in principle, that children under fifteen do not belong in their ranks. To date, however, Human Rights Watch has seen little evidence that this rule is being strictly applied.

The recruitment of child soldiers is among the issues of especial concern in the zone established for peace talks by the Colombian government and the FARC-EP (hereinafter, the Zone). What distinguishes the Zone from other areas of Colombia, however, is not only the absence of police and military forces, but also the near-absolute vulnerability of its inhabitants. The estimated 90,000 inhabitants of the five municipalities in Meta and Caquetá that make up the Zone were not consulted prior to its establishment in November 1998, and no special mechanisms were put in place to protect their rights after the withdrawal of the security forces. The situation remained unchanged in February 2001, when President Andrés Pastrana decided to extend the Zone for an additional eight months.

While the offices of the People's Advocate (*Defensoría*) continues to receive complaints of abuses in the Zone, they have neither the power nor resources necessary to intervene to prevent such abuses. The Attorney General's Office, which has a legal responsibility to investigate and prosecute abuses, is unable to operate in the Zone, its staff having been forced to leave under threat from the FARC-EP.<sup>2</sup> Residents, too, have been forcibly displaced from the Zone, many fleeing on orders of the FARC-EP.

The following report, which is based on first-hand research in Colombia, including a visit in May-June 2000 to the Zone, describes the range of international humanitarian law violations committed by FARC-EP. Both in format and substance, it closely follows our July 2001 letter to Commander Marulanda.

## **Recommendations**

### ***To the FARC-EP***

Human Rights Watch calls upon the FARC-EP's General Secretariat to ensure that the conduct of the FARC-EP complies with international humanitarian law. In particular, we urge the members of the General Secretariat to issue orders and take effective steps to ensure that FARC-EP forces:

- cease all extrajudicial killings of civilians;
- release immediately and unconditionally all hostages within their power, while guaranteeing the hostages' safe return to their families;
- cease using child soldiers, establish mechanisms for the immediate demobilization of child soldiers, and instruct all FARC-EP forces that child soldiers should not be recruited or deployed as combatants in the future;
- cease holding so-called popular trials, which lack minimal due process guarantees;

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<sup>2</sup> Commander Raúl Reyes told Human Rights Watch that the FARC-EP could not accept the presence of judges or prosecutors in the Zone because of their "repressive" character. To date, the FARC-EP has not allowed independent judicial authorities into the Zone according to the Attorney General's office. Human Rights Watch interview, Los Pozos, Caquetá, June 3, 2000. See also "Fue saqueada la Fiscalía de Mesetas (Meta): Asalto en la zona de despeje," *El Tiempo* (Bogotá), July 2, 1999.

- extend humane treatment -- including appropriate medical care -- to all captured combatants -- including police, soldiers, and members of paramilitary groups --and permit them regular access to and visits from the ICRC;
- cease all use of indiscriminate weapons, such as gas cylinder bombs;
- cease all attacks or threats against medical workers and facilities, including ambulances, hospitals, and clinics.

Human Rights Watch also calls upon the FARC-EP's General Secretariat to permit immediately a system of independent national and international monitoring within the Zone.

***To the Governments Taking Part in the Facilitating Commission in the Negotiations between the FARC-EP and the Colombian Government (Canada, Cuba, France, Italy, Norway, Mexico, Spain, Sweden, Switzerland and Venezuela)***

As official observers in the peace negotiations between the FARC-EP and the Colombian government, these countries are in a privileged position to influence the FARC-EP's conduct. Human Rights Watch therefore urges representatives of these governments to bring up the issue of FARC-EP non-compliance with fundamental humanitarian law standards at every opportunity. While emphasizing the binding legal nature of these standards, they should call upon the FARC-EP take concrete steps to reform its abusive conduct.

***To the Colombian Government***

The government of Colombia should require the FARC-EP to permit a system of independent national and international monitoring within the Zone.

## **II. APPLICABLE INTERNATIONAL STANDARDS**

Human Rights Watch's assessment of the conduct of the FARC-EP is primarily guided by two sets of international legal standards: article 3 common to the four Geneva Conventions of 1949 and the 1977 Protocol II Additional to the Geneva Conventions.<sup>3</sup> These standards extend no political recognition, status, or approval to any armed group. Their object is simply to minimize human suffering and establish respect for basic humanitarian rules, which apply even in the midst of hostilities.<sup>4</sup>

Common article 3 covers armed conflicts "not of an international character," and includes the internal armed conflict in Colombia. Common article 3 automatically applies when a situation of armed conflict exists. It covers all parties to the conflict. Protocol II applies when opposing forces in an internal armed conflict are under a responsible command, exercise enough control over territory to mount sustained and coordinated military operations, and have the capacity to implement Protocol II. The situation in Colombia clearly satisfies these criteria.

Among the key standards in these documents relevant to Colombia are prohibitions on the killing of civilians and of combatants who are *hors de combat*, hostage-taking, the use of child soldiers, forced displacement of civilians, and indiscriminate attacks.<sup>5</sup>

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<sup>3</sup> Colombia adopted Protocol II without reservation and it came into effect on February 15, 1996. República de Colombia, "Actividades del Gobierno de Colombia relativas a la aplicación del Derecho Internacional Humanitario," Santafé de Bogotá, December 1, 1995.

<sup>4</sup> For more information on FARC-EP violations of international humanitarian law, see *War Without Quarter: Colombia and International Humanitarian Law* (New York: Human Rights Watch, 1998), pp. 131-160, 193-197.

<sup>5</sup> Section 1 of common article 3 requires that "[p]ersons taking no active part in the hostilities . . . shall in all circumstances be treated humanely." Among other things, it specifically bars the parties to an armed conflict from killing or physically abusing

## **The Definition of Civilian Population**

In accordance with current international practice, we define civilians as persons who do not actively participate in hostilities and are not parties to the conflict. The distinction between civilians and combatants is a key one, and one that did not appear to be understood or accepted by the FARC-EP commanders whom Human Rights Watch met in May-June 2000. Under international humanitarian rules, simply feeding a combatant, disseminating propaganda, or engaging in political activities in support of an armed group does not convert a civilian into a combatant. Instead, direct participation in hostilities must be present in order for a civilian to lose his or her protected status.<sup>6</sup>

The issue of intelligence gathering is particularly relevant to Colombia. Residents of territories where combatants are present necessarily come across information that could be of assistance to the parties to the conflict and they may, knowingly or unknowingly, transmit it, as occurs in Colombia. Yet the transmission of information does not in itself make such persons combatants. Among the pursuits that would not convert a civilian into a combatant are transmitting information that is gathered in the course of normal activities or transmitting information that is not of direct use in launching an attack.<sup>7</sup>

## **Fair and Impartial Trials**

International humanitarian law also obligates the parties to a conflict to respect fully the fair and impartial trial guarantees contained in article 6 of Protocol II whenever they investigate and punish enemy combatants or their own fighters accused of abuses. The FARC-EP has failed utterly to respect these obligations. Though it has periodically announced trials, including some resulting in executions, they have been marked by gross violations of the guarantees set out in Protocol II.

The FARC-EP rarely informs accused persons of the charges against them or the procedure it intends to follow, and the accused are not permitted adequate means for their defense. Often, the accused are presumed guilty from the outset and they may not even be permitted to be present during the procedure. Finally, the FARC-EP offers no legal remedies to a decision, even in cases resulting in sentences of death. Such trials and executions constitute serious violations of the laws of war.

In a few cases, international pressure has led the FARC-EP to acknowledge its own responsibility for certain gross violations and to announce publicly that it will sanction the perpetrators. For example, FARC-EP commanders told Human Rights Watch's representatives in June 2000 that the two FARC-EP combatants who killed American civilians Terence Freitas, Lahe'ena'e Gay, and Ingrid Washinawatok on March 5, 1999 had been found "guilty."<sup>8</sup> The FARC-EP sentenced the two killers to dig fifty-five yards of trench and clear land, a grossly inappropriate punishment for so grave a crime.

## **The FARC-EP Response**

During Human Rights Watch's May-June 2000 visit to the Zone, we discussed these international humanitarian law standards with several FARC-EP commanders. They asserted that the standards were not applicable to the armed conflict in Colombia and, in particular, to the conduct of the FARC-EP. In these commanders' view, the standards did not apply because the FARC-EP had not expressly agreed to them, they

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non-combatants. Article 4(3)(c) of Protocol II bars the parties to a conflict from recruiting children under the age of fifteen or allowing them to take part in hostilities. Article 17 of Protocol II prohibits forced displacement.

<sup>6</sup> Michael Bothe, Karl Josef Partsch, and Waldemar A. Solf, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949* (The Hague/Boston/London: Martinus Nijhoff Publishers, 1982), pp. 292-296.

<sup>7</sup> *Ibid.*, pp. 263-267.

<sup>8</sup> Human Rights Watch interview, Los Pozos, Caquetá, June 3, 2000.

represented “elite interests,” and they were not appropriate to the Colombian context.<sup>9</sup> Commander Raúl Reyes, a member of the General Secretariat, did claim, however, that the FARC-EP complies with “a good part of Protocol II.”

Human Rights Watch objects to the suggestion that international humanitarian law principles are segregable, a sort of menu from which parties to the conflict can pick and choose. Such a view has no basis in international law. To the contrary, these principles are an integrated set that have at their heart the protection of the civilian population and of combatants who are *hors de combat*.

While the FARC-EP has at times paid lip service in the past to some requirements of international humanitarian law, it has shown little interest in compliance. Our research shows that even when commanders announce that troops under their authority have been ordered to abide by certain rules, in practice, the FARC-EP continues to violate them. Far from improving, the FARC-EP’s record in this regard is worsening.

### III. ABDUCTIONS AND EXTRAJUDICIAL EXECUTIONS

In the Zone and areas in dispute with other parties to the conflict, the FARC-EP has established a pattern of abducting civilians suspected of supporting paramilitary groups, many of whom are later killed. Unlike abductions carried out for financial reasons, these abductions are often kept hidden. The FARC-EP generally does not disclose the victims’ fate or even acknowledge custody. Relatives of those who are seized by the FARC-EP in these circumstances frequently are unable to obtain any information from the FARC-EP about the fate or whereabouts of their loved ones, causing enormous suffering. The victims of these abductions have no protection under the law, let alone legal remedy against false accusations and abuse, nor can their relatives invoke legal remedies on their behalf.

These violations would qualify as forced disappearances under international human rights law if carried out by government officials or organized groups and private individuals acting on behalf of or with the support of a government. The fact that these actions do not qualify at the moment as a violation of specific human rights treaties should not, however, lead to any confusion about their nature. Abductions are serious human rights abuses independent of legal or linguistic niceties. They also constitute blatant violations of the FARC-EP’s obligations under international humanitarian law and in particular key provisions of article 4 of Protocol II, which protects against violence to the life, physical, and mental well-being of persons, torture, and ill-treatment.

Human Rights Watch directly investigated three cases of abductions followed by suspected extrajudicial executions during our stay in the Zone, and received information regarding over twenty more suspected executions. For the year 2000, human rights groups reported that the FARC-EP killed 496 civilians nationwide, many accused of being paramilitary or government sympathizers.<sup>10</sup>

Among the most egregious recent incidents is the killing of Congressman Diego Turbay Cote and six others outside Florencia, Caquetá, on December 29, 2000. The massacre took place as Turbay, chair of the Peace Commission in Colombia’s House of Representatives, and his companions were headed toward a meeting with the FARC-EP leadership. According to reports, after puncturing the tires of the vehicles and ordering the passengers to lie face down on the road, gunmen shot each person in the head.

The FARC-EP denied committing this massacre, but the Attorney General’s office has opened a formal investigation of alleged guerrillas based on testimonies of captured gunmen and other evidence. In press

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<sup>9</sup> Human Rights Watch interviews, Los Pozos, Caquetá, June 2 and 3, 2000.

<sup>10</sup> This information was compiled by the Center for Research and Popular Education (Centro de Investigación y Educación Popular, CINEP) and released in a press conference on February 14, 2001.

interviews, prosecutors have characterized the evidence linking the FARC-EP and specifically the Teófilo Forero column to the killings as “decisive.”<sup>11</sup>

### **Juan de Jesús Ossa Giraldo**

Human Rights Watch investigated the abduction of Juan de Jesús Ossa Giraldo, which took place just prior to the formal establishment of the Zone. Ossa, then age twenty-two or twenty-three, lived in the town of San Vicente de Caguán and worked in the small Miniteca bistro on the town’s main square.

According to friends of the young man, he went on a three-day drinking spree at the end of October 1999 after breaking up with his girlfriend. While drunk, he apparently bragged in public that he worked for the Colombian government.<sup>12</sup>

Ossa returned to work on November 2. The following night, three men dressed in civilian clothes abducted him. According to an eyewitness interviewed by Human Rights Watch, the three men entered the Miniteca bistro at around 8 p.m. and sat down at a table with another man. This man, whom the witness believes was a FARC-EP sympathizer, then pointed at Ossa. At that moment, “the three grabbed him, one by his collar, one by his pants, and one by his belt. He tried to resist them and they pulled out their pistols. They had nine millimeter pistols.”<sup>13</sup>

The three armed men took Ossa outside, forced him into the back seat of a waiting yellow taxi with covered license plates, and drove off. His family and friends have not seen him since that time, nor have they been able to obtain firm information about his fate. One of his friends informed Human Rights Watch that a person connected to the FARC-EP later told him that Ossa had been killed.<sup>14</sup>

A FARC-EP commander apparently confirmed this at a meeting with representatives of the office of the People’s Advocate on May 28, 1999, stating that the FARC-EP had executed Ossa because they had “proof that he belonged to the [Colombian military] special forces and was conducting intelligence actions.”<sup>15</sup> However, to our knowledge, the FARC-EP did not provide any evidence to support this allegation, nor has it informed Ossa’s family of his fate.

### **The Gnostic Killings**

At the same meeting on May 28, 1999, a FARC-EP commander identified as Joaquín told the representatives of the People’s Advocate that the FARC-EP had also killed Arnulfo Cala Mejía, Alvaro Garrido, and Richard Rubio. All three were members of a Gnostic Christian group that had been arranging to purchase land near Puerto Rico, just outside the Zone. Between May 9 and 15, 1999, the FARC-EP’s Teófilo Forero column detained approximately eighteen members of this group on suspicion of paramilitary links. Commander Joaquín

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<sup>11</sup>“Las explosivas revelaciones de ‘Pantera’, comandante del Teófilo Forero,” *El Tiempo*, March 2, 2001; “Fiscalía vincula a las Farc en asesinato de Turbay Cote,” *El Colombiano*, February 23, 2001; and “Tras Plan contra Gurisatti,” *El Tiempo*, February 23, 2001.

<sup>12</sup> Human Rights Watch interview, San Vicente del Caguán, Caquetá, June 6, 2000.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ministerio Público, Defensoría del Pueblo, “Consolidado Personas Retenidas en Zona de Despeje” (undated) (“ajusticiado por las FARC por comprobar que pertenecía a las fuerzas especiales y realizaba acciones de inteligencia”), p. 1 (hereinafter “People’s Advocate List”). This document states that Ossa Giraldo was detained on November 5, 1998, but Human Rights Watch’s three interviewees said the correct date was November 3, 1998. The Zone formally entered into force on November 7.

stated that FARC-EP forces had executed the three named above, detained others for further investigation, and released four minors.<sup>16</sup>

The Attorney General's Human Rights Unit later reported that the FARC-EP had killed ten other members of the group, all adults, and released one.<sup>17</sup>

On June 14, 1999, a FARC-EP commander identified as Laurentino was reported to have attempted to justify this to the press by saying that he had ordered the killings of the members of the group because he was not prepared to allow paramilitaries to enter the Zone and derail the peace process. Commander Laurentino provided no evidence to support these accusations.<sup>18</sup> Commander Laurentino was then reputedly the Teófilo Forero column's head of finances.<sup>19</sup>

### **Guillermo Lombana Lizcano and William Vargas Silva**

The cases of Guillermo Lombana Lizcano and William Vargas Silva, both reportedly suspected by the FARC-EP of having paramilitary links, were also investigated by Human Rights Watch. Both residents of the town of San Vicente, the two were abducted by the FARC-EP forces on April 16 and April 17, 1999, respectively.<sup>20</sup>

Guillermo Lombana, then sixteen years old, had been a high school student but was not currently enrolled in school. He was seized in front of his home on the evening of April 16. His father, Guillermo Lombana Sr., told Human Rights Watch:

He was in the living room here, sitting in a chair. It was about 9:30 p.m. I was here. There were about fifteen of us, the whole family. The FARC arrived, all men, and all armed and in uniform. My son went out to talk to a friend and they were waiting for him. Two of them grabbed him while one stood aside. They put him in a taxi. We ran outside because friends had yelled, "Look, they're taking your boy!" We hadn't had any threats from the FARC, we never had any kind of problem with them. It was a surprise.<sup>21</sup>

Early the next morning, Guillermo Lombana Sr. began to search for his son:

At 5 a.m. the next morning I went to the checkpoint. I heard he was at the guerrilla camp. They kept sending me to different commanders, who kept saying they knew nothing about the case. They never say they have him. They never say if he's alive. They don't tell me anything.

According to several people interviewed by Human Rights Watch, a few days after his abduction Guillermo Lombana was shown on national television confessing that he worked for the paramilitaries. A woman who saw the program remembered: "He said he took an instructional course in Puerto Rico on how to be a

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<sup>16</sup> Ibid.

<sup>17</sup> Human Rights Unit, Attorney General, Report 527 (undated); see also People's Advocate, Press Release No. 420, June 16, 1999 (naming eleven killed in the incident). The Human Rights Unit report also states that the FARC-EP recruited a sixteen-year-old in the group.

<sup>18</sup> "Una masacre silenciosa," *Semana*, June 23, 1999.

<sup>19</sup> "Las explosivas revelaciones de 'Pantera,' comandante del Teófilo Forero," *El Tiempo*, March 2, 2001.

<sup>20</sup> The People's Advocate list says that Lombana Lizcano was abducted on March 16, 1999, but an eyewitness told Human Rights Watch that the correct date was April 16, 1999.

<sup>21</sup> Human Rights Watch interview, San Vicente del Caguán, Caquetá, June 9, 2000.

paramilitary, how to get information on the guerrillas. But he wasn't convincing. There were lots of questions to him, but they didn't show the questioner. He kept looking off to the side. He seemed very afraid."<sup>22</sup>

Lombana's father continued:

We were watching television and suddenly saw him on the news. He was on RCN [a television channel] and Caracol [a television channel], lots of different stations. He was upset. They didn't say where he was, just that it was a FARC camp. He kept glancing to the side. He was scared . . . . The TV show was the last time I saw him.

Lombana's father has persisted in his quest to find his son, writing letters to FARC-EP commanders and speaking to those who agree to see him. He told Human Rights Watch, "I just want to know if my son is dead or alive. If he's alive, I'd like to see him."

On April 17, 1999, the day after Guillermo Lombana's abduction, William Vargas Silva was also reportedly abducted by the FARC-EP. Vargas, then age twenty-seven, was a metal worker who lived with his parents and three sisters in central San Vicente. His family does not believe he had any connections with paramilitaries. They say he left the house on the afternoon of April 17 and did not return. They were informed by a witness to the event, however, that he was abducted by FARC-EP forces and bundled into a yellow taxi, together with his bicycle, at 9 p.m. that night in the center of San Vicente.<sup>23</sup>

Members of the family told Human Rights Watch that they searched for him but have been unable to obtain any firm information from the FARC-EP about his whereabouts or fate. His mother said, "We've spoken to all of the commanders. They never say whether they have him. They say to wait. They say they're investigating."<sup>24</sup>

At a meeting on May 28, 1999, a FARC-EP commander informed the representatives of the People's Advocate that the FARC-EP had detained and was prosecuting both Lombana and Vargas for allegedly conducting paramilitary activities in the Zone. At that time, the office of the People's Advocate was investigating a total of twenty alleged abductions reportedly carried out within the Zone, some by FARC-EP forces and others by armed men of unknown affiliation.<sup>25</sup>

As stated above, under international humanitarian law, the FARC-EP has an obligation to ensure that any real or alleged enemy combatants or members of their own forces who are accused of offences receive fair and impartial trials. While acknowledging that a number of those named above have been killed or executed by FARC-EP forces for alleged links to opposing paramilitary forces, the FARC-EP has provided no information to indicate that they received fair and impartial trials. Indeed, Human Rights Watch has found no evidence to indicate that the FARC-EP has made any effort to hold fair and impartial trials. On the contrary, the evidence indicates clearly that persons abducted by FARC-EP forces within the Zone have been summarily executed in gross breach of the laws of war.

### **People's Advocate Investigations**

At the May 28, 1999 meeting with representatives of the People's Advocate's office, Commander Joaquín stated that the FARC-EP had killed seven other people in the Zone: Hernando León Perdomo, of San Vicente, detained December 27, 1998; José Libardo Cabrera Toro, of San Vicente, detained February 14, 1999; Luis

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<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> People's Advocate List.

Ernesto Granados, of San Vicente, detained March 15, 1999; Antonio Muñeton, Wilmer Muñeton, and Freddy Valencia, of San Vicente, detained May 18, 1999; and the son of Leonel Enrique Granados Monroy, of Los Pozos, San Vicente, detained in May 1999 and whose name was not included in People's Advocate report on the meeting.<sup>26</sup>

The People's Advocate reported nine other executions by the FARC-EP within the Zone, including Ramiro Herrera Triana, of Vista Hermosa, in September 1999; José Joaquín Reyes López, of Vista Hermosa, in October 1999; and Celiano Taruche Martínez, of Vista Hermosa, in February 2000.<sup>27</sup> This figure also includes six people from Guayabal, San Vicente del Caguán, who were reportedly killed by the FARC-EP in late December 1999 or early January 2000.<sup>28</sup>

In August 2000, the People's Advocate announced that his staff had confirmed a total of twenty-two abductions and twenty-three killings in the Zone since its establishment, although not all were explicitly attributed to the FARC-EP.<sup>29</sup>

#### IV. INHUMANE TREATMENT OF CAPTURED COMBATANTS

International humanitarian law requires that all parties to a conflict treat captured combatants humanely. This means that the FARC-EP is obligated to extend humane treatment to all members of opposing forces who are in its custody.<sup>30</sup>

In discussions with Human Rights Watch in June 2000, FARC-EP commanders acknowledged the importance of this principle. When asked to specify what rules of international humanitarian law the FARC-EP complies with, commanders uniformly singled out the humane treatment of captured combatants.<sup>31</sup>

Yet Human Rights Watch is concerned that the FARC-EP has not even complied with these norms. We have received testimony indicating that several captured combatants have been denied medical attention, among them Colombian National Police (CNP) Col. Álvaro León Acosta, captured on April 5, 2000, near Tuluá, Valle, after his helicopter crashed. According to Acosta's family and the CNP, during his fourteen-month captivity he suffered from serious ailments stemming from a back injury sustained in the crash that went untreated.<sup>32</sup>

According to an association of family members that was allowed to visit 261 detainees in February 2001, one police agent, Manuel Alejandro Martínez, suffered serious burns prior to his capture and requires surgery.

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<sup>26</sup> Ibid.

<sup>27</sup> People's Advocate letter, September 14, 1998; People's Advocate letter, October 28, 1999; People's Advocate letter, March 8, 2000.

<sup>28</sup> People's Advocate letter, May 22, 2000. The letter names three of the six as Alexander Padilla, Jeiner Amado Gómez, and Enrique N.

<sup>29</sup> J.J. Pinilla, "El Estado responde por los perjuicios en zona de despeje," *El Tiempo*, August 25, 2000.

<sup>30</sup> For the requirement that detained persons be treated humanely, see article 5, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

<sup>31</sup> Human Rights Watch interviews, Los Pozos, Caquetá, June 2 and 3, 2000.

<sup>32</sup> Human Rights Watch electronic mail communication with Marleny Orjuela Manjarres, President, Asociación Colombiana de Familiares de Miembros de la Fuerza Pública Retenidos por Grupos Guerrilleros (ASFAMIPAZ), March 31, 2001; and "Si no lo entregan, muere: Gilibert'," *El Tiempo*, December 24, 2000.

Others are said to have a variety of jungle diseases that have gone untreated, including malaria, fungi, constant diarrhea because of contaminated water, and leishmaniasis, which can be fatal if untreated. Many reportedly suffer severe trauma and psychological ailments from prolonged captivity under harsh conditions.<sup>33</sup> Moreover, according to family members' reports, the detainees are kept in rudimentary shelters that lack proper drainage, sanitation, and clean water.<sup>34</sup>

On June 5, 2001, the Colombian government and FARC-EP finalized an agreement that led to the release that same day of Acosta and the three police agents who were seized with him after the crash.<sup>35</sup> In a subsequent interview with the news weekly *Semana* from his hospital bed, Acosta recounted how his untreated injuries caused him excruciating pain and drove him to the brink of suicide three times. His primary care came from his fellow captives and a FARC-EP guerrilla he identified as a nurse who supplied him with sedatives that had virtually no effect.<sup>36</sup>

Subsequently, the FARC-EP released over 300 additional police and soldiers held after capture, some also seriously ill.<sup>37</sup> In exchange, the government released from prison eleven FARC-EP members also reportedly ill.<sup>38</sup>

Reports indicated, however, that not all captives who were seriously ill were among those first released. The FARC-EP selected the prisoners to be released and did not allow independent organizations, like the ICRC, to examine those who remained.<sup>39</sup> At present, the FARC acknowledges holding forty-seven such detainees.<sup>40</sup>

## V. INDISCRIMINATE WEAPONS

Increasingly, the FARC-EP is using weapons that cause significant and avoidable civilian casualties, in violation of international humanitarian rules. Among them are gas cylinder bombs, which are impossible to aim consistently and often strike civilian homes and shops as well as churches, health centers, and municipal offices, causing avoidable civilian casualties.

Gas cylinder bombs are made with a tank normally used to supply a household stove. The tank is loaded with fuel and shrapnel, then placed in a tube packed with dynamite. Typically, the tube is placed on the bed of a pickup truck positioned near the area that guerrillas intend to attack. The tank is launched when operators light a fuse linked to the dynamite charge. The tubes cannot be aimed accurately and are considered indiscriminate weapons.

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<sup>33</sup> Human Rights Watch electronic mail communication with Marleny Orjuela Manjarres, ASFAMIPAZ, March 31, 2001.

<sup>34</sup> Ibid.

<sup>35</sup> The agents were John Alexander Ruiz Marín, Harold González, and José Murillo Balcázar. "Agreement between the government and FARC-EP," June 5, 2001, signed by Camilo Gómez Alzate, High Commissioner for Peace, and Jorge Briceño and Joaquín Gómez, FARC-EP; and "Terminó el drama del coronel Álvaro Acosta," *El Colombiano*, June 6, 2001.

<sup>36</sup> "'Conocí el infierno'," *Semana*, June 11, 2001.

<sup>37</sup> Comunicado del Estado Mayor Central de las FARC Ejército del Pueblo, Jorge Briceño and Joaquín Gómez, June 16, 2001.

<sup>38</sup> "Últimas horas de los subversivos en prisión," *El Tiempo*, June 17, 2001.

<sup>39</sup> "'Farc los examinaron', Gómez," *El Tiempo*, June 19, 2001.

<sup>40</sup> Comunicado del Estado Mayor Central de las FARC Ejército del Pueblo, July 6, 2001.

The use of indiscriminate weapons is a violation of one of the most fundamental principles of the laws of war, which requires that combatants be distinguished from noncombatants and that military objectives be distinguished from protected property or protected places. Parties to a conflict must direct their operations only against military objectives.

Under Protocol I, article 51(4), indiscriminate attacks are prohibited. Indiscriminate attacks are attacks that are not directed solely against a military objective; that employ a method or means of combat that cannot be directed at a specific military objective; or employ a method or means of combat whose effects cannot be limited as required by the Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

Although this protocol applies only to situations of international armed conflict, the provisions prohibiting indiscriminate warfare are part of customary international law and are binding on all parties to both internal and international conflicts.

In Vigía del Fuerte, Antioquia, a FARC-EP attack with gas cylinder bombs on March 25, 2000 resulted in the deaths of six civilians as the gas cylinders exploded on their homes. Among the dead were Nuria del Caicedo, her four-year-old son Jair, and her three-year-old daughter Leydy. The town's center was left a ruin, with the parish building, the mayor's offices, the power company, and ten civilian dwellings destroyed.<sup>41</sup>

There have also been reports that the FARC-EP may be adding substances to these weapons to increase their destructive power. In San Antonio de los Micos, Tolima, for instance, the CNP reported that they had found signs that guerrillas had added ammonium nitrate to the gas cylinder bombs used in the February 25, 2001 attack on the town. Guerrillas destroyed the residence of the local priest and several civilian homes.<sup>42</sup>

The FARC-EP itself has recognized that these devices cause avoidable civilian casualties. In an interview with the newspaper *Voz*, Commander Jorge Briceño, known as "Mono Jojoy" and a member of the General Secretariat, said "What we have acknowledged is that mistakes have been committed with the use of [gas cylinders], the civilian population has been affected and this is not our intention."<sup>43</sup>

Nevertheless, the FARC-EP continues to use gas cylinder bombs. In the first four months of 2001, the FARC-EP used gas cylinder bombs in at least two attacks on Colombian towns.<sup>44</sup>

## VI. HOSTAGE-TAKING

Hostage-taking violates international humanitarian law, in particular article 1(b) of Common article 3 of the Geneva Conventions, and article 4(2)(c) of Protocol II. Hostages are defined by the ICRC as persons who "find themselves, willingly or unwillingly, in the power of the enemy and who answer with their freedom or their

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<sup>41</sup> In the attack, the FARC-EP also allegedly violated the prohibition on killing combatants *hors de combat*. Twenty-three police agents died in the attack, and police reported that several had been executed and mutilated after surrendering. "Quemaron a alcalde de Vigía del Fuerte y mataron a dos niños," *El Tiempo*, March 28, 2000; "Vicepresidente exige a actores armados respeto al D.I.H.," *El Tiempo*, March 28, 2001.

<sup>42</sup> "Guerra química," *Cambio*, March 5, 2001.

<sup>43</sup> "Lo de los cilindros nos preocupa," *VOZ: La verdad del pueblo*, Edition 2086, March 21-27, 2001.

<sup>44</sup> "Pueblo del Cauca cumple años entre las ruinas," *El Tiempo*, April 3, 2001; and "Policía tomó el control: 30 guerrilleros muertos en Ataco (Tolima)," *El Tiempo*, April 6, 2001.

life for compliance with [the enemy's] orders.”<sup>45</sup> In Colombia, acts that qualify as hostage-taking under international humanitarian law are commonly known as “kidnaping.”

One of the cases documented by Human Rights Watch is that of Henry A. Grosch-Garces, who was seized by the FARC-EP at his residence at La Bocana, on Bueaventura's harbor, on May 28, 1999. Subsequently, his family received several telephone calls demanding a ransom from a man who identified himself as a representative of the FARC-EP's Thirtieth Front. The family was also sent letters apparently written by Henry Grosch-Garces that pleaded for money. In one of the last calls, the caller told the family that Grosch-Garces was seriously ill.<sup>46</sup>

A former hostage who claimed that he had been held briefly with Henry Grosch-Garces told Grosch-Garces' family that Grosch-Garces was being held hostage by members of the FARC-EP. The former hostage said he had seen Henry Grosch-Garces in October 1999 and that he had then appeared close to death. The family has received no further information about him.<sup>47</sup>

In the past, the FARC-EP has promised to stop taking hostages.<sup>48</sup> Nevertheless, the FARC-EP recently issued what it termed “Law 002,” which states that anyone in Colombia with assets of U.S. \$1 million or more must pay “taxes” to the FARC-EP or risk being taken hostage.<sup>49</sup> Although the numbers of persons currently held hostage by the FARC-EP are not known, País Libre, an independent nongovernmental organization that studies kidnaping, attributed 701 hostage-takings to the FARC-EP in 2000.<sup>50</sup>

Human Rights Watch was not able to investigate the use of the Zone as a location for the detention of hostages seized elsewhere, a problem that has been credibly reported by others, including the U.N. High Commissioner for Human Rights (UNHCHR).<sup>51</sup> According to that office, among those held in 2000 were Andrés Felipe Navas Suárez, three years old, and Clara Olivia Pantoja, five years old, both seized in Bogotá and taken to the Zone until their families paid a ransom for their release. In its annual report, the UNHCHR singled out the Navas and Pantoja kidnappings as particularly abhorrent, converting children into “object[s] of cruel commerce.”<sup>52</sup>

## VII. ATTACKS ON MEDICAL WORKERS IN HEALTH FACILITIES

Human Rights Watch is deeply concerned about the FARC-EP's continuing attacks on medical workers and health facilities, including ambulances. The laws of war clearly prohibit attacks on medical personnel or the

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<sup>45</sup> Yves Sandoz and others, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, p. 874.

<sup>46</sup> Human Rights Watch interviews with the Grosch-Garces family, July 18, 2000.

<sup>47</sup> Human Rights Watch interviews with the Grosch-Garces family, July 18, 2000.

<sup>48</sup> Acuerdo entre la Comisión de Paz y las FARC-EP, Mesetas, Meta, March 28, 1984.

<sup>49</sup> “‘Intimidación de FARC no se puede admitir’,” *El Espectador*, April 27, 2000.

<sup>50</sup> País Libre statistical summary for 2000, available at <http://www.paislibre.org.co>.

<sup>51</sup> “Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia,” E/CN.4/2001/15, February 8, 2001; and “País Libre hace llamado a actores armados: Secuestro, prioritario en negociaciones de paz,” *El Colombiano*, February 27, 2001.

<sup>52</sup> “Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia,” E/CN.4/2001/15, February 8, 2001.

wounded in their care, including combatants, or on medical facilities, including ambulances, hospitals and clinics.<sup>53</sup> Indeed, the prohibition extends not only to such formal facilities, but to any structure or vehicle that is marked with the red cross symbol and is being used exclusively at the time to convey or treat the wounded.

In a much publicized incident, paramilitaries killed a seventeen-year-old FARC-EP combatant who was being transported by an ICRC medical team near Apartadó, Antioquia, on October 2, 2000. Ten days later, the FARC-EP committed a similar grave violation when its forces killed a wounded paramilitary who was then under ICRC protection. In both cases, the killings were reportedly sanctioned by the commanders of the units concerned. The ICRC condemned both killings as “grave breach[es] of international humanitarian law” and suspended its medical rescue operations for three months.<sup>54</sup>

FARC-EP guerrillas reportedly conducted a further attack on an ambulance on January 8, 2001 near Anorí, Antioquia. In this case, the ambulance was carrying a pregnant woman in urgent need of medical care. Nevertheless, it was stopped by FARC-EP guerrillas who forced the pregnant woman and her nurse to get out, and then burnt the vehicle. In doing so, they put at risk the lives of both the pregnant woman and her child. Authorities at Anorí’s San Juan de Dios Hospital also reported that the FARC-EP had threatened to bomb the hospital, supposedly to protest the fact that medical professionals there treat individuals who may be paramilitaries.<sup>55</sup>

## VIII. CHILD SOLDIERS

Another issue of great concern to Human Rights Watch is the FARC-EP’s use of child soldiers. Article 4(3)(c) of Protocol II prohibits parties to an armed conflict from recruiting children under the age of fifteen or allowing them to take part in hostilities.<sup>56</sup>

It should also be noted that Colombia has signed, but not yet ratified, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. The Optional Protocol raises the age of recruitment and participation in armed conflict from fifteen to eighteen. Article 4 of the Optional Protocol calls on “armed groups distinct from the armed forces of a State”—in other words, groups such as the FARC-EP—to cease recruiting or deploying persons under age eighteen. Although the Optional Protocol has not yet entered into force, it reflects a clear international trend in favor of the adoption of age eighteen as a minimum age for participation in armed conflict. Human Rights Watch strongly supports this principle, believing that the use of minors as soldiers is seriously detrimental to their health, welfare, and social development.

In its 1999 annual report, the Inter-American Commission on Human Rights explained why keeping minors away from armed conflict is so important:

The use of children and adolescents in armed conflicts places their lives, well-being, and education at great risk. They are forced to use high-caliber weapons. They are required to lay explosives, to kill other children who are considered “traitors” or change their minds, and to participate in kidnappings, surveillance, and bomb intelligence work. In some cases, children as young as eight are used for these

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<sup>53</sup> Articles 9, 10 and 11, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

<sup>54</sup> ICRC press release, October 3, 2000; “Red Cross suspends combat work in Colombia,” *Reuters*, October 3, 2000. Human Rights Watch condemns both killings equally.

<sup>55</sup> “Parto en retén guerrillero en Antioquia,” *El Tiempo*, January 11, 2001.

<sup>56</sup> Colombia has also ratified the Convention on the Rights of the Child, which fixes the minimum recruitment age at fifteen. Article 38, Convention on the Rights of the Child.

perilous tasks. These illegal, perverse practices subject boys, girls, and youths to the inherent risks of combat, to sexual abuse, and to other forms of abusive, brutal, and humiliating treatment. They are drawn into a culture of violence, and their rights to education and to ordinary participation in society are curtailed.<sup>57</sup>

Human Rights Watch's research suggests that the FARC-EP continues to recruit children, including minors under fifteen. Children living in the Zone are particularly vulnerable. During its visit to San Vicente del Caguán, Human Rights Watch interviewed several former child soldiers and relatives of child soldiers. A representative of a group that advocates for the return of minors to their families told Human Rights Watch that she knew the names of over one hundred minors from the San Vicente municipality who belong to the FARC-EP. Many, she said, were under fifteen years old.<sup>58</sup>

A list compiled by the People's Advocate's office, based on family members' complaints about children recruited by the FARC-EP within the Zone in 1999, contained fourteen names, among them the name of an eleven-year-old girl.<sup>59</sup> Human Rights Watch visited several of the families on the list. We were able to confirm that four of those listed had joined the FARC-EP; a fifth had joined but since left, and a sixth, according to family members, had not joined the FARC-EP at all.<sup>60</sup>

None of those interviewed by Human Rights Watch said their children had been forced to join the FARC-EP. Rather, they said that the children had been enticed by promises of a better life. Most were children from an impoverished background, with few prospects. Some were from broken homes; one was an orphan. The desperate circumstances these children face spoke volumes about their willingness to enlist with an armed insurgent group.

While children living in the Zone may not be forcibly recruited into the FARC-EP, once integrated into the ranks many are unable to leave. Human Rights Watch was told by relatives of such recruits that minors have to get "permission" from their commanders before they are allowed to leave the FARC-EP, and that this is often difficult to obtain. According to a member of the People's Advocate's staff, who has worked with children previously enlisted in the FARC-EP: "The guerrillas offer adventure, but when the novelty wears off, [the under age recruits] are prevented from returning home."<sup>61</sup>

Human Rights Watch interviewed one thirteen-year-old girl, "Carmen," who had been living in her cousin's house when two FARC-EP members recruited her. They told her that life would be good if she joined the FARC-EP. Carmen had an unstable family life and a poor relationship with her mother, and agreed to join.

Carmen told Human Rights Watch that out of approximately 130 members of her unit, around fourteen were under fifteen and at least half were younger than eighteen. None, as far as she knew, had been forcibly recruited.

She complained that a FARC-EP commander, age thirty, had pressured her to have sexual relations with him. They had sex several times over a ten-day period. She was given an injection, she said, as a form of birth

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<sup>57</sup> Inter-American Commission on Human Rights, *Annual Report of the Inter-American Commission of Human Rights 1999*, April 13, 2000, Chapter VI (available at <http://www.cidh.oas.org/annualrep/99eng/Chapter6a.htm>).

<sup>58</sup> Human Rights Watch interview, San Vicente del Caguán, Caquetá, June 3, 2000.

<sup>59</sup> Letter from Alix Duarte Lizcano, People's Advocate's office, to Victor G. Ricardo, Alto Comisionado para la Paz, March 16, 2000.

<sup>60</sup> Human Rights Watch interviews, San Vicente del Caguán, Caquetá, June 6-7, 2000.

<sup>61</sup> Human Rights Watch interview, People's Advocate's office, Santafé de Bogotá, January 10, 2001.

control. A female FARC-EP member told Carmen that she did not have to have sex with the commander, and Carmen refused his next advance.

Carmen had left the FARC-EP in mid-May 2000, when her mother visited the guerrilla camp and requested her release. Carmen said that she was not anxious to leave the FARC-EP, but that her fear of dying in combat helped her to decide to go home with her mother.<sup>62</sup>

Human Rights Watch also interviewed the mother of a fourteen-year-old girl who had spent three months with the FARC-EP in early 2000. During this period, the mother went persistently from commander to commander trying to obtain information about her daughter's whereabouts and to arrange her return. She wrote numerous letters informing both FARC-EP and Colombian government authorities of the situation.

Finally, in May 2000, the daughter came home. According to the mother, when her daughter returned from the FARC-EP, she was sick and anemic, with an eye infection and huge blisters on her feet. Her daughter also reportedly told her that she had sexual relations with another member of the FARC-EP, and had contracted a venereal "problem."<sup>63</sup>

Another family told Human Rights Watch that their female relative had joined the FARC-EP in May 1999 at age sixteen. She entered the FARC-EP a month after she had started work as a domestic servant. Her family thought she had wanted to escape from her job. Since she had joined, they had spoken to her by phone a few times and had visited her twice. About four months after joining she became disillusioned with her life as a FARC-EP guerrilla, and wanted desperately to leave. But the FARC-EP refused to let her go, telling her that it would be dangerous for her if she were to return to her family. "She cries when she speaks to us," said her sister. "She wants to come home."<sup>64</sup>

A family living in a rural area in the San Vicente municipality told Human Rights Watch that their son, "Jorge," had joined the FARC-EP in April 1999 at age fifteen. Jorge hated the army because army soldiers had killed his father when he was five. He had dropped out of school by the time he was recruited by the FARC-EP. According to his family, the FARC had told Jorge that he could spend two months with them to be trained. But after two months he did not return.

Between April and December 1999, his mother told Human Rights Watch, she had seen Jorge three times. "The last time I saw him was in December," said his mother, who cried when describing the visit. "He was sick with malaria."<sup>65</sup>

At that time, he told her that he was ready to leave the FARC-EP, but that he needed permission to do so. His mother spoke with one commander to try to obtain such permission. When Human Rights Watch saw her in 2000 she was trying to speak to another commander in the hope that he could arrange the necessary permission.

Obtaining permission to leave the FARC-EP is critical even for children, who risk that group's most severe punishment if they desert. As the UNHCHR pointed out in its report for the year 2000, the FARC-EP applies the same punishment to child deserters as adults. "The punishment for 'deserters' is the firing squad and this is applied regardless of the age of the deserter."<sup>66</sup>

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<sup>62</sup> Human Rights Watch interview, San Vicente del Caguán, Caquetá, June 2, 2000.

<sup>63</sup> Human Rights Watch interview, San Vicente del Caguán, Caquetá, June 3, 2000.

<sup>64</sup> Human Rights Watch interview, San Vicente del Caguán, Caquetá, June 6, 2000.

<sup>65</sup> Human Rights Watch interview, San Vicente del Caguán, Caquetá, June 7, 2000.

<sup>66</sup> "Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia," E/CN.4/2001/15, February 8, 2001.

FARC-EP commanders have repeatedly stated that they will abide by a minimum recruitment age of fifteen. When Olara Otunnu, the U.N. Secretary-General's special representative for children and armed conflict, met with FARC-EP Commander Raúl Reyes in 1999, Reyes reportedly promised that the FARC-EP would no longer accept or recruit persons under age fifteen.<sup>67</sup>

In June 2000, Commander Carlos Antonio Lozada told Human Rights Watch that the FARC-EP had set fifteen as its minimum recruitment age in 1996. He admitted, however, that "until recently, this norm was not enforced." But, as of April 2000, after Commander Jorge Briceño's firm statements on the matter, it had become "a norm of obligatory force" and would, in the future, be followed.<sup>68</sup>

Commander Briceño reportedly gave a speech at San Vicente del Caguán in April 2000 in which he acknowledged that the FARC-EP had committed "errors," including the use of child soldiers under age fifteen. According to residents who heard the speech, Briceño promised that the FARC-EP would take steps to remedy matters, such as returning under-age guerrillas to their families.<sup>69</sup>

After this speech, San Vicente residents reported that a number of FARC-EP child combatants were returned to their families, including one girl of twelve. In February 2001, the FARC-EP handed over sixty-two children that they claimed had been combatants to the United Nations Children's Fund. At the same time, the FARC-EP pledged to demobilize 500 more under-age combatants in the months ahead.<sup>70</sup> According to the office of the People's Advocate, however, an estimated 60 percent of FARC-EP fighters are believed to be under fifteen.<sup>71</sup>

Evidence in support of this claim emerged in late 2000 after combat between the FARC-EP and the Colombian Army, in a maneuver that the army labeled "Operation Berlin." Independent observers reported to Human Rights Watch that dozens of children were among the guerrillas registered as killed or captured after government troops intercepted the FARC-EP's "Arturo Ruiz" column outside the Zone near Tibú, Norte de Santander. The Colombian Army announced that thirty-two of those captured were aged seventeen or under, including several younger than fourteen, and a third were females. Of those killed, twenty were said by the army to be children.<sup>72</sup>

## IX. FORCED DISPLACEMENT

Forced displacement of civilians is prohibited under article 17 of Protocol II. Unless civilians are required to be moved for purposes of their own safety or due to a clear military imperative, any displacement for reasons related to the conflict is prohibited. It should be noted that forced displacement often occurs as the result of other violations, including killings and threats.

As far as Human Rights Watch is aware, there are no accurate figures on the level of forced displacement from the Zone. It is clear, however, that the FARC-EP's control of the Zone has generated some forced

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<sup>67</sup> United Nations press release, "Special Representative of the Secretary-General for Children and Armed Conflict Calls on the FARC-EP of Colombia to Honour Commitments on Recruitment of Children," HR/OO/9, January 31, 2000.

<sup>68</sup> Human Rights Watch interview, Los Pozos, Caquetá, June 2, 2000.

<sup>69</sup> Human Rights Watch interviews, San Vicente del Caguán, Caquetá, June 2-3, 2000.

<sup>70</sup> Andrés Cala, "Trading in rifles for schoolbooks," *The Gazette* (Montreal), March 8, 2001.

<sup>71</sup> Human Rights Watch interview, People's Advocate's office, Santafé de Bogotá, January 10, 2001.

<sup>72</sup> Human Rights Watch interview, People's Advocate's office, Santafé de Bogotá, January 10, 2001; Juan Forero, "Colombian Army Goes High Up to Fight Rebels," *New York Times*, December 19, 2000.

displacement. According to the Consultancy for Human Rights and Forced Displacement (*Consultoría para los Derechos Humanos y el Desplazamiento*, CODHES), an independent human rights group based in Bogotá, at least 3,700 people left the Zone in 1999.<sup>73</sup>

Some fled because they were specifically threatened. Others fled out of fear that their children would be recruited by the FARC-EP or that they would be attacked because the FARC-EP accused them of links with paramilitaries.<sup>74</sup> An informed source based in the town of San Vicente estimated that some 300 persons had fled the San Vicente area because of threats or fear since the Zone's establishment.<sup>75</sup> The People's Advocate has documented several cases of displacement, including that of Bogdan Bujalski, a priest who was based in La Julia, Uribe, and who was forced to flee on September 12, 1999 on the FARC-EP's orders.<sup>76</sup>

## X. CONCLUSIONS

Human Rights Watch welcomes peace negotiations aimed at ending political violence and international humanitarian law violations in Colombia. But we also believe that the FARC-EP must take immediate action to cease the abuses described in this report. Without the necessary attention to upholding the rules of war, it will be all the more difficult to build the confidence and trust necessary among the parties to bring Colombia's long and bloody conflict to an end.

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<sup>73</sup> Human Rights Watch interview, Santafé de Bogotá, May 29, 2000.

<sup>74</sup> Human Rights Watch interviews, Florencia, Caquetá, May 31, 2000, and San Vicente del Caguán, Caquetá, June 1, 2000.

<sup>75</sup> Human Rights Watch interview, San Vicente del Caguán, Caquetá, June 1, 2000.

<sup>76</sup> Letter from the office of the People's Advocate, September 13, 1999.

## **APPENDIX: THE FARC-EP RESPONSE TO HUMAN RIGHTS WATCH'S LETTER**

### **LAS NAVES DEL INTERVENSIONISMO Las FARC-EP responden a la carta que HRW dirigió al Comandante Manuel Marulanda Velez**

Comunicado del Estado Mayor Central de las FARC-EP  
(21 de julio del 2001)

Gran sorpresa produjo en las filas guerrilleras el documento firmado por el señor José Miguel Vivanco, director ejecutivo de Human Rights Watch, que conocimos a través de los medios de comunicación. Leída la versión de la carta que publicó la prensa, no cabe duda que, cómo en las guerras de conquista, se aproximan a nuestra patria las naves del intervencionismo yanqui, disfrazado de acción humanitaria. El lobo con piel de oveja. Son los nuevos rumbos que esta ONG y su Director Ejecutivo vienen tomando bajo las órdenes de Washington, en estos últimos tiempos.

El informe de esta ONG hace parte de la política intervencionista que viene de la mano de la imposición del ALCA (Área de Libre Comercio para las Américas) como mecanismo de anexión económica de Estados Unidos; el Plan Colombia, ahora denominado Iniciativa Andina, expresión militar de este proyecto; y para completar el cuadro, la llamada transnacionalización de la justicia norteamericana a través de las Naciones Unidas, previo desmantelamiento de la justicia soberana de los Estados. Es la ley del embudo: Estados Unidos no firma la aprobación de la justicia internacional ni los tratados internacionales sobre protección del medio ambiente y abolición de las minas antipersonales pero si está de acuerdo en que los cumpla el resto del mundo. Mientras tanto viola los acuerdos firmados con Rusia como el de regulación de armas estratégicas.

Hacen parte de este aparataje, en su etapa de propaganda, algunas ONGs encargadas de hacer este trabajo en el exterior para los Estados Unidos.

Estos tres instrumentos de la hegemonía yanqui: ALCA, Plan Colombia y transnacionalización de la justicia norteamericana, avanzan como naves de asalto al dominio del mundo. Algunas ONGs, supuestamente dedicadas a la defensa de los Derechos Humanos y el Derecho Internacional Humanitario, cumplen el papel de mascarón de proa.

El documento, apoyado en informes de tercera mano, hace eco a los pregoneros de la guerra interna y el paramilitarismo. En una clara muestra de intervencionismo pide la anulación de las disposiciones legales que sustentan la zona desmilitarizada, resultado de los acuerdos y garantía para que los voceros del gobierno y las FARC adelanten las conversaciones. Entendemos que se quiere presionar a las FARC mientras se estimula a los sectores fascistas que respaldan la política paramilitar oficial.

El Director ejecutivo, radicado en Washington, guarda silencio cómplice frente a la invasión gringa a Granada y Panamá, el ataque imperialista a Iraq y Yugoslavia, el infame bloqueo a Cuba socialista y el terrorismo de Estado que se acrecienta en nuestra patria. Ahora construye las cortinas de humo que ocultan la responsabilidad de Estados Unidos en el desangre que causa el paramilitarismo estatal que sufre Colombia.

Rechazamos el intervencionismo norteamericano, nos oponemos a la transnacionalización de las leyes de EEUU, defendemos la soberanía nacional y el derecho a luchar por la paz y la reconciliación de la familia colombiana.

Flaco servicio prestan este tipo de ONGs a la paz, cuando buscan imponer en nuestra patria la agenda de temas de la política del Departamento de Estado de los EEUU. Tampoco ayudan cuando hacen política a costa de las necesidades de la gente pobre de Colombia. Todo a cambio de los dólares aportados por los propulsores de la globalización neoliberal y por algunos gobiernos para planes sociales, pero que van a parar a los bolsillos de las directivas oportunistas de estas organizaciones.

ESTADO MAYOR CENTRAL

FUERZAS ARMADAS REVOLUCIONARIAS DE COLOMBIA  
EJERCITO DEL PUEBLO  
FARC-EP

Montañas de Colombia, julio 21 de 2001