

# COLOMBIA

**In 2001, the Inter American Court on Human Rights of the Organization of American States ordered the exhumation and analysis of human remains as part of a trial proceeding. This was the first time that the court had ordered such an investigation. The Court named EAAF as expert witness on the Las Palmeras Case in Colombia, a case of extrajudicial executions in which, according to Court proceedings, on January 23, 1991, members of the Colombian National Police, with support from the Army, killed seven people in the small town of Las Palmeras, in the Mocoa district of Putumayo province.**

## HISTORICAL BACKGROUND

Colombia has suffered through intense periods of violence since at least the late 1940's, when struggles over governmental power between the Liberal and Conservative parties led to a period of mass killings, beginning in 1948, known simply as "La Violencia." It is estimated that 200,000 Colombians died during the next sixteen years. The struggles between the two major political parties eventually led to power-sharing agreement known as the National Front, which called for constitutional reforms and an alternation of the presidency between Liberals and Conservatives. Though the National Front did achieve a reduction in violence, little was done to redress the fundamental inequities in Colombia's social structure. Rich Colombians continued to control a massively disproportionate amount of the nation's resources as well as political power, creating tensions that were exacerbated in the 1960's by economic problems including inflation and a decline in coffee prices on the world market. The agreement between Liberals and Conservatives marginalized a range of political groups outside the two main parties.

The war in Colombia today has its roots in peasant protest against economic inequality and government violence.<sup>1</sup> Rural militias formed during "La Violencia" eventually melded with Marxist guerillas to form, for example, Colombia's currently most powerful rebel groups: the ELN, or National Liberation Army, formed in 1964; and the FARC, or Colombian Revolutionary Armed Forces, formed in 1966. Rebel groups such as these came into conflict both with government forces dedicated to preserving order, and paramilitary groups often funded by Colombian elites (especially wealthy landowners) and linked to the Colombian Army. The course of this civil war has been extremely complicated, winding through many forms of conflict and many efforts at negotiation between guerrilla groups and the government over the last 35 years.





**Antioquia. 2000. Military personnel during an operation. photo courtesy of Stephen Ferry.**

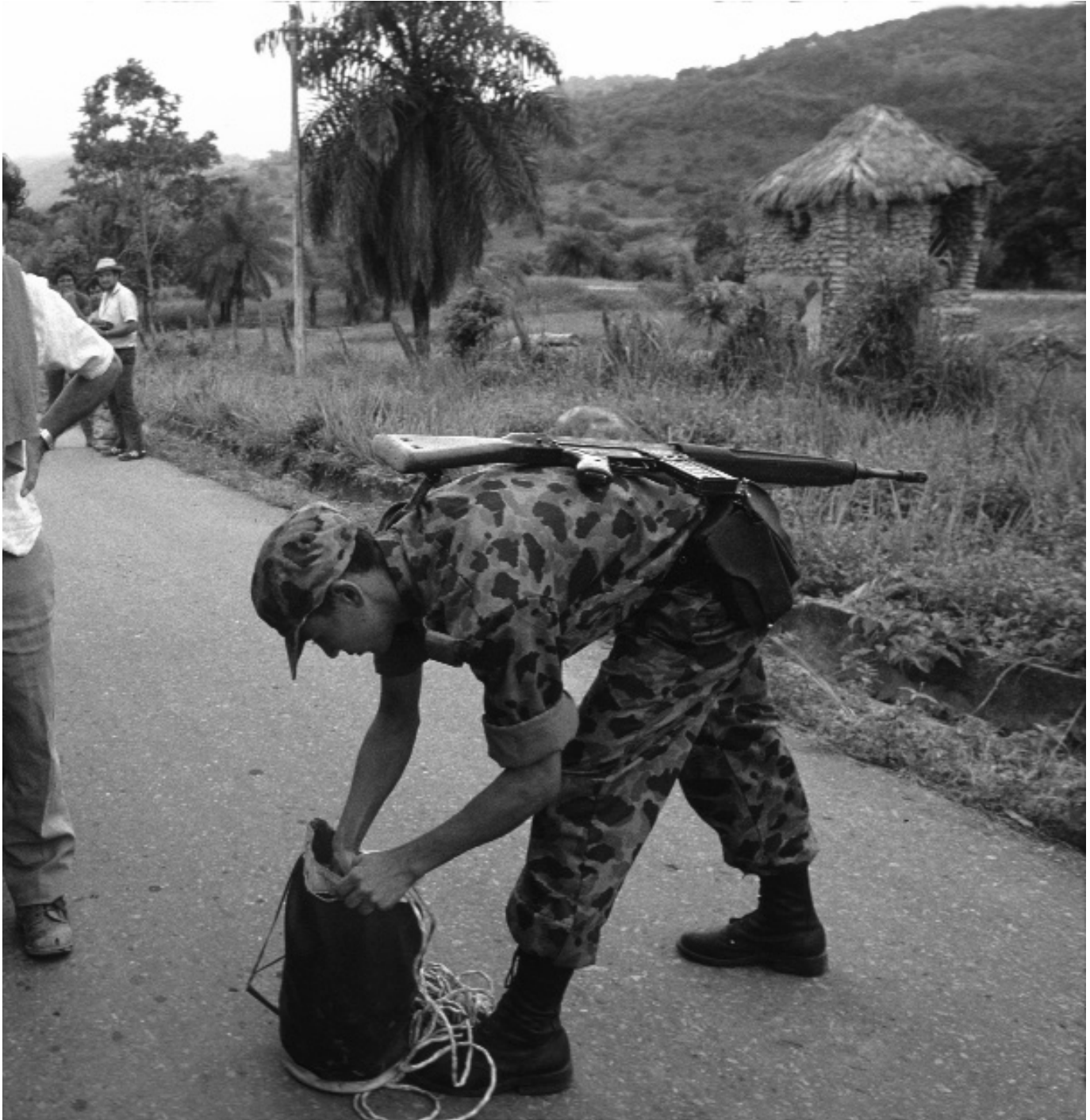
In conjunction with the war, the growth of drug trafficking in Colombia in the 1970's and 1980's led to further violence, as large-scale drug distribution created criminal networks, most famously those based in the cities of Medellín and Cali, that used bribery, kidnapping, and assassination to intimidate Colombia's political and judicial institutions. Levels of murder and kidnapping reached extraordinarily high levels in the late 1980's. Every group involved in Colombia's civil wars has been accused at one time or another of profiting from the drug trade.

Human rights violations have constantly accompanied political conflicts in Colombia. According to many human rights organizations, both the FARC and the ELN practice kidnapping and murder to further their political aims, and the rebel groups frequently target wealthy landowners, businesspeople, and politicians. Paramilitary groups, often acting with total impunity, have executed suspected rebels extrajudicially, and committed massacres especially in rural villages thought to harbor rebels. Colombia's national police and military forces have been accused of committing massacres of rebel groups and people thought to be allied with rebels; they have also been accused of disappearing and killing political opponents and rebels.<sup>2</sup> A UN High Commissioner for Human Rights office opened in Colombia in 1997 to address specifically the problem of one million Colombians displaced because of ongoing violence, and to monitor more generally the human rights situation in the country.

The late 1990's saw the government make major changes in policy towards the FARC, Colombia's most powerful rebel army. President Andrés Pastrana, elected in 1998 in large part on a platform of negotiated reconciliation with the rebels, created a large demilitarized zone (the size of Switzerland) in 1998 where the FARC could reside free from attacks from Colombia's army. A series of negotiations between FARC and the government followed the creation of the demilitarized zone, but, as critics of the plan noted, the rebels were able to use the safe zone to plan and execute military attacks, kidnappings and assassinations. After sustained offensives by the FARC in the beginning of 2002, President Pastrana declared the peace plan dead, and the government initiated a military offensive aimed at retaking the demilitarized zone from the FARC. The United States, which increased military contacts with the Colombian Army in 2000 under President Clinton's "war on drugs," is considering a further increase in military aid, and the possible commitment of U.S. troops, as part of the Bush Administration's "war on terror."<sup>3</sup> \$1.3 billion was promised in U.S. aid to combat drugs under the Clinton Administration's "Plan Colombia;" at the writing of this report, the US Congress is considering Bush Administration proposals to remove restrictions that keep U.S. aid from being used directly for the Colombian government's wars against rebel groups.



According to Human Rights Watch, the human rights situation in Colombia, already among the worst in the world, deteriorated in 2001:



San Vicente de Cucuri, 1988. Troops of the 14th Battalion D'Elhuyar search peasants after they have been dispersed from a Lana Caliente march. They check documents and look for weapons. Photo courtesy of Susan Meiselas/Magnum Photos.

“In the first ten months of the year, the office of the Public Advocate (Defensoría del Pueblo) recorded ninety-two massacres, which they defined as the killing of three or more people at the same place and at the same time [following the UN’s definition]. Most were linked to paramilitary groups, followed by guerrillas. Both paramilitaries and guerrillas reportedly moved with ease throughout the country, including via helicopter.”

According to Human Rights Watch, paramilitary groups continued to receive support from the Colombian military, and military members were themselves implicated in assassinations. The FARC kidnapped and killed civilians, politicians, and others, and they “frequently used indiscriminate weapons.” Similarly, the ELN “violated international humanitarian law by launching indiscriminate attacks and committing kidnappings.” This escalation of violence may become more pronounced with the demise of the peace talks.<sup>4</sup>

## THE PALMERAS CASE

According to court proceedings from the Inter American Court on Human Rights, on January 23, 1991, members of the Colombian National Police, with support from the Army, conducted a raid on the town of Las Palmeras, located in the district of Mocoa in the Department of Putumayo.<sup>5</sup> In the Court files, that morning the Army arrived by helicopter and opened fire on civilians, including schoolchildren, near a school in Las Palmeras. One child, Enio Quinayas Molina, was wounded. As described by the Inter American Court, during the raid the Police took into custody at least six people: Hernán Javier Cuarán Muchavisoy, a schoolteacher, Julio Milciades Cerón Gómez and Artemio Pantoja, two workers repairing a septic tank, the brothers William Hamilton and Edebraes Norverto Cerón Rojas, two farmers, and a sixth person later found to be Moisés Ojeda. A seventh person, Hernán Lizcano Jacanamejoy, also died during the raid. According to the findings of the Inter American Court, the Police later executed at least six people extrajudicially, with the manner of death (cause of death, in this case gunshot wounds, was not in dispute) of the seventh person, Lizcano Jacanamejoy, uncertain.

The Inter American Court concluded:

“the members of the National Police and the Army made extensive efforts to justify their actions. Along these lines, they dressed the cadavers of some of the victims in military uniforms, then burned their clothing and threatened various witnesses. They also brought forth seven cadavers which were the bodies of subversives killed in supposed confrontation. Among these cadavers were the bodies of the six people detained by the Police as well as a seventh, the circumstances of whose death remains obscure.”<sup>6</sup>

Although both the Police and the Army opened investigations into the killings, neither has found anyone guilty of wrongdoing: the National Police absolved its members of responsibility, and the Army’s investigation lasted seven years without any formal charges.

In 1994 the Inter American Commission on Human Rights received and accepted a complaint presented by Comisión Colombiana de Juristas in conjunction with the Center for Justice and International Law (CEJIL), a non-gov-



Colombia. 2001. Excavating initial trenches. photo by EAAF

ernmental organization based in Washington DC, about the Las Palmeras killings and opened a formal inquiry into the deaths of the seven people. After the Commission's attempts at brokering a resolution between the complainants and the Colombian Government proved unsuccessful, the case was referred in 1998 to the Inter American Court on Human Rights of the OAS for trial.

On July 31, 1973, Colombia agreed to join the group of states that follows the American Convention on Human Rights, and it has recognized the jurisdiction of the Inter American Court for Human Rights of the Organization of American States since June 21, 1985. The Inter American system is based on two legal foundations: the American Convention on Human Rights and the Charter of the OAS. For these reasons, the Inter American Court holds the legal competence to preside over the Las Palmeras case.

In the initial stages of the trial, the Colombian government recognized before the Court problems in its investigations into the Palmeras case, and admitted responsibility for



the deaths of six of the seven people whose bodies were initially turned over to the state by the National Police; that is to say, Cuarán Muchavisoy, Julio Milciades Cerón Gómez and Artemio Pantoja, the brothers William Hamilton and Edebraes Norverto Cerón Rojas, and the sixth victim, identified as Moisés Ojeda. At the same time, the government argued that there was insufficient evidence to determine the manner of death of Hernán Lizcano Jacanamejoy. In response, the Inter American Court for the first time ordered the exhumation and analysis of human remains, in this case the remains of Lizcano Jacanamejoy. EAAF was nominated to perform the exhumation and analysis, and to serve as an expert witness of the Inter American Court. In addition, as a result of the initial doubts about Moisés Ojeda's identity, the Court asked EAAF to find his remains and confirm his identity.

In preparation for the exhumation, EAAF member Dario Olmo testified before the Inter-American Court based in San Jose, Costa Rica as to the potential for discovering the manner of death of the Lizcano through forensic analysis. Olmo testified to the fact that, with skeletonized human remains, it can be very difficult to determine if a person was executed or died in combat. The trajectory of bullets and the location of wounds can sometimes help make this determination from gunshot wounds found on skeletonized remains. For instance, an entrance gunshot wound to the back of the head can sometimes be a strong indication of execution, but, of course, people can be executed with wounds very similar to those they might have received in combat. The determination of distance, another element useful in determining manner of death, can often be estimated when analyzing soft tissue, but is most often simply not possible to determine from skeletal remains alone. In the case of Hernán Lizcano Jacanamejoy, the Colombian government argued that his wounds had indeed resulted from combat with Colombian soldiers. Despite these difficulties and to try to solve this controversy, the Inter American Court agreed to proceed with the exhumation. To mitigate the problems of forensic skeletal analysis in this case, pathologists were included in the investigative team to compare the results of skeletal analysis with the autopsy performed in Colombia shortly after the death of Lizcano Jacanamejoy.

## EAAF'S MISSION

EAAF members Darío Olmo, Silvana Turner, and Mercedes Doretti traveled to Bogotá, Colombia to begin the investigation. EAAF also invited forensic pathologist Dr. João Pinheiro, from the Coimbra Medical Examiner's Institute in Portugal. In Bogotá these four met with Judge Daniel O'Donnell from the Inter American Court, Luz Marina Monzón and Carlos Rodríguez, both lawyers and members of the *Asociación Colombiana de Juristas*, lawyer Viviana Kristicevich from the Center for Justice and International Law (CEJIL), and lawyers Verónica Gómez and Robert Goldman of the Inter American Commission. On the defendant's side, the Colombian government named as investigators Dr. Carlos Eduardo Valdés Moreno, Chief of the Forensic Anthropological Division of the Criminal Division of the Technical Investigative Unit (CTI) of the National Prosecutor's Office, and Liliana Segura Leal and Claudia Hidalgo, anthropologist and odontologist respectively, both also of the CTI. The whole delegation, except for the forensic experts on the government's side, traveled to the city of Mocoa, Putumayo Province under police escort. The province is considered the heart of the cocaine cultivation and traffic in Colombia. Combat between paramilitary and military units and FARC is frequent.

### *Archaeological Investigation*

From June 25-27, 2001, EAAF members conducted excavations related to the Palmeras Case at the local cemetery of Mocoa. Rain fell constantly over these three days, complicating excavation logistics considerably. The grave of Hernán Lizcano Jacanamejoy bore a cross with his name and date of death; his remains had been buried by his family. The Court had asked for Lizcano's remains to be exhumed in order to determine if *peri mortem* trauma found of the skeletal remains could provide any information about the manner of death. The cause of death – multiple gun shot wounds – had already been determined by the autopsy performed at the time of the event. The exhumation was carried out with the consent and in the presence of the Lizcano family. Lizcano's remains were found in the clothing his family had used for the funeral. At the pelvic

area EAAF found two metal fragments: the first the remains of a zipper, and the second compatible with a bullet fragment, possibly a high velocity projectile.

While two EAAF members exhumed the remains of Hernán Lizcano Jacanamejoy, the third investigator tried unsuccessfully for three days to locate the grave of Moisés Ojeda. As noted, the purpose was to confirm his identity. Two witnesses to the burial of all seven victims did not remember the exact location of the grave and many new graves had been dug in the indicated area since 1991, the date of the Las Palmeras incident. This had changed the landscape considerably. Furthermore, the Mocoa Cemetery does not maintain a registry: bodies are buried in empty spaces and marked by the buriers themselves with no other record of their work. Although the investigators dug trenches across the area, the delegation was unable to discover Ojeda's remains.



Colombia. 2001. Exhumation in progress. photo by EAAF

### *Laboratory Analysis*

The skeletal remains of Hernán Lizcano Jacanamejoy were held under custody in the morgue of the Mocoa Hospital and then shipped under the custody of judge Dr. Daniel O'Donnell to the Institute of Medical-Legal and Forensic Sciences of Bogotá on June 28, 2001. EAAF with Dr. Pinheiro, and a group of Colombian government experts each performed separate analyses of the skeletal remains there. Fortunately, the experts from both teams reached similar conclusions, and thus were able to produce a single report on the findings that was then delivered to the Inter American Court.

The autopsy performed on the body shortly after Lizcano Jacanamejoy's death had originally reported that he had been shot at the base of the neck on the right side, and the bullet had passed through Lizcano Jacanamejoy's skin, fractured his

right clavicle and two top right ribs, passed through his right lung, diaphragm, and liver, and exited through his stomach. The bullet's trajectory had moved from top to bottom, from left to right, and from back to front.

EAAF and Pinheiro's forensic analysis confirmed many elements of the autopsy report. Analysis of the skeletal remains found a peri mortem (around the moment of death) fracture of the right clavicle, and a loss of bone matter at the medial ends of the first and second right ribs possibly produced peri mortem. Unfortunately, the existing right rib fragments did not allow for a more definite conclusion. Nevertheless, these findings together were compatible with the original autopsy report. The characteristics of the bone fracture in the clavicle suggested, with a high degree of probability, that the bullet traveled from top to bottom, while the evidence from the clavicle in combination with that from the ribs suggested that the bullet traveled slightly from left to right and from back to front. Both autopsy and forensic skeletal analysis presented evidence of a bullet wound that produced a grave trauma capable of causing Lizcano Jacanamejoy's death.

The original autopsy also described a bullet wound that entered the right lower spine area (lumbar area) passed through of the body and exited through the left hip, with a trajectory from back to front, from right to left, and from top to bottom. The examination of the pelvic bone revealed multiple fractures of the left hip compatible with a peri mortem gunshot wound as reported in the autopsy. The sacrum presented loss of bone matter probably caused by the force that fractured the left hip. Clear peri mortem fractures affected the head of the femur, and possible peri mortem fractures were also found in forearm bones and in some finger bones of the left hand. During the exhumation of the remains, a relatively complete bullet, probably a high velocity bullet, was recovered near the left hip. Also, a bullet fragment was found in the inside of the underwear the individual had been wearing. Finally, radiological investigation revealed a metal object compatible with a bullet fragment lodged in a fragment from the left hip.

The autopsy report describes an exit wound for the bullet that hit the pelvic area. Thus, if the autopsy report is



Colombia. 2001. Exhumation in progress. photo by EAAF

correct, the fragments found during the exhumation would correspond to a second bullet that hit this area. In sum, all of this evidence reinforces the conclusion that Lizcano was shot at least one time and possibly twice in this region. No X-rays were taken during the autopsy, which partly explains the fact that those bullet fragments were not recovered at the time. Due to the severe destruction of the left side of the pelvic area, EAAF was unable to corroborate the exact trajectory indicated in the autopsy report for this shot; but we also did not find evidence against it.

The bullet trajectories described in the autopsy, in some aspects corroborated and in others suggested as possibilities in the analysis of the skeletal remains, allow for hypotheses on the mode or manner of death. According to the autopsy, both shots moved from back to front. The bullet that fractured the victim's right clavicle is especially suggestive. The trajectory of the bullet was described in the autopsy report as entering at the right side of the neck and exiting at the upper lateral portion of the abdomen, beneath the lower ribs. This trajectory is extremely vertical. The verticality of the trajectory suggests specific positions of the shooter relative to Lizcano Jacanamejoy: the shooter must have been in a position above the victim, either on a hill or in the air, or the shooter could have stood behind the victim as he kneeled. Thus from a medico-legal point of view, the bullet's trajectory allows the possibility that the victim was executed. But, as suspected, this fact could not be established with certainty. There is no information in the autopsy, nor was any available through forensic skeletal analysis, to determine the distance between the shooter and the victim.

Although the facial bones of the skull were fractured, these wounds appeared to have occurred post mortem. In order to rule out any possible gun shot wound to the head, the Colombian experts suggested and EAAF agreed to perform a mass spectrometric analysis on those bone. This method analyzes trace elements of metals associated with bullets, bullet jackets, and bullet propellants to determine the presence and trajectory of bullets through bodies. From the perspective of EAAF and the other delegates nominated by the Court, the mass spectrometry was incon-

clusive as to the manner of death of the victim. However, one observer of the process (also named by the Court), Argentinean ballistic expert Hector Daniel Fernández, did find that the spectrometric analysis offered evidence that the victim had been kneeling when shot. Although Fernández's results were in some ways compatible with the autopsy and forensic skeletal analysis, Fernández offered a high level of certainty for his conclusion. Unfortunately, Fernández did not fully explain how he reached his conclusions

The Inter American Commission on Human Rights found that the forensic findings, in conjunction with witness testimony and the results of the spectrometry investigation, provided the evidence necessary to hold Colombia's government responsible for the death of Hernán Lizcano Jacanamejoy. The Inter American Court, however, decided that the evidence did not prove conclusively that Lizcano Jacanamejoy was executed, and therefore did not rule against the Government of Colombia on this case.

On December 6, 2001, the Inter American Court registered a sentence against the Government of Colombia, holding the government responsible for the deaths of six victims: Cuarán Muchavisoy, Julio Milciades Cerón Gómez, Artemio Pantoja, William Hamilton Cerón Rojas, Edebraes Norverto Cerón Rojas, and Moisés Ojeda. Although the Court found that there was insufficient evidence to hold the Government responsible for the death of Hernán Lizcano Jacanamejoy, the Court did hold that the inadequacies and delays in the Government's investigations of the Palmeras case violated the rights of the families of all seven victims to open access to the judicial process. As of the writing of this report, the Inter American Court has entered the reparations phase of the trial for the seven families.



Antioquia. June 2001. Members of the FARC stop civilians at a roadblock. Photo courtesy of Stephen Ferry.

## FOOTNOTES

1. For a useful survey of violence in Colombia see Charles Bergquist, Ricardo Peñaranda, and Gonzalo Sánchez (eds.), *Violence in Colombia: The Contemporary Crisis in Historical Perspective* (Wilmington, 1992); and the same editors' *Violence in Colombia 1990-2000: Waging War and Negotiating Peace* (Wilmington, 2001).
2. On paramilitary and military human rights violations see Amnesty International, "Colombia: Modelo de violación de los derechos humanos: Terror paramilitar e impunidad," in the proceedings of the conference Elimination and Terror: International Conference on Political Killings and "Disappearances" (Amsterdam, 1992).
3. According to Human Rights Watch, the United States has consistently downplayed human rights violations and the links between Colombia's military and paramilitaries in justifying its decision to provide military aid. See Human Rights Watch, "The 'Sixth Division': Military-Paramilitary Ties and U.S. Policy in Colombia," (September, 2001).
4. Citations taken from Human Rights Watch, "Colombia," Annual Report 2002. For a similar account of the human rights situation in Colombia see Amnesty International, "Colombia," Annual Report 2001.
5. This and subsequent information, as well as citations, are drawn from Corte Interamericana de Derechos Humanos, Sentencia: Caso Las Palmeras, December 6, 2001.
6. Corte Interamericana de Derechos Humanos, Sentencia: Caso Las Palmeras, December 6, 2001.