

COLOMBIA:

THE PUEBLO BELLO CASE

From August 20 to 26, 2003, EAAF member Luis Fondebrider traveled to Colombia to provide forensic advice and accompany two Colombian human rights organizations — the Association of Relatives of the Disappeared (ASFADES) and the Colombian Commission of Jurists — in the investigation of the “Pueblo Bello” case by the Prosecutor from the Human Rights Unit of the Attorney General’s Office of Medellín.

The United Nations Office of the High Commissioner for Human Rights sponsored the EAAF member’s visit.

HISTORICAL BACKGROUND

Colombia has suffered through intense periods of violence since at least the late 1940s, 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 a 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 1960s by economic problems including inflation and a decline in coffee prices on the world market. Also, 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.¹ Rural militias formed during “La Violencia” eventually joined with Marxist guerrillas to form Colombia’s most powerful current rebel groups: the National Liberation Army (ELN), formed in 1964, and the Colombian Revolutionary Armed Forces (FARC), formed in 1966. These and other rebel groups fought against both 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 the war has been complicated, winding through many forms of conflict and repeated efforts to negotiate between guerrilla groups and the government over the last 38 years.

In conjunction with the war, the growth of drug trafficking in Colombia in the 1970s and 1980s 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 extraordinary high levels in the late 1980s. Every group involved in Colombia’s civil wars has been accused at one time or another of profiting from the drug trade. In order to finance their military efforts both the FARC



Alias "Gueso," a 16-year old, battle-hardened member of the AUC right-wing paramilitary army (foreground), holding an AK-47 assault rifle on sentry duty in the San Pablo neighborhood of Medellín, which is under the control of the Cacique Nutibara Block of the United Peasant Self-Defence (AUC) paramilitary army. "Gueso," like many of his kind, was a professional assassin from the age of 12, and was recruited by the AUC for his brutal skills at execution, torture and urban warfare. Medellín, Colombia, 2002. *Photo courtesy of Stephen Ferry/Redux.*

and the paramilitary forces reportedly produce some 80 percent of the world's cocaine.² Kidnappings have also become a major source of income.

Human rights violations have constantly accompanied political conflicts in Colombia. According to 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 committed extra-judicial executions of suspected rebels 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 civilians thought to be allied with the guerrillas; they also have been accused of disappearing

and killing political opponents and rebels.³ An office of the UN High Commissioner for Human Rights opened in 1997 in Colombia to address the problem of internal displacement of one million people due to the violence and to monitor the human rights situation more broadly.

The late 1990s saw major changes in the government's policy toward the FARC, Colombia's most powerful rebel army. Shortly after his election in 1998 in part on a platform of negotiated reconciliation with the rebels, President Andrés Pastrana created a large demilitarized zone (as large as Switzerland) where the FARC could reside without facing army attacks. A series of negotiations between FARC and the government followed the creation of the demilitarized zone, but, as critics noted, the rebels were able to use the safe zone to plan and execute military attacks, kidnappings and assassinations. After sustained



A fifteen year old, after three months of training, on his first day of active military duty as a FARC guerrilla guards a jungle camp in the state of Caquetá, Colombia, 2000.
Photo courtesy of Stephen Ferry/Redux.

offensives by the FARC in the beginning of 2002, President Pastrana declared the peace plan dead, and the government initiated a military offensive to retake the demilitarized zone. In 2002, three years of formal peace talks between the government and the FARC collapsed, and the fighting increased, along with human rights violations including massacres, death threats and killings.⁴ As part of its “Plan Colombia,” the US also continues to provide more than over \$750 million in mostly military aid and provides training to the Colombian army.⁵

On May 26, 2002, Alvaro Uribe was elected president. As the International Crisis Group has noted, he addressed major political concerns by strengthening the state’s authority and improving security. Five days into his administration, President Uribe declared a state of emergency, allowing the government to “restrict the movement of citizens, tap cellular calls, and raid homes of suspected criminals, in some cases without a judicial warrant.”⁶ Widely criticized both domestically and in the international arena because of its unilateral concern with improving security at the expense of other issues, such as the humanitarian crisis and rural development⁷ or the potential increase in impunity, in April, 2003 the Constitutional Court denied the renewal of the state of emergency decree.

In 2003 the congress passed legislation granting judicial powers to the military, which is expected to affect

investigations in which members of the armed forces are accused of human rights violations. According to Amnesty International, this legislation increases the likelihood that security forces will present “victims of human rights violations as guerrillas killed in combat.”⁸ Previous attempts to expand judicial police powers to the military, Amnesty argues, have always been declared unconstitutional.

War crimes have been perpetrated both by the guerrilla and the military and paramilitary groups. The use of the civilian population as human shields has been documented as one of the many violations of human rights and humanitarian law in Colombia.⁹ According to Amnesty International, in 2003, more than 3,000 civilians were killed for political reasons and at least 600 were disappeared.¹⁰ All parties in the conflict are allegedly responsible for these violations.

Moreover, forced displacement of civil populations due to violent acts or threats has given rise to a humanitarian crisis. According to Amnesty International, in spite of a 49% decrease in the number of displaced persons in 2003 as compared to 2002, during the first nine months of 2003 more than 175,000 persons remained displaced.¹¹

The Organization of American States’ Inter-American Commission on Human Rights has expressed concern regarding the high number of reports of human rights abuses they received during 2003, in spite of government reports that the number of massacres and killings carried out both by the paramilitary group AUC (Autodefensas Unidas de Colombia/Self-Defense Units of Colombia) and the FARC¹² had decreased. According to CINEP (Centro de Investigación y Educación Popular/Center of Popular Investigation and Education, a Colombian non-governmental organization), from January to June 2003 there were an estimated 1,426 summary executions and

assassinations, in addition to the deaths of 1,074 combatants during the same period.

Although gross human rights violations are quite frequent in Colombia, many important governmental initiatives were implemented throughout the 1990s to improve its ability to prosecute and investigate these crimes and to adequately deal with massacres and other acts of violence related to the war. However, according to Human Rights Watch, during 2002 the ability of the Attorney General's office, under the leadership of Luis Carrillo Osorio, to investigate and prosecute human rights abuses deteriorated significantly: "This deterioration is the product of several factors under the attorney general's control: a lack of support for prosecutors working on difficult human rights cases; a failure to provide adequate and timely measures to protect justice officials whose lives are threatened; and the dismissal and forced resignation of veteran prosecutors and judicial investigators [by the Attorney General]."¹³

Meanwhile, human rights defenders, peace activists and members of trade unions who have exposed abuses have been subjected to threats, assassinations and arbitrary detentions, as well as disappearances. Both Human Rights Watch and Amnesty International have expressed concern about the risks facing human rights defenders in the country. Social activists, lawyers, prosecutors, and human rights advocates have been murdered and kidnapped or compelled to flee the country. Governmental agencies have not been able to guarantee their security while their attackers — the military, the paramilitary and the guerrillas — continue to threaten the civil population and prevent the adequate investigation of war crimes and human rights abuses.

PUEBLO BELLO: CASE BACKGROUND

On January 14, 1990, a group of 43 people, mostly peasants from the region, were kidnapped by a paramilitary group from Pueblo Bello, Municipality of Turbo. According to the testimony of a perpetrator from a paramilitary group called "The Tangueros" led by Fidel Castaño, the peasants were forced into a truck, taken to two farms that he owned — Tangas and Jaraguay — where they were later tortured and executed.

In March of the same year, Rogelio de Jesús Escobar Mejía approached the District Attorney's Office in Urabá to testify that he had participated in the operation and that he knew where the bodies were buried in each of the sites.

From April 10 to 18, 1990, the Technical Investigation Body of the Bogotá District Attorney visited the region and exhumed 24 bodies in various states of preservation from a series of graves. Four of them were discarded as related to the group because they were completely skeletonized —



A boy, a non-combatant resident of the Comuna 13 neighborhood hit by stray gunfire, is evacuated by panicked relatives during operation Orion. Medellín, Colombia, 2002. Photo courtesy of Stephen Ferry/Redux.

which indicated an older incident than that of this investigation — but the other 20 were transferred to the Hospital of San Jerónimo de Montería, capital of Córdoba for further analysis. There they were examined by a forensic doctor from the Medical Legal Institute. The advanced state of decomposition of the bodies, insufficient ante-mortem data, and the lack of access to DNA analysis made scientific identification impossible. However, relatives identified six of the victims by their clothing. The remains of those identified were returned to the relatives for burial. The other 14 bodies were buried without identification in a common grave in the San Antonio de Montería cemetery.

Several years later, in 1995, the Technical Investigative Body (CTI) of the Prosecutor's office of Bogotá made two trips to Montería to try to exhume and identify the 14 bodies. In the second trip, they found a grave in the region identified by different witnesses that participated in the burials. Of that grave, 13 bodies were recovered, but their posterior laboratory analysis — finally confirmed by DNA in 2001 — determined that they were not among those kidnapped in Pueblo Bello in 1990.

One of the main problems in locating the remains was that there were no cemetery or morgue records, and the investigative team had to rely on witness testimony to establish that the bodies had left the morgue and were buried in the cemetery. However, no witnesses could confirm what happened from the moment of the burial until the first search was begun. Versions of what happened to the bodies range from suggestions that the paramilitaries returned and retrieved them to stories about the construction of sepulchers (*nichos*) on top of them. During the 2003 trip, investigators dug under some of the sepulchers with no results.

2003: NEW EXCAVATIONS IN THE MONTERÍA CEMETERY

Under pressure from the victims' lawyers and with the opening of some political space, from August 18 to 26, 2003 the District Attorney of the Human Rights Unit of the Medellín District Attorney's Office and a CTI team from Medellín conducted new excavations in an area in

the Montería cemetery identified by various witnesses. They consisted of people who were allegedly involved in some way in helping to bury the bodies.

At the request of ASFADES and the Colombian Commission of Jurists, from August 20 to 24, Luis Fondebrider participated as observer in the search and excavation process, under the authority of the prosecutor. Immediately after, he distributed the key observations and comments.

OBSERVATIONS AND COMMENTS

EAAF was impressed by the good planning and excavation work by forensic anthropologist Oscar Hidalgo Dávila, who was in charge of the CTI technical team. The work was complicated because the water level was a few centimeters below the surface, which implied that they had to design a drainage system with pumps and trenches. In addition, the large quantity of garbage in this part of the cemetery (apparently because the grave was located in a remote part of the cemetery next to the street) — above and in the grave — made the work more difficult. The technical work was very good and professional, particularly in face of these challenges.

It is important to highlight a series of things that were not considered in the planning of the operation, which could have optimized the financial and human resources, such as:

- a) They did not make a preliminary visit to the site to evaluate the conditions of the terrain and the reliability of witness testimony. This was done while the operation was underway, resulting in a loss of time and resources.
- b) The operation was conducted during the rainy season, when the dry season is better for this type of activity.
- c) The prosecutor seemed to lack the initiative to find witnesses who could provide more information. It was left to the relatives and their lawyers to provide all of the information, when in fact the prosecutor should have looked for more witnesses to expand the investigation.



A soldier hugs his son who he has not seen for 3 years as a guerrilla commander looks on during a POW release ceremony in La Macarena, Colombia in 2002. The Revolutionary Armed Forces of Colombia (FARC) released 200+ soldiers they had been holding for up to three years in the jungle as prisoners. Photo courtesy of Stephen Ferry/Redux.

- d) The prosecutor did not prepare a daily record of what was accomplished, nor did he/she formally open or close the process each day, something the victims' relatives and their lawyers were requesting.
- e) There are two possible reasons why they did not find the bodies they were looking for: 1) they were already exhumed, without notification of the authorities; and/or 2) the place identified by the witnesses was not precise.

A series of sepulchers are in the excavated area that did not exist at that time, and the bodies could have been placed under them. All of the witnesses confirm that there were two burials that year related to massacres. One of the burial sites should correspond with the bodies exhumed by the Bogotá CTI in 1995. The other burial site, which was not found, should be from Pueblo Bello.

- f) EAAF recommended the expansion of the preliminary investigation, especially the trajectory of the chain of command of the bodies from the hospital where they were analyzed to the cemetery; and the investigation of what happened from the time of burial to the present.

ENDNOTES

1. For a useful survey of violence in Colombia see Charles Berquist, Ricardo Penaranda and Gonzalo Sanches (eds.), *Violence in Colombia: The Contemporary Crisis in Historical Perspective* (Wilmington, 1992) and *Violence in Colombia 1990-2002: Waging War and Negotiating Peace* (Wilmington, 2001).
2. International Crisis Group – Conflict Prevention and Resolution, Latin America program <http://www.crisisweb.org>
3. Amnesty International, “Colombia: Modelo de Violacion de los Derechos Humanos: Terror Paramilitar e Impunidad,” International Conference on Political Killings and “Disappearances,” (Amsterdam, 1992).
4. Human Rights Watch World Report 2002.
5. Human Rights Watch World Report 2003.
6. Christian Science Monitor, “Colombia Borrows Peru’s Playbook to Fight Rebels,” August 30, 2002.
7. International Crisis Group – Conflict Prevention and Resolution, Latin America program <http://www.crisisweb.org>
8. Amnesty writes, “The risk is that investigations into human rights violations committed by the security forces with or without the collaboration of paramilitaries will not be initiated. Reform of the Criminal Code and the Military Justice System has meant that some cases of human rights violations — including forced “disappearances” — are now excluded from military courts. However, collusion with paramilitary forces, extrajudicial executions and sexual crimes are not excluded. Amnesty International therefore fears that the granting of judicial police powers to the security forces will seal the mechanisms of impunity which exist in Colombia by ensuring that the security forces can stifle full and impartial investigations into human rights violations. The military may also find it easier to initiate investigations based on little if any evidence against human rights and other organizations who denounce human rights violations committed by the security forces, in an attempt to intimidate, silence and discredit these organizations and possibly pave the way for violent attacks against them,” in its letter to members of the House of Representatives and Senate on April 1, 2003.
9. Human Rights Watch, World Report 2003, <http://www.hrg.org/wr2k3.americas4.html>.
10. Amnesty International Report 2004, <http://www.amnestyusa.org>
11. Amnesty International Report 2004, <http://www.amnestyusa.org>
12. IACHR, Annual Report 2003, <http://www.cidh.org>
13. Human Rights Watch, Colombia. A Wrong Turn. The Record of the Colombian Attorney General Office, November 2002, p. 3.