

Republic of Colombia
Ministry of National Defense

Protecting Rights

Actions and outcomes of the National Security
Forces in the protection of human rights,
2002 -2008.



Libertad y Orden

Protecting Rights:

Actions and outcomes of the National Security Forces in the protection of human rights, 2002 -2008

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I. The Democratic Security and Defense Policy: A policy to protect human rights

Since its initiation in 2002, the Democratic Security and Defense Policy (DSDP) has been in essence a policy of systematically protecting human rights. The State, through its National Security Forces and in compliance with a constitutional mandate (Article 2 of the Constitution), has fostered the conditions to advance towards the consolidation of the effective protection of the rights and freedoms of citizens, by ensuring the presence of the National Security Forces throughout the national territory.

As the DSDP makes clear, *“the strengthening of the rule of law is the essential prerequisite to achieving the aim of Democratic Security: the protection of each and every citizen, as stipulated by the Constitution”*¹. In a social and democratic State, a security policy is a fundamental tool to fulfill the purposes of the State. Democratic Security is an essential part of the materialization of human rights, where the right of the person to

be safe and to receive protection from the State is a fundamental human right.

In the development of the DSDP, the Security Forces increased from 261,952 men in 1998 to 431,253 in 2008.

This has enabled the State to advance in recovering the monopoly of the use of force in the national territory, as well as to restore the effectiveness

of democratic institutions. The National Police returned to 170 (10%) of the municipalities in the country that were without a Police service and therefore without protection. The main outcome of this recovery of territory has been the effective protection of the population.

The strengthening of the rule of law is the essential prerequisite to achieving the aim of Democratic Security: the protection of each and every citizen, as stipulated by the Constitution.

¹ Defense and Democratic Security Policy, Presidency of the Republic and the Ministry of National Defense. June 2003.

II. Impact of the consolidation of Democratic Security on the protection of human rights

The consolidation of Democratic Security is simply the transition to normality, so that the population can enjoy normal standards of security and wellbeing². As noted by the Consolidation Policy of the National Ministry of Defense, consolidation *“is the scenario in which the security provided by the Security Forces guarantees that the State can enforce law and order and enables all institutions to function freely and permanently, in such a way that the citizens can fully exercise their rights”*³.

The outcomes of the consolidation of Democratic Security have reversed the abandonment and neglect felt by society in many parts of the national territory, where illegal armed groups wielded an arbitrary

control and constantly violated the rights to life, personal integrity and freedom, amongst other rights. The consolidation of Democratic Security has fostered the conditions to progress towards the effective protection of citizens, especially those who live in remote rural areas and who are the most defenseless.

The figures for the consolidation of Democratic Security as regards to the protection of rights speak for themselves:

The outcomes of the consolidation of Democratic Security have reversed the abandonment and neglect felt by society in many parts of the national territory, where illegal armed groups wielded an arbitrary control and violated their right to life, personal integrity and freedom amongst other rights.

2 Comprehensive human rights and IHL Policy, Ministry of National Defense, 2008. p. 20.

3 Policy for Consolidation of Democratic Security, Ministry of National Defense, 2007. p. 32.

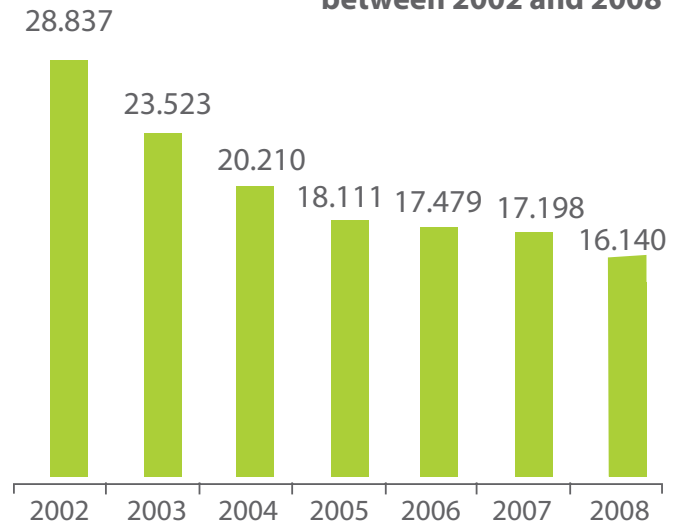
a. Protection of the right to life and the right to physical integrity

The right to life is a fundamental human right, whose full enjoyment is a prerequisite for the enjoyment of all the other rights⁴. In turn, the protection of personal integrity is now considered to be *ius cogens*⁵; in other words, this right cannot be restricted under any circumstance⁶.

The rights to life and physical integrity are enshrined by the Colombian Constitution which states that “*the right to life is inviolable*” and, as well, that “*no one shall be subjected to forced disappearance, torture or to cruel, inhuman or degrading treatment*”⁷.

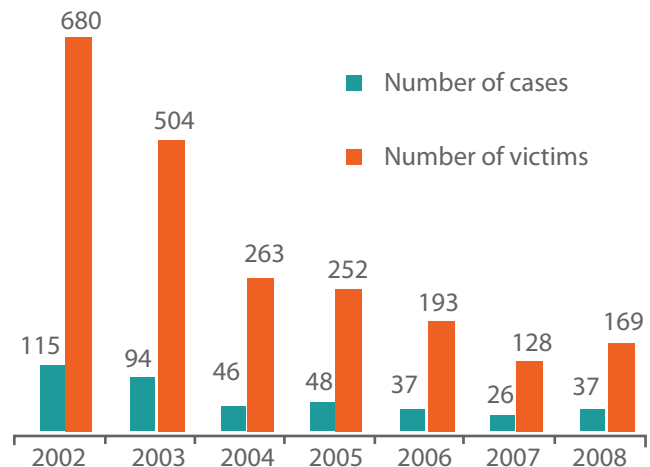
The State authorities and in particular the National Security Forces are obliged to respect and guarantee the right to life and personal integrity in their two dimensions: a negative one, where nobody can be deprived of their life or have their integrity arbitrarily affected; and a positive one⁸, which requires States, in the light of their obligation to guarantee the full and free exercise

The number of homicides reduced by 44% between 2002 and 2008



Source: DIJIN-CICRI National Police

The number of victims of massacres reduced by 75% between 2002 and 2008



Source: DIJIN-CICRI National Police

4 See, for example, Inter American Court of Human Rights *Caso 19 Comerciantes*. Judgments of 5 July 2004. Serie C No. 109, paragraph 153; and *Caso Myrna Mack Chang*, Judgment of 25 November 2003, Serie C No. 101, paragraph 152.

5 See, for example, Inter American Court of Human Rights, *Caso Fermín Ramírez*. Judgment of 20 June 2005. Serie C No. 126, paragraph 117 and *Caso Caesar*. Judgment of 11 March 2005. Serie C No. 123, paragraph 59.

6 See, for example, Inter American Court of Human Rights, *Caso Fermín Ramírez*. Judgment of 20 June 2005. Serie C No. 126, paragraph 117 and *Caso Caesar*. Judgment of 11 March 2005. Serie C No. 123, paragraph 59.

7 Constitution of Colombia, 1991. Articles 11 and 12.

8 See, for example, Inter American Court of Human Rights *Caso Huilce Tecse*. Judgment of 3 March 2005. Serie C No. 121, paragraph 66 and *Caso “Instituto de Reeducación del Menor”*. Judgment of 2 September 2004. Serie C No. 112, paragraph 158.

of human rights, to take all appropriate measures⁹ to protect and preserve the right to life and integrity of all people under their jurisdiction, guaranteeing that third parties will not abrogate self protection tasks¹⁰. This latter dimension includes the need to take measures to guarantee access to a *dignified life*¹¹.

The consolidation of Democratic Security has fostered the conditions to enable effective progress in fulfilling the two dimensions of these obligations.

Between 2002 and 2008, the actions of the National Security Forces in Colombia permitted the reduction of 44% in the homicide rate and a reduction of 75% in the collective homicide (massacre) rate.

These outcomes have allowed enjoyment of other constitutional rights. As indicated by the Comprehensive Human Rights and IHL Policy, the protection and respect of rights are the essence of the constitutional mandate of the National Security Forces: *“Without security there is no guarantee of the right to life and physical integrity, and without these rights, there is no basis for the enjoyment of other rights”*¹².

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b. Protection of the rights to freedom and personal security

The Colombian Constitution states in Article 28 that *“everyone is free (...)”*. This right to freedom, *“safeguards both the physical freedom of individuals as well as personal security, in a context in which the absence of guarantees may result in this right being subverted”*¹³.

The right to personal safety has been defined by jurisprudence of the Constitutional Court as that which *“empowers people to receive adequate*

*protection from the authorities, whenever exposed to exceptional risks that they have no legal duty to tolerate, and which exceed those tolerable levels of danger inherent in society”*¹⁴.

The State not only has the duty to respect personal freedom, but it must also ensure that adequate and effective resources exist to guarantee this protection.

9 See, for example, Inter American Court of Human Rights *Caso de la Masacre de Pueblo Bello*, paragraph 120; similarly also see *cf. L.C.B. vs. United Kingdom* (1998) III, EurCourt HR 1403, 36.

10 Robert Alexy, *Theorie der Grundrechte*, Frankfurt, 1986. p. 417.

11 *Cfr. Caso Comunidad Indígena Yakye Axa*, *supra* note 1, paragraph 161 and *Caso de los “Niños de la Calle” (Villagrán Morales and others)*, *supra* note 203, paragraph 144.

12 Comprehensive human rights and IHL Policy, Ministry of National Defense, 2008. p. 16.

13 See for example Inter American Court of Human Rights *Caso Tibi*. Judgment of 7 September 2004. Serie C No. 114, paragraph 97 and *Caso Maritza Urrutia*. Judgment of 27 November 2003. Serie C No. 103, paragraph 64.

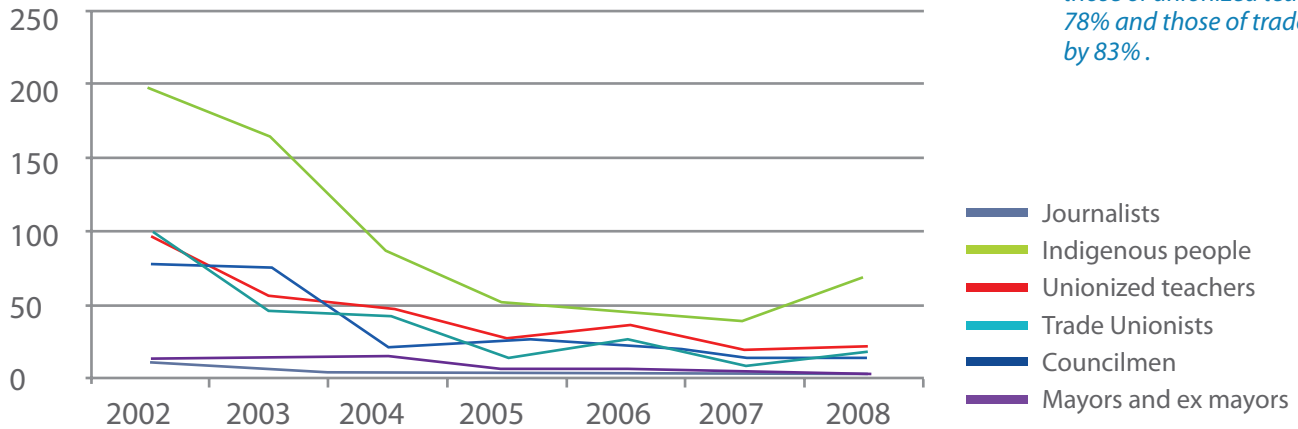
14 Judgment T-719 of 2003. M.P. Manuel José Cepeda Espinosa.

One of the principal outcomes of Democratic Security in protecting the right to personal security has been the effective protection of populations historically exposed to exceptional risks.

Between 2002 and 2008 the number of homicides of indigenous people fell by 66%, those of journalists by 100%, those of unionized teachers by 78% and those of trade unionists by 83%¹⁵.

Number of homicides of members of vulnerable groups, 2002 – 2008

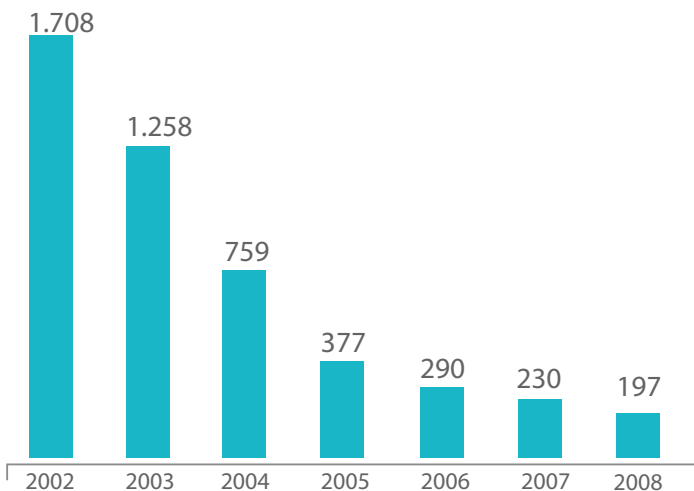
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Source: Vicepresidency of Colombia, Human Rights Observatory

Protection of the right to freedom

The number of extortive kidnappings reduced by 88,5% between 2002 and 2008



Source: Fondelibertad

It is precisely such protection of the right to personal security which has allowed the effective protection of the right to physical freedom for Colombians.

Between 2002 and 2008 the number of extortive kidnappings was reduced by 88,5%, from 1,708 cases in 2002, to 197 in 2008.

15 Vicepresidency of Colombia, Human Rights Observatory

c. Protection of political rights

Article 40 of the Constitution enshrines the right of every citizen to “participate in the shaping, exercise and control of political power”. Political rights are closely related to other rights such as freedom of expression, freedom of assembly and freedom of association which, together “make it possible to play the game of democracy”¹⁶. These rights encourage, moreover, “the strengthening of democracy and political pluralism”¹⁷. The exercise of these political rights “is an end in itself and at the same time, a fundamental way that democratic societies have for guaranteeing the other human rights”¹⁸.

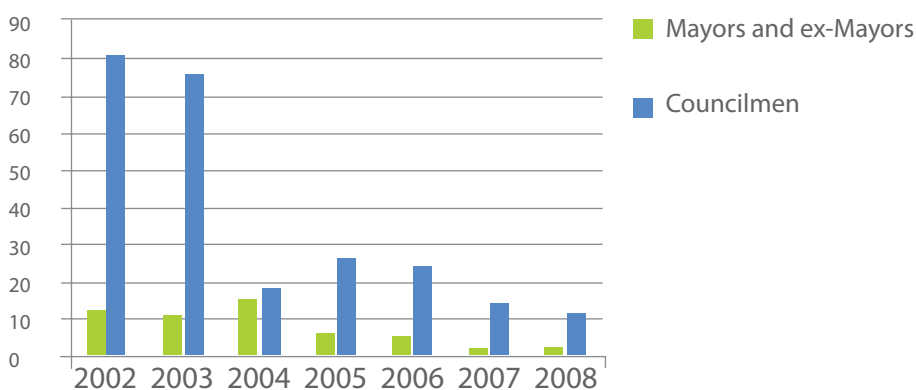
These rights have been the object of special protection. Thanks to the improvements in security, new spaces for citizen participation have been opened up, and conditions have

now been established so that the 131 Mayors who governed from outside their municipalities in 2002, can now do so from within their municipalities.

Local democracy is more alive than ever in Colombia. This is demonstrated by the historically high turnout in the last elections of 2006 and 2007 (presidential and legislative, mayoral and gubernatorial respectively) and the substantial reduction in incidents. Moreover, the number of Mayors, ex-Mayors and Councilmen who were murdered was reduced by 83% between 2002 and 2008.

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Protection of political rights The number of homicides of Mayors, ex-Mayors and Councilmen reduced by 83% between 2002 and 2008



Source: Vicepresidency of Colombia, Human Rights Observatory

16 Inter American Court of Human Rights, *Caso Castañeda Gutman Vs. México*. Preliminary exceptions, reparations and costs. Judgment of 6 August 2008. Serie C No. 184. Paragraph 140.

17 Ibidem. Paragraph 141.

18 Ibidem. Paragraph 143.

III. The Comprehensive Human Rights and IHL Policy and its outcomes

The Comprehensive Human Rights and IHL Policy of the Ministry of National Defense is the framework document that lays down the guidelines, sets the aims and establishes the programs which the Armed Forces and the National Police are required to know and implement in the field of human rights and IHL.

It is the road map that provides a framework for the conduct of the National Security Forces when carrying out operations¹⁹.

The Comprehensive Policy establishes 5 lines of action that can be summarized in five words:



The progress made by the Ministry of Defense and the National Security Forces in the implementation of each one of these has been significant.

a. Training

The Defense Sector has a broad trajectory as regards to training in human rights and IHL. The annual ICRC report on Colombia (2006) recognized that *"based on a practical cross-curricular integration methodology, the armed forces have incorporated IHL in operational doctrine and military training for its senior officers, non-commissioned officers and rank and file soldiers. This has allowed the integration of IHL and has strengthened the measures necessary to guarantee the dissemination and teaching of IHL in training centers, military training schools and in Army, Air Force and Navy units"*.

Nevertheless the Ministry of Defense has begun a process of reforming the educational and training system, bringing in measures to promote greater assimilation of human rights and IHL, making courses less complex at the lower levels and encouraging links between training and operational practice.

Some of the main outcomes as regards to training include the following:

19 Comprehensive Human Rights and IHL Policy, Ministry of National Defense, 2008. p. 15.

Single Teaching Model (MUP): In 2008 implementation began of the Single Teaching Model that uses six levels of curricula training in human rights and IHL for all members of the Security Forces, according to rank or responsibilities.

Situation-based training workshops: In addition to the obligatory courses that are found in the training schools, the Ministry of Defense and the General Command give extracurricular training in human rights and IHL. Between 2006 and 2008 the situation based training offered to military personnel increased by 95%.

Human Rights practical training facilities: With the aim of integrating theoretical knowledge of human rights with practical training, in 1999 the first human rights

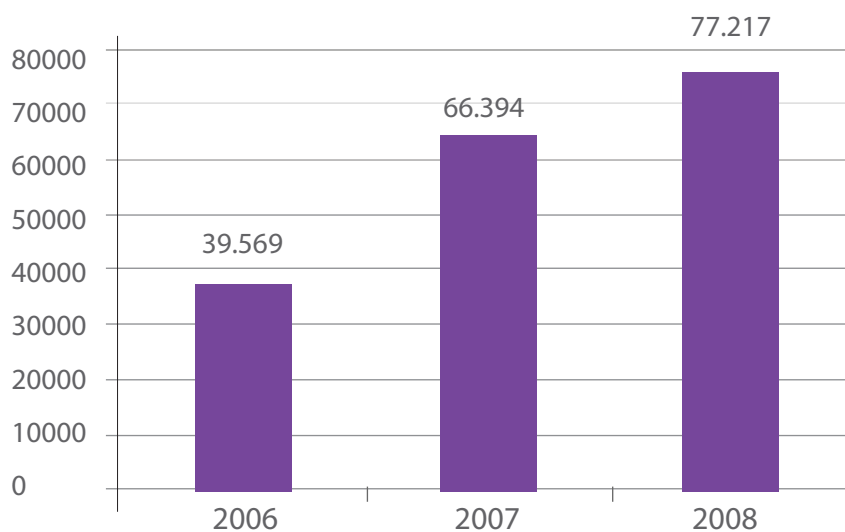
training facility was set up at the Tolemaida military base.

Today there are more than 35 human rights training facilities in the Instruction Centers and Training Schools in the country.

Since then each of the Armed Forces has replicated the methodology and today there are more than 35 human rights training facilities in the Instruction Centers and Training Schools in the country.

Regional Scenarios Training Group: In 2008 the process began of creating the first Regional Scenarios Training Group that seeks to establish a training center that aims to combine practical training with the implementation of rules of engagement in different operational scenarios.

Situation-based training workshops: Members of the Armed Forces trained 2006 – 2008



■ Members of the Armed Forces trained

b. Discipline

Practical instruction in human rights and IHL is necessary to bridge the gap between theoretical discourse and its translation into the operational field. However, at the same time as making instruction more rigorous, it is also necessary to reinforce operational discipline, in two ways:

- An adequate legal advice to provide guidance for operations; and
- Institutional and judicial controls to ensure respect for human rights and compliance with the rules of IHL.

Some of the main outcomes in the strengthening of discipline include the following:

Legal Doctrine and Advisory Office (ODA): In February 2008 the Legal Doctrine and Advisory Office (ODA) was set up to offer legal advice to all commanders in the field and to develop an operational law that links human rights and IHL obligations to operations.

Operational Law Handbook: The Ministry of Defense is soon to publish the first Operational Law Handbook whose objective is to apply in an orderly way all the national and international laws concerning human rights and IHL to the planning, execution and evaluation of operations.

Operational Legal Advisers (AJOs): The AJOs are military lawyers who offer legal advice

for the planning, execution and evaluation of operations. In 2008 the Armed Forces had 54 AJOs in office: 10 in the Air Force, 36 in the Army and 8 in the Navy.

Delegated Inspectors: Since 2007, 7 Delegated Inspectors have been appointed to each of the Army Divisions to both monitor alleged violations of human rights and breaches of IHL, as well as disciplinary offences.

Publication of Rules of Engagement: In 2007 the General Command of the Armed Forces published the rules of engagement. These general rules of conduct are currently under review to adapt the use of force to the different operational environments.

Reform of the Military Criminal Justice System: In 2006 the Ministry of Defense appointed a civilian to the Executive Directorate of the Military Criminal Justice System to promote the independence and impartiality of this body. During 2008 the constitutional reform process began to make the Military Criminal Justice System part of the judicial branch as opposed to the executive branch; as well as legal reform to introduce the adversarial system in this jurisdiction.

In 2008 the Armed Forces had 54 AJOs in office: 10 in the Air Force, 36 in the Army and 8 in the Navy.

c. Defense

The reinforcement of institutional controls to dissuade people from committing human rights abuses and breaches of IHL and to ensure that such abuses and breaches are punished has to go hand in hand with effective legal defense for members of the National Security Forces. The fulfillment of their responsibilities necessarily involves greater risks to the men and women of the National Security Forces, exposed as they are to the most difficult situations. Every member of the National Security Forces must be provided with an adequate defense within the framework of respect for due process.

Some of the main outcomes in satisfying this right include the following:

Legal Defense and Disciplinary Defense for members of the National Security Forces: In 2008, Law 1224 was passed which establishes

a procedure for providing legal defense and disciplinary defense for members of the National Security Forces for nonwillful offences related to official duty. This Law will come into force in January 2010.

New agreements to guarantee the right of defense for the National Security Forces:

Agreements were taken forward with the Universidad Sergio Arboleda and with the Legal Department of ANDI (National Association of Industries) to formulate transitional instruments to guarantee the right of defense of members of the National Security Forces.

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d. Attention

The Constitutional mandate that requires the National Security Forces to guarantee people's rights and freedoms also carries an obligation to adopt measures in relation to special groups that require differential treatment, under the terms of Article 13 of the Constitution.

These groups – the indigenous and Afro-descendant communities, displaced persons, human rights activists and trade

unionists – are some of the sectors of the population identified as collective subjects of differential treatment. Through the Democratic Security the most vulnerable people have been specially protected, thereby increasing their security considerably.

Some of the main outcomes of the protection given to groups that require differential treatment include the following:

Protection to indigenous people: Between 2002 and 2008 the number of murders of indigenous people has fallen by 66%²⁰. The policies of the Ministry of Defense towards indigenous communities are reflected in Directive No. 16 of 2006, which strengthens, promotes, and protects the human rights of the indigenous people and emphasizes on their collective rights to autonomy, territory and special jurisdictions.

African Descent Communities: In 2007 the Ministry of Defense published Directive No. 7 for strengthening the policy of recognition, precautionary measures and protection of the human rights of Negros, afro-Colombians, "raizales" and "palenqueros".

Displaced People: Between 2002 and 2008 the number of forced displaced people per year

fell by 50%, from 413,214 in 2002, to 210,441 in 2008²¹. The most recent policy of the Ministry of Defense towards the displaced population is found in Directive No. 9 of 2005 that establishes preventive and protective measures, humanitarian assistance, and measures to guarantee the socio-economic stability of this population.

Trade Unionists and human rights activists: Between 2002 and 2008 the murder rate of trade unionists fell by 83% and that of unionized teachers decreased 78%²². Ministry of Defense Directive No. 9 of 2003 of the Ministry of Defense establishes the basis for the protection of trade unionists and human rights activists.

Through the Democratic Security the most vulnerable people have been specially protected, thereby increasing their security considerably.

e. Cooperation

Implementing the strategies of the *Comprehensive Policy* requires close cooperation with various national bodies, in particular with the legal authorities, with other countries, with international organizations and with civil organizations.

Some of the main outcomes from this cooperation include the following:

Cooperation with the Prosecutor General's Office: During 2008 there was compliance with the agreements drawn up in 2006 between the Ministry of Defense and the Prosecutor General's Office, which foresaw the involvement of members of the CTI (Technical Investigation

Unit) in the inspection of locations and the collection of evidence where military operations had taken place. Today a high percentage of operational outcomes are investigated by the Prosecutor General's Office in order to guarantee transparency.

In addition, workshops are carried out with the Prosecutor General's Office to discuss problems and strengthen cooperation.

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20 Vicepresidency of Colombia, Human Rights Observatory.

21 Social Action.

22 Vicepresidency of Colombia, Human Rights Observatory.

Cooperation with the ICRC and the United Nations: Dialogue with the ICRC has been strengthened through workshops on lessons learned in which actual cases of alleged human rights abuses or IHL breaches are analyzed with the aim of turning successes into doctrine and identifying failures and applying solutions to avoid the same mistakes.

Accompanied by the United Nations Office of the High Commission for Human Rights, visits

have been made to all the Divisions of the Army to openly discuss difficult issues.

Cooperation with the Embassy of the United States of America: In 2008 a document of understanding was signed with the Ambassador of the United States of America. This country, through the United States Agency for International Development (USAID) will assist in communicating the Comprehensive Policy on Human Rights amongst the civil society.

IV. Actions and outcomes regarding cases of homicides allegedly attributed to State agents

Despite the efforts and progress mentioned above, the Ministry of Defense is aware that accusations continue to be made about homicides allegedly committed by State agents.

Although a conviction or acquittal is the only way of being certain about someone's conduct in a particular case and therefore, about the real universe of victims and cases, the Human Rights Observatory of the Vice Presidency has reported a drop of 70% in the number of cases of homicides allegedly committed by State

agents between 2006 and november 2008. The decreasing trend has also been reported by other independent research centers.

Below we present the main strategies of prevention and judicial measures that have been adopted by the Ministry of Defense in its policy of zero tolerance towards human rights abuses and breaches of IHL.

The Human Rights Observatory of the Vice Presidency has reported a drop of 70% in the number of cases of homicides allegedly committed by State agents between 2006 and 2008.

a. Prevention strategies

Reiteration of the obligations of the authorities in charge of enforcing the Law - Directive 10: In 2007 the Ministry of Defense issued Directive 10, the purpose of which is to diagnose these cases, support judicial investigations, and take measures to prevent them. The Directive also sets up an Institutional Monitoring Committee that meets monthly (and which apart from the Commanders, includes the Prosecutor General's Office, the Inspector

General's Office, the ICRC and the United Nations) to analyze the phenomenon, prevent cases from happening, and support judicial investigations.

In the framework of this Committee the Ministry of Defense has been receiving at Bogotá members of the units which have accusations against them, so that explanations are forthcoming.

Inspection of the scene of incidents by the Judicial Police authorities - Directive 19: In 2007 the Ministry of Defense issued Directive 19 with instructions that seek to ensure that the initial investigations of death in combat are carried out by the judicial police. It orders all Commanders of military units to deploy all possible means to ensure that, in cases of apparent homicides allegedly committed by State agents, the inspection of the scene of the incident is carried out by permanent judicial police bodies.

Primacy of demobilizations and captures - Directive 300-28: The Ministry of Defense has reiterated its order and given it permanent status whereby demobilizations and captures as a result of a military operation, are worth more when evaluating the performance of a military unit than killing an enemy combatant. The General Commander of the Armed Forces himself visited all the Army Divisions to talk about human rights with his men and about Directive 300-28, which gave greater value to demobilized and captured enemy combatants than enemy combatants who are killed in battle.

Results in 2008 show that this order is being followed. While we have demobilized 3,461 members of illegal armed groups in 2008, in the same year we have captured 2,485 and killed in combat 1,184.

New criteria in awarding medals - Directive 142 of 2008: From the date of issue of this Directive the demobilizations and captures of members of illegal armed groups or criminal gangs have been incorporated as part of the

fundamental criteria for the award of a bravery medal or a "Public Order" medal.

Training in the procedures to follow in cases of death in combat:

With the aim of training troops about the procedures to follow in the case of death in combat, in 2007 the Army Command issued a series of instructions about the procedures to follow when death occurred in combat. These instructions were circulated at all levels in all units of the Army²³.

Situation-based training: During 2007 and 2008 the Human Rights and IHL Directorate of the Ministry of Defense carried out 22 specialized workshops about the Comprehensive Human Rights and IHL Policy and Operational Law in different military and police units, laying emphasis on the importance of the regulation of the use of force.

All commanders of military units have to deploy all possible means to ensure that, in cases of apparent homicides allegedly committed by State agents, the inspection of the scene of the incident is carried out by permanent judicial police bodies.

While we have demobilized 3,461 members of illegal armed groups in 2008, in the same year we have captured 2,485 and killed in combat 1,184.

23 No. 23 of 21 August 2007, "Instructions on some procedures to follow in cases to do with death in combat"; No. 25 of 4 October 2007, "Homicidio en persona protegida" (Murder of a protected person); and No. 27 of 19 October 2007, "Instructions on some procedures to follow in cases related to death in combat".

b. Judicial measures

Seminars on determining the character of an incident: With the aim of driving forward and facilitating the development of investigations, between October 2007 and May 2008, 4 seminars were held for officials from the Military Criminal Justice System and for officials who were involved in applying legal disciplinary measures, about how to characterize circumstances of human rights violations.

Course on Operational Law: In order to expedite the investigations that the Prosecutor General's Office has been assuming, in 2007 a course on operational law aimed at Public prosecutors took place. As it is a legal discipline belonging to the Military, important efforts are made so that the Public Prosecutors learn about it.

Practical training facilities for First Respondents: In 2008, the Centre of Military Studies began to implement the training facilities for first respondents: areas of operational practice where at the same time as receiving military training, the members of the military forces received training as "first respondents" in how to preserve the scene of an incident following a combat situation.

Cases transferred to the ordinary justice system: Because of an order by the Constitutional Court all cases in which the Military Criminal Judges consider that there is a possibility of a human rights abuse or a breach of IHL, must be transferred to the ordinary justice system to be investigated and judged.

For the purpose of strengthening military criminal jurisdiction, the officials are receiving specialist training on the nature of incidents to ensure that cases of alleged human rights abuses are transferred to the ordinary justice system through clear and speedy procedures. Between 2005 and 2008, the Military Criminal Justice System transferred 304 cases to the ordinary justice system; while in 2005, 31 cases were sent, in 2008, 167 have been transferred.

Involvement of the United Nations:

From June 2007 until August 2008, through an initiative of the Army Commander, 21 visits were made to the 7 Divisions of the Army accompanied by the Office of the UNHCR, during which the cases raised by this Organization were reviewed, one by one.

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Support to Judicial Investigations: The Ministry of Defense permanently supports the investigations by the Prosecutor General's Office. Both Institutions work hand in hand in creating Specialized Judicial Support Structures (EDAS) with the aim of strengthening the work of justice in areas with public order problems.

Sub-unit for cases of alleged homicides of protected persons: The Prosecutor General's Office put into operation a sub-unit to support the Human Rights Unit to investigate alleged cases of homicide of protected persons. This unit was created on October 19th 2007 and it is made up of 3 Public Prosecutors in Bogotá, 13 Public Prosecutors in 8 other cities, and a support group from the CTI (Technical Investigation Unit).

Suspension and retirement of members of the military: Members of the Armed Forces have been suspended and/or retired from the military during investigations of homicide cases allegedly committed by State agents.

Whenever there is doubt about the integrity of any member of the National Security Forces, these mechanisms strengthen the independence of the investigations under way.

Between 2005 and 2008, the Military Criminal Justice System transferred 304 cases to the ordinary justice system; while in 2005, 31 cases were sent, in 2008, 167 have been transferred.

V. Measures adopted in the cases of homicides allegedly committed by State agents in the jurisdictions of Army Divisions II and VII

Because of serious accusations about alleged disappearances in the locality of Soacha and other cases of which the Ministry of Defense had knowledge, through Resolution 4342 of October 3th 2008, a Temporary Special Commission was created to analyze the operational circumstances in which the deeds that are subject to accusations occurred, and to recommend the corresponding administrative measures.

At the end of the investigation, the Commission found a series of serious irregularities, both in the development of intelligence and in the planning, management and evaluation of the tactical and operational missions in these units, which may have facilitated the occurrence of these conducts.

Above all, the Commission found serious deficiencies in the supervision of operations and the investigations of the accusations by the respective Commanders.

After learning of the conclusions of the Commission, the President of Colombia, the Minister of Defense and the General Commander of the Armed Forces took the decision to retire from service 20 officers (including 3 Generals and 12 Colonels) and 7 NCOs from the Army²⁴.

This was an unprecedented measure in the history of the Military and the intention was to send a clear message to all members of the Security Forces and in particular to Commanders responsible for directing and evaluating missions throughout the country.

In addition the following decisions were taken:

After learning of the conclusions of the Commission, the President of the Republic of Colombia, the Minister of Defense and the General Commander of the Armed Forces took the decision to retire from service 20 officers (including 3 Generals and 12 Colonels) and 7 NCOs from the Army.

24 It is important that total clarity exists in respect of Commanders of Divisions and Brigades. The decision to retire them was not due to the existence of evidence of their participation in the events surrounding the accusations. Their failure lay in the non observance of command and control procedures contained in directives and instructions issued by the Ministry of Defense and the High Command to prevent and dissuade actions against human rights.

VI. Recent decisions to strengthen the protection of human rights

During the first public account on human rights on 17 November 2008, the Minister of Defense and the General Commander of the Armed Forces announced the recommendations made by the Temporary Special Commission for strengthening the protection of human rights.

a. Applying the Doctrine

With the aim that military doctrine is completely complied with, a review process will be carried out over the following three months, down to the tactical level, to verify that it is being fully implemented. At the end of the review process the adjustments will be put into operation in accordance with this objective. The work in this area will focus on:

- Identifying failures in intelligence procedures, operational procedures and logistical procedures (controls over the use and storage of weapons and munitions); and
- Reviewing the implementation of the intelligence doctrine.

b. Review of the human rights training

For the purpose of ensuring training in human rights and IHL adjusted to the lines of action contained in the Comprehensive human rights and IHL Policy, the work over the next three months will concentrate on:

- Reviewing the training in human rights in accordance with the Comprehensive Policy and the Single Teaching Model;
- Establishing a human rights learning evaluation system; and

- Organizing workshops at all the Divisions about the responsibility of the Commanders and strengthening that material in the training and teaching schools.

c. Immediate Inspection Commission

For the purpose of ensuring a rapid and efficient process for guaranteeing the investigation, an Immediate Inspection Commission (CII) has been created with the same composition as the Temporary Commission, which will immediately travel to places where complaints or accusations concerning serious human rights abuses or IHL breaches have been made. This Commission will analyze the case from the operational point of view and will recommend to the Inspector to take immediate corresponding administrative and disciplinary actions and the necessary revisions of the operational procedures.

d. Delegated Inspectors

To ensure the independence and autonomy of the Delegated Inspectors, the work in this area during the next three months, will be oriented towards:

- Coordinating as necessary so that in the future the Delegated Inspectors report to the Inspector General of the General Command of the Armed Forces;
- Ensure that in future the Delegated Inspectors respond exclusively to issues concerning human rights and IHL; and
- Examine the changes necessary to revise and strengthen the position.

e. Operational Legal Advisers (AJOs)

With the aim of guaranteeing the unity of criteria and a greater independence in planning, execution and evaluation of military operations, the measures adopted in relation to the Operational Legal Advisers (AJOs) will be concentrated on:

- Organizing a hierarchical structure for this body of advisers; and
- Ensuring that in the future these report to Headquarters in Bogotá in each of the Armed Forces.

f. Procedure for authorizing military objectives

For the purposes of adjusting the use of force according to the different security threats, the actions in this area will be oriented at:

- Ensuring that from now on, the use of force against illegal armed groups will be preceded by the necessary approval by the General Command of the Armed Forces;
- Implementing a periodic evaluation mechanism of the authorized use of force in order to counteract the different threats; and
- Ensuring that the National Police will have primacy in respect to the fight against criminal gangs.

g. Evaluation of Performance

With a view to improving the evolution of the performance of military units, the action to be carried out over the next three months will focus on:

- Perfecting the evaluation system of military units to ensure that they are evaluated according to the fulfillment of their objectives set for the different types of operations, according to the level of the threat in the area.

h. Rules of Engagement

The work over the next three months will be concentrated on:

- Putting into operation a system for implementing rules of engagement that take into account the different threat levels in the territory.

i. Human Rights Certification

To ensure the moral and professional integrity of candidates for promotion in the military and Police it is stipulated that:

- Certification in human rights must be established for all officers aspiring to participate in the course for promotion to the rank of Lieutenant Colonel or General, according to a detailed examination of their C.V.s

j. Involvement of the Judicial Police

Within the framework of transparency, independence and autonomy of judicial investigations, the work carried out in this area will be oriented on:

- Strengthening the judicial involvement in operations by the Prosecutor General's Office and the CTI (Technical Investigation Unit), and fulfilling completely the Directives 10 and 19.

k. Receipt of complaints

For the purpose of relying on a trustworthy information system about alleged abuses of human rights, the following actions will be undertaken:

- Establishing as far down as the tactical level a system of receiving complaints on human rights issues and ensuring a fluid dialogue with civil society.
- Creating a system of periodic public accountability from the Commanders of Military Divisions and Police regions through the Institutional Television Channel. This mechanism will rely on the permanent involvement of the United Nations Office of the High Commission for Human Rights and regulatory organizations of the Colombian State. By the end of November two public statements giving accounts of events had been broadcast by television.

The National Security Forces are established, under the Constitution, to protect the human rights of each and every Colombian. This duty is carried out with honor, pride and dedication. Significant results have been obtained and day by day the Ministry of Defense and the General Command of the Armed Forces continue instilling a culture of respect and protection of human rights in all members of the Military and the Police.

The complaints, accusations or just one case that shows conduct contrary to the Constitution, the Laws or Regulations, are cause for concern for the Ministry of Defense.

Any complaint or accusation that shows conduct contrary to the Constitution or the Law is cause of concern for the Ministry of Defense. The Ministry will continue with the process of structural changes and reform, while remaining fully committed to constructive dialogue with civil society and international community.



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