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SPECIFIC GROUPS AND INDIVIDUALS:  
MASS EXODUSES AND DISPLACED PERSONS

Written statement\* submitted by the Colombian Commission of Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2003]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

### Forced displacement

Now in Colombia more than 1,000 persons a day are subjected to forced displacement, victims of many violations of their fundamental rights<sup>1</sup>. The national authorities' undermining these figures does not occult the alarming dimension of this phenomenon that has affected more than 2, 800,000 persons since 1985. Said situation has been aggravated in past months by the worsening of the armed conflict and the human rights crisis, by the measures adopted by the present Government and by the persistent absence of a political will to attack the causes generating forced displacement.

Faced with this tragedy, the Government of President Álvaro Uribe Vélez pretends integrate the state attention to forced displacement, within the framework of his so-call democratic security policy<sup>2</sup>. We fear that the measures announced and adopted in this ambit and taken under the state of emergency, instead of procuring a comprehensive policy for attention to forced displacement in a framework of humanitarian attention, respect of human rights and reparation of violated rights, may produce even more forced displacement.

First, there is concern about the government policy of involving the entire Colombian population in the armed conflict through a national network of informers or as "peasant soldiers"<sup>3</sup>. The High Commissioner for Human Rights Mary Robinson expressed her concern regarding mechanisms such as these that may contribute to the civilian population being involved directly in the development of war operations or exposed to situations of risks provoked by the gradual disappearance of the principle of distinction<sup>4</sup>. These measures could be incompatible with international norms for human rights and humanitarian law because they ignore the principles of immunity of the civilian population and distinction and the civilian population's right to not directly participate in the hostilities. Our fear is that communities that have been displaced, those at risk of being displaced or those in the process of returning home after their forced displacement, as well as ethnic groups who have repleved their right to not be involved in the armed conflict, may become stigmatized as guerrilla sympathizers and may suffer acts of discrimination and repression. That would accent the already existing concern of how vulnerable displaced persons and persons that have returned home are to stigmatization and to the limited efficacy of protection mechanisms<sup>5</sup>.

The direct involvement of civilians in the armed conflict exposes them as targets to attacks by armed actors and could harm initiatives for returning displaced persons home. According to project of Development Plan, in four years the Government intends to help the return of 30,000 displaced families, which represents approximately 150,000 persons, a goal that is insufficient when compared to the breadth of the phenomenon. In addition, it is extremely preoccupying that these returns are used to consolidate actions promoted by public forces to recover territories, without guaranteeing conditions of security, based on the principles of a

Social State of Rights, guarantee of non-repetition, justice and integral reparation. Lasting solutions to forced displacement require that the Government take into account the displaced persons' will to decide their return or relocation in a safe manner with dignity and a Government commitment to fight against the impunity that harbors the persons responsible for crimes of forced displacement, most of whom belong to paramilitary groups<sup>6</sup>.

Another reason to worry is the measures adopted through 2002 Decree 2002, such as limitations to the right to free movement and the definition of "unauthorized displacements" in "rehabilitation and consolidation zones"<sup>7</sup>. Said restrictions may affect the right of all persons to flee from their homes to protect their lives and their physical integrity and they may harm the right of displaced persons to request and receive protection and humanitarian assistance, as well as their right to not be pursued or punished for making such request<sup>8</sup>. In addition, it is concerning that measures restricting the access of foreigners and of drivers with cargo to rehabilitation and consolidation zones<sup>9</sup> may be used to limit the access to said zones of humanitarian law and human rights observers and organizations who provide humanitarian aid, and that would be incompatible with the Guiding Principles on Internal Displacements<sup>10</sup>. We expect the Government will comply with the Constitutional Court decision on Decree 2002<sup>11</sup>, regarding the right to request, provide and receive humanitarian aid, as acknowledged in national and international norms.

Faced with the expansion of forced displacement and the deterioration of the living conditions for displaced persons in temporary settlements, it is necessary to adopt special State measures according to the State's obligations under the framework of international law. However, the Government policy exposed in the National Development Plan project does not attack the deep-rooted causes generating forced displacement, which are the massive, systematic violations of human rights and breaches of humanitarian law, the worsening of the armed conflict, generalized impunity, social injustice, inequity in the distribution of wealth and a concentration of land ownership.

Neither said policy defines concrete actions to correct fallacies in the State's attention that, up to now, has been precarious, uncoordinated and untimely, especially in prevention matters. To the contrary, some proposals or measures adopted by the present Government impair the regulatory and institutional advances made on the matter. The elimination, merger or reduction of some State entities<sup>12</sup> favors the weakening of the National System of Comprehensive Attention for the Displaced Population. The reform of the writ of injunction (*acción de tutela*), which the Government will propose to the Congress of the Republic in March 2003, seeks to reduce the possibility of displaced populations to demand for their social, economic and cultural rights<sup>13</sup>. Said measures, combined with the proposal to freeze public entity budgets<sup>14</sup>, can only worsen an already unacceptable situation of lack of protection, discrimination and prolonged violations of the fundamental rights of displaced persons in Colombia.

We expect the Government will heed the appeal made by Representative of the United Nations Secretary General on internally displaced persons Francis Deng to grant a high priority to the humanitarian law and human rights crisis of forced

displacement and to ensure completely exercising guarantees set forth in existing institutional and regulatory frameworks<sup>15</sup>.

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<sup>1</sup> According to the Consultoría para los Derechos Humanos y el Desplazamiento CODHES, the number of persons displaced during the first nine months of 2002 was estimated at 1284 a day, and from July 1 to September 30, 2002, 1623 displaced people a day, see *Information Bulletin, No.43*, Bogota, November 18, 2002. According to the Government, from January to November 15, 2002, around 861 people were forcibly displaced daily, Social Solidarity Network, [www.red.gov.co](http://www.red.gov.co).

<sup>2</sup> See Presidency of the Republic – National Planning Department, *Bases for 2002 – 2006 National Development Plan*, Bogota, November 2002, pages 61– 65.

<sup>3</sup> Part time soldier and part time peasant, working and living in his community.

<sup>4</sup> Letter to President Álvaro Uribe Vélez, Geneva, August 26, 2002.

<sup>5</sup> See Report by the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, E/CN.4/2002/17, Geneva, February 28, 2002, page 50.

<sup>6</sup> In its report to the Congress of the Republic (January 2001 to February 2002), the Social Solidarity Network recorded as “alleged perpetrators of displacement: 50% Self-defense groups, 20% Guerrilla groups, 1.18% State armed agents and 22% more than two types of perpetrators and 7% unknown perpetrators”. At September 2002, the Episcopal Conference of Colombia RUT system reported that paramilitary groups generated 45.04% of the forced displacement, insurgent groups 39.34%, public forces 1.19% and unidentified armed actors 11.13%. See RUT Quarterly Bulletin, Nos. 14/15.

<sup>7</sup> 2002 Decree 2002 Articles 14, 15 and 16.

<sup>8</sup> Guiding Principles on Internal Displacements 1 and 3, E/CN.4/1998/53/Add.2, February 11, 1998.

<sup>9</sup> 2002 Decree 2002 Articles 21 and 22.

<sup>10</sup> Guiding Principles 3, 24.2 and 26 and 2000 Decree 2569 Article 24 regarding the prohibition “of any kind of restriction to access to humanitarian aid for displaced populations. The public forces must ensure the timely entry of aid to those designated (...)”.

<sup>11</sup> Constitutional Court sentence C-1024/02 dated November 26, 2002 made by Constitutional Court Judge Alfredo Beltrán Sierra.

<sup>12</sup> Elimination of the local human rights offices (*personerías*) in cities with over 100,000 inhabitants is proposed in 2003 Act 796 that summons Colombians to participate in a referendum. Among other duties, The *Personerías* are the local entities whose functions are not only the registration of the displaced population which initiates the process of assistance, but also the protection and prevention of human rights violations, the follow up and control of public management of attention to the displaced population. The Government also proposed the merger or reduction of the Colombian Agrarian Reform Institute and the National Urban Housing Institute.

<sup>13</sup> The *Acción de tutela* constitutes the most frequently used mechanism of exception in Colombia by the displaced population in order to demand for their social, economic and cultural rights, in a context of the lack of action by the State.

<sup>14</sup> Article 14 in the Act through which a referendum is summoned, *ibid*, footnote 12.

<sup>15</sup> Message to International Seminar “Displacement: Implications and Challenges for Governability, Democracy and Peace”, Bogota, September 4, 2002, [www.codhes.org.co](http://www.codhes.org.co).