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# DEATHS OF OFF-DUTY SOLDIERS AND POLICEMEN

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## CONTENTS

Introduction

Attacks to the soldiers outside combat

Attacks to off-duty members of the national police

Members of the public forces kidnapped and taken hostage

The Principle of Distinction and the IHL

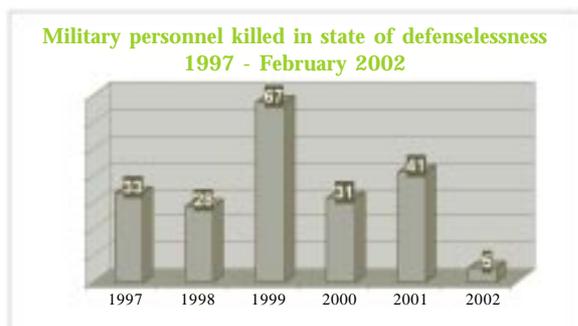
Some cases

Army Pantheon, Jardines de Paz, Bogotá - Colombia  
Photograph by Guillermo Molano Currea

## INTRODUCTION

In the framework of an irregular and degraded armed conflict, the illegal armed actors (guerrillas and illegal self-defense groups), have ignored and violated the basic principles and norms regulating armed conflicts, particularly those contained in International Humanitarian Law (IHL); in this case, the norms that regulate internal armed conflicts. The illegal armed actors of the Colombian conflict do not differentiate among combatants and non-combatants within and outside hostilities, infringing the Principle of Distinction.

Members of the Armed Forces and the Colombian National Police are attacked by the irregular armed actors in situations outside combat, such as when they are on leave or on holidays, among others. According to the principles of IHL, when the combatant is off duty he does not constitute a legitimate target of attack by the other part in the conflict. In addition, soldiers and civilians are subjected to abuses, tortures and murder when they are kidnapped or taken as hostages - kidnapped according to the internal legislation, taken as hostages according to IHL- in illegal detentions conducted by the different outlawed armed groups. This also contradicts principles of humanitarian law preaching that in all cases of armed-conflict-related retentions of civilians or military personnel, they must be given humane treatment, respecting IHL norms on the subject.



Source: Ministry of Defense.

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## THE PRINCIPLE OF DISTINCTION

The prohibition of attacks against the civilian population is a key limitation in the employment of methods and means of war and combat. It is enshrined in a norm, the principle of distinction, which belongs to International Humanitarian Law. The parties in conflict are required to distinguish between protected civilian objects and military objectives.<sup>1</sup>

Article 48 of Protocol Additional I of 1977, *Fundamental norm*

“In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives”

The principle of distinction is also regulated in the following articles that constitute one of the essential legal institutions for the protection of the civilian population in situations of armed conflict.

Article 44§3 Protocol Additional I of 1977, “In order to promote the protection of the civilian population from the effects of hostilities, combatants are obliged to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack. Recognizing, however, that there are situations in armed conflicts where, owing to the nature of the hostilities an armed combatant cannot so distinguish himself, he shall retain his status as a combatant, provided that, in such situations, he carries his arms openly:

Article 52§2 of the Protocol Additional I of 1977, “Attacks shall be limited strictly to military objectives”.

“In case of doubt whether a person is a civilian, that person shall be considered to be a civilian”. Article 50 of the Protocol Additional of 1977.

**Also, to ensure the fulfillment of this principle and this norm, in article 85 N. 3a and N. 3b, of the same Protocol Additional I of 1977 applicable in international armed conflicts, states considered as serious infractions (usually referred to by public opinion as “war crimes”) the following conducts:** “making the civilian population or individual civilians the object of attack; launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian object”.



Since 1999, since the beginning of the “Pistol Plan” by Farc, homicide cases against Army members have notoriously increased during their periods of rest, leaves, holidays, visits to their parents and family. In these circumstances they were unarmed and wearing civilian clothes. They were also murdered in public places such as bars and disco clubs. They were detained while travelling in public transportation or in their own vehicles and subsequently murdered. Soldiers have been found in common graves.

## ATTACKS TO THE SOLDIERS OUTSIDE COMBAT

There have been many attacks against members of the Armed Forces in situations different from combat, when they were in a state of complete defenselessness. These attacks have been reported by the military High Commands as homicide, bodily harm, torture and kidnapping. Soldiers and policemen are considered in a state of defenselessness, following the definition used by the Office of Human Rights and IHL of the National Army, in the cases when members of the Public Force are attacked when they are unarmed and in civilian clothes. They are also considered as such when they are wounded, have surrendered after a combat, and when the enemy’s strength is superior.

### The Pistol Plan

Homicide cases have increased since 1999, when, according to the investigations, FARC initiated a Plan of targeting off-duty policemen and army members for murder. This plan was called: Pistol or Pistoleo Plan.

During the execution of this Plan, retired Army General Cipriano Quiñones was assassinated in the municipality of La Vega, Cundinamarca, when he was shopping in a local commercial establishment. Six months later, the same thing happened to Colonel Oscar Jimmy Trujillo Ramirez, who was assassinated when he was meeting with his friends at a restaurant of the municipality of Rivera, Huila.

## HUMANE TREATMENT

“Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction...It is forbidden to order that there should be no survivors” (article 3 common to the four Geneva conventions of 1949. paragraph 1 on humane treatment)

According to Article 3 Common to the Four Geneva Conventions, these behaviours are specifically prohibited in paragraph 1 on Humane Treatment. “The value of these norms represents the minimum that must be applied in the most indeterminate of international conflicts proper, that imply the international application of the Geneva Convention I of 1949, since it can be said that he who is committed to the more, is also committed to the less.”<sup>1</sup>

In the Additional II Protocol to the Four Conventions of Geneva of 1949, relative to the protection of the victims of the armed conflicts of a non-international character, Title II, referring to Humane Treatment, “has the objective of protecting persons who do not participate, or who no longer participate in the hostilities, against the abuses of power and the cruel and inhuman treatments that could be inflicted by military or civilian authorities in whose power they might be. Since the Protocol does not establish categories of protected persons that enjoy a private statute such as prisoners of war in international armed conflicts, the norms and statements apply in equal fashion to all persons affected by the armed conflict and who find themselves held by the adversary (the injured, the sick, persons removed from liberty or with restricted liberty), soldiers or civilian”

These norms that already figure, explicit or implicitly, in the Common Article 3, are developed and complemented in the Additional Protocol II, deal with fundamental inalienable rights, inherent to the respect of the human being: guarantee of a humane treatment (article 4 – Fundamental Guarantees), minimum conditions of detention (article 5 – persons removed from liberty) and judicial guarantees (article 6 – penal procedures)<sup>2</sup>

<sup>1</sup> Comments to the Protocol Additional II to the Four Geneva Conventions of 1949, relative to the protection of victims of non-international armed conflicts, and to the Article 3 common to these conventions. International Committee of the Red Cross, page 340.

<sup>2</sup> *ibid*, page 113.

- From 1997 the National Army has counted 205 cases of homicide of its members in a situation of defenselessness, during vacations or visits to their parents and relatives, when they were unarmed and dressed as civilians.
- The cases notoriously increased by 94% in 1999 with the Pistol Plan of FARC.
- The majority have been victim of guerrilla groups.
- FARC have committed 47% of these homicides of soldiers, while the ELN is responsible for 32%.
- Beginning in 2000, the self – defense groups also appear as responsible, with 2% of the cases attributed to them.
- The popular and/or Urban Militias of FARC and ELN are responsible for the deaths of soldiers mostly in the cities of Bogotá, Medellín and Barrancabermeja, but also in other smaller urban centers.

In many occasions, they were forcefully removed from their homes: in others, they were attacked when they were on leave, on vacations, and even when they were hospitalised . That was the case of officer Ignacio Serna Sepúlveda, who in November 1999 was receiving medical treatment at the BASAN health center at Chocontá, Cundinamarca.

To a large extent these deaths have also involved torture, as occurred with private first class Wisman de Jesus Agudelo Zuluaga and soldier Oscar Henao, on November 16 1998 in San Rafael Antioquia. While on leave, they were removed from their houses and taken to a local football pitch by members of the Carlos Alirio Buitrago squad of the ELN and tortured and killed in the presence of their families. There are other examples of cruelty and barbarism against army members attacked in non-combat situations, during which they were in a state of defenselessness, without uniform and unarmed. They include the actions committed by FARC Members on September 24, 1998, in the indigenous community of Yunguillo, Mocoa, department of Putumayo, against soldier Juan Pablo Becerra Evanjuanoy, his brother, reservist Dalmacio Becerra Evanjuanoy and Marino Chingay, who was applying to enter the Police force. The soldier was on leave visiting his family. The three of them were tortured, beheaded and mutilated. The heads were sent to their families.

These deaths show the cruelty of the armed actors against members of the Colombian Public Forces, as in the case of private Mario Gómez Atiza, who on September 13, 1999 was riding home on horseback near the kilometer 50 of the Solita-Valparaiso Caqueta road, where he was intercepted by a group of FARC members, who then shot him twice and later slit his throat.

The barbaric attacks against the military have also occurred with kidnapped soldiers, in illegal roadblocks and with

“prisoners of war” subdued after confrontations. The Commander of the Army reported to the Office of the Attorney General cases of soldiers who, being wounded, were subjected to the greatest cruelties before being assassinated. Thus, not only was the duty to assist the wounded was not fulfilled, but they were also tortured in an inhuman way. This violated the rules of humanitarian treatment and respect for the norms of IHL regarding the wounded and the detainees.

The degree of cruelty involved in the assassination of soldiers has reached the extremes previously seen during the Violence of the 1950’s.

According to Army information, the Colombian departments most affected by these crimes committed against defenseless soldiers in the last five years are: Arauca, Caquetá and Antioquia, although they are happening all over the country. The urban militias of the FARC and the ELN have been responsible for the deaths of soldiers in state of defenselessness, particularly in the cities of Barrancabermeja, Medellín and Bogota.

And to make matters worse, participation of the irregular self-defense groups in the same type of conducts has increased since 2000.

## ATTACKS TO OFF-DUTY MEMBERS OF THE NATIONAL POLICE

While the situation of the military and in special of the Colombian soldiers is worsening, the guerrillas, specially FARC, have also mounted attacks against members of the National Police, when the latter were performing tasks different from those related to their professional duties. This phenomenon repeats the series of policemen murders that

- The National Police listings include more than three hundred cases of policemen killed by subversive groups from 1999 to 2001. Many other members of the Police have been detained in illegal roadblocks, and later found dead and with evidence of having been tortured.
- In the last three years 25 members of the Police were killed off duty by subversive actions.
- The guerrillas of the ELN and specially the FARC are responsible for these deaths. The FARC have committed more than 75% of those homicides.
- The AUC are killing off-duty and defenseless members of the Police.

happened during the peak years of narcoterrorism by the Medellin Cartel, in the city of the same name.

National Police data refers specifically to policemen killed by illegal armed actors when they were off duty, not wearing their uniforms and were generally defenseless. The conflict's degradation is proven by descriptions of these cases. But there are also many instances of attacks against on-duty policemen and police installations that also reveal their defenselessness and are examples of the subversives' barbarism.

The conducts and the facts observed here and the serious attacks against defenseless policemen and soldiers by violent agents, when the former are in circumstances entirely outside of the combat field, underline the severity of the Colombian conflict's degradation.

## MEMBERS OF THE PUBLIC FORCES KIDNAPPED AND TAKEN HOSTAGE

The subversives also regularly kidnap members of the Army and of the Police, when they are in a state of defenselessness, without any justification or relationship with military affairs. This conduct, besides being punished by internal legislation, (Law 40 of 1993, Arts. 268 and 270 of the Criminal Code and Law 733, 2002) is also punished by IHL, and therefore constitutes a serious infraction of the Common Article 3 and II Protocol of the Geneva Convention, which in its Article 4 number 2, letter c, explicitly prohibits the "taking of hostages". Such prohibition covers all people: combatants; combatants out of action due to illness, injury, surrender, deprivation of freedom or any another cause; and civil population outside the conflict. "Whoever seizes a person or stops him and threatens with killing, wounding or keeping him detained against his will, in order to force a third party such as a State, a Multilateral or International Organization, an individual or corporation to carry out any act or to abstain of doing so as an explicit condition for the liberation of the hostage, is incurring in the infraction of taking of hostages"

Additionally, the family and friends of the abducted person are submitted to psychological torture due to the uncertainty about the health and integrity of their relative and/ or friend.

Kidnapping is punishable by Colombian internal legislation, which defines it as: the "action of violently taking away, removing, retaining or hiding a person for the purpose of requiring for his liberty a gain or profit, or so that something be done or omitted, with publicity objectives or of a political character".

The Supreme Court of Justice, interpreting the concept, explains that only one of the above mentioned purposes besides the deprivation of liberty is needed in order for an action to be deemed a kidnapping. It is not necessary to

obtain profit or gain sought by the kidnapper. This conduct is aggravated when the purpose is terrorism or when the kidnapped person is submitted to physical or moral torture.

Besides, the Constitutional Court argues that: "the atrocious deeds committed by our country's...terrorist organizations, such as kidnappings, constitute crimes against humanity, that may never be concealed with the dressing of political crimes. Judicial precedent has often called kidnapping with extortive means one of the most repugnant criminal conducts that can exist in society, and it has said that this punishable act ostensibly infringes the supreme rights to life, liberty, dignity, family and peace: The latter are fundamental rights protected by the Colombian National Constitution and disrupted by crimes described as abominable to humanity in that they affect the tranquility of thousands of Colombian families and citizen's conviviality as well as compromising the integrity of all that constitutes the reason for being of the political and social organization."

This behaviour constitutes crimes against humanity in as much as they are violations of the Fundamental Rights and damage in a brutal way the values inherent to human dignity, a central axis of the National Constitution of 1991. All its concepts are directed to protecting the essential humanitarian standards, by virtue of which, not even in the worst circumstances, can anyone treat a human being as a simple means or object.

## PROTECTION OUTSIDE COMBAT

"A person who is recognized or who, in the circumstances, should be recognized to be hors de combat shall not be made the object of attack."

Paragraph 1 of article 41 of Protocol I (Safeguard of enemy outside combat).

*"A person is hors de combat if: a) he is in the power of an adverse Party; b) he clearly expresses an intention to surrender; or c) he has been rendered unconscious or is otherwise incapacitated by wounds or sickness, and therefore is incapable of defending himself; provided that in any of these cases he abstains from any hostile act and does not attempt to escape."*, Paragraph 2, of article 41 of Protocol Additional I.

The combatants are protected since the moment they are out of combat by the "rationae tempore" principle. Article 4, Protocol II, which reproduces the essentials of Common article 3.

## CONCLUSION

The actions shown here are attacks against Colombians who are part of our Public Forces. These actions should be known by nationals and by the international community. Since 1997 the Observatory counts 225 cases, which increased notoriously in 1999, of homicide of off-duty members of the Army and Police, during their periods of rest, permission, leaves or holidays, visiting their parents and family, dressed like civilians and unarmed, and when by any cause, the soldier was not in his location of duty. They were murdered or kidnapped in public establishments, such as bars and disco clubs, or in circumstances such as travelling in public transportation or in their own vehicles.

The events described here show the multiple and serious aggressions to the human dignity of members of the Army and Police, who are victims of the barbarism of the actors of the Colombian armed conflict. These actions are demonstrative of the absence of a humane treatment and of the urgency of applying IHL rules of war to the Colombian conflict, concretely the principle of distinction. The rules regarding the protection of those who are outside hostilities, and those regarding respect for the guarantees of the enemies, should be respected by all the warring actors and not only by the Colombian official forces.

Nevertheless, in order to remedy this serious situation, unfortunately there are no mechanisms to make their opponents recognize the so-called “safeguard of the enemy outside of battle”, to which the Military Forces are committed. It is considered that if guerrilla groups decide to employ military strength, they should also comply with the laws and customs of war. However, the international mechanisms of control created for states cannot be applied directly to those groups. Nonetheless, the international community has pronounced itself against the actions of guerrilla groups in Colombia and their harmful effects on Human Rights.

The Military Forces and the Police have reported to the Attorney General the atrocious crimes against some of their members, including their kidnapping. Unfortunately, the interamerican and international mechanisms of human rights protection do not have a coercitive capacity against the behaviour of illegal armed actors when these violate human rights and the IHL.

Hopefully, this series of situations, clearly in violation of the human rights and fundamental guarantees of the members of the Armed Forces of Colombia and of the National Police, will lead to promote humane behaviour in the Colombian armed conflict. The evidences presented here will constitute valuable precedents before the International Criminal Court, whose coercitive and judgement power will be able to break in the near future with the impunity of actions such as those previously described.

## INTERNATIONAL HUMANITARIAN LAW: THE PRINCIPLE OF DISTINCTION AND THE PROTECTION OF NON COMBATANTS

The International Humanitarian Law, IHL, is the part of International Public Law fundamentally oriented towards the protection of people in time of war. From this perspective, it establishes minimum guarantees both for those who participate directly in the armed confrontation and for those who are not fighting. The “civilian population” should be protected from the attacks and their effects.

Within the framework of the IHL, the principle of distinction and the norms on protection of non combatants, are guidelines to evaluate attacks against soldiers and policemen in situations different from armed confrontation.

### The principle of distinction in IHL<sup>3</sup>

This principle essentially establishes the distinction between participants in the hostilities and those who do not participate as an actor of the conflict. It has to do with the definition of who is a combatant and who is not. Not all the people, who one way or another are involved in the armed conflict, are combatant. For International Humanitarian Law, combatants are the members of the Armed Forces of a Part in conflict, and those who participate directly in the hostilities. The IHL speaks of qualified, effective and immediate participation, with specific and intended results that will produce an expected military advantage.

The distinction principle establishes an obligation to the Parts in conflict and also it constitutes a true fundamental right of the civilian population.<sup>4</sup> The immunity granted to the civilian population is subject to the condition of not participating directly in the hostilities. The definition of “hostilities” and “direct participation” is given by the determination of conditions of time, means and place in which the civilians exercise this participation.

According to the comments to both Additional Protocols to the Four Agreements of Geneva of 1949, hostilities are understood as the “military acts that by their nature or purpose are destined to attack the personnel and the equipment of the armed forces of their adversary”<sup>5</sup>. However some scholarly interpretations affirm that the term “hostilities” covers not only the time in which civilians in fact use weapons but also the situations in which civilians undertake hostile

<sup>3</sup> Based on Reinaldo Botero Bedoya, «The principle of Distinction», compilation of articles on the fundamentals and application of IHL, forthcoming publication.

<sup>4</sup> Taken from Botero, *ibid*.

<sup>5</sup> Definition contained in the XIV Proceedings of the Diplomatic Conference on the reaffirmation and development of IHL applicable to armed conflicts. /III/SR.2./p. 8. *Ibid*.

### Military personnel killed off duty by offender January 1997 – february 2002



Source: Ministry of Defense.  
Processed by: Observatory of the Presidential Program for Human Rights and IHL, Office of the Vicepresident of the Republic.

acts without using a weapon. In this last case, the person who is retained in such circumstances must be dealt with humanity and given the assistance required by any person who is denied his freedom in relation to the armed conflict

Nonetheless, in the determination of these circumstances, of time, means and place it is also necessary to distinguish between direct and indirect participation in the hostilities. He who participates directly in the hostilities is personally assuming the combatant role. That is to say, civilians who personally try to kill, to hurt or to capture enemy persons or to damage equipment, are participating directly in the hostilities.

Only when civilians prepare themselves for combat, participate in battle or are returning from it, do they represent an imminent and immediate threat to the adversary and they constitute themselves in subjects exposed to military attacks. In these circumstances they lose the benefits related to taking precautions in order to prevent attacks or effects of hostilities affecting noncombatant civilians.

### Immunity of the civilians

“Only the civilian who carries weapons, or even without carrying them, undertakes any hostile act directed to cause concrete damage against the adversary armed forces, loses the immunity granted to him by humanitarian legislation. The collaborators, supporters and relatives of any of the groups in conflict are always considered as civilian population subject to immunity.

“The distinction between those who directly or indirectly participate in the hostilities is difficult to apply in a non-conventional war. Nevertheless, civilian immunity and the principle of distinction between civilians and combatants, after having being recognized, by resolution 2444 of the UN General Assembly of December 19, 1969, as a conventional principle applicable to all armed conflicts, must be enforced in the context of a non-international armed conflict.

“According to Article 44, paragraph 3 of Additional Protocol I of 1977, combatants are military units who are under the obligation of distinguishing themselves from the civilian population in the course of an attack or a military operation in preparation for an attack. Nevertheless, since there are situations in armed conflicts in which, due to the nature of hostilities, an armed combatant cannot distinguish himself from the civilian population, this combatant will maintain his aforementioned status whenever in those circumstances, he carries his arms openly: a) during any military confrontation; and b) during the time in which he is visible for the enemy, while he is taking part in previous a military deployment previous to the launching of an attack in which he is going to participate”.<sup>6</sup>

### Protection to combatant and noncombatant

The combatant as such, becomes the object of the war *par excellence*. Nevertheless, in spite of the legitimacy of attacking the adversary, IHL also protects the combatant from certain actions, even when he is outside combat.

With respect to the circumstances regarding time of direct participation in the hostilities, it is only during this participation that immunity is lost. Hence, once this participation has ended, the civilians recover their right to not being attacked under any circumstance.

The combatant is a subject for attack when undertaking military activities, but when he undertakes civilian tasks because of being off duty, he is no longer a legitimate target of attack. However he is subject to detainment by the other part in the conflict.

In all the cases of retention of civilians or military personnel in relation to the armed conflict, humanitarian treatment must be given and IHL norms on the matter must be respected.<sup>7</sup>

The combatants must undertake the maximum effort to protect inhabitants who are outside hostilities from their attacks, and even to respect the guarantees of their enemy. IHL moves apart from the bellicose reasoning of wanting the elimination, at all costs and in any circumstance, of what is perceived as the enemy, in order to keep respect for the warriors (using Michael Ignatieff’s concept in his book “The Warrior’s Honor”): “In the humanitarian sphere, reasoning is different: humanity requires that capture should be preferred to injury, and injury to death; that as far as possible, non-combatants should not be attacked; that one should injure in the least serious way- in order for the wounded to be operated and then cured – and in the least painful way; and that captivity should result as bearable as possible”<sup>8</sup>

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Junod Sylvie -Stoyanka, Comment to the Protocol of 8 June 1977 Additional to the Geneva Conventions of 12 August 1949, relative to the protection of victims of non-international armed conflicts.- ICRC- Plaza & Janes, November 1998.

National Police personnel killed off duty by action of rebels

| AUTHOR | 2000  | 2001  |
|--------|-------|-------|
| ELN    | 25,0% | 29,4% |
| FARC   | 75,0% | 70,6% |

Source: National Police -DIJIN  
 Processed by: Observatory of the Presidential Program for Human Rights and IHL, Office of the Vicepresident of the Republic

Therefore, soldiers and policemen who are enjoying vacations and situations of defenselessness such as those previously described are not participating, either directly nor indirectly in the hostilities. Therefore they are noncombatant; it is in this moment, within irregular war, when they are specially protected by IHL. They were undertaking activities that do not involve hostile or violent acts that can cause an immediate threat of damage, and are definitely different to a direct or indirect participation in the hostilities.

The cases of defenseless soldiers and policemen are also covered by the principle stating that a combatant who has laid down his arms because of his wounds, by surrender or any other cause, is a person specially protected by IHL. Unfortunately there is no norm that specifies the moment at which he becomes the object of special protection.<sup>9</sup>

The attacks, deaths, tortures and kidnappings of off-duty military and police personnel constitute violations to the fundamental guarantees of protection to people who are not participating in the hostilities, be this definitely or momentarily. Since, as we have seen, IHL specifically prohibits attacking soldiers or members of the Armed Forces when they are on leave or in circumstances totally outside combat.

According to IHL dispositions, any combatant who is outside combat must be protected, no matter which Party he belongs to. Although IHL does not clearly establish the moment at which a combatant leaves his condition, it is important to underline that when this distinction is not clearly known, or in case of doubt on the condition of the person, it must be presumed that he is a civilian (article 50 of Additional Protocol I). It must be taken into account that specially in internal armed conflicts, it is sometimes difficult to establish distinctions between civilians and combatants.

It follows that both former combatants who have quit participating in the hostilities (in the Colombian case, retired former guerrillas as well as retired members of the Public Forces), as well as combatants who are in a period of rest or recovery in which they clearly leave their condition of combatants, in spite of being part of enemy troops, should not be victims of frontal attacks.<sup>10</sup>

<sup>9</sup> The military chiefs can understand this language -and they often have -since they are not being asked to give up the fulfillment of their duty as soldiers and patriots. They can obtain this same result inflicting less suffering. Even from the most realist point of view it is useless to extend the enemy, swoes away from combat. PICTET, Jean «Desarrollo y principios del derecho Internacional Humanitario (Development and the principles of International Humanitarian Law) Tercer Mundo Editores 1986 p. 7.

<sup>10</sup> This condition does not cover spies (see article 46 of Protocol I) -and mercenaries (Article 47 of the Protocol)



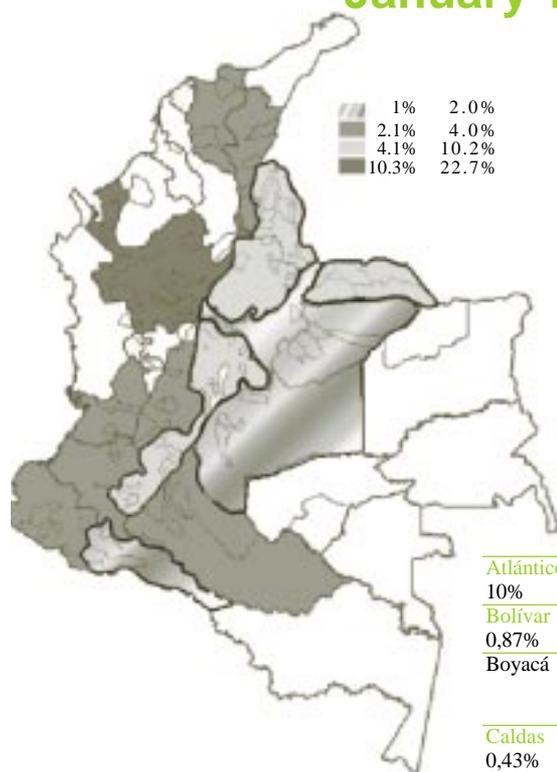
But the combatants must undertake maximum effort to protect inhabitants outside of the hostilities, as well as former combatants, from their attacks, and must even respect the guarantees of their enemy. In the case of members of the Public Forces who fall in hands of the guerrillas, following IHL regulations, they stop being combatant and they become “prisoners of war” and as such, they must be attended, protected and respected.

Civilian immunity and the principle of distinction between civilians and combatants must become effective. In the Colombian internal armed conflict, according to the principles of IHL, and according to resolution 2444 of the UN General Assembly of December 19, 1969.

Additionally, within the context of the internal armed conflict, the **Principle of non-reciprocity** must be applied as stated in Common Articles 1 and 2 of the Four Agreements of Geneva of 1949, which establish the obligations corresponding to IHL, according to which the parties in conflict have the obligation to respect the Geneva Convention regardless of whether the other party respects them or not.

Finally, the combatants have ethical, moral and legal obligations that can politically affect the actions they take. The intelligence with which these armed actors respect International Humanitarian Law, specially the immunity principle covering the civilian population, is key to understand and to fortify the protection of the civilian population in conflict situations and to remember that in war not everything is allowed.

## Off - duty members of the public forces killed in state of defenselessness. January 1997 - february 2002



| Department                 | Municipality       | Number of Victims |
|----------------------------|--------------------|-------------------|
| <b>Antioquia</b><br>22,17% | San Carlos         | 1                 |
|                            | Santa Rosa de Osos | 1                 |
|                            | San Rafael         | 3                 |
|                            | San Luis           | 2                 |
|                            | Medellín           | 13                |
|                            | Rionegro           | 1                 |
|                            | Mutatá             | 1                 |
|                            | Concepción         | 1                 |
|                            | Apartadó           | 1                 |
|                            | Santuario          | 1                 |
|                            | Briceño            | 1                 |
|                            | Ituango            | 1                 |
|                            | Cocorná            | 3                 |
|                            | Concordia          | 2                 |
|                            | El Bagre           | 2                 |
|                            | Granada            | 3                 |
|                            | Guadalupe          | 1                 |
|                            | Itagüí             | 1                 |
|                            | Carepa             | 1                 |
|                            | Peñol              | 1                 |
| Betania                    | 1                  |                   |
| Dabeiba                    | 1                  |                   |
| Turbo                      | 2                  |                   |
| Yolombó                    | 1                  |                   |
| Urrao                      | 3                  |                   |
| Zaragoza                   | 1                  |                   |
| Sonsón                     | 1                  |                   |
| <b>Arauca</b><br>10%       | Arauca             | 10                |
|                            | Araucuita          | 3                 |
|                            | Fortul             | 1                 |
|                            | Saravena           | 2                 |
|                            | Tame               | 6                 |

|                                  |                        |   |
|----------------------------------|------------------------|---|
| <b>Atlántico</b><br>10%          | Soledad                | 1 |
|                                  | Barranquilla           | 1 |
| <b>Bolívar</b><br>0,87%          | San Pablo              | 1 |
| <b>Boyacá</b>                    | Socotá                 | 3 |
|                                  | Puerto Boyacá          | 1 |
|                                  | Pauna                  | 1 |
| <b>Caldas</b><br>0,43%           | Samaná                 | 1 |
| <b>Caquetá</b><br>3,48%          | Florencia              | 3 |
|                                  | El Doncello            | 1 |
|                                  | La Montañita           | 1 |
|                                  | Puerto Rico            | 1 |
|                                  | Solita                 | 1 |
| <b>Casanare</b><br>2,17%         | San Vicente del Cagüán | 1 |
|                                  | Nunchía                | 1 |
|                                  | Trinidad               | 2 |
|                                  | Aguazul                | 1 |
|                                  | Yopal                  | 1 |
| <b>Cauca</b><br>2,61%            | La Sierra              | 1 |
|                                  | Miranda                | 1 |
|                                  | El Tambo               | 1 |
|                                  | Santander de Quilichao | 1 |
| <b>Cesar</b><br>2,61%            | Corinto                | 1 |
|                                  | Caldono                | 1 |
|                                  | La Gloria              | 1 |
|                                  | González               | 1 |
| <b>Chocó</b><br>0,43%            | Agustín Codazzi        | 2 |
|                                  | Curumaní               | 2 |
|                                  | El Carmen de Atrato    | 1 |
| <b>Córdoba</b>                   | Montería               | 1 |
| <b>Cundinamarca</b><br>6,09%     | Útica                  | 1 |
|                                  | Silvania               | 2 |
| <b>Distrito Capital</b><br>1,74% | Pasca                  | 1 |
|                                  | Junín                  | 1 |
|                                  | Girardot               | 1 |
|                                  | Chocontá               | 1 |
|                                  | Carmen de Carupa       | 4 |
|                                  | Yacopí                 | 2 |
|                                  | Bogotá D. C.           | 4 |

|                            |                                    |             |   |
|----------------------------|------------------------------------|-------------|---|
| <b>Guaviare</b><br>0,43%   | Miraflores                         | 1           |   |
| <b>Huila</b><br>6,96%      | Algeciras                          | 1           |   |
|                            | San Agustín                        | 2           |   |
|                            | Neiva                              | 1           |   |
|                            | Hobo                               | 1           |   |
|                            | Isnos                              | 1           |   |
|                            | La Argentina                       | 1           |   |
|                            | Rivera                             | 1           |   |
|                            | Pitalito                           | 4           |   |
|                            | Campoalegre                        | 4           |   |
|                            | <b>Magdalena</b><br>3,04%          | Plato       | 2 |
| Santa Marta                |                                    | 2           |   |
| Ciénaga                    |                                    | 3           |   |
| <b>Meta</b><br>1,74%       | Lejanías                           | 1           |   |
|                            | Mesetas                            | 1           |   |
|                            | Villavicencio                      | 1           |   |
|                            | Granada                            | 1           |   |
| <b>Nariño</b><br>3,91%     | Santacruz                          | 1           |   |
|                            | Ricaurte                           | 2           |   |
|                            | Ipiales                            | 2           |   |
|                            | Barbacoas                          | 2           |   |
|                            | Buesaco                            | 2           |   |
|                            | <b>Norte de Santander</b><br>8,26% | Ocaña       | 2 |
| Tibú                       |                                    | 5           |   |
| Toledo                     |                                    | 1           |   |
| Sardinata                  |                                    | 2           |   |
| El Zulia                   |                                    | 2           |   |
| Chitaga                    |                                    | 1           |   |
| Ábrego                     |                                    | 1           |   |
| Cúcuta                     |                                    | 2           |   |
| Teorama                    |                                    | 2           |   |
| Labateca                   |                                    | 1           |   |
| <b>Putumayo</b><br>2,17%   |                                    | Puerto Asís | 2 |
|                            |                                    | Orito       | 1 |
|                            |                                    | Mocoa       | 1 |
| <b>Risaralda</b><br>1,30%  |                                    | Mistrató    | 2 |
|                            | Pereira                            | 1           |   |
| <b>Santander</b><br>10,00% | Málaga                             | 1           |   |
|                            | El Playón                          | 3           |   |
|                            | Concepción                         | 1           |   |
|                            | Bucaramanga                        | 1           |   |
|                            | Piedecuesta                        | 1           |   |
|                            | Barrancabermeja                    | 16          |   |
| <b>Sucre</b><br>0,43%      | Ovejas                             | 1           |   |
| <b>Tolima</b><br>2,61%     | Ortega                             | 1           |   |
|                            | Fresno                             | 1           |   |
|                            | Anzoátegui                         | 1           |   |
|                            | Ataco                              | 1           |   |
|                            | Rioblanco                          | 1           |   |
| <b>Valle</b><br>3,04%      | San Antonio                        | 1           |   |
|                            | Buga                               | 1           |   |
|                            | Calima                             | 2           |   |
|                            | Cali                               | 3           |   |
| <b>Vichada</b><br>0,43%    | Restrepo                           | 1           |   |
|                            | La Primavera                       | 1           |   |
| <b>Total</b>               |                                    | <b>227</b>  |   |

Source: National Policy - DIJIN. National Army. Processed and georeferenced by the Observatory of the Presidential Program for Human Rights and IHL, Office of the Vicepresident.

## Some cases of members of the Army killed off-duty

- On September 26 1997, volunteer Private Octavio Bautista was murdered in an illegal roadblock at Abrego, Norte de Santander.
- On August 28, 1998, Private Carlos Girón Tovas was assassinated by members of the FARC while he was in a street party in San Agustín, Huila.
- On November 16, 1998, Private Oscar Humberto Henao Norela was assassinated by members of the Carlos Alirio Buitrago group. He was taken out of his house while on leave at San Rafael, Antioquia.
- On August 5, 1999, Major Hasbet Cogollo from the Department of Magdalena Antikidnapping Squad (GAULA) was murdered by ELN urban militias at a shopping mall in the city of Santa Marta.
- On June 6, 1999, Soldier John Jairo Silva Reyes was assassinated, apparently by FARC militias in the red light district of Puerto Asís, Putumayo.
- On June 7, 1999, Private Sandro Largo was found dead while he was on leave in Orito, Putumayo.
- On February 13, 1999 Private Mauricio Rincón was murdered by members of the ELN while on leave at Santa Rosa, Bolivar, visiting his parents.
- On February 16, Daniel Rodríguez, was assassinated apparently by Bolivarian Militias, while on a 12 day leave in Soledad, Atlántico.
- On September 13 1999, as he was riding home on horseback near kilometer 50 of the Solita – Valparaiso, Caqueta road, Private Mario Gómez Atiza was intercepted by members of FARC, who shot him twice and later slit his throat.
- On October 6 1999, soldiers Herleide Ramos and José Luis Márquez were murdered at the Coro Coro site in Arauquita, Arauca, after being detained by the FARC in an illegal roadblock.
- On November 23 1999, Soldier Yamil Villamizar was assassinated by the ELN in the presence of his father, at an illegal roadblock in Ovejas, Sucre.
- On November 29 1999, Volunteer Private Ignacio Serna was murdered by FARC militiamen as part of the Plan Pistoleo while he was receiving medical treatment at the BASAN in Chocontá, Cundinamarca
- On February 6, 2000, Volunteer Soldier José Ricardo Martínez was assassinated, apparently by members of the Self Defense Groups, at the Bar Quindío in Granada, Meta.
- On March 7, 2000, Corporal Alexander Cachaya, of the FUDRA (Rapid Deployment Force), was murdered in his house by members of the Teófilo Forero Column of FARC. He was on leave after finishing a junior officer training course.
- On May 29, 2000, in the urban sector of Barrancabermeja, Volunteer Soldiers Alexander Gelves and Willinton Parra were assassinated by members of Bolivarian Militia of the FARC.
- On March 9, 2000 in Puerto Boyacá, Volunteer Soldier Luis Fernando Valladal was found dead. According to witnesses, he was removed from a public transportation vehicle on the road to Puerto Berrio, apparently by members of AUC.
- On October 20, 2001, in the town of Calima Darién, Department of Valle, private José Régulo Rocha, was detained and later assassinated when he was returning from a troop formation.
- On February 7, 2002, in the municipality of Campoalegre, Huila, professional Privates Víctor Hugo Enrique Montilla and Nelson Ardila Gómez, assigned to the Los Panches Anti-Guerrilla Battalion, who were dressed in civilian clothes and were unarmed, were assassinated by guerrillas of the Teófilo Forero Column of FARC.

Source: Listing of Personnel killed in a state of defenselessness, National Army, Office of Human Rights.

### Some cases of Members of Police killed off-duty

- On July 1, 1999, in Betulia, Antioquia, Patrolman César Aricapa Salazar, was detained in an illegal roadblock and assassinated by rebels belonging to the FARC when he travelled on a public transportation vehicle to the city of Medellín, dressed in civilian clothing and unarmed.
- On May 1, 1999, in a rural zone of Urrao, Antioquia, Policeman Luis Alberto Villegas Londoño was detained at an illegal roadblock and assassinated by members of the 34th Front of FARC. The policeman was travelling on an intermunicipal bus without uniform. Upon being identified, he was shot dead.
- On June 26, 1999, in the municipality of Curumaní, Antioquia, Policemen Antonio Melgarejo Rico and Antonio Castaño Sánchez were killed and another agent was wounded in El Rey del Pool, a public establishment. They were both on leave, unarmed and wearing civilian clothes. The attack was blamed on FARC.
- On September 2, 1999, in the rural zone of Anza municipality, Antioquia, Policeman Iván Zapata Mejía was intercepted by members of the 34th Front of FARC when he was travelling on his motorcycle, who after identifying him as a member of the National Police, proceeded to murder him.
- On June 3, 1999, Patrolman Giron Tuberquia was murdered by members of the 34th Front of FARC in the Sacatin neighborhood of Betulia municipality, Antioquia, when he was visiting his girlfriend, unarmed.
- On March 10, 2000, Patrolman Romaña was kidnapped in Urrao, Antioquia, by members of the 34th Front of FARC while he was about to make a telephone call to his relatives. He was in uniform and unarmed. On May 20, 2000, his corpse was found with thirteen bullet impacts in different parts of his body.
- On May 18, 2000, Police Intendant Henao Quintana, Deputy commander of Marulanda Police Station was detained at an illegal roadblock manned by the 47th Front of FARC on the road from Manzanares to Pensilvania, Caldas. He was travelling on his private vehicle and was wearing civilian clothes. He was tortured and later assassinated.
- On June 30, 2000, Patrolman Gabriel Enrique Sequeira, was detained by a group identifying themselves as members of a Self Defense Group when he was travelling from La Paz, Cesar to Manaure, Guajira. They were carrying long and short-range weapons. When they identified Sequeira as a member of the Police, they murdered him. He was wearing civilian clothes.
- On July 5, 2000, Patrolman Montes was detained at an illegal roadblock in Barbosa municipality by members of the Bernardo López Arroyave Front of ELN as he travelled with his wife on a public transportation bus after attending a medical appointment. He was found dead two days later.
- On July 16, 2000, Policeman Pedro Pablo Figueroa was assassinated by members of the Barrancabermeja Urban Militias, who entered his house.
- On February 25, 2001 patrolman Luna and policeman Fiesco were murdered by subversives of FARC when they were attending Mass at the Santa Rosa de Lima Church in Pitalito, Huila.
- On April 2, 2001, Policeman Perdomo, an escort for the Mayor of Supia, was detained at an illegal roadblock at Riosucio, Caldas, by the 47th Front of FARC as he was travelling on his motorcycle. His wife died, while he and his daughter were wounded.
- On February 3, 2001, Policeman Luis Hernández was detained by FARC subversives at an illegal roadblock in Argelia, Caldas, when he was travelling with his wife and two daughters in a public transportation bus. He escaped from the roadblock but two days later was found dead in the police station.
- On March 4, 2001, Policeman Calvache was murdered in Argentina, Huila, by a rebel from the Teófilo Fore-ro Column of FARC in Argentina, while gathering with friends near the Police station.
- On July 23, 20001, Policeman Trujillo was assassinated in Beltrán, Cundinamarca, after being kidnapped at an illegal roadblock manned by FARC.
- On March 16, 2001 Patrolman Rodríguez was identified and detained by FARC at an illegal roadblock in San Miguel, Putumayo when he was travelling in a public transportation vehicle. Three days later he was found dead with signals of having been tortured.

Source: Listing of Members of Police assassinated off duty. National Police, Department of Human Rights.

### Policemen and soldiers in state of defenselessness

Cases occurred between november 15, 2001 and march 1, 2002

- On November 16, in Dabeiba, Antioquia, professional soldier Juan Camilo Benitez was murdered, apparently by FARC urban militias, when he was on leave.
- On November 17, in the Florencia-El Doncello, Caquetá road, FARC guerrillas murdered three people, including a soldier who was travelling on a taxi. According to the Commander of the XII Army Brigade, General Hernan Arias, the soldier was on leave.
- On November 17, in the La Paz, Santander municipality, a volunteer soldier was murdered and three more people wounded during an attack carried out by unknown perpetrators. The victims were attending a funeral in the Las Flores neighborhood.
- On December 20 in the Alto del Morro sector of Concepción municipality, Antioquia, Army Captain Luis Fernando Vélez Saavedra was found dead in a campsite of the ELN's Bernardo López Arroyave Front.
- On December 25, Policeman Carlos Moreno Rojas was murdered by a hired killer in Teruel, Huila.
- On January 1, professional soldier Jairo Becerra was murdered in Saravena, Arauca, by members of the 45th Front of FARC when he was on leave.
- On January 8, Policeman Raul Ardila Arismendy, 41, died in his house in Bucaramanga, Santander, after being shot three times by unknown gunmen who fled in a motorcycle. He had been working for three years as a detective.
- On January 6, professional soldier Urbano Astor was murdered by FARC urban militias in Cali, Valle.
- On February 2, volunteer soldier Edier Laguna was murdered by the Teofilo Forero Column of FARC in Hobo Huila, when he was in a state of defenselessness. At the time of his murder he was in a disco club and dressed in civilian clothes.
- On February 7, professional soldiers Victor Hugo Enrique Montilla and Nelson Ardila Gómez were executed by guerrillas from the Teófilo Forero Column of FARC in the Campoalegre, Huila municipality. At the time of their murder they were unarmed and wearing civilian clothes. They were travelling in a milk transport truck when guerrillas forced them out of the car and made them lie on the ground, where they were shot at close range.
- On February 10, a professional Army soldier and his brother were murdered by FARC members in the locality of Palermo, part of Pescador, Caldono, Cauca municipality.
- On March 1, a policeman dressed in civilian clothes was murdered in an illegal roadblock manned by FARC in the Acevedo-Pitalito, Huila road.

Source: National Policy, Office of Human Rights, Ministry of Defense, Office of Human Rights and Weekly Press Logbook, Observatory of the Presidential Program for Human Rights and IHL, Office of the Vicepresident of the Republic.

