

HUMAN RIGHTS WATCH

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Washington, D.C., March 14, 2007

Dr. Michael Spगत
Department of Economics
Royal Holloway, University of London
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Dear Dr. Spगत:

Thank you for giving us the opportunity to respond to your paper, "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia." Human Rights Watch strives to ensure that our publications meet the highest standards of accuracy and analytical rigor. We very much welcome criticism aimed at reinforcing our ability to meet these standards.

We were disappointed, however, to find that your paper offers little in the way of accurate or constructive criticism. Its review of our work is, instead, incomplete, inaccurate, and misleading. The paper misrepresents our past publications in important respects. And it makes dramatic, but entirely unfounded charges that could easily be manipulated by others to undermine our ability to promote human rights in Colombia.

The paper's criticisms of HRW's work in Colombia fall into two basic categories. The bulk of the paper examines supposed shortcomings in our quantitative methods. Tacked on to this lengthy methodological exposition are two far more insidious allegations of bias in our coverage.

HRW is accustomed to charges of bias; our work in Colombia has been attacked by both government representatives and guerrillas.¹ Rarely, however, are such charges dressed up so elaborately. Your paper's extended analysis, complete with graphs and footnotes, gives it a superficial veneer of academic rigor. Yet closer scrutiny

¹ For example, the FARC drafted a long and virulent response to a July 2001 public letter we sent to the FARC's Supreme Commander that documented and condemned FARC abuses (the letter was followed by publication of our August 2001 report, *Beyond Negotiation: International Humanitarian Law and its Application to the FARC-EP*). The FARC response accused HRW of being part of the propaganda machinery that supports U.S. foreign policy and, indeed, of acting "under Washington's orders." "There is no doubt," said the FARC, referring to HRW, "that, as during the wars of conquest, the ships of yankee interventionism are approaching our country disguised as humanitarian action." Comunicado del Estado Mayor Central de las FARC-EP, July 21, 2001.

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reveals serious and systemic errors in the analysis, which thoroughly undermine the value of the paper's conclusions.

Anti-Government Bias

The paper's most dramatic charge is that HRW's work on Colombia suffers from a "bias against the government relative to the guerrillas."² As evidence of this alleged bias, the paper asserts that HRW has never published a document "dedicated exclusively to criticizing the guerrillas."³

This claim is simply false. Our 2001 report, *Beyond Negotiation: International Humanitarian Law and its Application to the Conduct of the FARC-EP*, is dedicated exclusively to criticizing the FARC guerrillas.⁴ Moreover, our 2004 report, *You'll Learn Not to Cry*, about recruitment and use of child combatants, is primarily focused on the FARC and ELN guerrillas, which are the main perpetrators of this particular set of abuses. And our other publications on international humanitarian law, such as the 1998 report, *War Without Quarter*, also discuss FARC abuses at length.

The paper asserts, in addition, that "various" HRW reports during the period under review "aim exclusively at the government."⁵ This statement creates the false impression that these reports focus solely on abuses committed by government forces. However, none of the reports during this period do that. While several of the reports do direct the majority of their recommendations to the government, this is because the government, as the state authority, has certain responsibilities to the victims and is in a unique position to adopt effective measures to deter or punish abuses.

Aside from these false and misleading claims, the only other evidence the paper offers in support of its charge of anti-government bias is a single short passage from a section in a world report chapter describing the Americas division's work on Colombia in 1996.⁶ The passage, which the paper quotes in full, warrants repetition here:

Human Rights Watch/Americas sought to focus attention on institutionalized human rights problems in Colombia, such as those created by the civilian and military justice systems, impunity, and the government's failure to protect

² Andrés Ballesteros, Jorge A. Restrepo, Michael Spagat, Juan F. Vargas, CERAC, "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia," CERAC Working Paper #4, February 1, 2007, http://www.cerac.org.co/pdf/CERAC_WP_4.pdf (accessed February 26, 2007), p.23.

³ *Ibid.*, footnote 44.

⁴ The authors list *Beyond Negotiation: International Humanitarian Law and its Application to the Conduct of the FARC-EP* in their bibliography, but apparently did not even bother to read the title, which makes it quite clear that the report is about the FARC.

⁵ Ballesteros et al., CERAC, "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia," p.23, footnote 44.

⁶ Elsewhere in the paper the authors describe "discrepancies" between our estimates of guerrilla and government abuses and their own database, which include HRW reporting slightly lower guerrilla abuses than their database shows for a few specific years. However, the paper does not attempt to use these findings to back its claim of anti-government bias. This may be because the similar "discrepancies" found in HRW's reporting of paramilitary abuses make it untenable to attribute them to political bias.

vulnerable sectors of the population from violence by state and private actors. We worked in Colombia and international fora, like the United Nations and the Organization of American States, to press the Colombian government to live up to its international human rights obligations. At the same time, we called on guerrillas to cease violating international humanitarian law.⁷

There is absolutely nothing in the above paragraph that indicates anti-government bias. Yet the paper infers bias from the fact that HRW applies different bodies of international law to the guerrillas and the government.

This is nonsense. HRW applies both international human rights law and international humanitarian law in Colombia—as elsewhere—wherever they are applicable. Any first-year international law student knows that international human rights law applies to governments, while international humanitarian law applies to all parties to an armed conflict. We do not consider violations of international humanitarian law to be less worthy of condemnation than human rights violations. The paper provides no evidence to suggest otherwise.

Indeed, impartiality and independence are among HRW's core principles. We condemn all abuses, without regard to the ideological position or motivation of the perpetrators, or to whether the abuses are committed by state or non-state actors. In Colombia, we have repeatedly pointed out that irregular armed groups, both guerrillas and paramilitaries, are responsible for the bulk of abuses, though "members of the armed forces have at times been implicated in abuses, independently or in collaboration with paramilitaries."⁸ Regardless of which of these actors is responsible, or which body of law applies to any given abuse, the abuse itself is equally troubling to us.⁹

In sum, the paper's very dramatic "finding" of anti-government bias turns out to be based on two bits of inaccurate information (which could have been corrected had basic research been done) and a blatant misreading of three sentences from our 1996 world report.

⁷ Human Rights Watch, *World Report 1996*, Colombia chapter (New York: Human Rights Watch, 1996), http://www.hrw.org/reports/1996/WR96/Americas-03.htm#P270_66195, cited in Ballesteros et al., CERAC, "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia," p.23.

⁸ Human Rights Watch, *World Report 2005*, Colombia chapter (New York: Human Rights Watch, 2005), <http://hrw.org/english/docs/2006/01/18/colomb12206.htm>.

⁹ While accusing HRW of bias, the paper itself recognizes that HRW does "criticise the guerrillas frequently." Ballesteros et al., CERAC, "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia," p.19. Indeed, HRW has repeatedly criticized FARC abuses in very harsh terms, in both reports and press releases, with statements such as the following, discussing abuses committed before the last elections in Colombia: "These massacres appear timed to spread terror before the elections and undermine the democratic process. By continuing to commit atrocities, the FARC has once again displayed a complete disregard for the lives and well-being of the people it claims to represent." "FARC Steps Up Attacks Before Elections," Human Rights Watch news release, March 6, 2006, <http://hrw.org/english/docs/2006/03/06/colomb12761.htm>

Overemphasis on Government-Paramilitary Ties

The paper also questions HRW's work on government-paramilitary ties.¹⁰ Specifically, it suggests that “the very strong emphasis on government paramilitary collusion omnipresent in all ... HRW reporting on Colombia rests on rather weak empirical foundations.”¹¹

This criticism—and, in particular, the way it is formulated—is fundamentally misleading. The language the authors employ implies that our empirical data regarding military-paramilitary collusion is unreliable. It creates the impression that HRW may have exaggerated the existence of military-paramilitary collusion.

Yet the paper does *not* actually question any of our empirical data regarding such cases of collusion. On the contrary, it explicitly acknowledges that our documentation of specific cases of military-paramilitary collusion is “highly reliable.”¹² Moreover, the paper does *not* assert that HRW has ever stated there were more cases than those that we could document.

What the paper does question is HRW's “very strong emphasis” on this issue.¹³ In other words, the collusion is real, but does not, in the authors' view, deserve the attention that HRW gives it. The sole basis the paper offers for this criticism is a statistic, derived from the authors' own calculations, purportedly showing that massacre cases in which there is strong evidence of military-paramilitary collusion constitute only 3 percent of the total number of cases of massacres committed by anyone in Colombia between 1988 and 2004.¹⁴

This criticism focuses on the trees while ignoring the forest. While we have done significant work on military-paramilitary *links*, this work cannot, as the authors seem to imply, be reduced to documentation of cases of direct military-paramilitary collusion in abuses. Rather, we have consistently described a much broader relationship, in which certain military units “promote, work with, support, profit from, and tolerate paramilitary groups.”¹⁵

¹⁰ Unlike the authors, HRW has generally avoided speaking of “government-paramilitary ties,” but rather has been more precise by consistently speaking of “military-paramilitary ties” and a government failure to break those ties. See, e.g., Human Rights Watch, *The Sixth Division: Military-paramilitary Ties and U.S. Policy in Colombia* (New York: Human Rights Watch, 2001), <http://www.hrw.org/reports/2001/colombia/>.

¹¹ Ballesteros et al., CERAC, “The Work of Amnesty International and Human Rights Watch: Evidence from Colombia,” p.22.

¹² *Ibid.*, p.23.

¹³ *Ibid.*, p.22.

¹⁴ *Ibid.*, p.23. Here the paper introduces what appears to be a statistical distortion: the paper recognizes that HRW's “main efforts” to document “government-paramilitary collusion” are two reports: *The Ties that Bind* and *The Sixth Division*, published in 2000 and 2001, respectively. *Ibid.*, p.15, footnote 24. But instead of comparing the documented cases in those reports with the total number of massacres committed in the years mentioned in the reports (mostly massacres committed in the late 1990s or 2000), which might have yielded a higher percentage of collusion in massacres, the paper compares them to the total of all massacres committed in “1988 to 2004.” A more precise and useful analysis would have compared the documented cases of collusion for each year with the number of massacres in each year.

¹⁵ Human Rights Watch, *The Sixth Division: Military-paramilitary Ties and U.S. Policy in Colombia* (New York: Human Rights Watch, 2001), <http://www.hrw.org/reports/2001/colombia/>, p.1.

While direct military-paramilitary collusion may not exist in the vast majority of massacres, it is still the general problem of military acquiescence and toleration of paramilitary activity that creates an environment in which paramilitary abuses are possible. For example, even if the Colombian military did not directly facilitate a given massacre, the military practice of sharing intelligence with paramilitaries, its willingness to allow paramilitary camps to operate undisturbed, and its consistent failure to arrest paramilitary leaders were all factors that allowed the paramilitaries to thrive. And it is paramilitaries who, as the authors point out, were directly responsible for most massacres, among many other abuses, during the late 1990s.

Given this reality, much of our work on Colombia has focused on making the institutions of the Colombian government, and particularly the military, recognize the need to actively pursue paramilitaries and effectively sanction military officers who collaborate with them. Although direct military involvement in abuses has occurred, toleration of paramilitary abuses has been the more chronic and intractable problem. Indeed, top officials in both the Colombian government and the US Department of State had shared with us, in confidential communications, their deep concern that much of the Colombian military at a minimum tolerated or permitted paramilitaries' activity.¹⁶

The problem of toleration has been compounded by the generalized impunity for cases involving military collaboration with paramilitaries. The institutions of justice—the Attorney General's Office, the courts, and the military justice system—as a rule failed to work effectively in these cases, leaving many of them unsolved. The problem was particularly acute when it came to high-level officers, who were rarely investigated or sanctioned. In this context, the message that was being sent to the military was that toleration of, and collaboration with paramilitaries, while officially forbidden, in practice would not result in any penal consequences.

Today the paramilitaries' relationship with important sectors of the military is widely known and recognized, probably in part due to our work on this difficult issue. Indeed, paramilitary commander Salvatore Mancuso has openly admitted that relationship as part of the demobilization process, going even further in his statements than we did in our reports. And the recent well-publicized scandals over paramilitary infiltration of sectors of the Colombian Congress, intelligence service, and various local governments have revealed that their ties to the state extend far beyond the ties to the military that we documented in our past reports.

¹⁶ The State Department also expressed its concern publicly, noting, for example, that: "At times the security forces collaborated with paramilitary groups that committed abuses.... Paramilitary forces find a ready support base within the military and police, as well as local civilian elites in many areas....In some locations the army on rare occasions attacked and captured members of such groups; in others it tolerated or even collaborated with paramilitary groups." US Department of State, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 1999: Colombia," February 23, 2000, <http://www.state.gov/g/drl/rls/hrrpt/1999/380.htm> (accessed February 26, 2007).

The 3 percent figure employed by the paper may or may not be accurate. But it says very little that is meaningful about the serious and complex problem of military-paramilitary ties. Had HRW followed your narrow quantitative approach in selecting the issues on which we would focus, we would not have made these important contributions to raising public awareness of this crucial issue.

Shortcomings in Quantitative Methodology

The majority of the paper is devoted to supposed shortcomings in our use of quantitative data. These shortcomings are said to include inadequate sourcing of data and inconsistent definitions of key terms and variables. However, as with the substantive charges discussed above, the analysis behind these criticisms is plagued by inaccuracies and misrepresentations.

For starters, the paper purports to be based on an exhaustive review of “all Colombia output” produced by HRW “covering the period 1988-2004”—which, according to the authors, includes chapters from HRW’s annual world report and “9 specific reports.”¹⁷ Yet, in fact, HRW produced 15 specific reports, not nine, during the period reviewed by the authors.¹⁸ And the paper discusses *only three* of them.¹⁹

It is ironic that a paper devoted to advocating thoroughness and consistency in research would itself be based on research so lacking in rigor that it failed to take even the most elemental step in any project: obtaining the necessary source material. The paper completely disregards several of our most significant publications, including *You’ll Learn Not to Cry: Child Combatants in Colombia*, a 2004 book-length report that focused primarily on the FARC and ELN guerrillas’ use of child combatants; *Generation Under Fire*, a 1994 report on abuses against children committed by non-state actors as well as government forces; and *State of War and Political Murder and Reform in Colombia*, reports from 1993 and 1992 respectively, which describe abuses committed by both guerrillas and government forces, among others.²⁰

The paper is similarly selective in its review of the publications that are included. Instead of focusing on the research-based reports and substantive briefings that form the core of our work, the overwhelming majority of the paper’s citations of HRW texts refer to country chapters from our world reports published in the 1990s. Yet these world report chapters, no more than a few pages in length, are merely brief overviews of a wide array of human rights issues in the country. While they draw on

¹⁷ The authors acknowledge excluding only “smaller items such as press releases.” Ballesteros et al., CERAC, “The Work of Amnesty International and Human Rights Watch: Evidence from Colombia,” pp.1-3.

¹⁸ While the paper states that it covers the period 1988-2004, in fact three of the nine reports on which the authors claim to base their analysis were published in 2005 (*Smoke and Mirrors*, *Displaced and Discarded*, and *Letting Paramilitaries Off the Hook*). If we were to consider only the reports published in 1988-2004, then we would be talking of 12 published reports, only 6 of which the authors list in their bibliography.

¹⁹ The remaining six reports that the paper supposedly “covers” are nowhere mentioned in the paper itself. Rather, according to the bibliography, they were taken into account solely for purposes of creating the event tables at the end of the paper. They authors cite these reports in the bibliography as “references contributing only to the tables.” Ballesteros et al., CERAC, “The Work of Amnesty International and Human Rights Watch: Evidence from Colombia,” pp.27-31.

²⁰ These remaining reports were not even included as “references contributing only to the tables.” Ibid.

HRW's research-based reports, they are written and presented as reader-friendly summaries of human rights concerns, a genre altogether different from the carefully documented and footnoted presentations of research findings in our reports. They clearly are not intended to be in-depth analyses and are not representative of the full body of our work in Colombia.

The paper's highly selective focus provides the basis for misleading and inaccurate conclusions. One example is the allegation of anti-government bias already discussed above. Another is the claim that we do not adequately source our data. For example, the paper singles out our 2004 annual report as not having been sourced.²¹ But what it fails to mention is that the only quantitative data in the chapter that would ordinarily require sourcing—our estimate of the numbers of child soldiers in Colombia—is in fact fully sourced elsewhere in our work.²² We provided a clear and detailed explanation of how we calculated these figures in our lengthy report on that topic, *You'll Learn Not to Cry: Child Combatants in Colombia*, published that same year and completely ignored by the authors.

Here too the paper offers numeric figures that are of dubious value. For example, the authors state that HRW sources only 24 percent of quantitative statements in "specific reports."²³ This claim is very hard to take seriously. Any objective review of our "specific reports" reveals that the vast majority of quantitative data is thoroughly sourced. The authors have managed to find otherwise—generating their 24% figure—only by applying a highly artificial methodology in which all terms like "frequently," "many," "more than," "numerous," and "continues" are included as quantitative data.²⁴ Yet it makes little sense to expect us to provide footnotes for these terms every time they appear (especially in summaries, introductions, and overviews such as the World Report chapters). This is particularly true when the substance of the report itself supports the statement, when we have previously published detailed information to support it, or when it simply reflects a widely known fact, such as "illegal armed groups have committed many abuses in Colombia."

Indeed, the absurdity of this methodology comes into sharp focus when one looks at the paper itself, which reveals a double standard: while criticizing HRW for a supposed lack of sourcing, the authors themselves use similar terms without providing sources in the paper.²⁵ Yet nobody would or should expect the authors to

²¹ Ibid., p.6.

²² The other quantitative data in the chapter is explicitly attributed to the government (e.g. "the government claimed as a success a decrease in the worst categories of political violence"), is based on our direct knowledge of the cases at issue (e.g., "thirteen human rights defenders were murdered, and many more left the country under threat"), or consists of facts that were widely known and reported at the time (e.g., the government's increasing use of mass arrests). Human Rights Watch, *World Report 2004*, Colombia chapter (New York: Human Rights Watch, 2004), <http://hrw.org/english/docs/2004/01/21/colomb6978.htm>.

²³ Ballesteros et al., CERAC, "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia," p.6.

²⁴ Ibid., pp.3-5. See also p.15 (noting the use of "quantifiers" such as "frequently," "numerous," "dozens," "systematic"... and "massive").

²⁵ For example, the paper notes that HRW reports "regularly on conflict and HR violations all over the world and exercise significant influence in many of those contexts." Ibid., p.2 (emphasis added). According to the authors' methodology, this unsourced statement, while obviously a

provide a source every time they make an assertion that includes a term such as “frequently.”

Another area where the paper criticizes HRW’s “quantitative methods” is in our alleged failure to provide adequate definitions of the abuses we report on. For example, the paper states that the only abuses for which we have ever offered definitions are “disappearances,” “massacres,” and “political killings.”²⁶ This statement is simply false. Our reports provide clear definitions for hostage taking, forced displacement, recruitment of children, use of indiscriminate weapons, arbitrary detention, and other relevant terms.²⁷ Indeed, almost all our reports provide detailed analyses of the standards defining violations under international human rights and humanitarian law.

The paper also accuses HRW of employing “erratic definitions” of abuses. Specifically it notes supposed discrepancies in the definitions that HRW has offered for “political killings” (claiming there is a discrepancy between our 1992 and our 1999 World Report chapters) and for “massacres” (claiming that our definitions shifted from 1990 to 1999 and to 2003).²⁸ But these supposed discrepancies simply reflect variations in the definitions that our sources were using. Since we were citing their numbers, we appropriately, and transparently, noted the definition being used.²⁹

In sum, while it is certainly possible that our reports contain the occasional quantitative statement that is insufficiently sourced or term that is insufficiently defined, a more rigorous review of the main body of our work would show that the vast majority of our quantitative data are extremely well sourced and the relevant legal terms are thoroughly defined.

* * *

At HRW we believe strongly in the value of open and frank debate regarding the human rights situation in Colombia and the ways it is portrayed at the local and international level. Given the magnitude of the ongoing violence, the stakes of this debate are very high. Unfortunately, as your paper correctly observes, obtaining reliable information regarding the practices of the warring parties can be quite

general introductory observation about HRW’s work, would presumably qualify as a “quantitative” statement that requires sourcing. Yet it would be absurd to expect the authors to source it. By the same token, it would be absurd to expect HRW to source a statement like “Colombia’s forty-year internal armed conflict continues to be accompanied by widespread violations of human rights and international humanitarian law,” drawn from the introduction to our 2005 World Report chapter.

²⁶ Ballesteros et al., CERAC, “The Work of Amnesty International and Human Rights Watch: Evidence from Colombia,” p.8.

²⁷ Examples of these definitions can be found in *Beyond Negotiation: International Humanitarian Law and its Application to the Conduct of the FARC-EP, War Without Quarter: Colombia and International Humanitarian Law*; and *You’ll Learn Not to Cry: Child Combatants in Colombia*, among others.

²⁸ Ballesteros et al., CERAC, “The Work of Amnesty International and Human Rights Watch: Evidence from Colombia,” pp.8-9.

²⁹ Human Rights Watch, *World Report 1999*, Colombia chapter (New York: Human Rights Watch, 1999),

<http://www.hrw.org/worldreport99/americas/colombia.html> and Human Rights Watch, *World Report 2003*, Colombia chapter (New York: Human Rights Watch, 2003), <http://hrw.org/wr2k3/americas4.html>

difficult. The research we conduct requires confronting serious security risks, particularly for our sources, who often face real and explicit threats on their lives from the people whose crimes they report to us. For us to be effective, it is absolutely critical that both our sources and our multiple audiences feel fully confident that our work is serious, thorough, and unbiased—which is why we go to such lengths to avoid the sort of errors that your paper wrongly attributes to us.

In spite of the paper’s claim that its only goal is to further the “improvement” of our quantitative methods and thus “expand the credibility and influence of... HRW,”³⁰ we do not believe your paper contributes to a constructive and honest debate. Unsupported allegations—particularly allegations of bias—do not help to improve the human rights situation in Colombia. Rather, they lower the quality of the debate, and ultimately damage the cause of human rights in Colombia.

You mentioned that you might consider revising the paper in the future. We would encourage you to do so. Fortunately, the research still needed to improve your analysis—including reading most of the specific reports your paper disregards—can be done simply by visiting our Web page, at www.hrw.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'José Miguel Vivanco', with a horizontal line extending to the left.

José Miguel Vivanco

³⁰ Ballesteros et al., CERAC, “The Work of Amnesty International and Human Rights Watch: Evidence from Colombia,” p.1.