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Session:	Thirty-Sixth Session (6 - 24 October 1975)
Title/Style of Cause:	Amalfi Farmers v. Colombia
Doc. Type:	Report
Decided by:	President: Dr. Andrés Aguilar (Venezuela) Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Professor Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico); Dr. Justino Jimenez de Aréchaga (Uruguay); Mr. Robert F. Woodward (United States); Dr. Genaro R. Carrio (Argentina)
Dated:	6 - 24 October 1975
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[1] 1781, presented through a communication dated October 22, 1973, denounces, in summary the following events:

- i. The murder of farmers in the town of Amalfi (Antioquía) in June 1973, and persecution of farmers in the Bajo Cauca zone.
- ii. Arbitrary arrest of deputies, the existence of a concentration camp, threats and injuries to lawyers defending political prisoners and inhumane treatment of political prisoners under the control of the military penal jurisdiction.
- iii. Torture and mistreatment of individuals accused of belonging to the so-called "National Liberation Army" (ELN).
- iv. Persecution of and injury to indigenous communities in Colombia.

[2] In accordance with the decision reached at the thirty-first session (October 1973), through a note dated December 19, 1973, the Commission transmitted to the Government of Colombia the pertinent parts of the denunciation, requesting information from the Government ( Articles 42 and 44 of the Regulations). That request for information was repeated on June 3, 1974.

[3] The Commission considered this case at its thirty-fourth session (October 1974) and as in cases 1777 and 1780, it granted the Government of Colombia an additional sixty days for presentation of the information requested, thereby postponing its examination of the case. The Government of Colombia provided information on this case through a note of November 12, 1974 (No.1655/ 41). The information was as follows:

1. The self-named organization "The National Liberation Army" has been functioning since January 1965, the date on which it made its first assault on the town of Santandereana de Simacota, where it robbed banks, commercial businesses (sic), the police station and caused the violent death of three officers of the National Police and wounded one civilian. They also destroyed telephone and telegraph

equipment.

Since that time, that same organization has committed robberies, assaults on police stations, murdered policemen and farmers believed to be informants for Government officers and has executed some of its own members; it has also kidnapped and murdered wealthy individuals. These crimes number more than fifty and the authors of and accessories to them have been the subject of three trials under the Military Penal Court.

2. The respective judges have found the conduct of the individuals brought to trial to be in violation of the Constitutional Order and the Internal Security of the State (art. 139 of the Common Penal Code), applying the penalties, in succession, along with those for rebellion (Art. 141 *ibidem*) when the murders, looting, kidnappings, and so forth have been perpetuated outside of the skirmish or encounter with police forces; that is, they have been condemned, their crimes are common crimes, and therefore the authors of these crimes cannot be categorized as "political prisoners"

3. The denunciation of torture formulated by some members of the "National Liberation Army" have been placed under criminal investigation by the Office of the Prosecutor appointed for the Armed Forces; the results are still under the control of the court.

4. As for the alleged hanging of farmers from FF. MM. helicopters, this is a totally unfounded allegation, and it should be noted that on June 24, 1973, LUIS ALBERTO VIVAS and RAMON RODRIGUEZ, soldiers, were violently killed on the "Salazar" footpath in the town of Amalfi, Department of Antioquia, by a group from the "National Liberation Army". The corpses were removed from the jungle region where they had been abandoned; because of the difficulty of the terrain, they were hoisted on cables attached to armed forces helicopters, and taken to the military post at Amalfi; as a result of this event, there was most assuredly a mistaken association of ideas on the part of certain individuals in the region, who felt that it involved farmers.

5. To demonstrate the humane treatment of prisoners members of that organization, whose legal status has been settled in three oral Court Martials, it is significant to cite those parts of the documents which illustrate the guarantees of defense.

a. In the sentence handed down on July 27, 1966, by the Chairman of the First Court Martial, it states the following: "The defense attorney brandished strong legal arguments on behalf of their clients, which enabled their mission because of the profound nature of their arguments and which led to the acquittal of many of the accused. The minutes of the testimony illustrate how the oral discussion developed and attest to the fact that maxim of Ulpiano was fulfilled: "Justice is that perseverant (sic) and eternal disposition of the will to grant each his due."

b. The Second Court Martial began in December 1968, and at the session held on October 3, 1969, the professor of law and current justice on the Supreme Court, Dr. Luis Carlos Pérez, who defended a number of the accused, stated among other things, the following:

"Mr. Chairman, members of the Council, my colleagues on the defense and all the accused, I had prepared a brief but well founded statement in defense of the entire movement of Father Camilo Torres and in defense of each and every one of its members. The Council and Mr. Chairman have been so kind as to allow me to be the last to speak, in order to organize all the points made earlier by my colleagues. Bearing that in mind, I had delved into the material and consulted texts and doctrines; I had a lengthy brief. But unfortunately I am not able to present it because of the same problem I have had since Thursday (sic) of last week. But while I cannot intervene as defense counsel, as a man I would like to make two statements: the first, that I have had deep respect for the military penal jurisdiction represented in the persons of the Chairman Colonel, the high-ranking officers, and in the prosecuting attorney; in them I have witnessed an exceptional respect for the voice of the defense, never seen before in any oral Court Martial. This Military Penal Court, in the hands of new people with a new conscience is a guarantee to the Republic and a guarantee to its citizens in general. If earlier I had refrained from intervening, or at least from coming to the discussions, I have not lost the thread of these discussions; many times I did so in order not to appear as an element of discord among my colleagues who increasingly criticize the Military Penal Court represented here by the members of the War Council and who from the outset I have seen to be moral, capable, and impartial individuals. A court dealing in such a broad and all

encompassing areas so freely a court which does not bear any of the remedies used which listens to the lengthy arguments being made by the defense which is here the vehicle for the constitutional and legal right of defense, this court merits no less than the strongest possible vote of confidence on the part of defense counsel and especially the acknowledgment of the speaker."

c. During the investigative stage of the proceedings conducted against the organization called the "National Liberation Army" which were the legal cause for their third trial, the District Attorney of Medellín, (commissioned by the Attorney General of the Nation) visited the prisoners as a result of public accusations made against the armed forces and the Military Jurisdiction, on alleged mistreatment of the prisoners. The Attorney General of the Nation was informed of the results of the visit through Official Letter No. 3757, dated November 5, 1973, the text of which is as follows:

"In response to the varying new reports that have been spread as a result of the arrest of certain elements of the so-called National Liberation Army (ELN), but especially with regard to certain minors, I requested Colonel Alvaro Riveros Avella, Commander of the Fourth Brigade to permit me to take objective look at what was actually happening; this request was not only granted, but was granted most cordially. He extended an invitation to me stating his personal interest in seeing to it that I interview the prisoners being held in the brigade quarters. I went there on the 2nd of this month, when Colonel Riveros Avella again expressed his interest in seeing to it that the Office of the District Attorney be adequately informed in detail of the truth surrounding the status of the individuals being held and that the office of the District Attorney inform the public if the brigade was committing an act in violation of the Constitution or the laws of the Republic. He gave me absolute freedom to interview the prisoners who were told that they could tell me anything they wanted and that they need not fear reporting to me any claim they had with regard to the treatment they had received in the hands of the military force during the time they had been held. As to food all of them stated their satisfaction in this regard, in that while it may not be best food, according to them, they recognize that it can not be classified as bad food, since it is the same as that given to the soldiers.

The minors, four in all, from 10 to 14 years of age, expressed satisfaction with the special treatment they had received and they stated emphatically that they were better off than they were before. They spoke very well not only of the food and sleeping quarters but also of the general treatment being given them on the part of the individuals responsible for guarding them. I noticed that the prisoners had a special regard for Colonel Riveros Avella.

From the conversations I had with three groups, the men, the women, and the minors, the conclusion reached was that all are entirely satisfied with the manner in which they have been treated by the military authorities; under the command of Colonel Riveros Avella and more importantly, that at no time has the brigade attempted to do harm to these individuals, but rather to the contrary, the brigade has the highest possible concept of the dignity of these individuals and special respect for the precepts upheld in the National Constitution. This fact deserves to be emphasized. For all of the above reasons, reached the conclusion that the Fourth Military Brigade is best characterized by its military integrity, courtesy, impartiality, and its deep respect for the Constitution and the law.

With this report, I hope to have provided sufficient information on what in fact is happening in the Fourth Brigade of this city with regard to the prisoners, rebels in arms, about whom so much and so diverse comments have been made in recent days.

Respectfully, ARTURO GOMES HOYOS; District Attorney".

d. Finally, the President of the Republic in his address of July 23, 1974, the day set aside to honor the National Army, said among other things, the following:

"The peace that we have fully restored to Colombia, through honest dialogue among the parties, rest in large measure on what the military forces have accomplished in the face of adversity and even lack of understanding. Their power has not been exercised against the citizen who stays within the law, but rather to defend the security of institutions and the privileges of law. Valiantly and often heroically, high-ranking officers; low-ranking officers and soldiers have offered their lives to protect the image of Colombia against terrorism and banditry; they have become the insurmountable block that has shattered the treacherous goals of a subversion aimed at stormy harassment (sic) and which only works in the

minds of those serving foreign interests. Colombia owes a debt of gratitude to those armed forces, they have at all times encouraged Colombia to set aside hatred; that have fought against all those that seek to destroy the concepts that bind the country together and upon which coexistence has always been solidly grounded. Today I want to again bear witness as to how much Colombia owes its armed forces."

[4] The Commission examined this case, together with the above transcribed information during the course of its thirty-fifth session (May 1975), and appointed Dr. Genaro R. Carrió to study the status of the matter.

The rapporteur presented an oral report at that same session. Based on the recommendation made by the rapporteur, the Commission instructed Dr. Carrió to prepare together with the rapporteur for case 1780, Dr. Justino Jiménez de Aréchaga, a draft note to the Government of Colombia requesting more information on the extreme measures denounced in the claim and a reply from that Government on the judicial proceedings undertaken by national authorities to investigate the facts and the status of them.

[5] In accordance with the draft prepared by Dr. Aréchaga and Dr. Carrió, the Commission addressed the Government of Colombia on August 12, 1975, postponing a final decision on case 1781 until the thirty-sixth session, by which it should have in its hands the new information requested from that Government.

[6] At the thirty-sixth session ( October 1975) the Commission continued its examination of its case, noting that the Government of Colombia had not provided the information requested in the note of August 12, 1975.

The Commission instructed Dr. Genaro R. Carrió, rapporteur, to study the status of this case.

In keeping with the recommendation made by the rapporteur, the Commission decided to again repeat its request to the Government of Colombia to provide the supplementary information gathered in August, with a deadline date of February 12, 1976.

[7] A note to that effect was sent to the Government of Colombia on December 1, 1975, and a copy was sent to the Colombian Mission to the OAS, through a note dated December 2 , 1975.