

Inter-American Court of Human Rights

Committee Bulletin

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Welcome Letter from the Director of English Committees

Salutation, delegates of the 12th DALE Conference,

It is my pleasure to welcome you to the Inter-American Court of Human Rights and to this wonderful Conference, as it is an honor to be in the position of director of English committees.

In regard to my experience, I first attended the IX conference of DALE, winning an honorary mention in OEA. My school proceeded to ask me to work as the president of our debate club, which I have worked on for several years. I was then invited to become a director of one of the committees, where I worked as director of PAHO for the X DALE conference. The next year, I worked as a director of UNSC, and then I finally was elected to be the director of English committees, which has been my biggest responsibility thus far. These last few years of experience have allowed me to grow academically and mentally in so many areas, such as public speaking, diplomacy, research, and political matters.

The DALE conference is not only 2 days of debating or writing, it's an opportunity to do so much more. One can meet new friends, network with people, practice and develop new skills, and discover your passions. It's something I cannot stop recommending to my classmates and to students that experience boredom in their studies. It's a breath of fresh air for those who feel as though they aren't challenged enough or aren't passionate about academics. Finally, I can't wait for all those reading, to do your best and experience what DALE has to offer.

Abel Schmitz, Director of English Committees

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Welcome Letters from Co-Directors

Hello, delegates! My name is Diego García, and for this edition of DALE, I will have the pleasure of being one of your co-directors for the Inter-American Court of Human Rights. At the time of writing this, I am a 16-year-old and have just graduated from Nicaraguan Christian Academy Nejapa, but by the time of the conference, I will be just one step away from college. Debate has been part of my life since 10th grade and has considerably helped me in many ways. I've tried different debate models, but Court is the best one so far. For me, Court is very interesting as you have to do your research considering all benches, giving you a broader vision of the cases. I was very nervous the first time I participated in Court because it was a completely new model for me. Despite my nerves and fears, I still obtained first place in the conference. Even if this is your first time in Court, be confident with your arguments, and I'm sure you will have great results. Thank you for choosing this committee. I assure you that regardless of the outcome of your case, your time here will be far from boring. I also hope you'll experience the same excitement I feel when participating in court, whether it's your first time or not.

Hope you're doing great,

Diego García

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Hello Delegates,

My name is Alejandro Arguello, and I have the pleasure of being one of your co-directors for IACHR for this year's DALE conference. I am 17 years old and a senior at the American Nicaraguan School. I have been interested in debate throughout high school, and I'm excited to have had the opportunity to be one of the co-chairs. My experience in the debate has shown me that passion and dedication will take you very far. I think the concept of IACHR is great, and I'm sure you will enjoy researching and debating the topics Diego and I chose for this year. I'm sure everybody will do great, and just remember to try your best, be confident in what you say, and most importantly, have fun. At the end of the day, we are here to create good memories. Again, thank you for picking this committee, and see you at the conference.

Best regards,

Alejandro Argüello

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Committee introduction

Purpose of the Court and roles

The Inter-American Commission on Human Rights (IACHR) is a principal organ of the Organization of American States (OAS) dedicated to promoting and protecting human rights in the Americas. It is a guardian of the fundamental freedoms preserved in the American Convention on Human Rights and other regional treaties. By ensuring accountability and fostering respect for dignity, equality, and justice, the IACHR plays a crucial role in protecting human rights across the continent.

IACHR is entirely different from the general committees. Instead of representing a country, the delegates will work in teams or “benches” assigned to them on the conference day. As a delegate, make sure to prepare information and evidence for each bench.

- a. **Petitioners:** Your role as a petitioner is to defend the alleged victim using different conventions related to the case. Your primary sources of information may be the Organization of American States (OAS), United Nations (UN), and the Court to build strong arguments against the state using specific articles. In addition, conventions dedicated to a particular theme (such as the Convention on the Rights of the Child) can also work for you. Look up for evidence of ignorance from the state. Also, on Human Rights and the Universal Declaration of Human Rights.

- b. **State:** As a state member, you have to defend the country's government in this case. Reflect their innocence, showing that the actions taken were legal. Consider that the state cannot deny the facts but tell its own truth based on the documented facts. Use different treaties that absolve the state from any responsibility. Your significant sources of information may be the Organization of American States (OAS), United Nations (UN), and the Court to build strong arguments against the state using specific articles. You could also rely on the country's laws to defend the state.

- c. **Judges:** They formulate questions for the petitioners and the state and keep the debate flowing so it can come to a conclusion. Both benches try to convince the judges as they make the final decision on who will win the case.

Court's function

The main function of the Inter-American Court of Human Rights is to promote and uphold the protection of human rights in the Americas, as Article 106 of the Charter of the Organization states:

There shall be an Inter-American Commission on Human Rights, whose principal function shall be to promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters. An Inter-American Convention on Human Rights shall determine the structure, competence, and procedure of this Commission and those of other organs responsible for these matters.

In furtherance of its mandate, the Commission:

- Receives, analyses, and investigates individual petitions in which human rights violations are alleged to have been committed either by a Member State of the OAS that has ratified the American Convention or by one that has not.
- Observes the general situation of human rights in the Member States and publishes, when it deems appropriate, reports on the situation in a given Member States.
- Visits to countries to conduct an in-depth analysis of the general situation and/or to investigate a specific case. These visits prepare a report on the observed human rights 7 situations, which is published and presented to the Permanent Council and the General Assembly of the OAS.

- Develop an awareness of human rights among the peoples of the Americas. To that end, the Commission prepares and publishes reports on specific issues, such as the measures that must be taken to ensure greater access to justice; the effects that internal armed conflicts have on particular groups; the human rights situation of children, women, and migrant workers and their families, persons deprived of liberty, human rights defenders, indigenous persons, persons of African descent; freedom of expression; citizen security and terrorism, and how they relate to human rights, and so on.
- Organizes and holds visits, lectures, seminars, and meetings with government representatives, academic institutions, non-governmental organizations, and others to communicate information and promote a broad understanding of the work of the inter-American human rights system.
- Recommends to the OAS Member States the measures they should take to protect human rights in the countries of the hemisphere.

It is crucial that you understand the purpose and authority of the Inter-American Court of Human Rights among the nations that make up the Organization of the American States (OAS) in order to thrive in this committee. The cases you will be examining are from Guatemala and Colombia. Investigate any prior rulings the court may have concerning both countries as well as any comparable instances involving OAS members overseas. The American Convention on Human Rights (OAS) will be the most important reference for this committee.

Topic A: Girón et. al v. Guatemala

Facts and background:

On November 30th, 2017, the Inter-American Commission on Human Rights submitted to the jurisdiction of the Inter-American Court of Human Rights the case of Girón et. al. against the Republic of Guatemala. The case was submitted for the alleged violation of several articles in the context of the criminal proceedings against Roberto Girón and Pedro Castillo Mendoza for the crimes of aggravated rape and murder.

On April 18th, 1993, Mr. Roberto Girón and Mr. Pedro Castillo Mendoza were accused of abducting four-year-old Sonia Marisol Álvarez García near her home, subjecting her to sexual assault, and subsequently murdering her with a machete. According to the Sentence of the

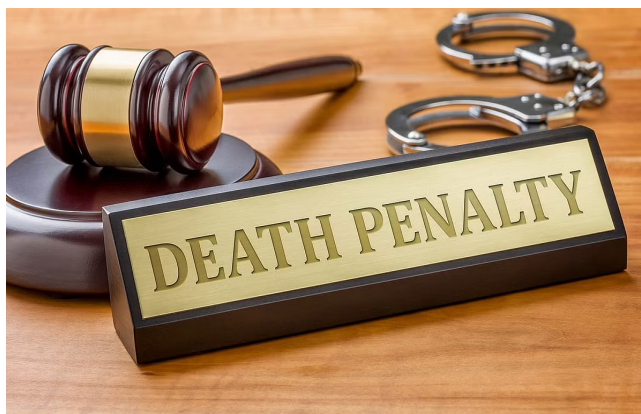


Supreme Court of Guatemala (September 27th, 1994), Mr. Girón denies his participation in the rape of the minor. But he also admits to being found with a machete covered in blood. After the hematological analysis performed on the blood found on it, along with the blood sample taken from the minor, it was established that the blood found on the machete corresponded to the 4-year-old girl, which serves as evidence against him. Otherwise, Mr. Castillo admits that he and Girón weren't under the influence of substances when both of them committed the crime and that “he didn't know what happened to them or what they were thinking,” adding, “I had never committed

any crime before, and this is the first time I did, but I don't know what happened with my coworker, and I don't remember whose idea it was for the two of us to act that way”.

On April 27th, 1993, Mr. Leonel Chinchilla Cristales was appointed as Mr. Girón's defense lawyer, and Mr. Edy Iván Bocanegra Conde was appointed as Mr. Castillo Mendoza's defense lawyer. Both Mr. Chinchilla and Mr. Bocanegra were law students and not yet practicing lawyers. To address inconsistencies in their prior statements about their participation in the crime, the Second Chamber of the First Trial Court subsequently called a hearing with both Mr. Girón and Mr. Castillo Mendoza. Neither defendant's designated attorney was present at this crucial hearing. The absence of an attorney could violate the right to a fair trial, as a legal counselor is critical in providing advice, protecting rights, and ensuring that the proceedings are conducted properly.

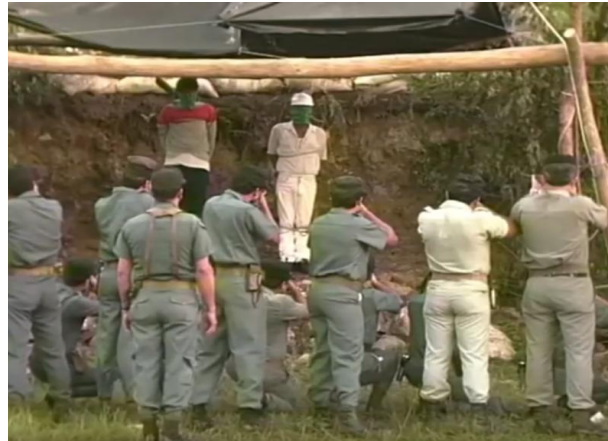
On May 12th, 1993, following Article 175 of the Criminal Code, the First Chamber of the First Trial Criminal Court of Escuintla initiated criminal proceedings against Mr. Girón and Mr. Castillo Mendoza for the aggravated rape of Ms. Alvarez García. If the victim dies as a result of the rape, Article 175 stipulates a sentence of 30 to 50 years, and if the victim is younger than 10,



the death penalty. In October of that year, Girón and Castillo Mendoza are found guilty by the First Chamber of the First Trial Criminal Court of aggravated rape of a child resulting in death and are given the death penalty. According to the ruling, the court only used the preliminary

investigative statements provided by each defendant to support both convictions.

Mr. Girón and Mr. Castillo appealed the decision many times, but their petitions were denied. They filed an amparo appeal to the Constitutional Court, challenging the decision of the Criminal Chamber of the Supreme Court of Justice. The alleged offenders exhausted their resources for revoking the death penalty sentence so The Institute for Comparative Studies in Criminal Sciences of Guatemala (Instituto de Estudios Comparados en Ciencias Penales de Guatemala; “IECCP”) and the Centre for Human Rights Legal Action (Centro para la Acción Legal en Derechos Humanos; “CALDH”) present a joint petition on behalf of Mr. Castillo Mendoza to the Commission.



Referring to alleged inconsistencies on the trial of Mr. Girón and Mr. Castillo (such as the lack of proper representation). On September 9th, 1996, the Commission requested the state of Guatemala to suspend the execution of the individuals due to irregularities in their sentence. Despite that, Mr. Girón and Mr. Castillo were executed on live television by a firing squad on September 13th, 1996.

Purpose of the demand:

The purpose of the demand in the case of Girón et al. v. Guatemala was to address alleged human rights violations committed during the criminal proceedings and execution of Roberto Girón and Pedro Castillo Mendoza. The petitioners sought to hold the Guatemalan state accountable for breaches of the American Convention on Human Rights, specifically related to the following issues: Art. 4 (Right to Life), Art. 5 (Right to Humane Treatment), Art. 8 (Right to a Fair Trial).

Petitioners:

As a petitioner in this case, your role is to defend Mr. Girón's and Mr. Castillo Mendoza's rights before the Court. Address different issues, such as the exhaustion of resources of the alleged victims on their journey of reducing their sentence. You could also highlight that Girón and Castillo Mendoza were not adequately represented by their defense attorneys law students without the necessary training. Additionally, important procedures took place without their attorneys present, such as the hearing to resolve conflicting testimony. These procedural failures compromised the fairness and integrity of the trial.

According to the petitioners, Roberto Girón and Pedro Castillo Mendoza's firing squad execution, which was aired live on national television, was a clear violation of Article 5 (Right to Humane Treatment) under the ACHR. In addition to causing the accused public humiliation, this public display violated international laws that forbid cruel, inhuman, or humiliating treatment. By transforming a court punishment into a public spectacle, such actions increase the psychological pain of the condemned, their families, and society at large.

Also, take into account the petition from the IACHR to suspend the execution of both individuals that was dismissed by the state of Guatemala five days before the application of the death penalty on the victims. Emphasize their rights of judicial protection. Look for more details on the original trial demonstrating the state's negligence in this case.

Besides the American Convention, more conventions could be useful for petitioners in this case. These are some recommendations, but you can still look for more conventions that could apply to the case:

- American Convention
- International Covenant on Civil and Political Rights (ICCPR)
- Universal Declaration of Human Rights (UDHR)
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Vienna Convention

State:

As a member of the state, you represent the Republic of Guatemala. Your main ally will be moral arguments, as you may lead the debate to the horrible crime Mr. Girón and Mr. Castillo Mendoza committed. Justify the actions taken by the state, arguing that their sentence was under Guatemalan law, which calls for the execution of those who commit rape against children under the age of 10, resulting in their death (if their death is a result of the sexual assault), stipulated on Art—175 of the Criminal Code.

Emphasize the procedures taken by the State before the execution of the individuals, which were following the Law: Art. 18 of the Guatemalan Constitution recognizes the possibility of imposing the death penalty, Art. 43 of the Criminal Code establishes that the death penalty should not be executed until all legal remedies have been exhausted. At the moment of the trial, the state followed every step until all remedies were exhausted to impose capital punishment. Also, Guatemala has no treaty obligation that retains them from the imposition of the death penalty.

Referring to the representation of law students, you could argue that the Code of Criminal Procedure of the Republic of Guatemala establishes: “The judge may also appoint as defenders articulated law clerks from the country’s universities and law firms and, to this end, the latter shall send lists to the president of the judicial body. Those lists will be updated each year” on the Art. 154 (Inter-American Court of Human Rights Case of Girón et. al. v. Guatemala Judgment of October 15, 2019 Preliminary objection, merits, reparations and costs, p. 11)

According to Cassation Appeal No. 57-94 and 61-94 (Bocanegra, Chinchilla, 1994),

Reports submitted by the Chemical and Biological Laboratory of the Identification Bureau of the National Police provide a detailed analysis of several pieces of evidence. These include hair found in the vagina of the child, extracted from the penis of Mr. Girón and hair taken from the pubic area of Mr. Castillo Mendoza, which were found to be identical upon analysis. Additionally, hairs were discovered in the child's left hand, and these were compared to hairs taken from the heads of the accused. Further evidence includes blood found on the machete used to kill the victim, which matched the sample taken from the deceased.

From examining all the analyzed samples, which provide scientific evidence that has not been refuted or proven null or false, along with other procedural records, the Court concludes that the accused committed and carried out the crime charged against them. The comprehensive study of the case records and presented evidence highlights the alignment between the testimonial evidence provided by the victim's mother and prosecution witnesses, the scientific evidence from the laboratory, the personal identification of the

accused, and other corroborating evidence. All of these pieces hold probative value against the accused, as they have not been legally challenged.

The state could argue that the execution complied with its domestic legal framework at the time, as the death penalty was sanctioned under Decree No. 234, and the method used (firing squad) was under the decree's stipulations. Since this statute was in effect during the executions, the state could contend that the actions were legally justified under national law. This decree was officially derogated a year later after the executions of Mr. Girón and Mr. Castillo Mendoza.

Being part of the state is challenging. Your main goal is to change the focus of the debate, giving evidence of the procedures taken until the execution. Look for the original trial, the details of the crime committed by the individuals, and testimonies that could help you achieve this goal.

These conventions could be helpful too:

- American Convention
- Convention on the Rights of the Child
- Criminal Code of Guatemala
- Guatemalan Constitution

Judges:

As a judge, the fluency of the debate will be in your hands; you have to ask questions that allow the benches to talk about different subjects essential to the case. Lead the debate so we all enjoy hearing different parts of the case. The Judges are supposed to be unbiased, so balance your questions for the benches. Here are some examples:

For petitioners:

- Taking into account that Mr. Girón and Mr. Castillo Mendoza were represented by law students, could you explain how this could have compromised their legal defense?
- Considering that the death penalty was legal at the time of the executions, What standards should the state have relied on not to apply the death penalty?
- Could you clarify why domestic remedies were inadequate or inaccessible in this case?
- Can you explain how the State of Guatemala could have reasonably prevented the alleged violations in this case, given the resources and legal frameworks available to it at the time? Were there any preventive measures that were overlooked or not fully implemented?

For state:

- Do you have any evidence that proves the participation of both Mr. Girón and Mr. Castillo in the crime before their sentence?
- Why did the state dismiss the petition of the Commission on the suspension of the execution?
- How do you address any claims that the State failed to take appropriate action, particularly in relation to the legal and institutional frameworks in place at the time?
- Why did the state decided to appoint law students to represent both Mr. Girón and Mr. Castillo?
- Is there any case where the state can appoint law students to represent an individual? How does this apply to the case?

Topic B: Santo Domingo Massacre v. Colombia

Facts and background:

On December 13, 1998, the Colombian Air Force deployed a cluster bomb, also known as a “Rockeye” bomb, during a military operation in the rural village of Santo Domingo in the Arauca region, Arauca was a region of strategic importance to the Colombian government due to its oil



reserves and close proximity to Venezuela making it important for both economic and military reasons. The bombing killed 17 civilians, which included six children, and left 20 other injured civilians, as well as destroying homes and surroundings causing significant displacement amongst

the local population. During the period of the attack, the region of Arauca was heavily militarized by the Colombian government in attempt to regain control from FARC forces in the area. In addition the involvement of the corporation Occidental Petroleum which sought out protection from the Colombian government for its oil operations in the area, these involvements further complicated the case, as this company was reportedly providing the government with financial and logistical support. Furthermore ,the bomb was initially supplied by the United States and, according to international humanitarian law, was deemed to be prohibited for use near and in civilian areas due to its destructive capabilities.

At first, the Colombian government blamed the explosion on a FARC car bomb planted by the guerilla group Fuerzas Armadas Revolucionarias de Colombia (FARC). They stated that the people of Santo Domingo were victims of a guerilla attack, not a military operation. This claim was disproved by ensuing investigations but the initial denial of the Colombian government combined with the claims that the FARC was to blame for the attack delayed investigations making it harder for human rights organizations. In addition, intimidation and threats against witnesses and locals from Arauca who spoke out against the government's claims. Despite the difficulties, reports from human rights organizations, forensic experts, and international investigators found evidence and concluded that the bomb had been deployed by the Colombian military which led to the reopening of the case.

The investigations came to the conclusion that the cluster bomb device was an American-made device, ultimately confirming the Colombian air forces involvement. This finding later exposed a more widespread misuse of indiscriminate weapons in civilian areas during Colombia's conflict. Initiating a global call to create tighter restrictions against



weaponry of such caliber, as well as enforcing international humanitarian law. The case also highlighted systemic problems within Colombia where government and military actions were hidden by corruption and political power. On July 8th 2011, the case was brought to the Inter-American Court of Human Rights, where the Colombian government was accused of breaking international human rights law which included the right to life (Article 4), personal integrity (Article 5), the rights of children (Article 19), and judicial protection (Article 25). On November

30, 2012, after a careful investigation, the Court concluded that the Colombian Air Force was responsible for the deaths and injuries of civilians in violation of human rights as outlined in the American Convention. The Court's judgment ordered Colombia to provide reparations to those affected by the incident, which included financial compensation, medical and psychological care for the injured, measures to ensure no repetition of similar cases, and accountability for the military operation.

Purpose of the demand:

The petitioners advocated on behalf of the victim's families in the bombing. Demand the state of Colombia to acknowledge their actions and pay reparations to the victims for violating the "right to life (Article 4)", "personal integrity (Article 5)", "the rights of children (Article 19)", and "judicial protection (Article 25)", which are all a part of the American Convention of Human Rights.

Petitioners:

As a petitioner representing the families of the victims of the Santo Domingo bombing, your role is to demand justice and accountability for the deaths and injuries caused by the 1998 bombing. Your primary goal is to demonstrate to the Court that the Colombian government violated several articles of the American Convention on Human Rights, which are the "right to life (Article 4)", "personal integrity (Article 5)", "the rights of children (Article 19)", and "judicial protection (Article 25)". You must focus on presenting evidence that the Colombian Air Force used a cluster bomb in a populated area, leading to the deaths of 17 people, with 6 of those being children, and injuring 20 others. Your responsibility is to build a strong case showing how the

government failed to protect the right to life, personal integrity, the rights of children, and the right to judicial protection.

Throughout this process, you must search for evidence to support any claims against the State. You must present the findings from independent investigations led by human rights organizations, forensic experts, and other findings. These investigations were the reason that the revelation of the Colombian military's actions came to light, contradicting their original statement declaring the guerilla groups as guilty of the explosion. It is also important to highlight the U.S.-supplied cluster bomb, which had been banned in civilian areas by international humanitarian law. Your argument should emphasize that the state's actions were in violation of international law and caused severe physical and emotional trauma to the survivors and families of the bombing.

In addition to seeking recognition for the bombing, you are fighting for reparations and compensation for the families of the victims. This includes financial compensation and psychological and medical support for the survivors. Your role also involves advocating for systemic changes, urging the Colombian government to improve military protocols to prevent future violations and ensure better protection of human rights in conflict situations.

Articles you can use:

- American Convention on Human Rights
- International Humanitarian Law
- Convention on the Rights of the Child
- Convention on Cluster Munitions

State:

As a representative of the state of Colombia, it is your job to defend the actions of the Colombian government in the Santo Domingo case and to respond to the allegations made by the petitioners. Your primary goal is to show that the Colombian military's operation was conducted for a complex internal armed conflict, which served to neutralize threats posed by guerilla groups. It is key to emphasize the difficulty of operating in a zone of conflict and argue that the actions taken were for the security of the people while acknowledging any mistakes in the operation.

It is important to address the information brought by the petitioners. It is your responsibility to question the validity of the evidence, and you may even provide other alternative interpretations of the actions that justify the military's involvement. This may take the shape of presenting proof of guerilla activity near the area, attempting to demonstrate that the cluster bombs were targeting legitimate guerilla threats, or arguing that the actions of the air force were based on misinformation given at the time.

Beyond defending the claims brought by the petitioners, you must also address the court's demands for reparations and systemic changes. You might have to consider acknowledging any mistakes or errors while negotiating the possibility of compensation and reparations. This might include committing to adjustments in military protocols to better align with international humanitarian law while seeking to maintain the state's right to defend itself against armed insurgencies.

Articles you can use:

- American Convention on Human Rights

- Geneva Conventions
- Convention on Cluster Munitions

Judges:

As a judge, it is your job to listen attentively to the debate and come to a conclusion based on evidence and reason. To help you reach your final verdict, you will ask questions to both the State and Petitioners. Avoid repeating topics or ideas already stated in the debate and keep things interesting with challenging questions for both parties. It is also recommended to have your questions ready to bring to the day of the conference since you don't know which role you are going to get.

For the State, some questions might be:

- Was there any concrete evidence of guerilla activity near the Santo Domingo village?
- Was the use of cluster bombs authorized for this mission, and by who?
- What was the objective of the military operation on the day of the bombing?
- How were the targets for the bombing identified
- Why did the Colombian Government initially blame Fuerzas Armadas Revolucionarias de Colombia?

For petitioners, some questions might be:

- What is your response to the state stating that the bombing was justified based on military necessity?

- How can you confirm that all the victims were civilians and none of them were part of guerilla groups or cartels?
- What steps were taken by the victims of the families or locals in the area to address the situation before taking it to the IACHR
- Are you accusing intent or negligence on the part of the Colombian army in causing civilian casualties?
- Is this incident a reflection of broader actions that the Colombian government has committed or is it an isolated case?

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