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**ORGANIZATION OF THE WORK OF THE SESSION**

**Report of the United Nations High Commissioner for Human Rights  
on the situation of human rights in Colombia\*\***

**Summary**

This report on Colombia by the United Nations High Commissioner for Human Rights covers the year 2005 and is submitted in response to the request made by the Commission on Human Rights during its sixty-first session.

**National context and evolution of the internal armed conflict**

During 2005 the public's attention was focused primarily on debates concerning legislation and the impact of the internal armed conflict. Other prominent issues included the marked influence of the paramilitaries, negotiations with these groups and their demobilization. The Free Trade Agreement (FTA) was also widely discussed. The Constitution was amended in order to permit the possibility of immediate re-election of the President of the Republic. The Constitutional Court found that both that amendment and the law on electoral guarantees were in accordance with the Constitution. In June, Act No. 975 of 2005 (the "Justice and Peace" Act)

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\* Re-issued for technical reasons.

\*\* The present report is being circulated in all official languages. The annexes are circulated in the languages of submission and English only.

was adopted and became the legal framework applicable for demobilized persons responsible for grave crimes. As far as the conflict was concerned, the security forces maintained their offensive against the rearguard of the guerrillas, the Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo (Revolutionary Armed Forces of Colombia - People's Army) (FARC-EP), while illegal armed groups maintained their attacks against civilians. The demobilization of paramilitary groups continued, with some interruptions. No substantial progress was made in terms of freeing persons held by the FARC-EP, despite various national and international attempts. In the second half of the year, discussions began with the guerrilla forces of the Ejército de Liberación Nacional (National Liberation Army) (ELN) and a meeting was scheduled between the Government and ELN leaders in December. Drug trafficking, kidnapping, extortion and the smuggling of gasoline continued to provide the main source of financing for the illegal armed groups. The High Commissioner visited Colombia in May and met with authorities and representatives of civil society. The Working Group on Enforced or Involuntary Disappearances visited the country in July.

### **Situation of human rights and international humanitarian law**

The human rights situation was marked by a series of grave violations related to civil and political rights and to unresolved challenges affecting economic, social and cultural rights. Official statistics still failed adequately to reflect this situation and lacked a comprehensive gender focus. It was possible to observe a pattern of extrajudicial executions and enforced disappearances, associated with violations linked to the administration of justice and impunity. Cases of arbitrary detentions, torture and other cruel, inhuman or degrading treatment were also recorded, as well as attacks on freedom of expression. While such violations are not part of a deliberate State policy at the highest level, they were difficult to deal with owing to a lack of recognition on the part of the authorities and the inadequacy of remedial action. Human rights violations due to the action or failure to act of public servants in acts committed by paramilitaries, continued. The situation as regards poverty, which affects more than half the Colombian population, especially ethnic groups, women and children, reflects a high degree of inequity, particularly as regards access to and enjoyment of the rights to education, health, employment and housing, amongst others.

Serious breaches continued to be committed by illegal armed groups, particularly the FARC-EP and the paramilitaries of the Autodefensas Unidas de Colombia (United Self-Defence Forces of Colombia) (AUC). In their operations these ignored humanitarian rules and attacked the civilian population. The guerrilla forces, especially the FARC-EP and to a lesser extent the ELN, continued to perpetrate homicides, massacres, acts of terrorism, threats and attacks on the civilian population, hostage-taking, use of anti-personnel mines, recruitment of children and attacks on medical personnel and units. The paramilitaries repeatedly violated their commitment to a cessation of hostilities and persisted in committing homicides, threats and attacks against the civilian population, hostage-taking, torture and humiliating or degrading treatment, forced displacements, recruitment of children and acts of sexual violence. Members of the security forces, and particularly the army, were accused of breaches of the principle of distinction, such as using children as informants or for other military duties, making use of schools and civilian housing and acts of sexual violence.

## **The challenges of demobilization and its legal framework**

In 2005 Colombia faced challenges with regard to the rule of law, peace, justice and the fight against impunity. Since late 2003, more than 11,100 persons were recorded as having been collectively demobilized from paramilitary groups. Act No. 782 of 2002 and its implementing Decree No. 128 were followed in June by the Justice and Peace Act as the applicable legal framework for demobilizations. This law provides legal benefits for demobilized persons to whom the previous law cannot be applied because they are responsible for serious human rights violations or breaches of international humanitarian law. But despite the fact that it refers to the rights to the truth, to justice and to reparation for victims, the law is still not compatible with international principles. It was also observed that, due to the institutional shortcomings of the justice system and the provisions of the new law, most demobilized persons came under rules conferring certain benefits, including pardon. In addition, the law does not address the problem of the State's responsibility due to the actions or failure to act of State agents in a number of crimes committed by paramilitaries. This shows how difficult it is to avoid impunity. No mechanisms have been provided to ensure the dismantling of illegal structures. The paramilitaries continue to exert a strong influence in several regions of the country, especially in political, economic and social affairs. Various cases were recorded of breaches in the cessation of hostilities, the recruitment of new members and the establishment of new groups.

### **Situation of especially vulnerable groups**

Several especially vulnerable groups were affected by violent actions perpetrated by illegal groups in the course of the internal armed conflict, as well as by violations of their fundamental rights and liberties. The vulnerable groups were also affected by certain policies and by the behaviour of certain public servants. They included human rights defenders, members of organizations of women and victims, leaders of communities and displaced persons and trade unionists. Communities normally at risk, such as those displaced or blockaded, as well as indigenous and Afro-Colombian communities and other ethnic minorities, were particularly affected and suffered violations and breaches. Other especially vulnerable groups include children, women, persons belonging to sexual minorities, journalists, members and leaders of political parties, conscientious objectors, detainees, hostages and disappeared persons, as well as local authorities and judicial staff. This aspect is looked at in more detail in annex IV.

### **Public policies and implementation of the recommendations**

The Office in Colombia continued to promote the implementation of the High Commissioner's recommendations. Some State institutions made greater efforts to achieve progress, while others failed to take timely, relevant or consistent measures. At the end of the year the situation as regards implementation tended to vary considerably, but progress was less effective than expected. In the area of prevention and protection, some positive measures were taken, such as adopting protocols to regulate certain procedures of the Inter-institutional Early Warning Committee (CIAT) or increasing the budget earmarked for the protection programmes of the Ministry of the Interior. Nevertheless, shortcomings persisted in the operational area in terms of adopting and following up alerts, and on account of delayed and ineffective risk evaluation. A circular issued regarding respect for the individual and collective work of human rights defenders did not adequately meet the recommendation that any disregard for presidential directives in this respect should be penalized. No concrete progress was achieved regarding the

review of intelligence records. Some measures were adopted for the benefit of 2 out of the 12 endangered indigenous communities mentioned in the recommendations. Significant efforts were made to address the requirements of the Constitutional Court with regard to care for displaced persons, although further improvements are needed.

Illegal armed groups continued openly to disregard the High Commissioner's recommendations. The security forces in the course of their operations on occasions ignored the humanitarian principles of distinction, limitation and proportionality.

It is worth noting the adoption of a number of rules, the ratification of international treaties and progress towards drawing up a Plan for Education in Human Rights. On the other hand, less progress than was hoped for was achieved with the National Plan of Action on Human Rights. The same applied to the recommendations addressed to the Ministry of the Interior and Justice and the National Institute of Prisons and Penitentiaries (INPEC). With regard to impunity, some action was taken by the Offices of the Attorney-General and the Procurator-General. The small number of judicial decisions, the limited effectiveness of investigations into the responsibility of public servants and the undue referral of cases to the military criminal courts continue to be a source of concern. In November, the Office signed a cooperation agreement with the Ministry of Defence to consider improvements in the teaching of human rights and international humanitarian law along comprehensive, systematic and operational lines. Little progress was achieved, on the other hand, in terms of penalizing links between public servants and the paramilitaries or effectively dismantling paramilitarism. Generalized poverty and inequity continued to present the main challenges in the area of social and economic policies. No progress was made towards establishing an adequate system of statistics on human rights and international humanitarian law.

### **Recommendations**

In accordance with the Statement of the Chairperson of the Commission on Human Rights, approved by the Commission by consensus on 22 April 2005, the High Commissioner underlines the importance of implementing the recommendations that she has addressed to national authorities in the three branches of State government and the control bodies responsible for the protection and promotion of human rights, to sectors of civil society, to the international community and to the illegal armed groups. The full text of the recommendations is given in annex I.

The High Commissioner encourages the national authorities to pay special attention to six recommendations. She once again places special emphasis on important demands addressed to illegal armed groups. The High Commissioner also considers it essential that the country should overcome its internal armed conflict through dialogue and negotiations that give priority from the outset to respect for international humanitarian law and human rights.

The High Commissioner is firmly convinced that the situation of human rights and international humanitarian law would show tangible improvement if the recommendations were to be implemented consistently and comprehensively. Certain advances achieved in 2005 should encourage further efforts in 2006 and beyond. The High Commissioner recommends that the present mandate of her Office in Colombia be extended well in advance of its expiry in October 2006.

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## **Introduction**

1. In 1996, the Commission on Human Rights requested the Office of the United Nations High Commissioner for Human Rights to establish an office in Colombia, pursuant to the invitation of that country's Government. The Office was duly established on 26 November 1996, under an agreement between the Government of Colombia and the United Nations High Commissioner for Human Rights. Under the terms of the agreement, the Office in Colombia of the High Commissioner is to observe the situation regarding human rights and international humanitarian law with a view to advising the authorities on the formulation and implementation of policies, programmes and measures intended to promote and protect human rights, in the country's current context of violence and internal armed conflict. This should enable the High Commissioner to submit analytical reports to the Commission. The agreement was renewed in September 2002 at the initiative of President Álvaro Uribe until October 2006.

2. At its sixty-first session, the Commission on Human Rights, through the Chairperson's Statement, reaffirmed that the Office of the High Commissioner in Colombia "plays an important role in the work against ongoing violations of human rights and international humanitarian law [...] through monitoring, advice, technical cooperation, and informational and promotional activities", and requested the High Commissioner to submit to it "a detailed report containing an analysis by the Office of the High Commissioner of the human rights situation in Colombia". This report covers the year 2005 and is accompanied by five annexes: recommendations; activities of observation, advice, technical cooperation and promotion by the Office in Colombia; violations of human rights and breaches of international humanitarian law; the situation of especially vulnerable groups; and the challenges of demobilization and its legal framework.

### **I. NATIONAL CONTEXT AND EVOLUTION OF THE INTERNAL ARMED CONFLICT**

3. In 2005 the country's political scene was dominated by debates concerning important legislation and the impact of the internal armed conflict. Other prominent issues included the strong influence of the paramilitaries, negotiations with those groups and their demobilization. The Free Trade Agreement (FTA) was also widely discussed.

4. In July 2005 the Supreme Court appointed a new Attorney-General, who took office in August. The Minister of Defence resigned in July and was replaced by the Legal Adviser of the Office of the President. The political and legislative agenda focused on reforming the Constitution in order to allow the possibility of immediate re-election of the President of the Republic. The amendment was declared to be in conformity with the Constitution by the Constitutional Court. The same occurred with the so-called "Guarantee Act" for the electoral process. The year was marked by major challenges in the area of freedom of opinion and expression, especially in the political arena, as the country prepares for new elections in March and May 2006. Several political groups suffered attacks, threats and murders of their members.

5. Another matter that captured public attention was the passing of Act No. 975 of 2005 (known as the "Justice and Peace" Act), which was debated at length in the Congress. This Act, which was promulgated in July, is still subject to constitutional review as a result of many

complaints. A decision is expected in the early months of 2006. In October 2005, the National Commission on Reparation and Reconciliation was set up in accordance with the same Act No. 975. The appointment of 2 representatives of victims' organizations among the 13 members of the Commission is still pending.

6. Negotiations on a Free Trade Agreement with the United States have given rise to public discussions regarding the desirability of such an agreement. Several sectors of public opinion have expressed fears regarding possible negative effects of some of its clauses on some sectors of the economy, and on some aspects of economic, social and cultural rights. The Government continued to combat illegal crops and drug trafficking. In this it gave priority to a policy of fumigation. Areas under cultivation were reduced by 7 per cent, less than in previous years. At the same time there was a significant increase in the cultivation of new areas and in areas already cultivated.<sup>1</sup> In November the Government agreed temporarily to suspend spraying of illegal crops in areas bordering on Ecuador. Discussions also arose regarding fumigation in national parks. Drug trafficking constitutes one of the main sources of financing for the illegal armed groups, alongside kidnapping, extortion and the smuggling of gasoline.

7. As far as the internal armed conflict was concerned, the security forces kept up their offensive against the rearguard of the Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo (Revolutionary Armed Forces of Colombia - People's Army) (FARC-EP), chiefly in the south of the country, which had been started the year before. Constant efforts were made by the public security forces to preserve the military initiative and to maintain a continuous presence in the main urban centres and along the highways. The FARC-EP concentrated their actions against the security forces outside the departments of Meta, Guaviare and Caquetá, where the largest military operations take place. The areas bordering on Ecuador - Nariño, Putumayo and others such as Cauca - saw an escalation in fighting. Putumayo and Arauca were two of the departments most affected by the actions of illegal armed groups, which included armed strikes and attacks on infrastructures and caused a significant number of casualties. The FARC-EP continued their attacks against municipal authorities, especially in Caquetá. No significant progress was made with regard to the release of members of the police, the military and kidnapped civilians held by the FARC-EP, despite a number of national and international efforts to that effect.

8. During 2005, negotiations continued, with difficulty, between the paramilitary groups and the Government and more members of those groups were demobilized. In response to protests by paramilitary leaders, in October the Government agreed to extend the deadline for demobilizations, from the end of the year until mid-February 2006. Despite the declared cessation of hostilities, violent actions were continued by the paramilitary groups taking part in the negotiations. Many of those actions were connected directly with drug trafficking. The control and illegal influence exercised by these groups on the administration and on the political, social and economic life of several regions of the country became more apparent. Another aspect of the paramilitary problem arises from the links that still exist between members of the paramilitary groups and public servants.

9. Two new reports were published by the Mission to Verify the Peace Process in Colombia (MAPP-OEA) opened by the Organization of American States. In the latest October report, the new Secretary-General of the OAS proposed "fully and effectively carrying out the objectives of

the Mission, in particular those intended to significantly reinforce verification of matters associated with respect for human rights and to follow up the application of the Justice and Peace Law in the course of demobilization, disarmament and reintegration”.

10. In September, the Government released the spokesman of the guerrilla forces of the Ejército de Liberación Nacional (National Liberation Army) (ELN) from prison for three months, to allow him the opportunity, with the support of civil society personalities, to explore the possibility of initiating peace talks with various social sectors. In December the first meeting was held abroad between ELN leaders and the Government.

11. Other noteworthy events in the country occurring in the final months of the year included the occupation of rural lands by hundreds of indigenous persons in Cauca, who were claiming ownership of the lands and complaining at the Government's failure to fulfil its promise to give prompt attention to their needs. The occupation gave rise to violent confrontations between indigenous people and members of the security forces. November marked the twentieth anniversary of the takeover of the Palace of Justice by members of the M-19, which left more than 100 people dead, including 11 Supreme Court judges. Until now not a single person has been convicted for those crimes. In order to counteract the situation of impunity, the Supreme Court appointed a special truth commission and the Attorney-General's Office reopened investigations.

12. The Special Adviser for Colombia ended his good offices mission in April 2005, as was announced by the United Nations Secretary-General at the end of January. Good offices had been provided in Colombia by the Secretary-General since 1999. The latter also announced that his good offices would remain at Colombia's disposal should a change of circumstances occur in the near future and subject to an explicit request by the parties.

13. In February, the second meeting of the International Coordination and Cooperation Group for Colombia was held in Cartagena for the purpose of continuing the political dialogue and cooperation talks initiated in London in July 2003. The representatives of the Governments issued a statement in which, inter alia, they encouraged the Colombian Government to continue its efforts to apply the recommendations of the United Nations High Commissioner for Human Rights.

14. The High Commissioner visited Colombia in May. During her visit she had several meetings with the President and with high government officials, Congress, the Constitutional Court, the Procurator-General, the Attorney-General, the Ombudsman, as well as with civil society organizations, the Church, the diplomatic corps and the United Nations system. She also travelled to Chocó, where she interviewed a number of officials and representatives of local communities, non-governmental organizations and the Quibdó Diocese.

15. In July the Working Group on Enforced or Involuntary Disappearances visited the country. By the time the Group completed its mission, its members reported having received information on more than 1,100 disappearances that occurred in Colombia, of which almost 900 are still unaccounted for.

## II. SITUATION OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

16. In her work, the High Commissioner bases the formulation of her observations, evaluations and recommendations chiefly on three sources: a thorough study of official data and statistics; direct, systematic and analytical observations made in the course of field missions across the country; and the strict processing of complaints, in accordance with clear definitions established in international instruments of human rights and international humanitarian law. Annex III gives detailed information on cases of human rights violations and breaches of international humanitarian law.

### Conceptual definitions

17. Human rights violations are understood to be actions and omissions that affect rights established in international treaties when perpetrated by public servants or by private individuals with the acquiescence of the authorities. Breaches of international humanitarian law, in the Colombian context, are understood to be actions or omissions in violation of article 3 common to the Geneva Conventions of 1949, Additional Protocol II thereto and customary law. Many of the violations and breaches constitute crimes against humanity<sup>2</sup> or war crimes,<sup>3</sup> which could be subject to the jurisdiction of the International Criminal Court.

### Situation of human rights

18. The human rights situation was in part characterized by a series of grave violations. These affected both civil and political rights and the major outstanding challenges related to economic, social and cultural rights.

19. It should be pointed out that serious violations do not arise from any deliberate policy on the part of the Government. Nevertheless, the situation could not be corrected owing partly to the lack of full recognition of the problem by the Government and partly to the lack of appropriate action by the authorities. As a result some of these violations have become routine practice.

20. Many violations affected members of indigenous and Afro-Colombian communities, social and political leaders, human rights defenders, peasants, women and children. They also affected local public servants, especially councillors, as well as journalists and detained persons.

21. Grave violations include those affecting the rights to life, to personal integrity and liberty and security of person. Compared to previous years, the Colombia Office recorded more complaints of such violations. Unlike in recent years, the trustworthy complaints filed in 2005 more often reported the direct involvement of members of the security forces. In several cases, the actions of paramilitaries implicated State responsibility due to action or omission by government officials.

22. At national level several indicators of violence continued to decline, which is a positive development and represents a favourable factor with respect to the overall situation. At the same time, however, the absolute numbers of homicides, massacres and kidnappings remain very high.

It should be pointed out that those indicators do not specifically and separately refer to acts committed by public servants which, either directly or through links with members of paramilitary groups, constitute human rights violations.

23. The cessation of hostilities declared by the Autodefensas Unidas de Colombia (United Self-Defence Forces of Colombia) (AUC) since December 2002 and the collective demobilization of several paramilitary groups since the end of 2003 has led to a decrease in violent actions by such groups and therefore in violations attributed to their members. Nevertheless, a series of breaches of the cessation of hostilities continued to occur throughout 2005, resulting in executions and other human rights violations. In some geographical areas where demobilization took place, violations actually increased. It should be pointed out that demobilization does not appear to have diminished either the influence or the control of paramilitary groups in their respective geographical areas. Rather, using parallel strategies based on pressure and threats, they have been consolidated and in some cases extended in the economic, social and political fields.

### **Civil and political rights**

24. In the course of 2005 civil and political rights were gravely violated. Inquiries were made into reports of violations of the rights to life, to personal integrity and liberty and security of person, and to due process. Reports were also received of violations of privacy and intimacy, as well as of the fundamental freedoms of opinion and expression, assembly, movement and residence. The Office in Colombia was able to observe a pattern of extrajudicial executions and enforced disappearances, associated with violations linked to the administration of justice and the problem of impunity. Arbitrary detentions, torture, cruel, inhuman or degrading treatment and attacks on freedom of expression were also observed. Several illustrations of such cases are given in annex III.

25. **Extrajudicial executions.** The Office in Colombia observed an increase in allegations of actions attributable to members of the security forces, and particularly the army. This was particularly the case in the Department of Antioquia, as well as in Chocó, Norte de Santander and the Sierra Nevada de Santa Marta region. Most of these executions have been portrayed by the authorities as guerrilla casualties in the course of combat, after alterations of the crime scene. Many were wrongly investigated by the military criminal justice system. Some cases were recorded in which the commanders themselves allegedly agreed to dress up the victims in guerrilla clothing in order to cover up the facts and simulate death in action.

26. This type of conduct, its denial by certain authorities and the absence of any sanctions against the perpetrators raised the issue of the possible responsibility of senior officials. Investigations by the Attorney-General's Office have confirmed the occurrence of extrajudicial executions in some cases in the past, even when the authorities had initially publicly denied the facts.<sup>4</sup> This should have alerted the authorities to take appropriate action. The Government reportedly held high-level meetings to address the issue.

27. Several of these cases involved social leaders, indigenous persons and others accused of being collaborators or members of the guerrilla forces, including children. Reports were also received of massacres attributed to army personnel, in Antioquia among other departments.

Other cases were attributed to paramilitaries acting with the connivance of members of the security forces, especially in Putumayo and in Nariño. Several acts were preceded by arbitrary detentions and torture. The victims were reportedly subjected to ill-treatment during interrogation prior to being executed.

28. Some allegations attribute extrajudicial executions to members of the security forces carrying out “social cleansing” operations against persons considered to be indigents or drug addicts. Six cases reported in Medellín showed signs of “social cleansing”. One case was reported of a disabled youth who had disappeared. His execution was attributed to army personnel in Cesar and made to appear as if it had occurred in combat.

29. Executions and death threats by the paramilitaries were also recorded, despite the commitment to a cessation of hostilities. These actions involved the responsibility of the State through action or omission on the part of public servants, and especially members of the security forces. Complaints were received of coordinated actions in which the victims were allegedly handed over by the paramilitaries, subsequently executed by the military and then presented as members of armed groups killed in combat, especially in the metropolitan area of Medellín (Antioquia). Another variation consisted in reports of victims executed by paramilitaries and alleged by the army to have died in combat, in Putumayo and in Sierra Nevada de Santa Marta. A complaint was also received of members of the National Police assisting the execution of a person by paramilitaries of the Bloque Central Bolívar-Libertadores del Sur in Nariño.

30. Responsibility was attributed to the State owing to the authorities’ failure to act, despite reports of risk and warnings, which were followed by executions, massacres and threats by paramilitaries, particularly in Putumayo. The patently tolerant attitude of the authorities was also blamed in a case where known paramilitaries were able to take a victim who was about to be executed on a route passing in front of a police station without being stopped. The victim in that case had cooperated with judicial investigations into paramilitaries and allegedly was denied State protection despite complaining of receiving threats.

31. **Enforced disappearances.** Allegations continue to be recorded of enforced disappearances. Their occurrence tends to become known some time after the events, through the discovery of clandestine individual or collective graves, such as those in Salazar, Sardinata and the rural area of Cúcuta (Norte de Santander) and San Onofre (Sucre). In the case of San Onofre, connections were observed between public servants of the region and paramilitaries. Thanks to the work of the Attorney-General’s Office and other institutions, including support from the new Marine Corps Commander of Corozal, more than 60 bodies were exhumed. Some of the victims allegedly had been dead for less than a year. Several had been tortured before being executed, or had been dismembered to save space. Despite evidence of links between the paramilitaries and officials of the Governor’s office, the Mayor’s office, the security forces, prosecutors and legislators, there was no news of any preventive suspensions or sanctions.

32. Allegations were received of enforced disappearances attributed to members of the army in the departments of Cesar and Putumayo. Others were attributed to paramilitary groups in Bolívar, Meta and Valle, with complaints of State responsibility through action or omission. The departments of Casanare and Guaviare were also reported to be particularly affected by this practice. It should be pointed out that not all complaints of enforced disappearances are

registered; in many cases they are registered as kidnappings. The National Commission on Disappeared Persons recognized that all the cases recorded by the Working Group of the United Nations have remained unpunished. This problem is becoming steadily worse, making it increasingly difficult to identify exhumed corpses.

33. **Torture and ill-treatment.** A series of complaints were received of torture and cruel, inhuman or degrading treatment (Antioquia, Nariño, Norte de Santander, Valle) involving police, army and detention centre staff. Many such acts remain unrecorded. The injuries found on the bodies pointed to a pattern of torture prior to the execution of victims. Other reports refer to the use of torture in the course of the interrogation of captured or detained persons. Allegations were recorded of the excessive use of force, particularly by members of the Police Force's Mobile Anti-Riot Squadron (ESMAD). During the demonstrations that took place on 1 May in Bogotá one person died. The same occurred in Cali, when a demonstration took place at the University of Valle in September. An excessive use of force by the police was observed in Tolima in October during indigenous *mingas* (traditional community gatherings). These actions affected freedom of expression and peaceful assembly.

34. **Arbitrary detentions.** Complaints of such detentions (especially in Antioquia, Boyacá, Arauca, Norte de Santander, Nariño, Meta, Casanare, Cauca, Caquetá and the region of Sumapaz), including cases of mass detentions, showed that the practice was still continuing. Several cases were attributed to army personnel and in some cases to the police, the Department of National Security (DAS) and the Navy. Some detentions were carried out without warrants. In several cases the Army acted in a judicial police capacity. In other cases, questions were raised regarding the use of intelligence reports and suspicions or information provided by demobilized members of illegal armed groups as the only or main basis for arrest warrants. Cases were also denounced in which arrest warrants were issued after the event. The No. 3 Alta Montaña Battalion in Valle was accused of a pattern of ill-treatment during detentions.

35. There appears to be a need to review the concept of *flagrante delicto* as recommended by the High Commissioner. According to the National Police, in the first nine months of 2005, only 20 per cent of arrests were preceded by a judicial warrant, while the remaining 80 per cent were based on flagrancy. This concept was allegedly applied to persons implicated in continuous crime or to those suspected of belonging to illegal armed groups. It is worth noting the ruling by the Constitutional Court whereby a provision of the new Code of Criminal Procedure allowing exceptional arrests by the Attorney-General's Office without a warrant was declared unconstitutional.<sup>5</sup>

36. **Sexual violence.** There was an increase in the number of complaints of acts of sexual violence against women and girls by public servants, especially members of the security forces. Allegations of sexual violence, including rape, and torture against women were attributed to members of the police and the army, occasionally perpetrated by groups. Several of the acts affected indigenous women and many are not even investigated.

37. **Illegal or arbitrary searches.** The Office in Colombia recorded a number of allegations of such violations attributed to members of the army and to a lesser extent of the police, in Antioquia and Valle, including cases attributed to the Navy in the latter department. These acts affected persons accused of maintaining links with the guerrillas, including human rights

defenders. Questions were raised in some cases regarding the lack of any warrant and in others because the warrant was not based on sufficient evidence. Several searches were allegedly accompanied by threats, ill-treatment, damage to property and theft.

38. **Impunity and violations of due process.** It was observed that many of those responsible for human rights violations enjoyed impunity. Violations were recorded regarding the presumption of innocence, judicial independence, due process and judicial guarantees. It is clear that impunity particularly affects access to justice for women who have been the victims of gender-based violence. The problem of security and protection for victims, witnesses and judicial staff continued to hinder access to effective administration of justice. This was reflected in threats and attacks against witnesses and judicial staff, especially prosecutors. The consequences of impunity are apparent in several areas of the country. For example, the murders and attacks to which the peace community of San José de Apartadó (Antioquia) was subjected in recent years have not been clarified. This year the massacre was reported of eight persons, including two of the community's leaders, as well as one execution, amongst others. Two attacks were also recorded against judicial commissions.

39. Another factor of impunity has been the application of Act No. 782 and its implementing Decree No. 128 of 2003, which provides for a number of legal benefits, including pardons, for demobilized persons. It was alleged that in many cases benefits were granted without the Attorney-General's Office taking appropriate action to investigate and ensure the right to truth, justice and reparations for the victims of beneficiaries.

40. The presumption of innocence was violated through arbitrary detentions and searches. Detained or captured persons were often presented to the media as members of guerrilla forces or as common criminals. This stigmatization endangers the lives of victims.

41. Increasing numbers of complaints were received of alterations being made to the scene of the crime by members of the army. This occurred especially in cases of extrajudicial executions taking place in rural areas. The removal of corpses by army personnel tended to increase the number of such cases referred to the military criminal courts for investigation. The latter would almost systematically try to assume jurisdiction. On several occasions the Attorney-General's Office either referred the cases to the military criminal courts itself or failed to claim jurisdiction. It is worth noting, however, that thanks to the initiative and determined attitude of some prosecutors, cases were referred to the ordinary courts. According to information provided by the High Council of the Judiciary, out of all the conflicts of jurisdiction that arose before August 2005, only 1 case in 31 was allegedly decided in favour of military jurisdiction. This would indicate greater respect for jurisprudence regarding the restrictive interpretation of military jurisdiction.

42. **Violation of freedom of expression.** Reports continued of threats and pressure against freedom of opinion and expression, particularly at the expense of journalists, human rights defenders and political leaders. This tended to induce self-censorship and limitations on the free exercise of opinion and information. Cases were observed of intolerance on the part of the authorities whenever information or statistics were published shedding an unfavourable light on the situation regarding public order or on the local public administration. For instance, this affected journalists in Arauca, Cúcuta (Norte de Santander) and Cartagena (Bolívar). Pressures were denounced regarding reports and data dealing with poverty.

43. **Forced displacements and other restrictions.** Freedom of movement and residence was affected by internal displacements of families and communities, by threats and restrictions causing communities to be isolated, and by pressures brought to bear by the authorities on some communities to persuade them to return to their places of origin without regard to conditions of security and dignity or the wishes of those concerned. Several situations have shed light not only on the action of public servants in association with paramilitary groups but also on the persistence of these links and the tolerant attitude adopted by the authorities. New complaints were recorded of connections with paramilitaries involving members of the police and the Marine Corps in Bolívar, of the army in Chocó and the police in Nariño.

### **Economic, social and cultural rights<sup>6</sup>**

44. **Poverty.** The situation regarding poverty continues to be extremely serious. More than half the population, that is to say, over 22 million Colombian citizens, enjoy a level of income which places them below the poverty threshold. Those particularly affected include ethnic groups, women and children. The question of how to calculate the poverty line has given rise to wide-ranging public debate concerning the methodology which should be used to determine the number of persons living in poverty or indigence. One indicator which is sometimes used is Unsatisfied Basic Needs. According to this methodology there has been a decrease in the poverty level thanks to increased government expenditure on education, health and basic sanitation.

45. **Inequity.** Colombia continues to be a country affected by a high degree of inequity. In terms of earned income, 62 per cent goes to the wealthiest 20 per cent of the population and only 3 per cent to the poorest 20 per cent. According to the Gini index, inequality has not diminished in recent years. Compared with 1996, the Gini index has increased (from 0.544 to 0.56 in 2004). Economic inequity is also reflected in the limited access to certain goods and services for those underprivileged. There is also marked inequity between urban and rural sectors. Per capita income in urban areas is almost two and a half times greater than it is in rural areas.

46. **Employment.** According to official figures of the National Department of Statistics (DANE), the overall unemployment rate fell to 10 per cent in late 2005, coming close to the level of 1997. Unemployment is higher among women than among men. The high rate of underemployment, at approximately 31 per cent, has not decreased.

47. **Education.** It is estimated that 1.6 million children remain excluded from the education system. This is equivalent to 13 per cent of the total population of children between the ages of 5 and 17. In addition there are marked inequalities between urban and rural areas. While the former enjoy 91 per cent coverage, only 77 per cent of all school-age children in rural areas actually attend an educational establishment. The rate of repetition of school years in the official sector is twice or three times higher than in the private sector. The dropout rate for both sexes, on the other hand, has been declining in recent years.

48. **Health.** The General Health Insurance System does not yet provide universal coverage. As many as 33 per cent of Colombians do not belong to the system. The inadequate access to health care for those people has been aggravated by the closure of establishments of the public hospital network and by a reduction in the number of available beds.

49. **Housing.** There is still a considerable housing deficit in the country. According to estimates, more than 2 million new housing units are needed to cover the shortfall. Despite this, the level of construction of subsidized housing continued to be very low in 2005. By contrast, housing construction in the highest social strata continued to grow. Regarding access to basic sanitation, 74 per cent of homes have sewage and 88 per cent enjoy access to drinking water.

### **General situation of international humanitarian law**

50. The Office in Colombia continued to observe grave breaches by members of illegal armed groups, particularly the FARC-EP and the AUC. All these groups continued to commit attacks and threats, indiscriminate attacks, murders, massacres, hostage-taking and acts of terrorism. They also continued to be responsible for forced displacements, the recruitment of children, sexual violence against women and girls and lack of regard for medical personnel and units. Civilians, particularly ethnic groups, were affected by the practice of restrictions on the transport of food, medicines and people. Other actions caused communities to become isolated. The guerrillas continued to use anti-personnel mines.

51. It is still not possible to use official statistics to identify accurate indicators concerning the murders of protected persons in the context of the internal armed conflict, in order to distinguish them from deaths due to common criminality.

52. Breaches attributable to members of the security forces were also recorded, in particular violations of the humanitarian principles of distinction, limitation and proportionality. This was reflected in complaints of murders of protected persons, threats, indiscriminate attacks, forced displacements and violations of the principle of the immunity of the civilian population. It also led to the blockade of communities and of food and medicines, as well as to sexual violence against women and girls.

### **Guerrillas**

53. The guerrilla forces, especially the FARC-EP, persisted in their total disregard and contempt for humanitarian obligations and continued to commit serious breaches. These included murders, massacres, attacks and threats against the civilian population, indiscriminate attacks, acts of terrorism and hostage-taking. There were also forced displacements, disregard for the immunity of the civilian population, the use of anti-personnel mines, the recruitment of children and attacks on medical personnel and units.

54. The Office recorded several murders attributed to the FARC-EP, especially against the peasant population. These included selective murders of councillors, mayors and political leaders and indigenous people, especially in Cauca, Caquetá, Huila, Nariño and Quindío. In Tame (Arauca), 16 persons were massacred, including women and children, in addition to 14 persons in Bajo Cauca (Antioquia), and another 6, including 4 councillors, in Caquetá. The FARC-EP were also blamed for death threats against the civilian population, particularly in Arauca, Norte de Santander and Putumayo. In a number of cases these threats led to forced displacements. The ELN was blamed for murders, such as that of a demobilized person formerly of the FARC-EP in Valle, and that of four civilians, including two priests, in Norte de Santander, as well as for various death threats against civilians.

55. The attacks which occurred in Cauca, in the municipalities of Caldono and Toribío, and those in El Tarra (Norte de Santander) and Puerto Guzmán (Putumayo), are typical of the attacks conducted against the civilian population and the indiscriminate attacks attributed to the FARC-EP, with serious consequences for individuals and civilian property. Cases involving children, owing to the use of schools as an operational base or because they were close to the target of attacks, were considered particularly serious. Such cases occurred in the above-mentioned municipalities in Cauca and in Arauquita (Arauca). An attack with gas cylinders against civilians in Nariño was attributed to the ELN.

56. More reports continued to be received of acts of terrorism, particularly attributed to the FARC-EP, resulting from the use of explosive artefacts, some of which were placed on bicycles or horses. The incidents included some which occurred in Gigante (Huila) and in Puerto Toledo (Meta), leading to casualties, including a pregnant woman and children, and others in Cumbitara (Nariño), which caused injuries and damaged many houses. A joint operation of the FARC-EP and the ELN using a bicycle carrying explosives was reported in Arauca.

57. Community leaders and politicians, human rights defenders, religious leaders and indigenous persons were among those most affected by the continuing practice of hostage-taking by the FARC-EP guerrillas and to a lesser extent by the ELN. Among the incidents, five members of the Inter-Church Justice and Peace Commission in Jiguamandó (Chocó) and one journalist in Dabeiba (Antioquia) were taken hostage, allegedly by the FARC-EP. The ELN, on the other hand, were blamed for taking a community leader and former councillor hostage in Samaniego (Nariño). The guerrillas continued to disregard their obligation to allow humane treatment for persons deprived of liberty in the context of the armed conflict. The FARC-EP were blamed for the death of hostages they were holding in Urrao (Antioquia), Córdoba and Nariño, while similar occurrences were blamed on the ELN in Nariño and Quindío.

58. The threats and the fighting involving guerrillas led to major displacements of persons, families and communities. FARC-EP threats were blamed for the displacement of 320 persons in Cocorná (Antioquia) and more than 500 persons in Córdoba. The displacement of a further 110 persons, including children and leaders of the Wiwa indigenous community in Dibulla (Guajira) was attributed to pressures by the ELN. In several cases such actions were accompanied by looting and pillaging. The FARC-EP attack in Toribío (Cauca) caused the displacement of more than 5,000 people.

59. The FARC-EP and the ELN continued their frequent use of anti-personnel mines, which caused many victims among civilians, including children, and among soldiers. The FARC-EP were recorded as recruiting children in Urrao (Antioquia) and one 9-year-old indigenous boy in Ricaurte (Nariño). The murder of a boy informer working for the army was reported in Teteyé (Putumayo) and attributed to the FARC-EP. Women were also the victims of rapes by this illegal group. Medical personnel and units continued to be exposed to threats, attacks and murders by the FARC-EP, particularly in Arauca, Bolívar, Caquetá and Norte de Santander. Other cases were attributed to the ELN in Arauca. Communities in several areas were affected by blockades and guerrilla actions. The blockade of communities on the Caquetá river (Putumayo) was attributed to the FARC-EP. In the south of Chocó, operations by the FARC-EP and the AUC led to a shortage of supplies for some 900 peasants.

## Paramilitaries

60. Paramilitary groups, including those committed to the cessation of hostilities, continued to commit grave breaches, such as murders, threats, attacks against the civilian population, hostage-taking, torture and degrading or humiliating treatment, forced displacements, the recruitment of children and acts of sexual violence.

61. Paramilitary groups were allegedly responsible for individual, selective and mass murders, which affected above all community leaders, indigenous leaders, politicians and local authorities. Examples include the murders of a local leader and member of the Polo Democrático party in Baranoa (Atlántico) and of two community leaders in San Miguel and in Orito (Putumayo). There were also the cases of the murders of Paez indigenous leaders in Cauca, and Wiwa leaders in San Juan del Cesar (Guajira). Journalists were the victims of threats by paramilitaries. Prosecutors, especially in La Hormiga (Putumayo), also suffered threats and murders. A serious case was the one involving “Don Berna”, the head of a demobilized paramilitary unit, who was reported to be responsible for the murders of a deputy from the Department of Córdoba, his sister and another person in Tierralta, in the vicinity of the Concentration Zone (*Zona de Ubicación*).<sup>7</sup>

62. The AUC were allegedly responsible for the massacre of four members of one family in Maní (Casanare), of another family in Barrancabermeja (Santander) as well as seven persons, and for four disappearances in San Miguel (Putumayo). The massacre of 12 Afro-Colombian youths was attributed to demobilized paramilitaries of the Bloque Calima in Buenaventura (Valle). There were reports of attacks and threats against the civilian population attributed to paramilitary groups, particularly against indigenous communities in Norte de Santander. The paramilitaries took hostages among the indigenous population, human rights defenders and peasants, for example in Antioquia, Nariño, Meta and Putumayo. Reports were received of seven hostages taken by demobilized paramilitaries of the Bloque Calima of the AUC in Valle. The hostages were reportedly handed over to drug traffickers, who killed them.

63. Allegations were made of torture and degrading or humiliating treatment, inter alia, in Antioquia, Cauca and Cesar. Young persons and children continued to be the victims of recruitment by paramilitary groups, in particular in the Comuna 13 of Medellín (Antioquia) and in Tame (Arauca). The same occurred in Carmen, in a Motilón Barí indigenous reservation (Norte de Santander). This is not in keeping with the commitment by several of these groups to demobilize and cease hostilities.

64. The presence of illegal armed groups and fighting between members of the AUC and the FARC-EP caused a steady displacement of families in San José del Palmar (Chocó). It also gave rise to the mass displacement of 60 Afro-Colombian families in Barbacoas (Nariño) and of 42 families in San Pablo (Bolívar). In February, it caused one of the largest mass displacements of approximately 2,000 persons from six Afro-Colombian communities in Bojayá (Chocó). Paramilitaries were also denounced for blockading food, medicines and fuel and for restricting the movements of persons, thereby seriously affecting the civilian population, causing forced displacements and looting. This occurred specifically along the River Bojayá (Chocó) and was apparently tolerated by the authorities. There were also reports of looting and pillaging in Arauca, Chocó, Córdoba and Norte de Santander.

65. Women and girls continued to be the victims of paramilitary groups, being subjected in particular to acts of sexual violence. A case in point was the kidnapping and rape of a human rights defender in Nariño and of two young sisters in Tierralta (Córdoba), which were attributed to demobilized paramilitaries from the AUC's Bloque Catatumbo.

### **Security forces**

66. Allegations continued to be made with respect to members of the security forces, particularly the army, for failing to observe the humanitarian principle of distinction, which affected civilian persons and property. Such situations reflect the failure of military leaders to take due account of humanitarian principles when planning and ordering military operations. On several occasions, the principle of distinction was infringed through the stigmatization of the civilian population by the authorities. Examples of this were seen, inter alia, in Caquetá, San José de Apartadó (Antioquia) and in Arauca.

67. The use of schools and housing or places close to them and other public places as operating bases led to civilian casualties as a result of indiscriminate guerrilla attacks. The construction of military installations was observed in the middle of civilian built-up areas, such as in Toribio (Cauca), as well as the occupation of civilian dwellings by army troops in Tibú and Teorama (Norte de Santander) and in villages along the River Bojayá (Chocó). This undermines the application of the principle of distinction and may put people at risk, especially in view of the indifference shown by the guerrillas for such humanitarian principles. The Office in Colombia observed a greater effort by the Colombian Air Force to take account of risks for the civilian population when planning its operations.

68. There are also allegations that members of the army breached those principles by using children as informants. The Office in Colombia witnessed this situation in Putumayo, where a child informant aged 11 was allegedly murdered by the FARC-EP. The death of another minor due to an explosive device while he was being forced to transport army troops in San Pablo (Bolívar) was also reported. Other incidents reported include indiscriminate attacks from helicopters by army personnel in San José de Apartadó (Antioquia) and by the Colombian Air Force in Nariño.

69. Cases of sexual violence perpetrated against women during military operations were attributed to army personnel. The civilian population was affected by restrictions and blockades on the transport of persons, medicines, food and fuel. In some circumstances, this led to supply shortages for the population and forced displacements, particularly in Arauca, Caquetá and Meta.

### **III. THE CHALLENGES OF DEMOBILIZATION AND ITS LEGAL FRAMEWORK**

70. According to official information, from the start of the demobilization process towards the end of 2003 until 23 December 2005, little more than 14,000 persons had been collectively demobilized in the course of 23 official ceremonies. It is estimated that approximately 10,000 persons still need to be demobilized, although there are no official data on the subject. The High Commissioner for Peace reported a total of almost 7,300 heavy weapons and 1,670 light weapons, as well as almost 5,760 grenades and around 1,340,000 munitions surrendered. It may be noted that there is a considerable discrepancy between the number of persons demobilized and the number of weapons surrendered.

71. As far as the legal framework governing this situation is concerned, in 2002, Act No. 782 was passed and regulated by enforcing Decree No. 128.<sup>8</sup> This provides for the granting of legal benefits, including pardons, to members of illegal armed groups who have not committed serious crimes. It has been noted that it has been inadequately implemented, which could give rise to impunity in some cases. For those who have allegedly committed serious human rights violations or breaches of international humanitarian law and who therefore cannot benefit from Act No. 782, Act No. 975 was passed in June 2005. However, this has not yet been implemented.

72. This legislation provides for the granting of benefits by reducing the penalty of deprivation of liberty to a maximum of eight years for those who demobilize, lay down their arms and cease hostilities. Prerequisites for obtaining the benefits include returning property gained as a result of illegal activities, handing over children recruited and releasing persons who have been kidnapped. In terms of reparation, it stipulates effective cooperation in order to locate kidnapped and disappeared persons and the bodies of victims. The Office in Colombia has been following closely the debate on the draft legislation and has given advice to the authorities. During her visit to Colombia, the High Commissioner also took the opportunity to make comments and recommendations.

73. Despite the fact that Act No. 975 refers to the right to truth, justice and reparation for victims, its provisions do not expressly stipulate that non-observance of these principles precludes the granting of benefits. The absence of incentives to confess and to establish the truth raises serious problems. For this reason, the prospects for victims are uncertain. If the truth is not established, justice cannot be done and adequate reparation cannot be provided; nor can the paramilitary groups be effectively dismantled. By the end of the year, it was not known how many children and how much property gained from illegal activities had been handed over by demobilized persons. Nor is it known whether demobilized persons have helped to locate the whereabouts of kidnapped or disappeared persons. In this context, it is still difficult to measure the positive impact of those provisions.

74. The fact that there is no rule which explicitly disqualifies demobilized persons from political activity might allow for their immediate political participation before justice is done and national reconciliation is achieved. Moreover, their participation as political candidates, or in support work for the security forces, tends to perpetuate the links between public servants and illegal groups.

75. The President of the Administrative Chamber of the High Council of the Judiciary stated in October 2005 that out of the more than 9,000 demobilized paramilitaries included in a list to verify whether there were any proceedings against them, for the vast majority there was no record of any investigation. Except in the case of a few of the best known and identified leaders, almost all proceedings against demobilized paramilitaries will either be closed or lead to pardons. This situation poses great challenges in terms of impunity.

76. The Office of the Procurator-General has found shortcomings and contradictions in these policies, in particular with regard to inter-institutional coordination and commitments made to reincorporated persons (demobilized persons who are in the process of being reintegrated into society). Other shortcomings relate to care for displaced persons and other victims. Difficulties were also observed in gaining access to information and official data, and with respect to land

and the prospects for reparation. The Office of the Procurator-General pointed to the need for strict compliance with the principles of publicity and transparency that must govern such procedures, and formulated recommendations for the institutions concerned.

77. It is worth recalling the repeated allegations and evidence over the years of links maintained by public servants, and in particular members of the security forces, with paramilitary groups. The question arises as to how investigations will address State responsibility in many of the crimes committed by these groups. The State has not set up effective mechanisms to deal with this problem or the dismantling of clandestine structures, including those that have received support from public servants or State institutions.

78. The influence of paramilitaries continues to be felt in different regions of the country, through pressures, threats and clandestine agreements to control local political, economic and social interests. At the national level, alleged links persist with representatives of the State, including politicians and members of parliament. Directors of the Department of National Security (DAS) - the civil intelligence agency attached to the Office of the President of the Republic - were accused of allegedly supporting intelligence work with paramilitaries. In a number of regions in Colombia, the paramilitaries control much of trade and other activities, both legal and illegal, and own large tracts of land and many properties that, in many cases, are held by frontmen.

79. Meanwhile, instances have been reported of non-compliance with the cessation of hostilities. In addition, the military structure of a number of these groups has been maintained, and even new members have been recruited and new groups set up. This has occurred in several regions, such as Catatumbo (Norte de Santander), Valle del Cauca, Nariño and Córdoba. The control exercised by the authorities over demobilized persons is uncertain. The murders of some of these in Sucre were allegedly ordered by the paramilitaries themselves in order to prevent information being passed on to the authorities concerning the serious human rights violations committed by the groups in the past.

80. The State continues to face the challenge of cleaning up its institutions, dismantling and breaking up paramilitarism and being accountable to the public on matters relating to illegal armed groups and the consequences for victims and their families. This must be done by ensuring that violations do not recur. Another important challenge is to avoid the failure to act in this area from creating perverse effects that undermine the rule of law and national reconciliation. The absence of legal sanctions for demobilized persons who fail to cooperate effectively, as well as the impunity that has prevailed for most of the crimes by paramilitary groups, are matters which require urgent attention. So long as there is no change in the legislation in force, only a proactive attitude on the part of the judiciary, a strong political will and exceptionally ample resources will be effective in limiting the persistence of impunity.

#### **IV. SITUATION OF ESPECIALLY VULNERABLE GROUPS**

81. In the context of the armed conflict, a number of people and communities belonging to vulnerable groups were affected by acts that violated human rights and humanitarian law. Illegal armed groups continued to be indifferent to humanitarian principles. Vulnerable groups were also affected by certain public policies and the conduct of some public servants. Most such cases remain unpunished.

82. In view of the importance of the incidents that affected these groups, the subject is further developed in Annex IV.

83. **Human rights defenders**, members of women's and victims' organizations, community leaders, displaced persons and trade unionists continued to be the victims of murders, threats, and attacks on freedom of expression, chiefly attributed to paramilitary groups. They were also affected by the conduct of some public officials, especially through arbitrary detentions, statements and generic accusations.

84. The vulnerability of **displaced persons** and of many **communities at risk** of being attacked or displaced, as well as of persons affected by blockades, remains undiminished. Despite progress made in caring for the displaced population, socio-economic stabilization remains one of the main challenges. The response to violence against displaced women is still inadequate. Ethnic groups, in particular **indigenous persons and Afro-Colombians**, have suffered extrajudicial executions, murders, threats, arbitrary detentions and acts of sexual violence, which have been attributed to illegal armed groups and on occasions to members of the security forces.

85. The situation of **children** has deteriorated considerably, in part owing to the high level of ill-treatment and sexual abuse, and to their vulnerability caused by poverty associated with displacement. Illegal armed groups continue the practice of recruiting children. Some 30 per cent of the civilian victims of anti-personnel mines have been children. Also the situation of children dissociated from the armed conflict still requires more effective measures. There have been cases of boys used for intelligence activities, as informants or as guides for the army.

86. Notwithstanding strides made in the area of equality for **women**, violence and inequalities persist, especially with regard to income, employment, participation and health. Women who are indigenous, Afro-Colombian, from isolated communities, displaced or in extreme poverty are particularly vulnerable and at greater risk of becoming the victims of prostitution and human trafficking. Many women continue to be exposed to extrajudicial executions, murders, threats and sexual violence. **Lesbians, gays, bisexuals and transgenders** have been the victims of acts of "social cleansing", extrajudicial executions, murders and arbitrary detentions.

87. The publication of information or opinions relating to the armed conflict and human rights has led exposed **journalists** to stigmatization and risks. During 2005, the number of threats against journalists almost doubled,<sup>10</sup> causing their exile and increased self-censorship. Two journalists were murdered. A number of cases were reported of pressures by public officials, who most of the time enjoyed impunity. **Members and leaders of political parties** have been affected by attacks and murders. Such attacks and threats intensified in the run-up to the elections.

88. Overcrowding is a major problem for **persons held in detention**. The lack of public services, difficulties in accessing and location of establishments, and inadequate work and education programmes violate the rights of such persons.

89. Hostage-taking by illegal armed groups affected many people. Currently thousands are being held in captivity.<sup>11</sup> Impunity persists in cases of **disappeared persons** and, despite progress in legislation, investigations are unsatisfactory.

90. Among **local authorities**, councillors and to a lesser extent mayors and former mayors have been exposed to homicides and threats, while **prosecutors, judges, procurators and municipal ombudsmen** have been victims of the armed conflict and suffered attacks and threats, especially when conducting investigations against members of illegal armed groups. In some cases they have had to be transferred for security reasons.

## V. PUBLIC POLICIES AND IMPLEMENTATION OF THE RECOMMENDATIONS

91. Over the past three years, the High Commissioner has formulated specific priority recommendations addressed to the authorities of the three branches of government and the bodies responsible for monitoring the protection of human rights, to representative sectors of civil society, to the international community and to illegal armed groups.

92. The recommendations are the result of conclusions based on analytical and systematic observation and on dialogue with and information collected from State authorities and civil society organizations. Implementation of the recommendations has been supported and followed up by the Office in Colombia.

93. The Commission on Human Rights, through the statement made by its Chairperson on 21 April 2005, agreed on by the Commission by consensus, called upon the Government to continue “its efforts to obtain further results promptly” and to ensure “that the recommendations [of the High Commissioner] are integrated fully and in a coherent manner in all areas of public policies”.<sup>12</sup>

94. The Government, the international community, in particular the group of countries that signed the London Declaration of July 2003 and the Cartagena Declaration of February 2005, and the civil society organizations that are part of the Follow-up Commission on the London Cartagena process have highlighted the importance of the High Commissioner’s recommendations. In December 2005, the Commission drew up a programme of work for 2006, stating that “international cooperation is an additional instrument for the implementation of recommendations” of the Office of the High Commissioner. It was agreed that contributions would focus on following up the implementation of the recommendations, the National Plan of Action on Human Rights, the protection of communities at risk, and impunity.

95. An analysis of the activities undertaken in 2005 to implement the recommendations is given below. At the end of the year, the overall picture of implementation was very varied. Greater efforts were observed on the part of some State institutions to move forward the process of implementation. In other cases, no timely, pertinent or coherent measures were taken. Thus, as far as the implementation of the recommendations is concerned, many actions and challenges are still pending (see Chapter VI and Annex I).

## Prevention and protection

96. The High Commissioner has taken note of the circulars and protocols adopted to regulate certain procedures of the Inter-institutional Early Warning Committee (CIAT) and to explain the nature of alerts to members of the security forces. These measures constitute a necessary and positive step, but are no substitute for the recommendation regarding the adoption of rules aimed at regulating the composition and functions of CIAT.<sup>13</sup> Whereas the latter receives resources from its institutions, the Early Warning System (SAT)<sup>14</sup> of the Office of the Ombudsman still relies almost exclusively on international cooperation. A considerable amount of time continues to elapse between the issuance of risk reports by SAT and action taken by CIAT. A number of cases were reported of breaches committed after warning had been given in risk reports that were not followed up by CIAT in the form of early warnings. To date, the recommendation to establish sanctions for public servants who do not heed warnings issued by CIAT has not been implemented.

97. With regard to the sustainability of the Protection Programme of the Ministry of the Interior, the High Commissioner notes with satisfaction that in 2005 it was financed mainly with funds from the national budget. She takes note of the budget increase agreed upon for the fiscal year 2006. However, problems associated with delays and inefficiency in the assessment of risks persist; there is also a need to overcome feelings of mistrust relating to action taken by the Department of National Security (DAS).<sup>15</sup>

98. The Government's Advisory Council for internal control over official entities issued Circular No. 5 of 2005, in which it urges public servants of the executive branch to show due respect for the individual and collective work of human rights defenders. It also requests preferential application of the Unified Disciplinary Code for offences constituting serious human rights violations. However, no mention is made of the need to impose sanctions for failure to comply with presidential directives relating to the work of defenders, in accordance with article 48, section 53, of the aforementioned Code. For the first time, disciplinary proceedings have been initiated by the Office of the Procurator-General for acts that might constitute a violation of Presidential Directive No. 07.

99. The High Commissioner takes note that certain special and urgent measures have been undertaken on behalf of 2 out of 12 indigenous communities at risk of extinction, to which she referred in her last report. No prevention or protection measures have been reported, nor any assessment made on the high-risk conditions of the remaining 10 communities. Due note has been taken of the failure to adopt a comprehensive public policy in this respect ensuring that these communities receive urgent attention.

100. The High Commissioner welcomes the activities undertaken to implement the government project for other communities at risk, targeted at 11 communities. She takes note of the adoption of the National Plan of Action for Care of the Displaced Population, and draws attention to the findings of the Constitutional Court concerning compliance with ruling No. T-025 of 2004. In three decisions issued on 29 August 2005, the Court noted that the Government's efforts<sup>16</sup> did not yet satisfy the requirements laid down for providing minimum protection. While the Court considers that significant efforts have been made in budgetary matters, with tangible results, further progress must be made gradually, progressively and

efficiently. One positive step by the Government was the adoption in November of a National Economic and Social Policy Council (CONPES)<sup>17</sup> policy document in response to the Court's requirements.

101. There is no information available on plans to expand the territorial presence of the Office of the Ombudsman and the Office of the Procurator-General in the country. The latter reported that it would conduct an internal assessment so as to identify clearly its requirements with a view to submitting an appropriate request to the competent authorities.

102. As for the review of the Ministry of Defence's intelligence records on human rights defenders, no tangible progress has been observed, despite the efforts and undertaking of the Office of the Procurator-General. To date, the Ministry has failed to explain the criteria and parameters used to record information, how long the information is kept and other details.

103. The High Commissioner commends the signing, in November 2005, of the framework agreement for cooperation between the Office in Colombia and the Ministry of Defence, recommended more than two years ago. The agreement includes carrying out a study on progress made on teaching international human rights law and international humanitarian law within the security forces in a comprehensive, systematic and operational manner.

#### **Internal armed conflict**

104. Throughout 2005, members of the illegal armed groups (FARC-EP, ELN, AUC and other guerrilla and paramilitary groups) continued activities constituting serious breaches of international humanitarian law. This meant they still failed to comply with the High Commissioner's recommendations and did not refrain from attacking the civilian population, including women, children, and members of ethnic and other vulnerable groups.

105. The illegal armed groups have not complied with the recommendation to release immediately and unconditionally all persons held hostage. They have also failed to respect the guarantees established by international humanitarian law for persons deprived of their liberty for reasons related to the conflict. These groups have continued to use home made explosive devices to mine schools, farmlands, housing and access paths to communities indiscriminately.

106. The security forces in their operations to recover territorial control and combat the illegal armed groups have on occasion ignored the humanitarian principles of limitation, distinction, proportionality and protection of the civilian population.

107. The High Commissioner takes note that the Colombian State has not considered the possibility of withdrawing its reservation to article 124 of the Rome Statute, with respect to war crimes.

108. Despite having declared a cessation of hostilities as of December 2002, the paramilitary groups continued not to honour that commitment. They were responsible for a series of breaches of international humanitarian law, as well as human rights violations, owing to situations where there was connivance with public servants, although a decrease in violations was recorded compared with previous years.

109. The High Commissioner takes note of the approval of Act No. 975 of 2005, which establishes the legal framework for the reincorporation of members of illegal armed groups. The Act provides for the granting of certain judicial benefits, including a reduction in prison sentences to between five and eight years for those who have committed serious crimes and meet certain requirements. Despite the fact that some of the comments made by the Office in Colombia were incorporated in the Act, it does not contain the basic elements needed to make it compatible with international obligations and to avoid impunity. The Act does not include appropriate mechanisms to ensure that demobilized persons assist effectively in guaranteeing the right to truth, justice and reparation. It does not address sufficiently the particular situation of women, children and ethnic minorities.<sup>18</sup>

### **Rule of law and impunity**

110. Congress has adopted the Statutory Act on the right of habeas corpus established in the Constitution. With this Act Colombia complies with the relevant international recommendations. The adoption by Congress of Act No. 984 of 2005 approving the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women is highlighted as a positive development.<sup>19</sup>

111. Act No. 971 of 2005 was approved, governing the mechanism for the urgent search of the victims of enforced disappearances. It is hoped that this mechanism will make it possible to ascertain the whereabouts of disappeared persons and to overcome obstacles to the exhumation and identification of corpses. Also approved were Act No. 985 of 2005 on measures to combat trafficking in persons, and Act No. 986 of 2005, on measures to protect the victims of kidnapping and their families. A number of draft laws are being debated in Congress, which if approved would improve the protection of human rights.<sup>20</sup>

112. The High Commissioner highlights the ratification of a number of treaties, in particular the International Labour Organization (ILO) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182), the Inter-American Convention on Forced Disappearance of Persons, the International Convention against the Taking of Hostages, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

113. The High Commissioner is following closely the resubmission of a draft law on the carrying and sale of arms, munitions and explosives, which would allow private individuals and legal entities to possess and carry arms that are for the exclusive use of the security forces. A draft law has been put forward with a view to introducing a special procedure to amend invalid or incomplete titles to property. But this does not guarantee legal proceedings enabling displaced persons dispossessed of their properties to recover them.

114. With regard to the fight against impunity, the Office in Colombia was informed of progress made with certain procedures related to the Special Committee to promote investigations into human rights violations and breaches of international humanitarian law. These relate mainly to the issuance of arrest warrants and indictments. The low number of judicial decisions and scant effectiveness in establishing the responsibility of State agents continues to be a matter of concern. During the year, the Special Committee did not meet to

examine the progress and results of investigations. It focused on analysing the proposal that led to the adoption of the public policy document on combating impunity. It is hoped that this policy will follow a comprehensive approach that takes account of the structural and circumstantial factors of impunity.

115. Concerning the career development system for public officials and employees of the Office of the Attorney-General, it is worth noting ruling No. T-131 of the Constitutional Court, which ordered the entire career system to be implemented by July 2006 with a view to ensuring career stability. The National Commission for the administration of the career system for prosecutors has approved a series of regulations, which are pending implementation.

116. The review of the assessment of the National Unit on Human Rights of the Attorney-General's Office, submitted by the Office in Colombia and the Office of the Vice-President in June 2005, only began in November 2005. It is hoped that the necessary institutional measures will soon be adopted to prioritize the recommendations and to start their implementation.

117. In 2005, the programme for the protection of victims and witnesses of the Attorney-General's Office was at risk, owing in part to insufficient resources. During the first half of the year, a draft law on the programme and related regulations was drawn up. It will need to be analysed, discussed and promoted by the new Attorney-General in order to establish a legal framework ensuring its effectiveness.

118. The High Commissioner takes note of a number of instructions and circulars from the authorities of the security forces relating to detentions and other aspects of human rights and international humanitarian law. However, allegations have been made of detentions by members of the security forces that do not comply with these guidelines. No information has been received to the effect that the persons responsible have been punished. A review of the concept of *flagrante delicto* continues to be urgently needed in order to avoid the current abusive application and interpretation.

119. There was no indication that the Ministry of Defence had applied article 164 of Act No. 836 of 2003, which provides for suspension from service as a preventive measure in cases of serious human rights violations. The military courts continued to take charge unduly of investigations into human rights violations attributed to members of the security forces. In a number of cases, prosecutors either handed over cases they should have dealt with to the military courts or refrained from claiming jurisdiction. The majority of conflicts of jurisdiction that arose were resolved by the High Council of the Judiciary in favour of the ordinary courts, in accordance with constitutional jurisprudence and the recommendation of the High Commissioner.

120. With respect to the preferential exercise of disciplinary power by the Procurator-General,<sup>21</sup> the Office in Colombia has observed that this has not been applied in some particularly serious cases where it was warranted. The Office of the Procurator-General has recently expressed its interest in reviewing such cases and, where relevant, assuming jurisdiction.

121. The National Institute of Prisons and Penitentiaries (INPEC) continues to be reluctant to accept that situations exist in prisons that violate or threaten the fundamental rights of persons deprived of their liberty. The educational programme of the National Penitentiary School, put forward by the Office within the framework of its cooperation, has still not been implemented. The task of integrating human rights in the regulations and practices of prison establishments has yet to be addressed. In spite of official statements by INPEC, the results of the implementation of the recommendations of the cooperation project with the Office in Colombia are still insufficient.

122. More than a year after its establishment by the Office of the Attorney-General, the special sub-unit for investigating links between public servants and illegal armed groups has still not defined its nature, functions and sphere of competence. Moreover it has still not obtained the resources required for its operations. As a result, the sub-unit has not yet taken on a single case. Also, the Office of the Attorney-General has not changed the system of prosecutors detailed to the security forces and other security bodies with a view to ensuring greater independence and avoiding them being located on the premises of those institutions.

123. Note has been taken of the publication of a circular in May 2005 by the General Command of the security forces reiterating the importance of issuing orders to make sure that all links are broken between the security forces and the self-defence forces. There are no data available, however, on observance of this circular. No significant progress has been recorded regarding the effective dismantling of paramilitary structures.

### **Economic and social policies<sup>22</sup>**

124. Inequity and widespread poverty continue to be the main challenges for Colombia with respect to policies relating to economic, social and cultural rights. Inequity exists not only between the rich and the poor, but also between urban and rural populations, between men and women and between regions and departments. Inequity also affects indigenous and Afro-Colombian communities. There is still widespread economic inequity. Public policies aimed at reducing it have not been sufficiently effective. There has been no notable progress in this respect.

125. The situation as regards poverty has not improved. More than half the population continues to be poor. This means that more than 20 million Colombians live in circumstances in which a number of their rights are not guaranteed. Greater efforts are clearly required on the part of the State to begin to confront poverty constructively. In 2004, the Government set up the Mission on Poverty within the National Planning Department. However, the various sectors concerned have thus far been unable to reach agreement on methods of measuring poverty.

126. According to official statistics, unemployment at the national level has fallen in recent years, while underemployment continues to be very high (more than 30 per cent). Public policies in this field have not succeeded in creating new, stable, good quality jobs. Inequality between men and women persists in the area of employment.

127. At the national level, a slight increase was recorded in the number of literate persons. Illiteracy fell from 8 per cent in 2002 to 7 per cent in 2004. However, it increased in the most

disadvantaged social strata, rising from 4 per cent in 1993 to 6 per cent in 2003. A notable increase was observed in the number of places available in public education, but the recommendation to provide universal free primary education has still not been complied with.

128. In the area of health, an increase was recorded in the number of people affiliated to the subsidized health-care system and to the contributory scheme. However, the number of people excluded from the benefits of social security for health care is very high (more than 30 per cent). It is evident that access to health care remains a great challenge.

129. The deficit in the construction of low-cost housing for the poorest sectors of society has increased. The State does not have a public policy for guaranteeing the right to housing. Existing subsidies for the housing sector continue to benefit, first and foremost, the wealthiest sectors.

130. In March 2005, the *CONPES 91*<sup>23</sup> official document was approved, containing Colombia's commitments with respect to the Millennium Development Goals, which constitutes a positive development. However, thus far the results in practice have been insufficient, particularly in the areas of poverty, free education, maternal mortality and some aspects of gender equality. During the year, the Government presented its discussion document entitled "*Visión Colombia 2019*", which addresses projected public policies until 2019, when the bicentenary of independence is to be commemorated. The document does not fully incorporate the commitments undertaken by the State with respect to the Millennium Development Goals. This is the case, for example, with the eradication of hunger, free primary education, gender equality and sexual and reproductive health.

### **Promotion of a culture of human rights**

131. The High Commissioner notes that greater efforts are needed to institutionalize stable forums for dialogue between the Government and human rights organizations. The agenda for meetings agreed upon between the authorities and civil society to promote permanent and constructive dialogue was not complied with. The meetings generally dealt solely with specific problems or aspects of the human rights situation. The Ministry of the Interior and the Office of the Vice-President have developed certain mechanisms at the regional level in order to incorporate human rights and international humanitarian law in development plans at the departmental and municipal levels. However, the lack of a comprehensive policy has limited the effectiveness of these initiatives.

132. Progress on the National Plan of Action on Human Rights was not what had been expected. During the first months of the year, working meetings were held between the Government, certain civil society organizations<sup>24</sup> and the Office in Colombia. These were interrupted in the month of May. The Office proposed its good offices to settle certain disagreements. Towards the end of the year, the dialogue was re-established and extended to other social sectors.

133. Notable progress has been made with the Plan for Human Rights Education promoted by the Ministry of Education and the Office of the Ombudsman. The adoption of the plan by the Ministry, along with the signing of inter-institutional agreements to make it operational, remains pending. The Government has undertaken to finalize and disseminate the plan in July 2006.

**Advisory services and technical cooperation provided by the Office in Colombia of the High Commissioner**

134. The High Commissioner observes that there has been no progress in the establishment of an official system of statistics that deals adequately with human rights violations and breaches of international humanitarian law. The Government has reported that initial contacts have been made between certain State entities with a view to drawing up a plan of work. This would be aimed at developing a standardized system of information on certain aspects of the situation of human rights and international humanitarian law. The Human Rights Observatory of the Office of the Vice-President does not cover extrajudicial executions and arbitrary detentions, or certain categories of breaches of international humanitarian law.

135. At the end of the first half of 2005, the Vice-President submitted a proposed timetable to the Office in Colombia for implementing the High Commissioner's recommendations. In order to comply with the timetable and to facilitate its follow-up, the Office proposed a method for clearly identifying actions and indicators of implementation, which was accepted. During the second half of the year, the review of recommendations was not completed expeditiously. It was not until November that follow-up meetings began on the implementation process.

136. Some State institutions showed an ongoing interest in taking advantage of the advisory role and technical cooperation of the Office in Colombia. Other institutions, particularly within the executive branch, did not make full use of those services, which was emphasized as a necessity in the Statement by the Chairperson of the United Nations Commission on Human Rights in April 2005.

**VI. RECOMMENDATIONS**

**137. The High Commissioner notes that in accordance with the Statement of the Chairperson of the Commission on Human Rights of April 2005 the process of implementation of the recommendations must be continued. The progress achieved in 2005 by some State institutions should be an incentive for greater efforts in 2006. This requires a consistent approach in terms of actions, topics and time frame. The complete text of the recommendations for 2006 is given in Annex I.**

**138. In order to further the process of implementing the recommendations, the High Commissioner encourages the State to pay special attention to the following recommendations.**

**139. The High Commissioner encourages the Government to elaborate and adopt, in conjunction with broad sectors of civil society, a national plan of action on human rights, which should include a gender perspective. The plan should incorporate whatever elements are necessary for the satisfactory implementation of outstanding recommendations.**

**140. The High Commissioner urges the executive branch to take effective measures to prevent and investigate the perpetration of extrajudicial executions and enforced disappearances.**

141. **The High Commissioner invites the Government and Congress to introduce the necessary reforms in legislation on the demobilization and reincorporation of members of illegal armed groups so as to make such legislation more compatible with international norms and principles regarding victims' rights to truth, justice and reparation paying due attention to the special situation of women, children and ethnic minorities. She also encourages the President of the Republic to adopt the necessary measures to sever all links between public servants and members of paramilitary groups and to effectively dismantle paramilitary structures.**

142. **The High Commissioner encourages the Government to adopt and implement a public policy to combat impunity, including a review of legislation on domestic and gender-based violence. She exhorts the judiciary and the Office of the Procurator-General to investigate and sanction human rights violations and breaches of international humanitarian law in an adequate and timely manner.**

143. **The High Commissioner urges Congress and the Government to apply coherent policies in the economic and social field in order to achieve the Millennium Development Goals, and in particular to reduce the inequity gap, to deal with extreme poverty and to guarantee the rights to health, education, employment and housing effectively.**

144. **The High Commissioner urges the State to implement all her recommendations in a coordinated, consistent and effective manner, and encourages the Vice-President of the Republic to publish a timetable for the implementation of the recommendations, including actions and progress indicators by May 2006, making use of the advisory services and technical cooperation of her Office in Colombia.**

145. **The High Commissioner continues to place special emphasis on the following demands addressed to illegal armed groups:**

146. **The High Commissioner urges the leaders and other members of the FARC-EP, ELN, AUC and of other guerrilla and paramilitary groups to respect the right to life, personal integrity and individual liberty of all civilians. They are especially urged to abstain at all times from attacks on the civilian population and indiscriminate attacks, the unacceptable practices of kidnapping, recruitment of children, sexual violence, and acts of terrorism. To that end she demands that the leaders issue clear orders to all members of their groups to ensure obligatory observance of humanitarian norms.**

147. **The High Commissioner urges the FARC-EP, ELN, AUC and other illegal armed groups immediately and unconditionally to free all persons held hostage. She also urges them to recognize, without restrictions, the guarantees established under humanitarian norms for persons deprived of their liberty for reasons related to the internal armed conflict.**

148. **The High Commissioner urges the leaders and other members of the FARC-EP and ELN to fulfil international obligations prohibiting the use, storage, production and transfer of anti-personnel mines.**

149. **The High Commissioner considers that it is of vital importance to overcome the internal armed conflict. For that purpose:**

150. **The High Commissioner calls upon the illegal armed groups to declare and implement an effective cessation of hostilities, to be reciprocated by the Government. She calls for progress in the process of dialogue and negotiations between the Government and the illegal armed groups in order to overcome the internal armed conflict and reach a lasting peace. She reiterates the need to give priority in these dialogues to international humanitarian law and human rights.**

151. **The High Commissioner is firmly convinced that the situation of human rights and international humanitarian law would show tangible improvement if the recommendations are implemented in a consistent and comprehensive manner. Certain advances achieved in 2005 should encourage further efforts in 2006 and beyond. The High Commissioner recommends that the present mandate of her Office in Colombia be extended sufficiently in advance of its expiry date in October 2006.**

## ANNEXES

### Annex I

#### 2006 RECOMMENDATIONS

##### Prevention and protection

1. The United Nations High Commissioner for Human Rights encourages the Government to elaborate and adopt, in conjunction with broad sectors of civil society, a national plan of action on human rights, which should include a gender perspective. This plan should incorporate whatever elements are necessary for the satisfactory implementation of outstanding recommendations.
2. The High Commissioner reiterates the need for the Government to develop a public system of statistics to adequately cover, according to international standards, the different kinds of human rights violations and breaches of international humanitarian law.
3. The High Commissioner urges the executive branch to take effective measures to prevent and investigate the perpetration of extrajudicial executions and enforced disappearances.
4. The High Commissioner encourages the Government to adopt norms regulating the functions of the Inter-institutional Early Warning Committee (CIAT) and appropriate responses to risk reports, and imposing sanctions when alerts are not acted upon. She also encourages the Government and Congress to provide timely budget allocations in order to ensure the efficient operation of the Early Warning System (SAT) of the Ombudsman's Office.
5. The High Commissioner encourages the Government to enforce the Constitutional Court's ruling No. T-025 of 2004 and to devote the necessary resources to finding lasting solutions to the displacement problem. She reiterates the need to take special and urgent measures to defend indigenous communities at risk of extinction, within the framework of a comprehensive policy offering them adequate prevention and protection. She also encourages the Procurator-General and the Ombudsman to ensure their presence among communities at risk, in particular in areas inhabited by indigenous, Afro-Colombian or displaced populations.
6. The High Commissioner encourages the Government to promote legislation that adequately regulates the use of military intelligence records, including a procedure for annual review by the Office of the Procurator-General. She urges the Ministry of Defence to cooperate with the Procurator-General in order to identify criteria, parameters and relevant methods in order to exclude from the records all erroneous or tendentious data concerning human rights defenders and organizations.
7. The High Commissioner urges the Government and the Office of the Procurator-General to make sure that public servants who fail to pay due respect to the work of human rights defenders are prosecuted and penalized. She also encourages the Government to take suitable measures to deal with the problems of delays and inadequate risk assessment in programmes for the protection of human rights defenders and other groups.

8. The High Commissioner encourages the Government to guarantee the full exercise of political rights and fundamental freedoms of opinion and expression during the 2006 elections. She also encourages the authorities to ensure that those taking part in the elections have duly clarified their legal status.

### **The internal armed conflict**

9. The High Commissioner urges the leaders and other members of the FARC-EP, ELN, AUC and other guerrilla and paramilitary groups to respect the right to life, personal integrity and individual liberty of all civilians. They are especially urged to abstain at all times from attacks on the civilian population and indiscriminate attacks, the unacceptable practices of kidnapping, recruitment of children, sexual violence, and acts of terrorism. To that end she demands that the leaders issue clear orders to all members of their groups to ensure obligatory observance of humanitarian norms.

10. The High Commissioner urges the FARC-EP, ELN, AUC and other illegal armed groups immediately and unconditionally to free all persons held hostage. She also urges them to recognize, without restrictions, the guarantees established under humanitarian norms for persons deprived of their liberty for reasons related to the internal armed conflict.

11. The High Commissioner urges the leaders and other members of the FARC-EP and ELN to fulfil international obligations prohibiting the use, storage, production and transfer of anti-personnel mines.

12. The High Commissioner urges all those directly participating in the hostilities to fully observe the humanitarian principles of limitation, distinction, proportionality and protection of the civilian population, and to guarantee humanitarian access to exposed populations.

13. The High Commissioner calls upon all the illegal armed groups to declare and implement an effective cessation of hostilities, to be reciprocated by the Government. She also calls for progress in the process of dialogue and negotiations between the Government and the illegal armed groups, in order to overcome the internal armed conflict and reach a lasting peace. She reiterates the need to give priority in these dialogues to international humanitarian law and human rights.

### **The rule of law and impunity**

14. The High Commissioner invites the Government and Congress to introduce the necessary reforms in legislation on the demobilization and reincorporation of members of illegal armed groups so as to make such legislation more compatible with international principles and norms regarding victims' rights to truth, justice and reparation, paying due attention to the special situation of women, children and ethnic minorities. She also encourages the President of the Republic to adopt the necessary measures to sever all links between public servants and members of paramilitary groups and to effectively dismantle paramilitary structures.

15. The High Commissioner urges Congress and the Government fully to comply with Colombia's obligations as State party to international instruments on human rights, humanitarian

law, criminal law, labour law and the law on refugees, to ratify related treaties that have not yet been incorporated in the Colombian legal system, and to refrain from introducing changes in internal legislation that are incompatible with international norms.

16. The High Commissioner encourages the Government to adopt and implement a public policy to combat impunity, including a review of legislation on domestic and gender-based violence. She exhorts the judiciary and the Office of the Procurator-General to investigate and sanction human rights violations and breaches of international humanitarian law in an adequate and timely manner.

17. The High Commissioner calls on the Ministry of Defence and the Attorney-General to fully comply with international norms prohibiting illegal or arbitrary detentions.

18. The High Commissioner urges the Attorney-General to implement a career system for public officials and employees of his office, to prioritize and implement the recommendations made in the assessment of the National Unit on Human Rights and International Humanitarian Law, to promote the adoption of a legal framework ensuring effective and efficient implementation of the Office of the Attorney-General's programme for the protection of victims and witnesses, and to take the necessary normative, regulatory and financial measures to ensure that the special sub-unit in charge of investigating links between public servants and illegal armed groups may continue functioning.

19. The High Commissioner urges the Government to issue instructions ensuring that officials of the military criminal justice system do not claim jurisdiction in cases of human rights violations and breaches of international humanitarian law. She also urges the Attorney-General to issue clear instructions for prosecutors to act in accordance with the international principle that military and police personnel suspected of human rights violations or breaches of international humanitarian law should always be tried in the ordinary courts.

20. The High Commissioner calls on the Ministry of Defence and security forces commanders to ensure that in all cases of disciplinary investigations of members of the security forces involved in serious human rights violations or war crimes, suspension from service should be applied as a preventive measure, as required by article 164 of Act No. 836 of 2003.

21. The High Commissioner urges the Minister of the Interior and Justice and the Director-General of the National Penitentiary and Prison Institute (INPEC) to implement the recommendations put forward in the framework of the project of her Office in Colombia, to approve the programme of training for their officials that includes human rights, and to incorporate the international norms and principles pertaining to the rights of persons deprived of liberty in their regulations.

### **Economic and social policies**

22. The High Commissioner urges Congress and the Government to apply coherent policies in the economic and social field in order to achieve the Millennium Development Goals, and in particular to reduce the inequity gap, to deal with extreme poverty and to guarantee the rights to health, education, employment and housing effectively.

**Promoting a human rights culture**

23. The High Commissioner invites Congress and the Ministers of Education and Finance to ensure the necessary resources to implement the national plan for education in human rights. She also urges the Ombudsman to continue supporting this plan, and to develop the task of ensuring the promotion, exercise and dissemination of human rights throughout the country.

24. The High Commissioner encourages the Government to foster stable and permanent forums for dialogue with organizations of human rights defenders and other sectors of civil society, at both national and regional level, in order to achieve greater understanding and respect.

**The Office's advisory and technical cooperation services**

25. The High Commissioner urges the State to implement all her recommendations in a coordinated, consistent and effective manner, and encourages the Vice-President of the Republic to publish a timetable for the implementation of the recommendations, including actions and progress indicators, by May 2006, making use of the advisory services and technical cooperation of her Office in Colombia.

26. The High Commissioner invites the branches and organs of the State and civil society organizations to benefit fully from the technical cooperation and advisory services offered by her Office in Colombia. She also invites the international community to provide the necessary financial and technical support to enable State institutions, non-governmental organizations and her Office to contribute effectively to the implementation of her recommendations. She recommends that the present mandate of her Office in Colombia be extended sufficiently in advance of its expiry date in October 2006.

## **Annex II**

### **ACTIVITIES OF THE OFFICE IN COLOMBIA OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS**

1. The Office in Colombia of the United Nations High Commissioner for Human Rights, in fulfilment of its comprehensive mandate, carried out its duties of observation, advice, technical cooperation, promotion and dissemination, for which it received significant financial support from a number of countries in 2005.<sup>25</sup> The Office's headquarters are situated in Bogotá and its three regional sub-offices in Bucaramanga, Cali and Medellín.
2. Through analytical and systematic observation, the Office in Colombia contributes to the understanding and objective assessment of the country's situation as regards human rights and international humanitarian law. It uses that knowledge to cooperate and assist towards strengthening the capacity of the Colombian State and civil society to improve the protection and promotion of human rights, to reinforce the rule of law, to reduce impunity, to implement consistent public policies in the economic and social field, to promote a culture of human rights and to encourage a negotiated solution to the internal armed conflict.
3. The Office in Colombia maintains constant contact with State authorities, Colombian civil society organizations, international non-governmental organizations (NGOs), churches, the media and diplomatic representatives.
4. The United Nations High Commissioner for Human Rights visited Colombia in May. During her visit she held meetings with the President and senior government officials, Congress, the Constitutional Court, the Procurator-General, the Ombudsman, civil society organizations, the Church, the diplomatic corps and the United Nations system. She visited the southern zone of Bogotá and made a trip to Chocó, where she conferred with several local community authorities and representatives, NGOs and the Quibdó diocese.

#### **Observation**

5. The presence of the Office in Colombia favours constant, fluid contact with State institutions and civil society organizations at national and regional level. Its frequent and systematic observation missions in the field gather information and contribute to the important task of prevention and the protection of vulnerable populations, local human rights organizations, trade unionists and journalists, among others.
6. Through its field visits, communication with different sectors, complaints received and processed, and mission statistics and thematic and geographical reports, the Office is able analytically and systematically to monitor the situation of human rights and international humanitarian law in the country. Through a better understanding of the regions and their situation, patterns and tendencies can be identified and analysed in order to put forward recommendations for the Colombian State and demands for the illegal armed groups.
7. In 2005, the Office carried out around 300 observation missions, amounting to almost 660 days in the field. It received 2,403 complaints, which were recorded in the database.

Among these, 1,789 complaints about violations of human rights and/or breaches of international humanitarian law were selected for action and follow-up. The Office recorded more complaints than in 2004.

### **Advisory services**

8. The Office in Colombia stepped up its advisory work in support of public policies, essentially on legal issues and international commitments. It therefore continued its dialogue with the authorities, particularly with the Vice-President's Office, ministries, Congress, the judiciary and control bodies. Particular attention was paid to the legislative agenda of Congress, as well as to State policies, programmes and mechanisms related to human rights and international humanitarian law. The Office provided advice to several State institutions and civil society organizations on the application and interpretation of international instruments related to those areas.

9. Analytical documents were prepared to evaluate government policies and programmes, to guide their formulation so that it is compatible with international principles, and to encourage the adoption of appropriate measures. The main issues addressed in this advisory work are the rule of law, the administration of justice and the fight against impunity, women's rights, the situation of children, and economic, social and cultural rights. Particular emphasis was placed on the basic principles of truth, justice, and reparation applicable in a context of transitional justice. Several advisory documents were issued during the discussion and drafting of the so-called Justice and Peace Act.

10. Through regular participation in seminars, workshops and discussion and analysis activities, the Office in Colombia was able to promote knowledge of basic human rights concepts, international jurisprudence and the recommendations of international bodies, especially those made by the High Commissioner.

11. Through workshops the Office in Colombia internally strengthened the inclusion of a gender perspective in its observation and analysis of the human rights situation. With support from the United Nations Development Fund for Women (UNIFEM), the Office reviewed its technical cooperation projects in order better to integrate the gender perspective.

12. The Office in Colombia, contributed with its Geneva headquarters to the preparation of reports and analyses on legislation pertaining to abortion and the implementation of resolution 48/3 of the Commission on the Status of Women on the release of women and children taken hostage. It also produced documents to provide thematic and legal support for the institutional capacity of the Office of the High Commissioner on issues concerning the rule of law, peace and security, transitional justice, non-discrimination, women and gender.

### **Cooperation and technical assistance**

13. The cooperation and technical assistance provided by the Office in Colombia focuses on supporting the action taken by Colombia's State institutions to implement the High Commissioner's recommendations.

14. In November 2005, the Defence Minister and the Director of the Office in Colombia signed a cooperation agreement to produce an analytical and independent assessment of the progress achieved and difficulties encountered with the inclusion of human rights and international humanitarian law in the training of security forces.

15. During the year, both in State institutions and in civil society organizations, a series of training projects and activities were organized to improve knowledge of the main concepts and instruments of human rights and international humanitarian law. Institution-building programmes were continued to make the State's response in terms of promotion and prevention in the area of human rights and international humanitarian law more effective.

### **A. National plan of action on human rights**

16. The Office in Colombia attended joint work meetings with the Presidential Programme for human rights and representatives of the Alliance of Social and Related Organizations (Alianza de Organizaciones Sociales y Afines), the Colombia-Europe-United States Coordination and the Colombian Platform for Human Rights, Democracy and Development in order to achieve progress and consensus on the national plan of action. The meetings considered the main themes that the plan would address and the assessment methodology required. The work was interrupted in May and resumed in November with greater participation by civil society organizations. During the year, the Office in Colombia used its good offices to help overcome several difficulties that emerged in the discussions between the Government and human rights organizations.

### **B. National plan of action on human rights in the educational system**

17. With the technical advice of the Office in Colombia, the technical committee composed of the Ministry of Education, the Office of the Ombudsman and the Presidential Programme for human rights succeeded in drafting a national plan. The plan contains the specific purposes, objectives, operating strategies, indicators and goals relating to the inclusion of human rights in educational curricula. The plan now needs to be officially adopted by the Ministry of Education and agreements arrived at among institutions to make it politically, technically and financially viable.

### **C. Institution-building**

#### **1. The Office of the Attorney-General<sup>26</sup>**

18. A project was launched in 2005 with four components: (a) the National Unit for Human Rights and International Humanitarian Law and the special sub-unit on links between public officials and illegal armed groups; (b) the protection programme for victims and witnesses; (c) the career system for prosecutors; and (d) the School of Criminal Investigation and Forensic Science. The development of this project was affected at the time of the Attorney-General's replacement in August.

19. **The National Unit for Human Rights and the special sub-unit.** In June 2005 the assessment prepared by the Office in Colombia and the Office of the Vice-President's

programme to combat impunity was handed to those in charge of the National Unit. Meetings are currently being held to discuss the assessment. The Office in Colombia has given the special sub-unit advice on how to analyse cases of links between members of the security forces, civilian officials, private individuals and paramilitary groups. It has also given it advice on the nature, functions, competence criteria and resources needed for its operations.

20. **The protection programme for victims and witnesses.** The Office in Colombia provides advisory services to the programme for the implementation of the recommendations contained in the Office's 2001 diagnosis. A plan of action was agreed and is currently being implemented with the new management. An inter-institutional round table took place in the first half of 2005 in order to draft a bill giving the programme a permanent regulatory framework. This must be reviewed and internal rules of procedure developed in order to unify its implementation processes and procedures.

21. **The career system for prosecutors.** In 2005, pursuant to the Constitutional Court's ruling No. T-131, the Attorney-General must implement the whole career system by July 2006. The Office in Colombia is helping the National Commission on the Administration of the Career System for Prosecutors to develop a regulatory framework for the career system, its procedures and all the steps required for its implementation. The Office also takes part in an institutional round table on the development and review of the different profiles for each duty of the Attorney-General's Office, and in defining a system to assess performance. In October 2005, the National Commission on the Administration of the Career System for Prosecutors approved regulations for the system, and analysed the related budget forecasts and implementation timetable.

22. **The School of Criminal Investigation and Forensic Science.** The Office in Colombia advises the school on how to relate its training programmes to the career system. In that context, it recommended that the subjects of human rights and international humanitarian law be made an integral part of initial and further training courses. The project provides technical assistance for the consolidation of the network of instructors in human rights and international humanitarian law, consisting of prosecutors and investigators drawn from the institution. The Office in Colombia also provides advice on setting up a special training plan for the school's officials.

23. An intensive training course was held for 38 prosecutors and officials in order to widen the network of instructors. It included issues of gender and equality, and focused on international instruments for the protection of women's rights. Training in international humanitarian law was given to court prosecutors and 84 prosecutors of the Human Rights Unit. An assessment was made of the impact of training in human rights and international humanitarian law, which showed that there was an imperative need for an institutional policy to encourage officials of the Attorney-General's Office to implement international instruments.

## **2. Inter-institutional project on the human rights situation of persons who have been deprived of their liberty<sup>27</sup>**

24. The Office in Colombia continues to work towards the strengthening of institutions in charge of drafting and implementing penitentiary policy and of the control bodies that monitor the situation and promote prisoners' rights, in conjunction with the National Penitentiary and

Prison Institute (INPEC), the Ministry of the Interior and Justice, the Office of the Ombudsman and the Office of the Procurator-General. Civil society organizations are also encouraged to participate in the search for alternative solutions to the critical situation of the prison system.

25. With respect to control bodies, the project focuses on strengthening the capacity of the Procurator-General's Office and of the Ombudsman's Office to respond effectively to the protection needs of individuals deprived of their liberty and to deal with widespread crisis situations. During the year, the action taken under the project and the main concerns regarding the rights of people deprived of their liberty were discussed in meetings that took place with the Vice-Minister of Justice and INPEC.

26. Academic Days on Prison in Colombia were organized in conjunction with the National University of Colombia in November 2005. The occasion brought together academics, students and public servants to discuss issues such as criminal policy, disciplinary control and the functioning and administration of justice.

27. **The National Penitentiary and Prison Institute (INPEC) and the National Penitentiary School (EPN).** In 2005, the Office in Colombia visited seven pilot prison centres<sup>28</sup> to assess progress on the implementation of its recommendations. INPEC's commitment to implement the general and specific recommendations has not been followed up by appropriate measures and programmes. The Office made observations and recommendations on inspection procedures and building projects for the new prison and penitentiary centres. It also prepared a document on the importance of the High Council on Criminal and Penitentiary Policy for achieving a comprehensive policy, based on guaranteeing rights. Those documents have strengthened the control bodies' power to intervene in relation to the Ministry of the Interior and Justice and INPEC and to influence the latter's priority agendas.

28. In 2004, the Office in Colombia submitted an educational programme to the National Penitentiary School (EPN) aimed at incorporating the human rights perspective. Although the Office promoted it throughout 2005 among the highest authorities of INPEC and of the Ministry of the Interior and Justice, the programme still has not been officially recognized. In conjunction with EPN personnel and INPEC, some 270 prison staff have been trained in human rights. It is worth noting that a network of 18 instructors trained by the project was set up at the Institute. The instructors attended the same human rights courses as the six regional divisions of INPEC. The aim is to leave the Institute with sufficient capacity when the project is finished.

29. **Office of the Ombudsman.** A document was prepared on institutional policy on prison establishments as well as technical guidelines for following-up the State's observance of international obligations in this respect. It is hoped that the two contributions will facilitate institutional management based on planning and on the identification of priorities and allow the assessment of the way Colombian prisons operate. Also worth noting is the development of a scheme for monitoring human rights committees, providing the Ombudsman's Office with a tool for assessing their performance and management, and introducing institutional measures to strengthen them.

30. **The Office of the Procurator-General.** The Procurator-General approved the document on Preventive Policy of the Procurator-General's Office concerning the Rights of Persons

Deprived of Their Liberty. This document was produced as a result of a nationwide survey of the institution's officials, with the Office in Colombia's advice. It serves as a tool for guiding institutional action in the area of prisons.

31. A general framework for preventive control procedures relating to the rights of persons deprived of their liberty was prepared with the help of the prison affairs group of the Procurator-General's Office. Technical advice was also provided on public announcements of alerts and the legal concepts prepared by the Procurator-General when defending the rights of prisoners. Altogether 39 visits were made to prisons and police stations and training was provided for staff of the Procurator-General's Office.

#### **D. Training in human rights and international humanitarian law**

32. During 2005, the Office in Colombia continued to encourage the institutionalization of training in human rights and international humanitarian law in State institutions and in other sectors. Training is an essential element of the Office's capacity-building strategy in this field.

33. The human rights training programme for **municipal ombudsmen**<sup>29</sup> ended in January 2005, after benefiting 90 per cent of the country's 1,098 ombudsmen. An external evaluation of the programme concluded that the strategies used had been adequate. In resolution No. 287 of 2005 the Procurator-General officially set up a subcommittee in charge of following up the programme, to which the Office of the Ombudsman also belongs. The further training of ombudsmen has been taken over by the Institute for Studies of the Public Affairs Ministry. During the year, 12 workshops were held, in which about 300 ombudsmen took part. The assessment of the workshops was positive.

34. In 2004, the Office in Colombia and the **Office of the Ombudsman** put together a Manual for classification of conducts that violate human rights and humanitarian law. The Office of the Ombudsman adopted the manual for the purpose of dealing with and processing complaints.<sup>30</sup> The resolution also orders the manual's dissemination throughout the Office of the Ombudsman, and promotes its use among other State institutions and NGOs. The Office in Colombia and the Office of the Ombudsman conducted an initial training programme on the use of the manual, which was attended by more than 100 officials, university professors and consultants.

35. Workshops were held with the **Procurator-General's Office** on the use of the Practical guide for evidence in disciplinary investigations regarding violations of human rights and breaches of international humanitarian law.<sup>31</sup> Some 150 officials took part in these training sessions, including regional, provincial and judicial procurators, ombudsmen and special investigators.

36. Training courses in human rights and international humanitarian law were also conducted with the Colombian Family Welfare Institute, the School for Judges and Procurators of Medellín, the Vicarage of San Vicente del Caguán, and college teachers of the archdiocese of Cali. About 500 people attended the courses.

37. The Office has trained 90 members of the coordinating committees of the **Development and Peace Programmes** of Oriente Antioqueño, Meta and Montes de María in the basic

concepts of human rights and international humanitarian law. These activities were carried out in conjunction with the “Networks” programme of the United Nations Development Programme (UNDP).

38. Six projects to promote human rights locally in several regions of the country took place within the programme **Assisting Communities Together (ACT)**. At the end of 2005, a new series of ACT projects was launched, to be implemented with the help of UNDP.

#### **E. Activities with the United Nations system**

39. In the context of “Action 2”, the inter-agency plan of action for the integration of the human rights dimension, the UN Country Team implemented the workplan proposed by the technical team<sup>32</sup> and coordinated by the Office in Colombia.

40. Six basic courses in human rights and international humanitarian law were given for employees of the system in several parts of the country. Members of the technical team also designed and conducted two specialized courses on the human rights based approach to development, taking into consideration the gender dimension. More than 200 employees - managers and coordinators of programmes and projects of the system’s agencies - attended these courses. The Office also offered an advanced course for agency chiefs, deputies and focal points on the integration of the human rights dimension in the elaboration of the CCA/UNDAF (Common Country Assessment/United Nations Development Assistance Framework).

41. With regard to gender, the Office took part in inter-agency meetings of the Round Table on Gender and the network against sexual harassment and violence. It is worth noting the activities organized to promote the inclusion of the gender perspective in public policies aimed at meeting the Millennium Goals. The Office also worked on preparing a guide on how to incorporate that perspective in inter-agency missions and projects of the United Nations system.

#### **Information, promotion and dissemination**

42. In 2005, the Office in Colombia issued 55 press releases, presented 19 lectures and organized 8 press conferences. It granted more than 30 interviews to national and international media on the High Commissioner’s recommendations and human rights in the country. There were a total of 1,300 mentions to the Office in the media and the website was visited some 250,000 times.

43. A press conference was held during the visit to Colombia of the Working Group on Enforced or Involuntary Disappearances. Field missions were organized with a United Nations press group to supply information on the Office’s work and the country’s situation.

44. The Office’s publications include 10,000 copies in Spanish and 1,000 in English of the High Commissioner’s Recommendations for Colombia; 2,500 copies of the High Commissioner’s annual report on the human rights situation in Colombia in 2004; 10,000 handbooks on the Universal Declaration of Human Rights adapted for children; and 20,000 copies of a new pamphlet introducing the Office. Ten thousand copies of the 2005 calendar were also printed and distributed, as well as more than 77,000 copies of publications, including books, articles, recommendations, reports and press releases.

45. In order to make children acquainted with the Universal Declaration of Human Rights, drawing workshops were organized in different parts of the country for which PrismaColor donated more than 52,000 pencils.
46. A book of photographs, Colombia: Images and Realities, based on a 2003 photography competition on human rights, was published in two languages, Spanish and English. A photographic exhibition of those pictures was opened in Bucaramanga, in cooperation with the local Chamber of Commerce. A free concert was given in Bogotá with the singer Ilona to celebrate International Human Rights Day and another with local artists in Medellín.
47. The Office contributed to the preparation of the monthly bulletin, *Red de Gestores Sociales* (Social Action Network), published by the Office of the First Lady to disseminate human rights among the country's civil servants.

### **Annex III**

## **REPRESENTATIVE CASES OF VIOLATIONS OF HUMAN RIGHTS AND BREACHES OF INTERNATIONAL HUMANITARIAN LAW**

### **I. HUMAN RIGHTS**

#### **Civil and political rights**

##### **A. Right to life**

1. In 2005, a series of extrajudicial executions took place, which were directly attributed to members of the security forces. Members of the army were blamed for executions of civilians, who were portrayed as guerrilla fighters killed in combat. Several cases were attributed to the army's fourth brigade (Antioquia). They included the collective execution of three peasants in May in Dabeiba (Antioquia), which was attributed to members of the Pedro Justo Berrío infantry battalion of that brigade, as well as the killing of three youths in Caldas (Antioquia) in November, attributed to the brigade's Unified Action Group for Personal Liberty (GAULA).

2. In several executions attributed to members of the brigade, the crime scene was reportedly arranged to simulate combat, for instance by dressing up the victims in military clothing and giving them weapons. That was the case for several executions that took place in Medellín and its metropolitan area, as in the rural areas of several municipalities of Antioquia. One case was the execution of a person in March attributed to the Pedro Justo Berrío Battalion, on the road between Medellín and Bello. The extrajudicial execution of two young people, one of whom was mentally disabled, in Quibdo (Chocó) in February was attributed to members of the Manosalva Flores Battalion. The Office also recorded the extrajudicial execution in the rural area of Urao (Antioquia) in March of a woman and her 14-year-old son, which was attributed to members of the Cacique Nutibara Battalion. The military reported the event as "guerrillas killed in combat".

3. Similar situations occurred in other parts of the country, such as the extrajudicial execution in March of two men, reported as guerrillas killed in combat, attributed to the El Carmen de Bolívar Marine Corps (Bolívar). In May, the detention and subsequent execution of three people in Almaguer (Cauca) was attributed to personnel of the Alta Montaña Fourth Battalion. The victims were portrayed as guerrillas killed in combat. The same month, two people were reportedly executed by troops of the Ricaurte Battalion of the fifth army brigade in La Esperanza (North of Santander). The victims were presented as members of the AUC killed in combat. The Alta Montaña Battalion based in Sumapaz (Bogotá) was accused of the execution of three young peasants, sons of UP (Patriotic Union) militants, described as guerrillas killed in combat. Four civilians presented by the authorities as suspected paramilitaries were reported killed in Monterrey (Casanare). Several of these victims, including an elderly person, were relatives of a paramilitary commander. Likewise, two displaced people were executed in the municipality of El Castillo (Meta). According to witnesses, the peasants had just gone through a military roadblock. Members of the twenty-first Vargas Battalion allegedly dressed them up in camouflage clothes and presented them as guerrillas killed in combat.

4. Other extrajudicial executions involved members of the indigenous communities. They included that of a Kankuamo indigenous person and of a pregnant Wiwa indigenous girl, which took place on 9 February in the rural area of Atanquez (Cesar) and was attributed to members of the tenth army brigade. The Kankuamo people has been granted provisional measures by the Inter-American Court of Human Rights and the Wiwa people precautionary measures by the Inter-American Commission on Human Rights. The execution of an indigenous person in the Pueblo Viejo reservation of Ricaurte (Nariño) was attributed to a soldier of the Cabal Motorized Infantry Battalion.

5. The Office also received complaints of extrajudicial executions in the course of social cleansing operations attributed to members of the security forces. In the metropolitan area of Medellín, six cases showed a similar pattern. One example was the extrajudicial execution in June of a person taking drugs, attributed to members of the Special Urban Forces Group (Agrupación de Fuerzas Especiales Urbanas, or AFEUR). Another example was recorded in April in the municipality of Caldas (Antioquia), attributed to the rural GAULA of the fourth brigade. Members of the fourth army brigade were also accused of the extrajudicial execution of two young people in Quibdo (Chocó) in February. The victims, one of whom was disabled and the other displaced, were found in the municipal rubbish dump.

6. Cases of coordinated action were reported, in which paramilitary groups were said to have handed over victims to army personnel, who then allegedly killed them and reported their deaths as having occurred in combat. There was also the case in August of a street vendor who had been taken from his house in Medellín's Commune 13 (Antioquia), presumably by a paramilitary. Hours later, members of the Urban Anti-Terrorist Platoon (Pelotón Antiterrorista Urbano) of the army's fourth brigade reported he had been killed in combat. In March, again in Medellín's Commune 13, men dressed in civilian clothes reportedly took a young man out of his house; hours later, a patrol of the same brigade reported that he had been killed in combat.

7. An extrajudicial execution attributed to members of the Bloque Central Bolívar-Libertadores del Sur was said to have taken place in Los Andes (Nariño) with the acquiescence of members of the National Police in February. The victim was allegedly tortured before being executed. Also in Nariño, in the municipality of Sotomayor, the AUC's Bloque Libertadores del Sur allegedly executed a person in February with the acquiescence of members of the National Police.

8. In Sonsón (Antioquia), members of the AUC reportedly apprehended a person in a very busy street in town and passing by a police checkpoint only some 10 meters away from the police station, they allegedly led him out of town and executed him. The victim was helping the Attorney-General's Sectional Office of Sonsón to elucidate two murders, committed by members of the AUC, which he had allegedly witnessed. Even though the victim had been threatened and had requested protection, he was executed without having been granted protection.

9. Members of the National Police reportedly executed a person in Florida (Valle) in February. A witness to the killing was allegedly threatened by the same police officers and members of a paramilitary group.

10. In April, in San Pablo (Bolívar), a shopkeeper was reportedly executed by presumed members of the Central Bolívar Unit a few metres away from the police station, without any attempt having been made to prevent the execution or capture its perpetrators. The event led to protests by the inhabitants of the municipality in April, who complained of ties between the local police and members of the AUC's Central Bolívar Unit.

11. Several people reportedly received death threats, in particular human rights defenders. These included complaints of death threats against the president of the José Alvear Restrepo Lawyers' Association and her family. The victim is covered by the Interior Ministry's protection programme, while the Lawyers' Association comes under the precautionary measures of the Inter-American Commission on Human Rights. Likewise, the Regional Ombudsman of Valle del Cauca reportedly received death threats, which were also directed against a congressman, trade unionists and human rights defenders.

12. Reports were received of several attacks against political leaders. The situation deteriorated in the last months of the year, which coincided with the beginning of the electoral campaign. One attack took place in Bogotá in October against congressman Germán Vargas Lleras of the Radical Change Party (Partido Cambio Radical). There was also a case of housebreaking and intimidation against a human rights defender and candidate to the Chamber of Representatives of the Social and Political Front (Frente Social y Político) party.

### **B. Right to personal integrity**

13. The Office in Colombia followed up reports of violations of the right to personal integrity resulting from acts of torture and cruel, inhuman or degrading treatment or due to the excessive use of force by members of the security forces.

14. A labour leader was reportedly tortured after being detained by unidentified persons in the town of Pasto (Nariño). It was said that the victim was tortured, interrogated and threatened after giving a speech at the May Day march, and that members of the police were allegedly involved. A complaint was also filed against agents of the Judicial Investigation and Intelligence Service (SIJIN) in Nariño for arbitrary detention, torture and death threats against a trade unionist in April in Pasto, who was accused of assisting the guerrillas.

15. The extrajudicial executions of several victims were reportedly preceded by torture and ill-treatment. For example, in San Luís, Oriente Antioqueño, the body of a peasant, victim of an execution attributed to army personnel, showed several marks on the head, chin, lips and right temple of cuts made with a short, sharp object. In another case in May, in the municipality of San Francisco (Antioquia), members of the "Batalla de Barbula" third battalion of the fourteenth army brigade allegedly shot a peasant in the right leg and let him bleed to death, having denied him medical assistance for eight hours.

16. Persons detained in jails or police stations also reported having been subjected to torture or cruel, inhuman and degrading treatment by State agents, in particular by members of the National Police, the SIJIN and INPEC. Reports included the case in January of a prisoner, who was tortured with a plastic bag over his head and brutally beaten when he was recaptured by

INPEC staff after escaping from the Ibagué (Tolima) prison of “Picaleña”. Several complaints were received of acts of torture perpetrated by members of the National Police on a person held at the police station of Junín in Cali (Valle) in September. The detained person was allegedly beaten and subjected to electrical shocks and death threats. The Office was also informed that 25 pregnant women prisoners at the women’s prison of Bucaramanga (Santander) had not received medical attention during their pregnancy.

17. The Office received reports of the use of excessive force by members of the security forces, especially the Mobile Anti-riot Squadron (Escuadrón Móvil Antidisturbios or ESMAD). During the peaceful May Day march in the town of Pasto (Nariño), several people were allegedly beaten with sticks and a student was said to have had his leg broken by the impact of a gas grenade. The same day in Bogotá, a child died after having reportedly been beaten by ESMAD members. In September, a student died during the quashing of a public demonstration against the Free Trade Agreement (FTA) that took place in the University of del Valle in September. Several students were reportedly injured after being beaten by ESMAD agents who entered the university campus. According to another report, ESMAD agents violently suppressed a peaceful demonstration by Pasto indigenous people against the mayor of Córdoba (Nariño) in April. In the course of those events, several demonstration leaders were allegedly beaten by men of the security forces.

18. The Office also received complaints about acts of torture, ill-treatment and sexual violence allegedly perpetrated against women by State agents. A woman was reportedly raped by a soldier of the second group of the Batalla de Boyacá armoured vehicles battalion, based in Pasto (Nariño), who was said to have used his military uniform and authority to arbitrarily raid the victim’s home without showing a warrant. After these events took place in August, the soldier was arrested and handed over to an ordinary court.

19. A young indigenous girl was allegedly raped by a member of the third artillery battalion in Purace (Cauca) in August. Another case of rape was reported in February, involving an Arhuaca woman and was attributed to army personnel based in Magdalena. In May, a woman was detained in Saravena (Arauca) and taken to the Reveiz Pizarro Battalion, where she was subjected to sexual violence. The rapes of two women in El Zulia (North of Santander), reported in February, were also attributed to members of the army. The Office was informed that the indigenous governor of the Junta community in Dagua (Valle) was beaten, insulted and threatened by a member of the army when she asked to see an arrest warrant. The event, which took place in Dagua in May, was attributed to members of the Pichincha Battalion of the third army brigade. Also in May, members of the army allegedly aggressed a displaced widow when she asked to see an arrest warrant during her detention in Dagua.

20. Lesbians, gays, bisexuals and transgenders have also allegedly been the victims of ill-treatment attributed to State agents. There is a report that police officers, in October, forced the legal representative of the “Casa de Eventos Mango” establishment in Barranquilla (Atlántico) to undress and insulted him.

### C. Right to liberty and security of person

21. The Office in Colombia received a number of complaints of enforced disappearance of people in various parts of the country allegedly involving public servants. One example was the case in January of the disappearance of a peasant in Puerto Caicedo (Putumayo) reported to have been arbitrarily detained by members of the army. Since his arrest there has been no information on his whereabouts, though the army apparently reported him killed in combat.

22. There were also reports of the enforced disappearance of two peasants in the rural area of Puerto Guzmán, where members of the thirteenth mobile brigade are conducting military operations. Two other peasants were reported missing in March in Puerto Lleras (Meta). These actions are attributed to members of the Centauros unit of the AUC, who maintain a permanent presence there, and occurred despite the fact that the Inter-institutional Early Warning Committee (Comité Interinstitucional de Alerta Temprana - CIAT) had issued an early warning and recommended bringing more security forces into the area.

23. Reports were also received of the disappearance of a person in June in Quibdó (Chocó), attributed to members of the Manosalva battalion. In 2005, clandestine mass and individual graves were found, including some in San Onofre (Sucre). Exhumations began in February, thanks to information provided by the community. The first remains were found in the village of Pajonal in March. The exhumations are being carried out by CTI personnel from Barranquilla, Cartagena, Bogotá, Pereira and Manizales, and an interdisciplinary team of dentists, forensic doctors, anthropologists and photographers. Most of the bodies were found at the El Palmar farm. A significant number of corpses were found in graves containing one or two dismembered bodies buried less than a metre below ground. A number of bodies showed signs of torture. Among these were recent victims who seemed to have been killed less than a year ago. This demonstrates the persistence of this practice, which is generally underreported.

24. The Office continued to receive reports of mass detentions, with or without a warrant, by members of the security forces, the DAS and judicial employees, mainly from the Office of the Attorney-General. There were doubts concerning the lack of thorough investigation in most of these cases, which were said to be based solely or mainly on intelligence reports, information from demobilized former members of illegal armed groups, or mere suspicions.

25. Examples include allegations of house searches and mass detentions carried out in May by the prosecutor with the Special Anti-terrorist Command (CEAT) against 13 students from the University of Antioquia, in Medellín. A number of irregularities were apparently committed in the course of these events, notably violations of the presumption of innocence and of due process for children: three of the detainees were under 18 but were allegedly treated as adults. The Office also received allegations regarding the mass detention of 29 people in August by members of the Attorney-General's Office and the DAS in Argelia, Marinilla, Santuario and Medellín (Antioquia). Apparently, the detentions were made without individual warrants. There were also reports of a mass detention of 16 people in July in a joint operation by the Attorney-General's Office, the DAS and the CTI in Uribe (Meta), based on thin statements by demobilized persons.

26. Another allegation involved the mass detention of more than 30 people in February, in Labranzagrande (Boyacá), without arrest warrants. These were allegedly issued after the event. According to information received, the intelligence report that led to the detention was based on the testimony of eight allegedly demobilized persons, and was not cross-checked or compared with other evidence.

27. The Office also received information on the detention of five people in August, on the basis of conjecture and suspicion derived from intelligence reports and uncorroborated testimony from demobilized persons in Cartagena del Chairá (Caquetá). A few days later, the prosecutor decided not to issue a detention order, upon finding that the detentions were not duly substantiated. Other allegations involved the mass detention, in April, of 27 people in the municipalities of Barbacoas, Mallama and Ricaurte (Nariño), 20 of whom were then apparently released because the evidence against them was so flimsy. In May, six people were reported arrested in San Calixto (Norte de Santander). Even though an arrest warrant had been issued, the prosecutor did not order their detention for lack of consistent evidence. In April, six villages from Anzoátegui (Tolima) were detained. They were released 15 days later, apparently due to inconsistencies in the assessment of the evidence. Similarly, the Office was informed of irregularities by members of Sumapaz battalion No. 39 in the course of several detentions, covered up by the Attorney-General's Office in Fusagasugá. In one case, two people were detained in San Juan de Sumapaz in November and taken to battalion No. 39, where they were allegedly interrogated without attorneys. Fifteen days later they were handed over to the Attorney-General's Office. The municipal criminal court accepted a motion for habeas corpus on behalf of the detainees, who were released on 1 December. That same day they were detained again by Gaula agents for illegally carrying arms and involvement in an assault that day.

28. Human rights defenders were also the victims of illegal detentions: Joel Sierra, a member of the Human Rights Committee, for example, was arrested in March in Saravena (Arauca). He was allegedly detained for several hours and transferred to the Revéiz Pizarro military unit in Saravena, without an arrest warrant.

#### **D. Right to due process**

29. The Office continues to receive allegations of violations of due process in the form of attacks on judicial independence, improper exercise of jurisdiction by military criminal tribunals, irregularities in the handling of evidence and violation of the presumption of innocence.

30. The Office has noted a pattern of allegations regarding the systematic takeover by military criminal tribunals of investigations of human rights violations or breaches of international humanitarian law attributed to members of the security forces, particularly the army.

31. In a number of the cases of extrajudicial execution referred to in the section on the right to life, the prosecutors refrained from claiming jurisdiction. In others, the prosecutors themselves referred the investigations to the military courts' jurisdiction. In certain cases, however, prosecutors' efforts made it possible to keep investigations within the ordinary justice system. Cases of both types were reported in Antioquia and Chocó. In addition, when

prosecutors were able to gather evidence at the scene of the events, especially in urban areas, the cases were not referred to the military criminal courts but remained within the ordinary justice system. Examples include investigations of executions attributed to members of the military in Santa Rosa de Osos, and in the Manrique neighbourhood of Medellín (Antioquia).

32. Reports were received of manipulation of evidence at the crime scene, particularly in extrajudicial executions attributed to members of the army. This pattern was reflected in most of the allegations regarding executions attributed to army personnel, the victims of which had apparently been described as killed in combat.

33. There were allegations of obstruction of the work of the justice system through attacks and threats against witnesses and judicial employees. Two attacks were reported against the commissions of inquiry investigating the massacre of eight people on 21 February in San José de Apartadó (Antioquia). Threats were also reported against prosecutors investigating paramilitaries in La Hormiga (Putumayo), and one of them was executed.

34. There were reports of individuals being portrayed in the media as members of guerrilla groups, in violation of the presumption of innocence. One example is the mass detention of 16 people in Uribe (Meta) who were photographed and presented to the media as alleged guerrilla members, yet most of them were released a few weeks later.

35. The impunity surrounding most of the cases affecting the community of San José de Apartadó, as well as the authorities' stigmatization of a number of its members, have aggravated their vulnerability. In 2005, there was a report of a massacre in February of eight members of the community, four of them children, in the villages of Mulatos Medio and La Resbalosa, and of the death of another in November. The judicial authorities are investigating these incidents, which some members of the community attribute to counter-guerrilla battalion No. 33 of the 17th brigade. However, the security forces attribute them to FARC-EP guerrillas.

#### **E. Right to freedom of movement and residence**

36. Violations of the right to freedom of movement and residence observed by the Office consisted mainly in unlawful impediments to movement and free transit, as well as forced displacements in various parts of the country. A number of such cases, related to the armed conflict, are described in the section on breaches of international humanitarian law.

37. There were reports of irregular control of the population by means of arbitrary restrictions at checkpoints. In May, the Office in Colombia witnessed displays of disrespect towards the civilian population at various army and Marine Corps checkpoints in Caquetá, along the Caguán river. This was especially the case at river checkpoints on entering and leaving (La Hacienda checkpoint) Cartagena del Chairá and at the Peñas Coloradas checkpoint. The lack of uniform criteria apparently allowed the arbitrary imposition of restrictions on the movement of persons and basic commodities.

#### **F. Right to privacy and inviolability of the home**

38. The right to privacy and inviolability of the home was infringed by searches and raids, which were arbitrary or lacked a legal basis.

39. The Office received complaints of arbitrary house searches in joint operations by members of the military forces, the Attorney-General's Office, the CTI and the DAS. A number of people were reported detained in Fortul (Arauca) in April, and were said to have been photographed and verbally abused before being released. Also in April, soldiers from the Cabal Motorized Battalion were reported to have forced their way into several homes in the neighbourhood of Carrizales, in the urban district of Ricaurte (Nariño), firing in the air, kicking doors, upsetting the furniture, going through personal papers and insulting residents. They allegedly did not produce a legal search warrant.

### **G. Right to freedom of opinion and expression**

40. There were reports of violations of the right to freedom of opinion, expression and information through killings, threats and arbitrary detentions of journalists and media contributors. The Foundation for Press Freedom (FLIP) recorded an increase in the number of threats, which rose from 34 in 2004 to 60 in 2005.

41. The Office received information concerning threats against a number of Bogotá journalists well known for providing news and comment viewed as independent and even critical of the Government.

42. Examples include the cases of journalists Daniel Coronell, Holman Morris and Carlos Lozano, who were sent funeral wreaths and threats in May. Coronell, director of the Noticiero Uno news broadcast and a columnist with *Semana* magazine, was forced to leave the country after revealing that a politician was behind the death threats against him and his family. The Office was told of the attempted murder of a Reuters correspondent, which was made to look like attempted robbery. It also recorded the deaths of two journalists in the departments of Bolívar and Norte de Santander.

43. Five journalists went into exile in 2005 on account of their work as compared with three in 2004.

44. Reports were received of the arbitrary detention, by members of the National Police, of a press photographer from the newspaper (Nariño), *Diario del Sur* who was taking pictures in the Plaza del Carnaval. The policemen, thinking they were being photographed, allegedly took him to a police station and exposed his film. There were also complaints of pressure being put on journalists in Cúcuta (Norte de Santander) and in the departments of Arauca and Caquetá. Such actions impair the right to provide free and independent information and encourage the self-censorship already practised by a number of media professionals.

## **II. INTERNATIONAL HUMANITARIAN LAW**

### **A. Murders and threats targeting protected persons**

45. Murders of protected persons continued to be carried out on a systematic basis by illegal armed groups. Also, there were reports of murders of protected persons by members of the security forces. In other cases, deaths attributed to public officials involved breaches of the humanitarian principle of distinction.

46. The Office also received reports of various massacres attributed to the FARC-EP, such as one that took place in Río Negua (Chocó) in August, when four miners died. A massacre of eight people in Riohacha (Guajira) in July was also attributed to this group. A number of other massacres were reported in Antioquia, including those of 3 peasants in Anorí, 5 woodcutters in Mutatá, and 14 coca field workers in Valdivia.

47. The Office continued to receive reports of massacres attributed to paramilitary groups, such as one in March in Barrancabermeja (Santander), in which four members of the same family were killed. Three other people were killed in July in the municipality of Aguachica (Cesar).

48. There were reports of selective murders attributed to guerrilla groups. The FARC-EP murdered a local councillor and former mayor in Hobo (Huila) in April. Reports also came in of the murders of a Paez leader in January, a member of the *cabildo* (indigenous council) of La Cilia (Cauca) and a peasant leader from southern Bolívar, in Morales. These actions were also attributed to the FARC-EP. In March, three murders resulted in the displacement of 20 families from Salitral in the rural part of Ovejas (Sucre). The FARC-EP were blamed for the death of a politician in the department of Huila, in December, whose family they had taken hostage in 2001. The sons were released in 2004 after paying a ransom, but the wife is still in captivity.

49. The Office received a number of complaints against paramilitary groups with respect to murders of protected persons, such as the one occurred in January of the Municipal Secretary of Government of Tame, who was advocating the demobilization of paramilitary groups. The AUC were blamed for the murder of the prosecutor in La Hormiga and the commander of the National Police (Fifth District) in La Hormiga (Putumayo) in April. Reports were also received concerning the murder of the president of the Merchants' Association of the municipality of San Miguel (Putumayo), who was leading a civil resistance campaign against the paramilitaries.

50. During 2005, selective murders targeting local authorities intensified. In April, two members of Congress were murdered: Orlando Benítez Palencia in Córdoba and José Oscar González Grisales in Manizales (Caldas). Both crimes were attributed to paramilitary groups. For their part, the FARC-EP were blamed for a massacre on 24 May during an attack on the municipal council of Puerto Rico (Caquetá), where four councillors, the council secretary and a passer-by were killed. The group was also alleged to be responsible for the deaths of other councillors in Puerto Rico, San Vicente del Caguán and El Paujil (Caquetá). A similar attack against councillors in Campoalegre (Huila) cost the lives of four civilians and another six, including two councillors were injured.

51. Reports continued to be received of murders of members and leaders of indigenous communities. The FARC-EP were blamed for the murder of an Awá indigenous leader who had been taken hostage, despite the issue of a press release by the Office in Colombia urging his captors to release him and spare his life.

52. The Afro-Colombian population continued to be the target of individual and mass murders. The murder of an Afro-Colombian leader on the Barbacoas (Nariño) community council was attributed to paramilitaries; it also resulted in the displacement of almost 400 persons. Two further massacres were reported in Buenaventura (Valle), one in April, the other in July, in which a total of 18 young Afro-Colombians lost their lives; these were attributed to demobilized members of the Calima unit of the AUC.

53. In October, two members of the network of informers received threats and were the victims of an attack attributed to the FARC-EP. This happened in Buenaventura and the victims were obliged to leave the area.

54. The Office was told of the deaths of journalists Rafael Prim, in Magangue (Bolívar), and Julio Hernando Palacios Sánchez. Both murders were attributed to paramilitary groups.

55. Reports were received of threats against a lesbian couple by members of the AUC in the department of Tolima in May; the women had to move away.

### **B. Attacks on the civilian population and indiscriminate attacks**

56. Illegal armed groups continued to commit attacks, including indiscriminate attacks, on the civilian population, in violation of the immunity of civilians and civilian property.

57. The Office received reports of several indiscriminate attacks attributed to the FARC-EP. On 14 April, guerrillas attacked the town of Toribío (Cauca). During the attack, gas cylinders were fired and the school was used as a base to attack the police. The attack left two children dead and five people severely injured, and totally or partially destroyed a number of homes. In a visit to the area, the Office noted that the Office of the Ombudsman had earlier warned of an imminent attack, but that the Inter-institutional Early Warning Committee (CIAT) had not taken action.

58. In July, the FARC-EP attacked the town of Caldono (Cauca) with gas cylinders and other explosives, injuring three civilians and causing damage to property.

59. There were reports of a gas cylinder attack by the ELN in February on the civilian population of Cumbitara (Nariño), injuring three civilians, including a child.

60. In Cúcuta (Norte de Santander), in April, members of the “Motilón” task force allegedly fired indiscriminately at the civilian population at a night-time checkpoint, causing the deaths of four civilians and a soldier.

61. The Office also received information regarding indiscriminate attacks by army helicopters, including one on 22 February in the rural area of San José de Apartadó (Antioquia), close to the villages of Bellavista, Alto Bonito and Buenos Aires. More than 200 peasants living in the villages were endangered by the machine-gun attacks. Other complaints were received of indiscriminate machine-gun attacks in the rural area of Puerto Asís (Putumayo) in September, when a phantom aircraft of the Colombian Air Force allegedly shot indiscriminately at villagers in Camelias and Las Rosas prompting a number of displacements.

### **C. Acts of terrorism**

62. Despite the prohibition on acts of terrorism under international humanitarian law, illegal armed groups continue to carry out such acts in order to intimidate the civilian population.

63. The Office noted several acts of terrorism attributed to the FARC-EP. In January, they were blamed for exploding two bombs in the centre of Gigante (Huila), badly injuring a child and causing damage to property. In February, they were accused of exploding a bomb at the Hotel Acapulco in Puerto Toledo (Meta), killing six people including a small child.

64. In May, the same group was held responsible for setting off a bomb strapped to a horse in the centre of Cumbitara (Nariño), which injured two civilians and damaged 25 houses. The attack was allegedly directed at the local police station, 30 metres from where the bomb exploded.

65. In June, the 27th front of the FARC-EP harassed the village of La Palestina, in the municipality of Vista Hermosa (Meta). The next morning, when the villagers met at a football field to assess the damage, the guerrillas detonated an explosive device, which led to the deaths of 3 civilians, including a child, and left 15 others injured, including 4 children.

66. Other breaches of this principle by the FARC-EP include causing an explosion during a student demonstration in Arauca, and setting off bombs, one placed in a metal pot during a circus show in Saravena and another strapped to a bicycle in the main square of Arauca. All of these occurred in the department of Arauca, and the bicycle bomb, attributed jointly to the FARC-EP and the ELN, left 4 people dead, including a pregnant woman, and 27 injured, including 4 children.

67. The Office in Colombia was also informed of a car bomb attack on RCN radio on Sunday, 20 February, in the city of Cali. The FARC-EP claimed responsibility for the explosion, which injured two people who worked at the radio station.

#### **D. Torture and other attacks on personal dignity**

68. The Office received reports of acts of torture by members of illegal armed groups; in some cases people were subsequently executed or died as a result of the torture. Members of the ELN allegedly tortured and killed an army corporal in July in Tame (Arauca). According to information received, the corporal was shot several times before he died, suffering bullet wounds from his fingers up to his head.

69. The Office also received allegations of torture and murders attributed to members of paramilitary groups, including one case of a peasant leader in Dabeiba (Antioquia), who in March was allegedly forced to get off a bus together with her 5-year-old child, and interrogated. Her body was found the following day, bearing signs of torture. The child was handed over to the church authorities in Dabeiba by persons unknown. There was also a report regarding the death in September of a trade union leader in Valledupar (Cesar); he was stabbed 47 times and his body showed signs that he had been tortured.

#### **E. Taking of hostages**

70. The practice of hostage-taking continues to be commonplace among illegal armed groups, especially guerrilla groups. In January, a journalist was taken hostage, allegedly by the FARC-EP, on the Dabeiba to Mutatá (Antioquia) road. In March, a group of armed men, who

identified themselves as members of the FARC-EP, went to two communities in Jiguamiandó (Chocó), and took five members of the Inter-Church Commission for Justice and Peace hostage. On 8 April they were released on the Murri river (Chocó).

71. Information was received in July regarding an unknown number of indigenous, Afro-Colombian and mestizo woodcutters who were allegedly taken hostage by the 57th front of the FARC-EP in Riosucio (Chocó). A few days later, 17 of them were released, but the fate of the remaining 5 remains unknown. The FARC-EP also took 22 people hostage in San José del Guaviare (Guaviare) in November; they subsequently released 14 of them, but 8 are still captives.

72. The Office received information on the deaths of hostages in captivity. One person allegedly taken hostage by the FARC-EP in July in Tierralta (Córdoba) was reported to have died in captivity in October. Also, in January, the 29th front of the FARC-EP notified authorities in the indigenous Awá reservation in the municipality of Ricaurte (Nariño), of the death of Efrén Pascal, the reservation Governor, who had been taken hostage in October 2004. The guerrilla group described the murder as a “regrettable error”. Likewise, Ancízar López López, former Governor of Quindío and a former Congressman, died in captivity in unclear circumstances, allegedly at the hands of the Cacique Calarcá front of the ELN, which described the death as an error due to the conflict.

73. In the department of Nariño, there were two cases involving human rights defenders in Pasto. In the first, a human rights defender and three other persons were allegedly taken hostage in February. In the other, in July, the victim was the son of a well-known human rights defender. In yet another case attributed to paramilitaries, a merchant and civic leader in La Dorada (Putumayo) was taken hostage, provoking protest action by the community. The leader of the protest was allegedly murdered by the same paramilitaries two weeks after the merchant was released.

74. The Office also received reports of hostage-taking followed by murder by demobilized members of paramilitary groups. The most relevant cases include that of a flower grower, attributed to demobilized members of the Héroes de Granada and Héroes de los Montes de María units, whose body was found in the municipality of El Retiro (Antioquia) in October. Similarly, demobilized members of the Calima unit took a number of adolescents hostage in Buenaventura (Valle), and killed them a few days later.

## **F. Forced displacement**

75. All the groups involved in the hostilities are blamed for forced displacement as a result of combats, pressure and threats. The Office also received reports of displacement provoked by massacres, indiscriminate machine-gun attacks and aerial spraying of illegal crops.

76. The Office received reports of combats between guerrilla groups and the AUC in the rural area of Barbacoas (Nariño) and in the Alto del Telembí area, which caused some 60 Afro-Colombian families to move to the town of Barbacoas. There were also reports that 42 families moved to the municipality of San Pablo (Bolívar) in May, following combats between the FARC-EP and the AUC's Central Bolívar unit.

77. Since February, some 2,000 people from six Afro-Colombian communities along the Bojayá river have been displaced, moving to Bellavista and Vigía del Fuerte because of the possibility of combats between paramilitaries and guerrillas, who have openly declared their intention to take possession of the Bojayá river basin (Chocó). According to information received by the Office, the ELN was responsible for the mass displacement of approximately 100 indigenous Wiwa in Dibulla (Guajira) in March.

78. In April, around 4,600 people were displaced from the municipality of Samaná (Caldas). The reasons were said to be pressure by the FARC-EP and spraying in the region. The FARC-EP were blamed for the mass displacement of more than 70 families from the municipality of Cocorná to the town of San Francisco (Antioquia). This displacement reportedly followed threats by members of the FARC-EP.

### **G. Children victims of the armed conflict**

79. Children continue to be among those worst affected by the armed conflict, falling victim in particular to anti-personnel mines and unexploded munitions, recruitment, displacement, killings and sexual violence.

80. The Office received information that a 15-year-old girl and her 5-month-old baby were injured after stepping on an anti-personnel mine in the rural area of Tierradentro (Córdoba). The girl lost her right leg and the baby suffered shrapnel wounds to various parts of its body. Responsibility was attributed to the FARC-EP's 58th front.

81. The Office also received complaints that the armed groups continued to recruit children into their ranks. Despite the demobilization of the AUC, the Office was told of young people being recruited, allegedly by paramilitaries, in Comunas 8 and 13 of Medellín (Antioquia) in June and August. Similarly, in the neighbourhoods of Canta Claro, Rancho Grande and El Paraíso in Montería (Córdoba), the AUC allegedly recruited 30 youngsters for the department of Arauca. Reports were received indicating that at least four boys were allegedly recruited by members of the AUC in Arauca in April.

82. There were allegations that the FARC-EP recruited a 9-year-old indigenous Awá boy at the Pialapi reservation in the municipality of Ricaurte (Nariño). Reports were also received that a number of indigenous children were recruited by the FARC-EP in the department of Putumayo after the end of the armed strike in August. This situation allegedly forced the displacement of a number of families who feared further recruitments.

83. The Office was informed that a 10-year-old boy and his father were executed, allegedly by members of the 48th front of the FARC-EP, in Puerto Asís (Putumayo) in October. The boy is presumed to have been induced to provide information to the army, in violation of the principle of distinction that prohibits the involvement of children in military activities.

### **H. Women victims of the armed conflict**

84. Women and girls were the victims of various forms of violence and their rights continued to be affected by the armed conflict. Sexual assaults and killings were the most common forms of violence against women noted by the Office during 2005, and the majority of those targeted were peasant, indigenous, Afro-Colombian and displaced women, who had returned to their places of origin or were living in blockaded communities.

85. A number of cases involving the FARC-EP were recorded, among them that of a 17-year-old girl murdered in September in Arauca (Arauca), allegedly because of her relationship with a member of the security forces. Two other girls aged 14 and 16 were killed by the FARC-EP in Arauquita (Arauca). A woman belonging to a network of army informers and collaborators was reportedly murdered in Urrao (Antioquia) in April.

86. The Office received a number of complaints of sexual violence of various kinds by members of illegal armed groups. Several cases were attributed to members of the security forces. In June, three armed men in military attire sexually abused two girls in front of their family, including the children, in Tierralta (Córdoba).

87. Reports were received of murders and other violations directed at community leaders: one indigenous Wayú woman, who fell victim to alleged members of a paramilitary group, had witnessed a massacre, which apparently made her a military target. There were also allegations that a community leader in Putumayo had been tortured by members of paramilitary groups. These events took place in September in the village of Puerto la Vega, in the municipality of Teteyé, where the army maintains a permanent presence.

#### **I. Attacks on medical personnel and units and transports**

88. Guerrilla groups, particularly the FARC-EP, were blamed for most of the harassment, attacks and threats against medical personnel and units and transports. Two volunteer firemen were reported to have been murdered in Urrao (Antioquia) in April while retrieving the body of a hostage who had been held captive by the 34th front of the FARC-EP.

89. The Office received reports that a nurse had been subjected to threats and ill-treatment and a surgeon taken hostage in Abejorral (Antioquia) in September, apparently by an unidentified guerrilla group which needed medical care for a wounded hostage they were holding. In March, the FARC-EP reportedly captured and held hostage a commission of officials from the department of Caquetá Institute of Health in the town of Florencia. Also in Florencia, a terrorist attack on the María Inmaculada hospital was reported in November, when a device exploded on the premises. This criminal act left 1 person dead and another 19 civilians injured.

#### **J. Use of anti-personnel mines**

90. The Office has received information indicating that guerrilla groups continue to lay mines in strategic corridors and camps. A number of victims have been members of the army, but many have been civilians. Mine-laying has also been reported at schools, sources of water, common land, cultivated areas and paths to and from communities. Apart from the risk to people's lives, the use of mines also affects access to basic services.

91. In March, two children and an adult set off an anti-personnel mine allegedly placed by the ELN in the municipality of Los Andes (Nariño). The ELN was also blamed for mining the territory of an indigenous community in El Carmen de Atrato (Chocó) in April.

92. Two civilians were reported injured while working in a water inlet in Samaná (Caldas), when a mine went off in the inlet; this occurred in May and was attributed to the 47th front of the FARC-EP. In Ituango (Antioquia), two peasants were injured in April when an anti-personnel mine went off near a health centre, and a girl was severely injured by an anti-personnel mine planted by the FARC-EP in the rural area of La Gabarra (Norte de Santander).

### **K. Principles of distinction, limitation and proportionality**

93. Illegal armed groups continued to disregard the humanitarian principles of distinction, limitation and proportionality. In the case of the FARC-EP, the indiscriminate attack on the town of Toribío, on 14 April 2005, is the clearest evidence of disregard for humanitarian principles, particularly the principle of distinction, by this illegal armed group. In a number of cases, those principles were violated through the use of schools and other civilian installations, as occurred in Toribío, where the FARC-EP launched gas cylinders and used the school as a base to attack the police. The FARC-EP was also blamed for placing a cylinder bomb at a school in Puerto Asís (Putumayo) in March. The cylinder exploded just seconds after the children had left.

94. The Office received reports that 3 civilians had been killed and 26 injured during combats between paramilitaries and FARC-EP guerrillas in the rural area of Valle del Guamuez (La Hormiga, Putumayo) in September. The paramilitaries wounded in the combats were said to have been taken to the municipal hospital, from which they managed to escape, apparently with the connivance of members of the National Police.

95. Humanitarian principles were also breached by police stations, army battalions and trenches being located in centres of population, very close to dwellings and other protected properties such as schools. One example of this is the National Police trenches dug near the village school of Ospina Perez in the municipality of Ricaurte (Nariño). In Toribío (Cauca), the Office observed that security forces' installations should not have been built in the middle of a civilian zone.

96. The same applies to the stationing of troops near protected properties such as schools and houses. An example is the army camp next to the Pedro Nel Jiménez School in Panamá de Arauca, which guerrillas attacked with explosives in September. It was observed that in several communities in the municipalities of Tibú and Teorama (Norte de Santander) army troops are living in civilian houses.

### **L. Principle of immunity of the civilian population**

97. Reports were received of threats and restrictions by illegal armed groups on civilians' freedom of movement and the transport of merchandise. Many of these situations had serious consequences for the civilian population and for access to basic commodities. In some cases, such actions led to blockades of the communities involved.

98. In March, the FARC-EP were reported to have threatened 300 peasants in Pogué, on the Bojayá river, and prevented them from moving away to safety. There was also information indicating that the FARC-EP ordered armed strikes in Putumayo in July and August, and in Arauca in October, causing a shortage of supplies and threatening the population if they

disregarded their orders. The Office received information that the FARC-EP restricted humanitarian missions and impeded the free transit of goods destined for the civilian population of Toribío (Cauca).

99. There were reports that demobilized members of a paramilitary group provoked a public transport strike in Medellín in May, by intimidating the managers and drivers of the transport companies. This strike was a reaction to the arrest of the paramilitary spokesman known as “Don Berna”. In March, a paramilitary group was blamed for the occupation of the village of Corazón de Jesús and later of Caimanero (Chocó), where they installed two checkpoints to control movements along the Bojayá River, threatening the region’s inhabitants with rape or death if they refused to provide information about the guerrillas.

100. There were reports of cases of alleged arbitrary restrictions on the transport of persons and goods such as food, medicines and fuel by members of the security forces. These actions seriously limited the population’s access to basic commodities and made those who remained in their communities more vulnerable.

101. In August, the Office received information on various restrictions on freedom of movement imposed by the security forces, for example in the community of El Dieciocho in the municipality of El Carmen de Atrato (Chocó), where members of the Alfonso Manosalva Flores battalion cut the cable that serves as a bridge to cross to the left bank of the Atrato river, where the indigenous people’s plantain and maize crops are located. This action produced a food crisis and put the community at risk of displacement.

102. Reports were also received that, in August, members of the army’s new Mobile Brigade No. 13 allegedly carried out operations in the rural area of Puerto Guzmán (Putumayo), preventing the villagers from leaving their settlements and threatening their personal integrity if they did not provide information on the FARC-EP guerrillas in the area. In March, peasants from El Castillo (Meta) were reported to be the victims of restrictions on the movement of food imposed by members of the 21 Vargas battalion in an attempt to cut off the guerrillas’ supplies. This situation limited local villagers’ access to basic commodities.

### **M. Pillage**

103. The Office received information on various cases of pillage. In April, members of the ELN and the Revolutionary Guerrilla Army (ERG) reportedly stole 46 head of cattle from peasants in Carmen del Atrato (Chocó). In addition, the guerrillas mined the terrain, leaving the community under siege and causing a humanitarian crisis.

104. The Office also received information that, in October, some 30 soldiers belonging to No. 1 demolition platoon of the Calibío battalion of the 14th brigade allegedly entered the town of Remedios (Antioquia) and stole property, harassed the civilian population and made death threats.

105. There were also reports of pillage and arson by members of the army in the course of raids and detentions of suspected FARC-EP members in Cartagena del Chairá and San Vicente del Caguán (Caquetá).

## Annex IV

### SITUATION OF ESPECIALLY VULNERABLE GROUPS

1. A number of groups and communities have proved particularly vulnerable as a result of the armed conflict and the actions of illegal armed groups. They have also been affected by public measures and policies or by the lack of them. Those most affected by the situation include human rights defenders, members of ethnic minorities, displaced or blockaded communities, journalists, children and women, detained persons, sexual minorities, local authorities, political leaders, hostages and disappeared persons.

#### Human rights defenders

2. Human rights defenders, trade unionists, members of women's and victims' organizations, community leaders and leaders of displaced groups were exposed to murders and threats. The departments most affected were Antioquia, Valle del Cauca, Arauca, Nariño, Santander, Putumayo, Bogotá, Atlántico and Bolívar. Most cases were attributed to paramilitary groups. Accusations have also been brought against the FARC-EP. Some cases involved members of the security forces. There was an increase in the number of cases attributed to members of the Mobile Anti-Riot Squadron (ESMAD), owing to their operations on the occasion of public demonstrations, which equally affected the exercise of the rights to freedom of assembly, expression and opinion. Human rights defenders have also been affected by arbitrary detentions and accusations of rebellion based on sources of dubious reliability, such as statements of informants or demobilized former combatants or unconfirmed intelligence reports.

3. Some cases of threats that were recorded indicate that the perpetrators had gathered a considerable amount of information concerning their victims.<sup>33</sup> In various instances, the victims had in common the fact that they had questioned the negotiations being carried out with the paramilitary groups or the implementation of the "democratic security" policy. In others, they maintained links with the Movement of Victims of State Crimes (made up of a large group of NGOs).

4. Some authorities publicly questioned the nature and legitimacy of the work of human rights defenders, including that of several international non-governmental human rights organizations.<sup>34</sup> The statements were made by officials following the publication of reports by NGOs criticizing negotiations with the paramilitary groups. Such stigmatizations violate Presidential Directive 07 and increase the risk exposure of human rights defenders.

5. The budget of the protection programme of the Ministry of the Interior and Justice was substantially increased compared with a year earlier. The programme continued, however, to suffer from certain shortcomings, such as the problem of bodyguards, which has been particularly highlighted in view of the accusations brought against high-level officials of the DAS regarding their alleged relationship with paramilitaries. Complaints have also been reiterated by representatives of programme beneficiaries regarding studies which underestimate risks and the seriousness of the threats to which complainants are exposed. In December 2004, the Temporary Protection Programme was set up for the benefit of demobilized persons within the framework of the process of dialogue, negotiations and peace agreements.<sup>35</sup> This programme

responds to the need to provide protection for persons who are likely to be at risk in the course of their reintegration in society. It is worth noting, however, that ways of protecting victims who are also in a situation of extreme vulnerability have not yet been improved.

### **Communities at risk**

6. According to official figures, there has been a decline in the number of new displacements,<sup>36</sup> although the total number of displaced persons continued to grow. Forced displacements, both on an individual and on a collective basis, continued in 2005. There were more cases of forced displacement in Caquetá, Cauca, Chocó, Meta, Nariño, Putumayo and Norte de Santander.<sup>37</sup> The FARC-EP and the ELN were directly responsible for several mass displacements.<sup>38</sup> Other cases were the result of fighting between guerrillas and paramilitary groups<sup>39</sup> or fighting between the security forces and illegal groups.<sup>40</sup> Some of these departments were the scene of major military operations, such as Operation JM (for “Jorge Mora”) and Operation Emperador, in Caquetá and Meta.

7. Better assistance was provided for the displaced population, particularly in terms of resources to deal with the crisis,<sup>41</sup> in the design of policy instruments<sup>42</sup> and in the creation of spaces for the participation of displaced communities.<sup>43</sup> These efforts, however, still do not guarantee the effective exercise of the displaced people’s fundamental rights, especially in the areas of housing, land and income generation. There has not been an appropriate response, either, to the situation of displaced women, who in many cases have to assume the role of head of household and who are more often the victims of violence. The application of restrictive criteria for the inclusion, exclusion and withdrawal of the status of displaced person has resulted in underrecording that limits access to humanitarian assistance for those involved and leads to an underestimation of the magnitude of the phenomenon for the purpose of developing appropriate policies.

8. Reports continued to be received of communities being isolated in various regions of the country<sup>44</sup> as a result of fighting and restrictions imposed on the transport of persons, food, medicines and fuel. The FARC-EP and the AUC have been responsible for some of these cases, which caused serious humanitarian distress for the communities involved.<sup>45</sup> It was alleged that members of the communities suffered either expulsion or death because they had not obeyed orders by these groups not to move. Other cases of blockades on the movement of food are due to arbitrary decisions by the security forces in their efforts to cut off supplies to the guerrillas, which places the civilian population affected in a situation of extreme vulnerability, particularly at military checkpoints along the Caquetá river.

9. There were reports of communities, particularly indigenous or Afro-Colombian, in which there has been no State presence of any kind for a number of years, or in which there have been only sporadic appearances by the security forces. These communities are extremely unprotected and vulnerable.

10. In terms of prevention and protection, the Early Warning System (SAT) continues to produce insufficient results, especially from the operational point of view. It is worth noting that the response by the Inter-institutional Early Warning Committee (CIAT) to alerts has essentially focused on the military aspect, leaving aside other types of measures aimed at the prevention of

risks.<sup>46</sup> Whatever protection is provided is almost exclusively concentrated on leaders and not on the displaced population as a whole.<sup>47</sup> The system does not acknowledge the possibility that risk factors may originate in operations of the security forces.

### **Indigenous and Afro-Colombian communities**

11. The indigenous and Afro-Colombian communities have traditionally suffered from marginalization and discrimination; this is also the case with other minorities such as the Raizal<sup>48</sup> and Roma.

12. In 2005 the humanitarian situation of a number of indigenous communities was seriously affected. Forced displacements, acts of terrorism, threats and attacks against the civilian population, and restrictions on the passage of food, medicines, fuel and persons occurred in several regions. The indigenous communities most affected were the Paez (Cauca), Wayuu (Guajira), Kankuamo and Kogui (Cesar), Guahíbo (Arauca) and Awá (Nariño). It was also recorded that the humanitarian situation of the indigenous communities of the department of Vaupés is critical and that the above-mentioned restrictions have particularly affected the communities of Sierra Nevada de Santa Marta, Caquetá, Amazonía, Cauca and Chocó.

13. Official figures show a decrease in the number of indigenous people killed up to October (from 71 to 42). However, the Office continued to receive information concerning murders, executions and sexual violence that affected members of indigenous and Afro-Colombian communities. The murders were attributed chiefly to the FARC-EP and to paramilitary groups,<sup>49</sup> although the massacres of Afro-Colombians in Buenaventura (Valle) have been attributed to demobilized paramilitaries. The FARC-EP were blamed for some cases of sexual violence. The security forces, on the other hand, were blamed for extrajudicial executions and arbitrary detentions, illegal searches and accusations against indigenous communities, particularly in Nariño, Sierra Nevada de Santa Marta, Cauca and Valle. A number of cases of sexual violence against indigenous women were attributed to members of the security forces.

14. The lands inhabited by indigenous and Afro-Colombian communities have been seriously affected owing to the fact that they are particularly rich in natural resources and because they are strategically located for the illegal armed groups. Several communities in Chocó were seriously affected by the private exploitation of commonly owned lands. The Afro-Colombian and mestizo communities of the Jiguamiandó and Curvaradó basins have been under pressure on account of the African palm project in Cacarica and deforestation in the lower Atrato region. Several indigenous peoples of Amazonas, Putumayo, Caquetá and Guaviare continue to be at risk of extinction.

### **Children**

15. The child population is particularly vulnerable in situations of poverty, displacement<sup>50</sup> or when their communities are affected by restrictions on the supply of food and medicines and the movement of persons. The armed conflict continues to affect children in different ways. Children have been the victims of anti-personnel mines and unexploded and abandoned munitions.<sup>51</sup> The recruitment of children by illegal groups has continued. The data concerning the demobilization of these children or their participation in the demobilization of paramilitary

groups show inconsistencies and lack of transparency. A number of children were allegedly handed over directly to their families, without passing through the Colombian Family Welfare Institute (ICBF), the State institution responsible for receiving and assisting them. Insufficient results have been achieved with the policies pursued to reincorporate children in their families and communities or to apply appropriate controls to ensure that demobilized groups comply with the obligation to hand them over to State institutions. There have been reports of cases in which the security forces have used children for military intelligence activities, disregarding their special condition and putting their lives and personal integrity at risk.

16. The children's development is also affected by the fact that many are involved in sexual exploitation, domestic work, street trading, small-scale mining and illegal activities<sup>52</sup> and by the increase in the number of pregnancies among teenagers, particularly among the poorest and least-educated sector of the population.<sup>53</sup>

## Women

17. Progress was maintained in 2005 in the area of the education and political participation of women in the executive branch at national level. The Office of the Mayor of Bogotá issued an equal opportunities plan for the city. Despite this, violence<sup>54</sup> and inequities persist, particularly in terms of income and employment,<sup>55</sup> health<sup>56</sup> and participation.<sup>57</sup> The country's goals and international commitments with regard to gender equality are not adequately reflected in public policies, particularly in the document containing the proposal for projected policies until the year 2019 (2019 Visión Colombia) presented by the national Government for public debate. The State's response to domestic violence is unsatisfactory. This is due, amongst other reasons, to the dispersion of competent authorities, the lack of coordination among institutions and services, and the fact that regulations do not favour the prevention and punishment of this type of conduct.<sup>58</sup> In the area of health, there continue to be a high number of maternal deaths caused by complications from abortions,<sup>59</sup> which are illegal with no exceptions under Colombian law. The Constitutional Court declined to issue a ruling on the merit of a petition aimed at finding punishment in certain exceptional cases unconstitutional. The court referred to substantive errors in the petition but left the possibility open of reconsidering the case in the light of a new petition. In this respect, there have been recommendations to the Colombian State by the Human Rights Committee and the Committee on the Elimination of Discrimination against Women.<sup>60</sup> The lack of statistics disaggregated according to gender tends to weaken the impact of the institutional response as well as efforts to combat impunity.

18. The armed conflict affects women in different ways. They have been the victims of executions, murders, physical aggressions and intimidation, especially in cases where they are the companions or relatives of persons allegedly linked to those taking an active part in the hostilities. Many of these acts have been attributed to illegal armed groups. A number of allegations of cases involving members of the security forces have also been recorded. In addition, women have been the victims of threats that have at times forced them into displacement, frequently accompanied by their children. The threats are made by illegal armed groups, both paramilitaries and guerrillas. Most of them are directed against women in positions of leadership or responsibility, such as the leaders of civil organizations or women occupying public office or political positions. The State's response to gender-based violence, including domestic and sexual violence, continues to be unsatisfactory.

19. The Office in Colombia has received complaints of sexual violence attributed mainly to members of the public security forces. Other complaints have been made against members of the paramilitary groups and the FARC-EP, as well as against persons demobilized from the paramilitaries. In a number of these cases, the victims have been children, young women or indigenous women.

20. There has been special concern for the growing number of complaints concerning child prostitution, in many cases linked to networks of human trafficking that specially affect girls and young women. According to a recent study, in many cases the figures bear a direct relationship to conditions of extreme poverty, which in turn tend to be associated with the precarious living conditions of displaced persons.<sup>61</sup> The increase in prostitution has been accompanied by an increase in the rates of sexually transmitted diseases, including HIV/AIDS, pregnancies, abortions, alcoholism, drug addiction and mental health problems. Very few complaints reach the courts and the degree of impunity is practically total.

### **Persons deprived of liberty**

21. The situation of human rights in prisons continues to be critical and even worse than that observed in previous years. The rate of overcrowding, which is reflected in cruel, inhuman or degrading treatment, is currently 40 per cent, since the prison population is now in excess of 69,500 inmates, including 65,000 men and 4,500 women. The prison system has enough capacity for 49,800 inmates. In the prisons of La Modelo in Bogotá and in Bucaramanga, of Villahermosa in Cali and Bellavista in Medellín, overcrowding is in excess of 200 per cent. Of the 69,500 inmates, 27,500 have not been convicted. Only 25,800 have been convicted in the first instance. And of the total prison population, only 16,000 have received a final sentence. A further negative factor is the inadequate and in some cases non-existent separation of inmates according to categories (such as accused as opposed to convicted, or low, medium and high security prisoners).

22. Detention centres are not equipped with sanitary conditions or health-care services that ensure respect for the dignity of detainees. There is a lack of medicines and insufficient medical staff. The provision of health-care services outsourced to private companies has been inadequate and access to this right has been significantly restricted. Persons suffering from HIV/AIDS have been doubly affected by the situation. Food is frequently inadequate. Most of the inmates do not have work or proper training. Limitations are imposed on prison treatment and specialized care. These conditions apply particularly in recently built jails such as those of Girón (Santander) and Cómbita (Boyacá).

23. Prison conditions for women in many cases do not take into consideration their specific needs. The Ombudsman's Office asked for the women's annex of the high and medium security prison of Valledupar to be closed. This request was based on existing conditions of overcrowding, lack of basic hygiene, inadequate infrastructure and sanitary installations, and the lack of facilities for children under the age of 3, among other factors. The decision had a positive effect and led to some improvement. Nevertheless, in many women's prisons the situation continues to be such that it does not ensure dignified living conditions for the inmates.<sup>62</sup> Also there is no differentiated prison policy for ethnic, sexual or religious minorities and persons living with HIV/AIDS.<sup>63</sup>

24. It has been found that some persons accused and convicted are being held in National Police stations.<sup>64</sup> Apart from this irregular aspect, the conditions there are subject to serious overcrowding, lack of adequate infrastructure, lack of health care and food, and no separation between men and women, amongst others.<sup>65</sup>

### **Journalists**

25. The Office in Colombia continued to record allegations of threats against journalists in different towns in the country, in connection with the publication of information or opinions concerning the armed conflict and human rights. The frequency of threats and exiles of journalists increased.<sup>66</sup> Assassinations of and attacks against journalists continued, as well as obstructions to freedom of the press. These actions were to a great extent attributed to paramilitary groups and to the guerrillas. A proportion of the complaints about threats and obstructions were attributed to public officials. Persistent impunity with respect to violations of freedom of expression affected the exercise of this right.<sup>67</sup> In many cases investigations have made no progress or have produced very few results, and in other cases they have not even begun, which increases the intimidation effect of such events.

26. Self-censorship has arisen not only as a result of deliberate acts directed against the journalists, but also owing to statements and pressures by some public officials. Because of this intimidation, many journalists abstained from visiting places personally, preferring to echo official figures; alternatively they would leave facts out and some even gave up journalism altogether.<sup>68</sup> Groups of journalists in several regions of the country reported that they were prevented from issuing information on certain aspects of the Colombian situation, especially on topics related to the armed conflict, human rights and public policies in those areas. The places most affected by pressures and self-censorship in 2005 were Buenaventura, Norte del Valle, Neiva, Arauca, Cúcuta, Santa Marta, Cartagena, Barranquilla, Caquetá, Putumayo and Córdoba.<sup>69</sup>

### **Sexual minorities**

27. Lesbians, gays, bisexuals and transgenders were exposed to murder and threats in the name of “social cleansing”. Generally speaking the results of investigations into the identities of perpetrators are very inadequate.<sup>70</sup> Those groups were the victims of arbitrary detentions and cruel, inhuman or degrading treatment by members of the police force.<sup>71</sup> There have also been allegations of harassment of homosexuals by members of illegal armed groups. There are no specific public policies to prevent or penalize such actions or to eliminate discrimination against those groups, especially in educational establishments, in the field of employment, in the police force and in detention centres.

### **Kidnapped and disappeared persons**

28. According to official figures, the number of kidnappings fell during the first half of the year.<sup>72</sup> There are believed to be approximately 5,420 persons currently in captivity.<sup>73</sup> According to the Office of the Vice-President, in the first nine months of the year 76 per cent of the victims were men, 24 per cent women and 12 per cent children. Out of the total, 1,140 people are believed to be held by the FARC-EP and 671 by the ELN. It is estimated that 474 are being held by the AUC, despite the fact that the latter have been negotiating with the Government for the

last three years and should provide information on kidnapped or disappeared persons. It must be remembered that official statistics currently record only cases reported to the prosecutors delegated to the Gaula (Unified Action for Personal Liberty Groups).<sup>74</sup> This means that cases which have not been reported for various reasons are not included, or those which are difficult to register because of the circumstances (for instance, kidnappings lasting a few hours or a few days, in the course of which victims may be forced to transfer property or withdraw money). According to data supplied by the Fundación País Libre, there are some 2,500 cases for which those responsible have not been identified and the fate of the victims remains unknown. A number of cases recorded as kidnappings are confused with enforced disappearances, forced recruitment or human trafficking, amongst others. The departments most affected by kidnappings for purposes of extortion are Antioquia, Valle, Meta, Bolívar and Cauca.<sup>75</sup> Nevertheless, occurrences are tending to remain the same or become worse in Meta, Huila, Cauca, Valle, Nariño and Tolima, while there appears to be a consolidation of alliances between organized crime and illegal armed groups.<sup>76</sup> One improvement has been the adoption of a law that provides benefits for victims and their families, including the postponement of expiry dates on certain obligations.<sup>77</sup>

29. Despite the progress made with legislation on enforced disappearances, the implementation of these new laws has been insufficient.<sup>78</sup> The Government's efforts through the National Commission on Disappeared Persons and the introduction of a National Register have still not succeeded in preventing disappearances, or in finding the whereabouts and identity of victims. In November, Decree No. 4218 was adopted for the purpose of designing, implementing and regulating the National Register of Disappeared Persons, which was created under Act No. 589 of 2000. The discovery of clandestine graves (such as those of San Onofre, Sucre and in localities of Norte de Santander) reflects the magnitude of this phenomenon and the importance of making progress in consolidating the National Register of Disappeared Persons and in regulating the mechanism for urgent searches.

### **Public servants**

30. In 2005 local authorities and other public servants continued to be exposed to murders, hostage-taking, attacks and threats. The victims were mayors, former mayors and councillors and State employees connected to judicial investigations, particularly employees of the Attorney-General's Office, the Procurator-General's Office and magistrates. According to the Observatory of the Office of the Vice-President, the 21 murders of councillors recorded up to October 2005 represented an increase of 33 per cent in comparison with the same period of 2004. Half of these cases were recorded in Caquetá, and others in Valle, Cauca, Huila and Sucre. While up to October the number of mayors and former mayors murdered during the year fell from 14 to 7, the number of councillors killed rose from 15 to 20.<sup>79</sup> In most cases of murders of mayors and councillors, responsibility was attributed to the FARC-EP. Some cases were also attributed to paramilitary groups. In Florencia (Cauca), the entire municipal administration was threatened and paralysed, allegedly by a gang led by a demobilized paramilitary operating with the acquiescence of members of the municipal police force. Also in Florencia (Caquetá), all the councillors of the 16 municipalities enjoy the benefit of the State protection programme. Judicial staff have been exposed to threats and attacks, particularly in connection with investigations they have been undertaking against members of illegal armed groups. They include prosecutors, procurators and judges, as well as some municipal ombudsmen. This situation was particularly

serious in Putumayo, owing to threats against prosecutors and the murder of a woman prosecutor, as well as in San José de Apartadó (Antioquia), where two attacks against judicial commissions were reported. Some judges were transferred as a result of these threats.

### **Political leaders**

31. A number of political leaders and activists have been the victims of attacks, threats and murders. Particularly affected were persons belonging to the Unión Patriótica, the Communist Party and the Polo Democrático. Another serious event was the new attack in Bogotá in October against Senator Germán Vargas Lleras, the leader of the Cambio Radical party. Towards the end of the year and at the beginning of the pre-electoral period, such attacks intensified, increasing the vulnerability of these leaders, including candidates and representatives of various groups, particularly leaders and candidates of the Social and Political Front, as well as the conservative leader, former senator and former governor of Huila, Jaime Losada, who fell victim to a murder attributed to the FARC-EP.

## Annex V

### THE CHALLENGES OF DEMOBILIZATION AND ITS LEGAL FRAMEWORK

1. The High Commissioner has recommended that dialogues and negotiations be held between the Government and the illegal armed groups with a view to overcoming the internal armed conflict. All efforts made in this respect should bring about a substantial improvement in the basic rights and freedoms of the Colombian population. It is worth reiterating the need for negotiations to be undertaken within the framework of Colombia's international commitments with respect to human rights and international humanitarian law. Particular attention must be given to addressing requirements in terms of combating impunity and victims' rights to truth, justice and reparation. These requirements also include guarantees of non-repetition. The Office in Colombia has been following up these issues, within the framework of its mandate of observation and advice, analysing the effects of demobilization on human rights. The impact of demobilization on the free exercise of the civil and political rights of the population, as well as on the rule of law, deserves particular analysis.

#### **Demobilization of paramilitary groups**

2. The paramilitary groups of the AUC had undertaken a commitment to demobilize all their personnel by 31 December 2005. Three units ("bloques") were demobilized at the beginning of the year, after which the process remained suspended pending approval of a legal framework to regulate the process of collective demobilization and the more serious cases. In June Congress approved Act No. 975 of 2005, known as the Justice and Peace Act. The process continued with several interruptions. The High Commissioner for Peace and the AUC agreed to extend the deadline for demobilization until 15 February 2006.

#### *Clarification of the truth*

3. The data concerning demobilization show a number of inconsistencies and gaps. No official information has been released regarding the approximate number of members of paramilitary groups who are represented at the negotiating table. Some published estimates have varied by over 100 per cent over a period of two years. The same was true with regard to the changes in the numbers and persons representing paramilitary groups at the negotiating table. Occasionally even the names of the units themselves have changed. Such inconsistencies make it very difficult to attribute responsibilities, to clarify the truth and to implement effective justice.

4. According to several allegations and reports, more people were recruited just before several groups were demobilized. Accusations were also made that persons had been added who did not belong to the paramilitary groups. A substantial gap could be observed, moreover, between the number of persons demobilized and the quantities of weapons and ammunition handed over. On the other hand, after units had been demobilized, the security forces discovered storage areas belonging to them containing military material and weapons.

5. The quantity of illegally acquired goods handed over by the paramilitary groups is insignificant. It should be pointed out that the clarification of crimes and the determination of property belonging to the paramilitaries depend on the full cooperation of persons who have actually been connected with the violations and breaches committed by these groups. This situation also has an impact on the guarantees of non-repetition.

*Guarantees of non-repetition*

6. Repeated non-compliance with the cessation of hostilities has been observed since it was declared more than two years ago. Violent actions have occurred in several regions of the country which have constituted violations of human rights and breaches of international humanitarian law. Both commanders and members of groups which have already been demobilized have been involved in non-compliance. Paramilitary leaders have generally denied any responsibility for the actions they have been accused of.

7. A number of demobilized persons have apparently been co-opted by drug-traffickers, paramilitaries who have not been demobilized and common criminals, particularly in Valle del Cauca and Catatumbo (Norte de Santander). Demobilized persons have been accused of being the perpetrators of extortive kidnappings, attempted murders, threats and displacements and have been linked to the organization of new groups.

8. It has been observed that the military structures of a number of officially demobilized units have been maintained and continue to operate, for example in the departments of Nariño and Córdoba. At the same time, groups that have not been demobilized have expanded their territorial coverage, particularly the Norte and Elmer Cárdenas units.

9. There have been reports of weaknesses and problems arising with the policies implemented to support the reincorporation of demobilized persons, which could adversely affect measures taken to prevent the latter from returning to criminal activities. Faced with a total lack or insufficiency of sustainable productive projects, the measures are basically limited to the monthly payment of aid for 18 months. It has been observed that offers of training, psychosocial support or employment alternatives either do not materialize at all or do so in insufficient numbers. The Procurator-General's Office, through the project for "Preventive Control and Follow-up of Public Reincorporation and Demobilization Policies", has been able to identify some of these difficulties. The project has in particular highlighted problems related to the fulfilment of State commitments with regard to the reincorporation of demobilized persons.

*Respect and protection for public rights and liberties*

10. Three years after negotiations began, it has been observed that children are still present in the ranks of the paramilitaries. Information gathered by the Office indicates that in some cases the paramilitaries have handed over children directly to their families. In this way no record is kept by the Colombian Family Welfare Institute (ICBF), the State institution to which the children should be handed over according to the law. This manoeuvre could give rise to impunity regarding the responsibility of these groups and also in terms of denying the basic rights of children who were the victims of recruitment. It means that the latter are left without State protection or the benefit of programmes to which they are entitled.

11. In addition, the State's presence continues to be insufficient in several areas which were exposed to the influence of demobilized groups. There are still a number of challenges that need to be overcome in order to meet the needs of communities at risk and vulnerable groups living in those regions of the country. In this respect, due attention must be paid to the need to adopt measures and policies for prevention and protection of the human rights of the civilian population.

12. The overall figure for homicides in Colombia has been falling in recent years, including those attributed to paramilitary groups. It should be noted that, over the last three years, there has been a change in the violent tactics used by the paramilitaries. These have been focusing their actions on selective murders rather than massacres. In view of the situation in areas of influence where major paramilitary groups have been demobilized, however, it cannot be said that any significant decrease occurred in the number of homicides from 2004 to 2005, especially in regions where the homicide rate was high, taking into account that more than 10,000 paramilitaries have been demobilized.<sup>80</sup> There are even municipalities where the homicide rate either remained the same, as in Cúcuta (Norte de Santander), or increased, as in Buenaventura (Valle), Turbo (Antioquia) and Tierralta (Córdoba).

#### *Rule of law*

13. The demobilization of a large number of persons who have taken an active part in hostilities requires monitoring and follow-up on the part of the authorities to ensure that the persons once demobilized fulfil their commitments and have no further impact on the fundamental rights of the population. In the course of the year it was observed that institutions responsible for key aspects of the process have not had sufficient capacity to provide a proper follow-up on the situation of demobilized persons.

14. There have been reports of measures and statements encouraging the involvement of demobilized persons in security-related work. In September, the Government put forward a plan to involve 2,000 paramilitaries in "activities aimed at reparation and the restoration of order", as a kind of civic police force. Considering the reiterated allegations and observations regarding the existence of links between members of the security forces and paramilitary groups, however, it is advisable to avoid the participation of demobilized persons in any activities related with security institutions.

15. Several leaders of paramilitary groups have stated their intention to become involved in the electoral process in 2006, either directly, through political groups that represent their interests, or indirectly, by imposing their own candidates or exercising pressure on other candidates. As a result of the extension of the demobilization period beyond 31 December 2005, paramilitary groups will be present in several areas during the electoral campaign. Since it is difficult to be sure that all paramilitary structures have been effectively dismantled, this raises challenges for the proper running of the electoral process.

16. The control exercised by paramilitaries over urban centres has not diminished, as might have been expected, despite the declaration of a cessation of hostilities, the demobilization process and military actions by the security forces against some of the paramilitary groups. The latter have gradually penetrated and acquired control of municipal and departmental

administrations in several areas of the country, as well as of legal economic activities. In some cases land and other economic resources have been seized. Paramilitary groups and demobilized persons have continued to carry out extortions and have maintained close links with illegal activities, such as drug cultivation and trafficking or the smuggling of gasoline. This has led to a number of selective murders. Most of the deaths of demobilized persons so far have been due to either illegal activities or the settling of scores. A number of the latter cases were allegedly motivated by a wish to prevent the demobilized persons targeted from revealing information on human rights violations.

### **Legal framework applicable to demobilizations and challenges to avoid impunity**

17. Since 2003, the provisions of Act No. 782 and its implementing Decree No. 128 (adopted in January of this year) constitute the legal framework applicable to demobilized persons, who are eligible to obtain legal benefits subject to certain requirements. The benefits are intended for those who are not accused of having committed serious human rights violations or breaches of international humanitarian law, and who moreover give up their weapons and contribute to the peace process. The benefits offered consist in a series of procedures to terminate or suspend criminal proceedings, which include pardons. It has been observed that in a number of cases the law has been unsuitably applied and could give rise to situations of impunity.

18. In June 2005, Congress adopted a new legal framework to cover demobilized persons who were excluded from the terms of Act No. 782 because they were identified as having committed serious crimes. According to the new Act No. 975, known as the Justice and Peace Act, benefits will be granted to members of armed groups who demobilize and contribute to the peace process. This law has not yet been applied.

19. The legislation establishes two standards of eligibility, one for the demobilization of individuals and the other for demobilization of groups. The Office in Colombia had pointed out the inconvenience of giving equal treatment to these two situations. Proper collective demobilization makes a better contribution to efforts to overcome the conflict.

20. The text of the new law makes mention of victims' rights to truth, justice and reparation, thus taking account of the observations made by the Office. Nevertheless, these provisions are not compatible with other terms of the law. Moreover, there are no suitable mechanisms to give effect to the rights to truth, justice and reparation. In particular, the Act does not include a requirement that demobilized persons should cooperate fully with the justice system. Nor does it require their effective assistance for the clarification of facts. Yet it is not possible to implement justice or to guarantee reparation without ascertaining the truth.

21. In view of the impunity that prevails for the great majority of crimes perpetrated by armed groups, the prospects of ensuring justice must be deemed uncertain. In the absence of the cooperation and information which should be provided by the demobilized persons, it is left for judicial officials to reconstruct the facts and attribute responsibilities. This is because the law does not provide sufficient incentives to ensure full cooperation, or penalties consisting in non-entitlement or loss of benefits for holding back information. Since there is no requirement that crimes must be confessed before legal benefits may be obtained, the latter appear disproportionate in relation to the contribution required of demobilized persons. It also creates difficulties for reconciliation and effective reincorporation of demobilized persons.

22. In addition, the procedural deadlines and timetables laid down in the law are too short to allow enough time to overcome the difficulties, as a result of which many criminal proceedings have resulted in impunity. Even when the victims' right to reparation is specified in the law, there are still many difficulties to overcome before it can be made effective. On the one hand, the obligation for demobilized persons to hand over property acquired as a result of illegal activities depends almost entirely on their willingness to do so, because of the lack of any penalties for non-compliance. On the other hand, the use of front men and other methods for laundering assets in order to hide or disguise properties and goods pose considerable challenges.

23. A National Reparation and Reconciliation Commission has been set up by law with a very broad mandate, but is ill-equipped legally to take decisions. Although its terms of reference include preparing a public report on the reasons for the uprising and the development of illegal armed groups, the Commission does not provide a suitable response in terms of complying with international principles concerning the right to the truth. Its composition with a membership of 13, does not ensure sufficient independence because it includes senior government officials and because victims are underrepresented. In fact it began its operations without having appointed the two victims' representatives.

24. It is worth remembering that for years there has been evidence of links between some public servants and paramilitary groups, which have implicated the State's responsibility in a variety of crimes attributed to those groups. Yet neither the law nor the public statements of the Government make any reference to that situation. Nor have suitable mechanisms been created to examine a possible share of responsibility on the part of the State in relation to paramilitarism, or to adequately address the effective dismantling of its illegal structures.

25. In view of the situation of impunity in Colombia, the institutional weaknesses of the judiciary and the gaps in the Justice and Peace Act, the provisions of the law are believed to apply to only a small percentage of demobilized persons. Insofar as no charges have been brought against them, and the demobilized persons do not incriminate themselves, the way remains open for applying Act No. 782, including the concession of benefits such as pardons. It is worth noting that in the course of judicial proceedings the paramilitary units believed to be responsible are generally identified, or more specifically their leaders, so that the majority of demobilized persons remain free of all charges. This concern appears justified in the light of the statements made by the President of the High Council of the Judiciary, in October 2005, to the effect that no proceedings had been initiated against most of the demobilized persons. As a result, many cases could remain unpunished and the victims could be left deprived of their rights.

26. An issue which still remains unresolved is how the judicial proceedings will address on the one hand the possible responsibility of government employees for those crimes and, on the other hand, the verification of compliance with legal requirements on the part of demobilized persons. With respect to the latter problem, it has been reported that demobilized paramilitary groups have not complied with the obligation to hand over all children enlisted in their ranks. Nor have these groups released persons they have kidnapped. Also they have apparently failed to supply a proper list of illegally acquired goods and resources, or any useful information on the whereabouts of other hostages and disappeared persons. The discovery of several clandestine graves shows that enforced disappearance is practised by the paramilitary groups. The State should ensure that these crimes are clarified within the context of the demobilization process.

27. These considerations illustrate the major challenges facing Colombia in its efforts to strengthen the rule of law, to achieve peace and reconciliation and to avoid impunity. Results will depend to a great extent on the measures implemented for the effective fulfilment of the victims' rights to truth, justice and reparation.

### Notes

<sup>1</sup> See report of the United Nations Office on Drugs and Crime, Colombia, Coca Cultivation Survey, June 2005.

<sup>2</sup> According to the Rome Statute, these are crimes committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

<sup>3</sup> According to the Rome Statute, these are grave breaches of international humanitarian law, in particular when committed as a part of a plan or policy or as part of a large-scale commission of such crimes.

<sup>4</sup> This was shown by investigations into extrajudicial executions in Cajamarca, those of trade unionists in Arauca, and that of Víctor Maestre of an indigenous community of Sierra Nevada de Santa Marta. See document E/CN.4/2005/10, para. 86.

<sup>5</sup> Constitutional Court ruling No. C-1001/05 declaring unconstitutional article 300 of Act No. 906 of 2004 promulgating the new Code of Criminal Procedure. See the press release of the Constitutional Court of 3 October 2005.

<sup>6</sup> Statistical data concerning economic, social and cultural rights essentially refer to urban areas. Few data are available concerning the country as a whole. It is well known, however, that the poorest people live in rural areas, which also enjoy less access to health and education services, amongst others. It would be very useful, therefore, to have regular statistics on the situation in those areas and to take account of aspects such as peoples' ethnic background and gender.

<sup>7</sup> A special area established for negotiations between the Government and paramilitary groups.

<sup>8</sup> Act No. 782 supplemented and amended an Act of 1997 on the establishment of mechanisms to facilitate negotiations and agreements with illegal armed groups. Enforcing Decree No. 128 was adopted in January 2003.

<sup>9</sup> See the report of the Office of the Controller-General of the Republic of 9 June 2005.

<sup>10</sup> According to statistics provided by the Foundation for Freedom of the Press (FLIP).

<sup>11</sup> According to information provided by Free Country Foundation, there are approximately 5,400 persons held in captivity.

<sup>12</sup> Commission on Human Rights, Chairperson's Statement, Human rights situation in Colombia, Geneva, 21 April 2005, para. 3.

<sup>13</sup> CIAT is a body for coordination between the civil authorities and the security forces, which takes action on SAT risk reports by issuing alerts and recommendations.

<sup>14</sup> SAT, which is run by the Office of the Ombudsman, is in charge of issuing risk reports relating to serious human rights violations and breaches of international humanitarian law.

<sup>15</sup> See Chapter IV of this report concerning allegations of infiltration by paramilitaries.

<sup>16</sup> Such as the establishment of a National Council and municipal committees in charge of care of the displaced population.

<sup>17</sup> This is the National Economic and Social Policy Council economic document No. 2400 of 28 November 2005 entitled “Goals and prioritization of resources to care for the population displaced by violence in Colombia”.

<sup>18</sup> In addition, Act No. 975 of 2005 has given rise to petitions of unconstitutionality.

<sup>19</sup> The Act is pending constitutional review by the Constitutional Court for subsequent ratification.

<sup>20</sup> These include the draft statutory law on children and adolescents, the draft statutory law on the judicial protection of certain social rights, and the draft law to establish an observatory for gender affairs. A draft law was also submitted on mechanisms for cooperation between Colombia and the International Criminal Court.

<sup>21</sup> If the Office of the Procurator-General does not exercise its jurisdiction preferentially in disciplinary investigations of serious human rights violations, these are investigated by the same institutions to which the suspected perpetrators belong, and frequently lead to impunity.

<sup>22</sup> The assessment of economic, social and cultural policies is hampered by the lack of up-to-date statistics on the subject, as well as the delay in their dissemination, changes in methodology and limited geographical and population coverage.

<sup>23</sup> The National Economic and Social Policy Council (CONPES) is the highest national planning authority and functions as an advisory body for the Government in all matters relating to Colombia’s economic and social development.

<sup>24</sup> Alliance of Social and Related Organizations, Colombia-Europe-United States Coordination Office, and the Colombian Platform on Human Rights, Democracy and Development.

<sup>25</sup> Belgium, Canada, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Morocco, Netherlands, New Zealand, Norway, Pakistan, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States, and European Commission.

<sup>26</sup> Project co-financed by the European Commission.

<sup>27</sup> Project co-financed by the European Commission.

- <sup>28</sup> The prisons of Riohacha, Guajira; Quibdó, Chocó; Villahermosa, Calí; women's prisons of "El Buen Pastor", Bogotá, and "La Badea", Pereira; high and medium security prisons of San Isidro, Popayán and Girón.
- <sup>29</sup> Programme co-sponsored by the European Commission.
- <sup>30</sup> Resolution 865 dated 31 December 2004, issued by the Office of the Ombudsman.
- <sup>31</sup> Document published by the Office in Colombia of the UNHCHR in 2004 within the Cooperation Project with the Office of the Procurator-General.
- <sup>32</sup> Technical team made up of UNHCR, PAHO, IOM, UNICEF, UNFPA, UNAIDS, UNIFEM, UNODC, Office of the Resident Coordinator, UNDP, under the coordination of the Office in Colombia of the United Nations High Commissioner for Human Rights.
- <sup>33</sup> As in the cases of the President of the José Alvear Restrepo Lawyers' Association and one of the members of the Inter-Church Commission for Justice and Peace.
- <sup>34</sup> Statements were made, for example, questioning the impartiality of the international NGOs Peace Brigades International (PBI), Human Rights Watch (HRW) and Amnesty International (AI).
- <sup>35</sup> Decree No. 4200 of 14 December 2004.
- <sup>36</sup> The number fell by 38 per cent during the first half of 2005, according to the Universal Registry System (SUR).
- <sup>37</sup> According to the CODHES (Consulting Bureau for Human Rights and Displacement).
- <sup>38</sup> The FARC were blamed for the cases of Toribío and Jambaló (Cauca), Vistahermosa (Meta), Tame (Arauca), Cocorná (Antioquia), Valencia (Córdoba) and Roberto Payán (Nariño) and the ELN for that of Dibulla (La Guajira).
- <sup>39</sup> Including those occurring on the Bojayá river and the Buey river (Chocó), in the municipality of San Pablo (Magdalena Medio), in the Alto del Telembí (Nariño) and in El Carmen (Norte de Santander).
- <sup>40</sup> As occurred in Argelia (Antioquia) and in Barbacoas (Nariño).
- <sup>41</sup> See Constitutional Court ruling No. 176, of 29 August 2005.
- <sup>42</sup> Including the formulation of the National Plan of the National System for Assistance to the Displaced Population, Decree No. 250 of 2005.
- <sup>43</sup> Report by UNHCR to the Constitutional Court of 18 March 2005.

<sup>44</sup> The Office recorded cases in Antioquia, Caquetá, Chocó, Putumayo and Sierra Nevada de Santa Marta.

<sup>45</sup> For example, through actions by both groups in Chocó; and in the east of Antioquia, Caquetá and Putumayo by guerrillas.

<sup>46</sup> According to information provided by the CIAT, by August 2005 actions by the public security forces (39) were among the most frequent measures taken in response to reports of risk situations (compared to 17 humanitarian actions and 17 by security councils, amongst others).

<sup>47</sup> See UNHCR: “Considerations concerning compliance with decision T-025 of 2004”, of 18 March 2005.

<sup>48</sup> The Raizal are the inhabitants of the San Andrés, Providencia and Santa Catalina islands, an English-speaking people of Antillean origin.

<sup>49</sup> According to the Observatory of the Vice-President’s Office, the FARC-EP are believed to be responsible for 33 per cent of deaths, with 8 per cent being attributed to self-defence groups.

<sup>50</sup> Children account for 48 per cent of displaced persons, according to Acción Social of the Office of the President of the Republic.

<sup>51</sup> According to the Observatory for Anti-Personnel Mines, they make up 30 per cent of civilian casualties.

<sup>52</sup> Approximately 2 million children according to the press release at the ILO Meeting on the Situation of the Worst Forms of Ill-treatment of Children, Bogotá, Colombia, 18 October 2005.

<sup>53</sup> According to the National Survey on Demography and Health, 2005, the percentage of adolescents becoming pregnant rose from 19 to 21 per cent in the last five years. The greatest percentages of adolescent pregnancies occurred in Caquetá, Meta and Cauca, followed by Cesar, Chocó and the towns of Arauca and Guaviare.

<sup>54</sup> For example, in the field of domestic violence, according to the 2005 National Survey on Demography and Health, 2 out of every 5 women who have at one time been married or have lived with a male partner reported having suffered physical aggression by the spouse or companion.

<sup>55</sup> The unemployment rate among women is almost 18 per cent, compared to 10.5 per cent among men (2019 Visión Colombia. Office of the President of the Republic, DNP (National Planning Department), 2005 discussion draft). Women’s incomes are generally 20 per cent below those of men (National Report on the 2005 Millennium Goals).

<sup>56</sup> For example, the maternal mortality rate continues to be very high. In 2003 the average rate was 99 per 100,000 live births, but in Chocó it was as high as 409 per 100,000 live births (National Report on 2005 Millennium Goals).

<sup>57</sup> For example, only 6 per cent of governors are at present women, 7.5 per cent of mayors and 12 per cent of members of Congress (UNIFEM. Situation of women in Colombia, September 2005).

<sup>58</sup> The fact that investigations into domestic violence depend on complaints filed by the victims and that conciliation hearings must be held in a situation of inequality between the parties makes it difficult to protect victims or to punish those responsible.

<sup>59</sup> According to official data this is estimated to be the third highest cause of maternal death.

<sup>60</sup> Concluding Observations of the Human Rights Committee: Colombia, 26 May 2004. CCPR/CO/80/COL., para. 13; and Committee on the Elimination of Discrimination against Women: Colombia, 4 February 1999; A/54/38, paras. 337-401 and para. 393 respectively.

<sup>61</sup> See study by the Colombian Institute for Family Welfare and the Renacer Foundation in Cartagena.

<sup>62</sup> In the District Prison of Valledupar and in that of Bucaramanga, the inmates live in conditions of overcrowding and pregnant women receive no medical attention, except in cases of emergency.

<sup>63</sup> There is no assessment of the situation regarding vulnerable persons deprived of liberty.

<sup>64</sup> Detention cells run by the Metropolitan Police of Bogotá, Junín Station and El Guabal in Cali.

<sup>65</sup> For example, a Kankuamo indigenous person died in the prison of Valledupar, apparently for lack of medical care.

<sup>66</sup> See for example report No. 61 of the FLIP (Freedom of the Press Foundation), General Assembly of the Inter-American Press Association (Colombia). The FLIP recorded 60 cases of threats up to the beginning of November 2005, compared with 34 the year before.

<sup>67</sup> Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. Analysis of freedom of expression in Colombia, August 2005.

<sup>68</sup> Ibid.

<sup>69</sup> According to the Committee to Protect Journalists, interviews with dozens of journalists show that the media and reporters all over the country practise self-censorship for fear of physical reprisals by all the armed parties of the conflict. The issues that create risks are reports regarding human rights abuses, the armed conflict, political corruption, drug trafficking and links between officials and the illegal armed groups.

<sup>70</sup> Cases were recorded in Bogotá, Pereira, Barranquilla, Cartagena and Campo Alegre (Huila).

<sup>71</sup> Cases were recorded in Medellín and Barranquilla.

<sup>72</sup> There have been 60 per cent fewer cases, according to the Observatory on Human Rights and International Humanitarian Law of the Office of the Vice-President.

<sup>73</sup> According to data supplied by the Free Country Foundation.

<sup>74</sup> Security and Democracy Foundation. Special report: Uribe, three years. Bogotá, August 2005.

<sup>75</sup> According to the Observatory on Human Rights and International Humanitarian Law of the Office of the Vice-President.

<sup>76</sup> Kidnapping in Colombia: Receding but transforming, UNDP. Hechos del callejón, No. 10, December 2005.

<sup>77</sup> The law allows the extension of the implementation of certain obligations, tax relief, employers' obligations to continue paying salaries or the State's obligation to cover the health and education costs of victims' families.

<sup>78</sup> See Working Group on Enforced or Involuntary Disappearances. Press release, Mission to Colombia, 12 July 2005.

<sup>79</sup> According to data supplied by the Colombian Federation of Municipalities and the Observatory of the Office of the Vice-President.

<sup>80</sup> Comparative table of the rates of homicide for the years 2004 and 2005 within the areas of influence of each demobilized unit based on official police homicide statistics. The indicator used is the percentage of homicides for every 10,000 inhabitants based on the 1993 census, the most recent one carried out for the country as a whole. The five units listed were demobilized between December 2004 and June 2005.

Units or "bloques"	Demobilization date	2004	2005	Change in the homicide rate
Bloque Bananero	25 November 2004	5.21 homicides per 10,000 inhabitants within the unit's area of influence	8.11 homicides per 10,000 inhabitants within the area of influence	+56%
Cundinamarca self-defence forces	9 December 2004	2.72	2.01	-26%
Bloque Catatumbo	10 December 2004	9.45	8.17	-13.5%
Bloque Calima	18 December 2004	12.04	10.08	-16%
Bloque Córdoba	18 January 2005	2.08	1.57	-24%
Héroes de Tolová	15 June 2005	1.79	4.10	+229%

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