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# U.S. Department of State Diplomacy in Action

## Colombia

Country Reports on Human Rights Practices  
Bureau of Democracy, Human Rights, and Labor  
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Colombia is a constitutional, multiparty democracy. In 2002, voters elected independent candidate Alvaro Uribe president and selected a bicameral legislature with a mix of Liberal, Conservative, and independent members. On October 25, voters narrowly rejected a major economic and political reform referendum, and on October 26 gave center-left candidates a number of victories in local and regional elections. The referendum and elections were generally free and fair, in spite of concerted efforts by terrorist organizations such as the United Self-Defense Forces of Colombia (AUC) and Revolutionary Armed Forces of Colombia (FARC) to manipulate or disrupt them. Internal armed conflict continued between the Government and terrorist groups, particularly the FARC, the National Liberation Army (ELN), and the AUC. The conflict caused the deaths of between 3,000 and 4,000 civilians during the year, including combat casualties, political murders, and forced disappearances. The civilian judiciary is largely independent of the executive and legislative branches; however, it is overburdened, inefficient, and subject to intimidation and corruption by terrorist groups and common criminals.

The civilian-led Ministry of Defense (MOD) is responsible for internal and external security and oversees both the police and the armed forces, including the army, air force, and navy. The National Police shared law enforcement duties with the Administrative Department of Security (DAS) and the Prosecutor General's Corps of Technical Investigators (CTI). The police are responsible for maintaining internal order and security in urban areas, and reestablished a permanent presence in all but 18 of the country's 1,098 municipalities by the end of the year. The armed forces are responsible for maintaining order and security in rural areas and support the police in urban areas when called upon. Although civilian authorities generally maintained effective control of the security forces, there were instances in which members of the security forces acted contrary to the dictates of civilian and military authorities. Over the years, police and military forces have taken steps to improve their human rights record; however, some members of the security forces continued to commit serious violations of human rights.

The country's population is approximately 44 million. Despite decades of violence precipitated by internal armed conflict and the drug trade, the market-based economy is diverse and relatively advanced. Crude oil, coal, coffee, and cut flowers are the country's principal legal exports, although drug trafficking has created a large illicit economy. Economic growth for the year was estimated at 2.5 percent, while inflation measured 6.5 percent. Income distribution was highly skewed, with 55 percent of the population living in poverty. Unemployment fell to 14.5 percent; however, per capita GDP also fell to \$1,704 (4.7 million pesos).

The Government's human rights record remained poor; however, there were significant improvements in some areas. An increasingly small percentage of total human rights abuses reported were attributed to security forces; however, some members of the security forces continued to commit serious abuses, including unlawful and extrajudicial killings. Some members of the security forces collaborated with the AUC terrorist group that committed serious abuses. Allegations of forced disappearances and kidnappings remained. Police, prison guards, and military forces mistreated detainees. Conditions in the overcrowded and underfunded prisons were harsh, and prisoners frequently relied on bribes for favorable treatment. There were allegations of arbitrary arrests and detentions and prolonged pretrial detention remained a fundamental problem. Impunity remained at the core of the country's human rights problems. The civilian judiciary was inefficient, severely overburdened by a large case backlog and undermined by corruption and intimidation. Despite some prosecutions and convictions, the authorities rarely brought high-ranking officers of the security forces charged with human rights offenses to trial.

The authorities sometimes infringed on citizens' privacy rights. A number of journalists were killed, and journalists continued to work in an atmosphere of threats and intimidation, in some instances from local officials in alliance with terrorist groups, but primarily from terrorist groups. Journalists practiced self-censorship to avoid reprisals from terrorist organizations. There were some restrictions on freedom of movement, generally because of security concerns, and confined to narrowly defined geographic areas.

Violence and instability displaced approximately 100,000 civilians from their homes in the first half of the year. The total number of internally displaced persons may have exceeded 2.0 million, including 800,000 children. There were reports that members of the security forces, harassed members of human rights groups. AUC, FARC, and ELN terrorists threatened and attacked human rights activists. Violence and extensive societal discrimination against women, child abuse, and child prostitution remain serious problems. Extensive societal discrimination against indigenous persons and minorities continued. Child labor was a widespread problem. Trafficking in women and girls for the purpose of sexual exploitation was a problem.

The FARC and ELN terrorists were responsible for a large percentage of civilian deaths attributable to the internal armed conflict. Early in the year, during terrorist bombing campaigns, the number of abuses committed by FARC and ELN terrorists rose significantly; however, the rate of abuses declined over the year due to increased military pressure. The FARC and ELN announced that henceforth they would work together strategically and neither group would negotiate a peace agreement with the Uribe Government. Both terrorist forces engaged in a concerted campaign to destabilize municipal governments by killing urban officials and threatening to execute others. As a result, many mayors felt compelled either to submit their resignations or to govern from safer locales; however, the majority of the city government officials forced to flee in 2002 returned to their cities as security forces reentered previously abandoned cities under the Democratic Security Initiative. In addition to politicians, FARC and ELN terrorists killed journalists, labor union members, and numerous religious leaders. The FARC also continued to

kidnap, torture, and murder off-duty members of the public security forces. The FARC and the ELN, kidnapped thousands of civilians and at least 25 members of the security forces to help finance subversion and put political pressure on the Government. Victims were held in deplorable conditions and were often tortured both physically and psychologically. The FARC and ELN terrorists caused massive displacements both intentionally and as byproducts of military offensives and caused hundreds of civilian deaths and injuries through random terrorist bombings throughout the country. They also engaged in widespread recruitment of minors and used female conscripts as sex slaves.

Despite cease-fires declared in the context of demobilization negotiations conducted by the AUC--an umbrella organization of different paramilitary terrorist groups--with the Government, these terrorists continued to commit numerous unlawful and political killings, including of labor leaders, often kidnapping and torturing suspected guerrilla sympathizers prior to executing them. They also conducted kidnappings for ransom and committed "social cleansing" killings of homosexuals and other supposedly "undesirable" elements. The AUC terrorists often interfered with personal privacy in areas where they exercised de facto control, and regularly engaged in military operations in which they endangered civilian lives by fighting in urban areas and using civilian dwellings as combat shelter. AUC terrorists displaced thousands through both terror-induced forced displacements of suspect populations and military operations that drove peasants from their homes. AUC terrorists regularly threatened and attacked human rights workers and journalists who criticized their illegal activities. They also recruited child soldiers. Important strategic and financial areas continued to be heavily contested, especially as the Government eradicated coca crops, and created anti-kidnapping task forces.

The Government's emphasis during the year on improving security resulted in significant improvements in many human rights indicators. Murders fell by 20 percent, kidnappings declined 39 percent, and forced displacements of persons were cut by 49 percent. The number of newly displaced persons appeared to decline for the first time since 1999. The overall number of large-scale massacres and other killings committed by AUC terrorists appeared to decline during the year. Labor leaders and activists continued to be victims of high levels of violence; however, the number of union leaders killed during the year declined significantly.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary and Unlawful Deprivation of Life

Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings. The National Police registered 23,013 homicides during the year, a 20 percent decrease from 2002. The Colombian Commission of Jurists (CCJ), a prominent local human rights nongovernmental organization (NGO) (see Section 4), claimed there were at least 1,781 political murders and extrajudicial killings during the first 9 months of the year. The CCJ also asserted that at least 730 persons died in politically motivated massacres between July 2002 and June 2003. The Government's Presidential Program for Human Rights, however, reported that 430 persons died in massacres during the year, a 38 percent decrease from the Program's 2002 figure.

According to the CCJ, state security forces were responsible for at least 101 politically-motivated extrajudicial killings and 1 social cleansing killing during the first 9 months of the year. For example, according to Amnesty International (AI), on January 30, army troops removed 15-year-old Jose Amancio Niasa from a bus near Bagado, Choco department, and murdered him. Most of the incidents cited by the CCJ were under investigation by military and/or civilian authorities at year's end. Civilian courts tried an increasing number of cases of military personnel accused of human rights violations (see Section 1.e.). Investigations of past killings proceeded slowly.

The Office of the Inspector General (Procuraduria) and the military penal justice system continued separate investigations into the deaths of Florentino Castellanos and his 9-year-old son during a military operation near the town of Cantagallo, Bolivar department, in September 2002.

The Office of the Prosecutor General continued to gather evidence against eight members of the Army's Ninth Brigade, including a colonel and a captain, who were indicted in December 2002 for the extrajudicial killing of a FARC deserter in 2002.

From August 2002 through November 2003, the Inspector General's Office charged 68 members of the Armed Forces with human rights offenses. Of these individuals, 18 were soldiers, 13 were non-commissioned officers (NCOs), 11 were lieutenants, 15 were captains, 2 were majors, 6 were colonels, 2 were Brigadier Generals, and one was a Rear Admiral. As in the previous year, the Office continued to refer all cases involving human rights violations to the Prosecutor General for criminal investigation.

As of December, the Human Rights Unit of the Prosecutor General's Office (Fiscalia) had issued preventive detention orders for 14 members of the Armed Forces for human rights violations and/or paramilitary collaboration. However, for various reasons, including lack of resources for investigation, lack of protection for witnesses and investigators, lack of coordination between government organs, and in some cases, obstruction of justice by individuals, impunity continued to be widespread. (On April 8, the Office of the Prosecutor General suspended three soldiers for their connection to the deaths of six children who were mistaken for insurgents in Pueblo Rico, Antioquia department in 2000. The military courts are still considering the case

Investigations continue into the 2001 paramilitary massacre in San Carlos, Antioquia department, which resulted in the deaths of 13 persons.

Prosecutors were awaiting a verdict following the trial of 8 members of the army accused of the January 2002 murders of Uberney Giraldo and Jose Evelio Gallo, demobilized ELN guerrillas associated with the Socialist Renewal Current (CRS) political movement.

There was no progress in the investigation of a 2001 paramilitary massacre in San Carlos, Antioquia department, during which 13 persons died.

On July 23, retired army Lieutenant Colonel Jorge Plazas, who was serving a 40-year prison sentence for his role in the 1998 kidnapping and murder of Jewish businessman Benjamin Khoudari, escaped from his prison cell at the military's artillery school in Bogota. The army offered a \$5,350 (15 million pesos) reward for information leading to his arrest and announced penal and disciplinary investigations into his escape.

There was no progress during the year, none seemed likely, in the Prosecutor General's and the Inspector General's investigations of involvement of state security forces in the 1998 Barrancabermeja massacre and the 2000 murder of eyewitness Elizabeth Canas.

On March 26, a Bogota civilian court acquitted army intelligence officers Omar Berrio and Henry Berrio of masterminding the 1995 murder of Conservative Party leader Alvaro Gomez. On May 22, a civilian court in Bogota acquitted retired army Colonel Bernardo Ruiz of involvement in the crime.

On December 18, the Government agreed to pay \$570,000 (1.6 billion pesos) to victims of the 1993 Riofrio massacre in Valle del Cauca department, during which paramilitaries murdered 13 peasants. Members of the army subsequently attempted to cover up the massacre by staging a mock combat at the scene and dressing the victims in guerrilla uniforms. The Government made its compensation decision following conciliation discussions between representatives of the Ministry of Defense and victims' families.

The Supreme Court had by year's end not ruled on appeals by 5 army officers and 4 suspected paramilitaries of their 1998 convictions for facilitating the 1988 Nuevo Segovia paramilitary massacre, in which 43 persons died.

There was no ruling on the Office of the Inspector General's appeal of a decision by the Council of State to overturn the Inspector General's order that the military dismiss Brigadier General Alvaro Velandia for involvement in the 1987 murder of M-19 guerrilla Nydia Erika Bautista. However, in November, the Human Rights Unit of the Prosecutor general's Office announced that it had enough evidence to continue its investigation of Velandia and three other NCOs.

There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from civilian leaders, including the President, and the military high command (see Section 1.g.). Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities. For example, AI alleged that between May 1 and May 7, army soldiers wearing AUC armbands entered five indigenous communities in Arauca department and raped three teenage girls and killed one.

Impunity for military personnel who collaborated with members of paramilitary groups remained a problem. However, there was progress in several prominent cases related to military collusion with paramilitaries. For example, on December 16, the Inspector General's Office administratively sanctioned three military officers--retired Rear Admiral Rodrigo Alfonso Quinonez, Captain Oscar Eduardo Saavedra, and Captain Camilo Martinez--for failing to prevent the 2001 paramilitary massacre of 27 people in the village of Chengue, Sucre department. The Inspector General also ordered the dismissal of two NCOs, Rafael Euclides Bossa and Ruben Dario Rojas, for providing weapons to the paramilitaries that committed the massacre. There was no progress, however, in the investigation of the August 2001 murder of Yolanda Paternina, then-lead prosecutor in the case, or the disappearance in 2001 of three criminal investigators sent to Sucre to gather evidence in the case.

The Prosecutor General's Office closed its investigation into the military's alleged involvement in a 2001 paramilitary massacre near Buga, Valle del Cauca department, after finding no evidence of wrongdoing.

There was no progress in investigations of the 2000 and 2001 paramilitary murders of members of the "peace community" of San Jose de Apartado, Antioquia department. Peace community leaders accused the military of complicity in the crimes, and were highly suspicious of government investigators and prosecutors handling the cases. Members of the peace community were generally uncooperative and avoided speaking with authorities, severely limiting the Government's ability to make progress in the investigations.

In December, an army officer was convicted of collaborating with paramilitaries in the unsuccessful attempt on the life of labor leader Wilson Borja in 2000 (see Section 6.a).

There was no progress in the investigation of the 2000 paramilitary massacre of 42 persons in Las Ovejas, Bolivar department.

There was no progress in the investigations of army Colonel Victor Matamoros and army Captain Juan Carlos Fernandez for their alleged role in the 1999 paramilitary massacre in La Gabarra, Norte de Santander.

The Office of the Inspector General made no progress in its investigation of Colonel Rafael Alfonso Hani's alleged collaboration with paramilitaries during his tenure as commander of the Army's Palace Battalion in Buga, Valle del Cauca department, between 1999 and 2000.

There was no progress in investigations into the 1999 Tibu and Los Cuervos massacres in Norte de Santander department.

There was no progress in the investigation of the 1998 paramilitary massacre at Puerto Alvira, Meta department.

The Offices of the Prosecutor General and Inspector General continued to investigate whether members of the public security forces were involved in any of approximately 160 social cleansing killings that took place in northeastern Antioquia department between 1995 and 1998.

On June 20, former army colonel Lino Hernando Sanchez was convicted and sentenced to 40 years in prison for his role in the 1997 paramilitary massacre at Mapiripan, Meta department; the court also sentenced two non-commissioned officers to 32 and 22 years in prison, respectively. The Prosecutor General's Office had indicted former Brigadier General Jaime Uscategui in March for his alleged role in the massacre. Former army major Hernan Orozco, who petitioned for political asylum in a foreign country after testifying against Uscategui in an earlier military trial, was also indicted for allegedly helping Uscategui falsify official reports.

In May, the Prosecutor General's Office acquitted former General Rito Alejo del Rio of collusion with paramilitaries during his tenure as commander of the army's 17th Brigade in the Uraba region of Antioquia department from 1995 to 1997.

The trial continued of retired army Colonel Jose Ancizar Hincapie for alleged collaboration with paramilitaries who murdered 11 persons between 1993 and 1994.

The Inter-American Commission on Human Rights (IACHR) continued to broker a settlement of the Patriotic Union (UP) party's 1996 complaint that charged the Government with "action or omission" in the murders of nearly 3,000 UP and Communist Party members in the 1980s and 1990s. Negotiations between the Government and UP representatives continued, but little progress was achieved.

On March 28, two former officials from the city of Apartado, Antioquia department, were sentenced to 9 years in prison for organizing paramilitary groups that murdered several UP members between 1990 and 1996. On September 22, a judge ordered that an investigation into the 1990 murder of UP leader Bernardo Jaramillo be reopened, and that investigators determine whether paramilitaries successfully infiltrated Ossa's government-provided security detail.

Paramilitaries committed numerous political and unlawful killings, primarily in areas they disputed with guerrillas and generally in the absence of a strong government presence. According to the CCJ, paramilitaries were responsible for at least 892 such killings during the first 9 months of the year. Paramilitaries targeted journalists (see Section 2.a.), human rights activists (see Section 4), labor leaders (see Section 6.a.), indigenous leaders (see Section 5), local politicians, and others who threatened to interfere with their criminal activities or showed leftist sympathies. For example, in January, paramilitaries in the town of Barrancabermeja, Santander department killed two feminist activists they suspected of collaborating with the FARC. On October 16, paramilitaries abducted and murdered Amaris Miranda, an activist with the Women's Popular Organization (OFP), a local NGO that was highly critical of paramilitary influence in the city. In December, police arrested four local paramilitaries suspected of participating in her murder.

The Office of the Prosecutor General continued to investigate scores of other murders committed by paramilitaries in Barrancabermeja.

The trial of four paramilitaries for the 2001 murder of former Cucuta regional ombudsman Ivan Villamizar continued at year's end (see Section 4). An arrest warrant was issued for AUC leader Carlos Castano for involvement in the crime.

There was no progress in the Prosecutor General's investigation of the 2001 paramilitary murder of Congressman Jairo Hernando Rojas.

Paramilitaries killed members of the security forces who interfered with their illegal activities. For example, on July 10, a paramilitary ambush killed two narcotics police officers who were searching for an AUC drug laboratory. Paramilitaries operating in Casanare and Boyaca departments responded to military offensives against paramilitaries in the region by executing five police officers in late July and early August. On February 13, in Gaira, Magdalena department, DAS agents arrested Luis Fernando Teheran, who was suspected of murdering five DAS agents in Magangua, Bolivar department, in February 2002.

Continuing a trend that began in 2002, paramilitaries appeared to commit far fewer large-scale massacres than in previous years. According to the Presidential Program for Human Rights, only 13 persons died in paramilitary massacres during the year, compared with 54 in 2002 and 281 in 2001. However, the CCJ blamed paramilitaries for far more massacres, reporting that paramilitaries killed at least 368 persons in massacres between July 2002 and June.

There was no progress in the investigations of alleged paramilitary massacres that occurred in Penol, Antioquia department, Frias, Magdalena department, and Sabaletas, Valle del Cauca department, in 2001.

Paramilitary continued to commit "social cleansing" killings of prostitutes, drug users, vagrants, and the mentally ill in city neighborhoods they controlled. According to the CCJ, paramilitaries committed at least 229 social cleansing killings during the first 9 months of the year. For example, the regional ombudsman in Bucaramanga, Santander department, reported that paramilitaries had murdered 37 adolescent vagrants in the city as of September. On June 1, DAS agents in Pereira, Risaralda department, captured an alleged paramilitary gunman wanted for the murder of five drug addicts. On July 18, paramilitaries in Santa Rosa de Cabal, Risaralda department, killed three peasants who they claimed were common criminals.

Guerrillas, particularly the FARC, committed hundreds of unlawful killings. According to the CCJ, guerrillas were responsible for 427 unlawful killings during the first 9 months of the year, 203 of them massacres. The MOD attributed 70 percent of civilian deaths to guerrillas in 2002. The Presidential Program for Human Rights reported that the FARC killed at least 150 persons in massacres, although another 259 persons were killed in massacres in which the perpetrators remained unidentified.

Among guerrilla's primary targets were local elected officials, candidates for public office, religious leaders (see Section 2.c.), and alleged paramilitary collaborators. The FARC also continued its attempts to assassinate President Uribe (see Section 3).

On January 16, FARC guerrillas dragged 17 peasants from their homes in and around the town of San Carlos, Antioquia department, and executed them. Witnesses said the killers justified the executions by asserting that the victims were paramilitary collaborators. The army pursued and killed 12 of the guerrillas responsible for the massacre. On January 31, FARC guerrillas near the town of Piamonte, Cauca department, massacred eight community leaders whom they believed were paramilitary collaborators.

On May 5, the FARC executed 10 hostages, including Governor of Antioquia Guillermo Gaviria and former Minister of Defense Gilberto Echeverri (see Section 1.b.), during an ill-fated hostage rescue attempt by the military. Gaviria and Echeverri had been kidnapped in April 2002 while leading a peace march near the town of Caicedo, Antioquia department.

There was no progress in the investigations of the FARC's murders of seven eco-tourists in Purace National Park in 2001, the FARC's murders of seven peasants near the village of Alto Sinu, Cordoba department, in 2001, or the ELN's murders of nine peasants in the village of La Cristalina, Santander department, in February 2001.

The Office of the Prosecutor General continued to investigate the deaths and disappearances of off-duty military and police personnel targeted by the FARC as part of its publicly announced "Pistol Plan". In January, for example, FARC guerrillas kidnapped, tortured, and killed a soldier who was returning from his father's funeral. On June 3, police arrested four members of the ELN after uncovering a plot to execute off-duty police officers in Cucuta, Norte de Santander department.

On September 26, the Office of the Prosecutor General indicted the entire FARC Secretariat for the murders of seven residents of the town of La Macarena, Meta department, in the week following the abolition of the FARC's former safe haven, or "despeje", in February 2001. Prosecutors believed the peasants were murdered for cooperating with the army.

On January 13, CTI and DAS agents arrested 14 guerrillas; one of whom was believed to have participated in the FARC's March 2000 attack on the twin towns of Vigia del Fuerte, Antioquia department, and Bellavista, Choco department, which killed 20 persons. They were awaiting trial at year's end.

The Office of the Prosecutor General continued to investigate the FARC's December 2000 murder of Congressional peace commission chairman Diego Turbay, his mother, and five other persons in Caqueta department. While arrest warrants have been issued, no progress was expected in arresting the senior FARC leaders accused of ordering the crime. On July 28, Willington Silva, the guerrilla charged with the 1997 kidnapping and murder of Turbay's older brother, then-Senator Rodrigo Turbay, escaped from Neiva prison after FARC guerrillas launched an offensive against the prisons to free Silva and other guerrilla prisoners.

On May 17, the Government extradited Popular Liberation Army (EPL) member Gerardo Herrera Iles, who was indicted in a foreign court for the 2000 kidnapping and murder of a foreign oil company technician near the Ecuadorian border.

There was no progress in the investigation of the FARC's murders of Henry Perea, former mayor of Jurado, Choco department, in 2001, and former Minister of Culture Consuelo Araujo near Valledupar, Cesar department, also in 2001.

The trial in absentia of three FARC guerrillas suspected of involvement in the 1999 murders of 3 U.S. citizen indigenous rights activists began in Cucuta on May 26. Convicted FARC guerrilla Nelson Vargas, who confessed to the crime, was extradited to the United States.

The FARC executed guerrillas who attempted to desert. In June, the FARC Secretariat issued orders to infiltrate the Government's desertion/reinsertion program in order to murder former members of the organization. On June, FARC infiltrators murdered a former guerrilla who had accepted a leadership role in the program.

#### b. Disappearances

The law specifically defines forced disappearance as a crime. The CCJ reported 260 cases of forced disappearance during the first 9 months of the year, and accused the security forces of direct responsibility for 48 of these cases. For example, the CCJ alleged that on May 11 troops of the 6th Brigade surrounded the towns of Montoso and Aco, Tolima department, accused various members of the population of being guerrilla collaborators, and causing the disappearance of Jose Maximiliano Gomez. The Association of Families of Detained and Disappeared Persons (ASFADDES), which reported 785 forced disappearances during the first 9 months of the year, claimed there have been more than 6,000 cases of forced disappearance since 1982. The U.N. Working Group on Enforced or Involuntary Disappearances reported that there have been at least 1,114 cases since 1981; 850 of these cases remained unresolved.

Paramilitaries were responsible for most forced disappearances. According to the CCJ, paramilitaries were responsible for 183 forced disappearances during the first 9 months of the year. Paramilitaries often abducted persons suspected of collaboration with guerrillas; almost all were presumed dead (see Section 1.a.). For example, authorities believed paramilitaries killed four fishermen who remained unaccounted for after a 2001 mass abduction from the Ciénaga de Santa Marta region of Magdalena department. On January 18, paramilitaries abducted an eight-man hunting party near the town of Palo Cabildo, Tolima department, as well as a three-man search party sent to look for the missing hunters. On February 12, the army discovered their bodies in a mass grave. The CCJ blamed guerrillas for 3 forced disappearances.

Kidnapping, both for ransom and for political reasons, remained a serious problem. According to the Free Country Foundation, there were 2,200 kidnappings during the year, a reduction of 30 percent compared to the 2,982 kidnapping reported in 2002. Elite government anti-kidnapping units known as GAULAs and other elements of the security forces freed 667 hostages in the first 9 months of the year. However, despite government efforts, the Free Country Foundation reported that, through August, at least 52 persons died in captivity.

Some members of the state security forces were involved in kidnapping for ransom. In August, for example, three policemen from Popayan, Cauca department, kidnapped a soldier and his younger brother, asking for \$77,000 (200 million pesos) ransom. The soldier had been part of an army unit that discovered a FARC cache of \$8 million (20.7 billion pesos) near the town of San Vicente del Caguan, Caqueta department.

The Free Country Foundation reported that paramilitaries were responsible for 168 kidnappings through November, or 8 percent of all kidnappings in which a perpetrator was identified. Paramilitaries kidnapped both for ransom and as an expression of power and influence. For example, on May 30, paramilitaries in the department of Cesar released a senior departmental government employee they had held captive for over 9 months; paramilitaries justified their actions by claiming they had held him while they investigated allegations of corruption. On September 20, the military rescued a rancher that paramilitaries were holding for ransom near the town of Puerto Lopez, Casanare department.

No progress was made in the investigation of the June 2001 paramilitary abduction of Embera-Katio indigenous leader Kimi Domico in Tierralta, Córdoba department. Comments made by AUC military commander Salvatore Mancuso in 2002 implied that Domico had been killed.

No progress was made and none seemed likely in the investigation of the disappearances of two CTI agents near Berrugas, Sucre department, in 2001 (see Section 1.a.).

Kidnapping continued to be an unambiguous, standing policy and major source of revenue for both the FARC and the ELN. The Free Country Foundation reported that guerrillas were responsible for approximately 55 percent of kidnappings reported during the first 11 months of the year in which a perpetrator was identified. According to the Foundation, through November, the FARC kidnapped 640 persons and the ELN 320. In addition, the FARC often purchased kidnapping victims from common criminals and then negotiated ransom payments with families. There were many reports that guerrillas tortured kidnap victims (see section 1.c. and 1.g.).

One of the largest categories of kidnapping victims was children, 201 of whom were kidnapped by mid-October. In February, for example, the ELN kidnapped a captured EPL guerrilla's infant to pressure the former insurgent not to cooperate with the authorities. On February 21, the military rescued the child and arrested the guerrilla who cared for the infant.

The Free Country Foundation reported that, as of November 30, there had been 1,358 kidnappings for ransom during the year, or approximately 70 percent of all kidnappings. Guerrillas even demanded ransom payments to return the bodies of hostages who died in captivity. In August, for example, the ELN demanded \$7,700 (20 million pesos) to return the body of deceased hostage Carlos Enrique Salinas to his widow. Salinas had died in captivity after being kidnapped from the tourist resort of Bahia Solano, Choco department, in August 2002.

The FARC and ELN also committed numerous politically motivated kidnappings. On September 14, for example, the ELN kidnapped eight foreign tourists in the mountainous Sierra Nevada region of Magdalena department. Rather than demanding a ransom, the ELN used negotiations over the hostages' release to demand political concessions. All hostages were released by December 22, in return for a Roman Catholic Church-sponsored study of economic and social conditions in the Sierra Nevada region.

The FARC used political kidnappings to discredit the Government and pressure it into a prisoner exchange. On February 13, for example, the FARC kidnapped three foreign citizens after their narcotics surveillance aircraft crash-landed in a rural area of Caqueta department. The FARC said it would release the three only as part of a prisoner exchange.

The FARC continued to hold political hostages, including former presidential candidate Ingrid Betancourt, former Senator Jorge Eduardo Gechem, former members of Congress Orlando Bernal, Luis Eladio Perez, and Consuelo Gonzalez, Congresswoman Gloria Polanco, former Governor of Meta department Alan Jara, and 12 former regional legislators from Valle del Cauca department. On August 5, the FARC released former Congressman Oscar Lizcano after nearly 3 years in captivity. The Government indicted various alleged guerrillas for these crimes, but none had been convicted by the end of the year.

The FARC released several proof-of-life videos during the year, which stirred debate over the possibility of a "humanitarian" prisoner exchange. The hostages' families, national and international NGOs, foreign governments, and prominent public figures pressured the Government to cede to the FARC's demands. However, the Government insisted on ironclad guarantees that that released combatants not return to terrorist ranks, a condition unacceptable to the FARC.

The FARC also kidnapped members of the public security forces. According to the Free Country Foundation, 25 members of the public security forces were kidnapped through November, all by guerrillas, particularly the FARC.

The FARC killed numerous hostages during the year. For example, on May 5, the FARC executed Antioquia Governor Guillermo Gaviria, former Minister of Defense Gilberto Echeverri, and eight others during an ill-fated rescue attempt by the military (see Section 1.a.). During the FARC's February 13 kidnapping of three foreign citizens following their plane's crash landing, the FARC executed another foreign citizen and a Colombian military officer.

The FARC also executed a former beauty queen and her industrialist husband, who were kidnapped in December 2002, and a Japanese executive, who was kidnapped in early 2001. On December 15, DAS agents arrested FARC leader Wilmer Marin, alias "Hugo," for murdering the Japanese national.

On July 4, Vice-President Francisco Santos announced that the Government was creating a sophisticated database to help GAULA units apply lessons from past operations and use information gathered from victims and families to improve their performance. The government-affiliated Fund for the Defense of Personal Liberty (FONDELIBERTAD) provided assistance to approximately 600 friends and relatives of kidnap victims.

### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and criminal law explicitly prohibit torture, and cruel, inhuman, or degrading treatment or punishment; however, there were reports that the police, military, and prison guards sometimes mistreated and even tortured detainees. Members of the military and police accused of torture are tried in civilian, rather than military, courts (see Section 1.e.). In November, the U.N. Committee against Torture expressed "concern over the large number of cases of torture and mistreatment allegedly committed in a generalized and habitual manner by state security forces and bodies...both in and out of armed operations."

The Office of the Inspector General received 103 complaints of torture by state agents in 2002. The CCJ asserted that between July 2002 and June 2003 the security forces were responsible for at least 52 incidents of torture.

AI reported that, on May 28, Wilson Duarte, a peasant farmer, and Hernando Mican were abducted by paramilitaries, supported by the military, in Viota, Cundinamarca department, and later tortured and killed. The Prosecutor General's Office has issued five orders of preventive detention, including two against members of the army, in this case.

The Office of the Prosecutor General continued to investigate accusations publicized during 2002 by the Committee in Solidarity with Political Prisoners (CSPP) that members of the Cali GAULA collaborated with paramilitaries in abducting and torturing individuals suspected of involvement in kidnappings.

The CCJ reported that paramilitaries were responsible for at least 123 cases of torture between July 2002 and June. On July 21, for example, paramilitaries allegedly abducted Nora Cecilia Velasquez, a leader of the National Association of Black and Indigenous Women, and repeatedly tortured her physically and psychologically for 3 days before releasing her. Many victims of paramilitary killings often showed signs of torture; for example, in April authorities discovered a former paramilitary base in the village of Puerto Torres, Caqueta department, and found evidence that paramilitaries had dismembered and burned victims alive.

Guerrillas also committed acts of torture. The CCJ reported 10 cases of torture by guerrillas between July 2002 and June; the bodies of many persons kidnapped and subsequently killed by guerrillas showed signs of torture, and former guerrilla hostages reported severe deprivation, denial of medical attention, and physical and psychological torture during captivity (see Section 1.b.). The MOD reported that guerrillas tortured, mutilated, and killed soldiers and police who surrendered (see Section 1.g). In May, for example, FARC guerrillas tortured and killed two police officers they forced off a bus traveling between the towns of Villanueva and Arenal, Bolivar department.

Prison conditions remained harsh, especially for prisoners without significant outside support. Many of INPEC's 8,756 prison guards were poorly trained or corrupt. Severe overcrowding and dangerous sanitary and health conditions were serious problems. Private sources continued to supplement most prisoners' food.

Only six prisons—Valledupar, Acacias, Popayan, Combita, and newly constructed prisons in Palogordo, Santander department, and La Porada, Caldas department—met international standards for acceptable prison facilities. In other facilities, inmates paid to eat, drink, or sleep on a mattress, wash clothes, or make telephone calls, and many were forced to pay protection money to fellow inmates or corrupt prison guards.

According to INPEC, overcrowding was the prison system's most serious problem. At the end of the year, the country's prisons and jails held 62,496 inmates, 30 percent over their intended capacity of 48,000. According to the National Human Rights Ombudsman's Office, the increasing severity of overcrowding was a direct result of more aggressive Government security policies, which were adding inmates at nearly six times previous annual rates.

Incarcerated members of illegal armed groups who refused to renounce terrorist affiliations were housed separately from members of rival groups and the general prison population. Authorities generally granted incarcerated leaders of these groups substantial autonomy to organize their respective prison wings and structure daily activities. To facilitate conditions for negotiations, the Government allowed some incarcerated leaders to use special communications equipment to maintain contact with terrorists still at large. Authorities continued moving high-level narcotics traffickers to the new high security prison at Combita, where they endured the same spartan conditions as other prisoners. In March, President Uribe announced the elimination of special privileges for white-collar criminals.

The genders were separated in facilities that held both men and women, and there were dedicated women's prisons. Conditions at women's prisons were similar to those at men's. According to the Criminal Procedure Code, no one under the age of 18 may be held in a prison; juveniles were held in separate facilities operated by the Colombian Family Welfare Institute (ICBF).

There were no separate facilities for pretrial detainees, who made up nearly 60 percent of prison inmates. According to INPEC, 27,793 pretrial detainees were held in overcrowded police jails. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees impossible.

The Government sometimes failed to prevent deadly violence among inmates. INPEC reported at least 15 violent deaths among inmates during the year, not including suicides. There were 2 major prison riots. On May 30, inmates protesting conditions at the city jail in Santa Marta, Magdalena department, rioted for approximately 32 hours, leaving several injured. On February 3, several inmates were seriously injured—one was paralyzed—when guards used clubs and tear gas to break up a riot at a prison in San Isidro, Magdalena department. The Office of the Prosecutor General continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally.

One hundred and seventeen prisoners escaped during the year. Fifty escaped while on furlough with special passes, 61 escaped because of faulty security, and illegal armed groups rescued 6. For example, on December 7, 6 members of the FARC escaped from jail in Florencia, Caqueta department, after starting a riot and overpowering the guards.

The ICRC continued to have routine access to most prisons and police and military detention centers. However, the FARC and ELN continued to deny the ICRC access to police and military hostages (see Sections 1.b. and 1.g.).

#### d. Arbitrary Arrests, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, there were allegations that authorities detained citizens arbitrarily.

The 125,000 members of the National Police fall under the jurisdiction of the Ministry of Defense. The National Police includes special units that focus on intelligence, narcotics, kidnapping and extortion, and rural policing. During the year, the police established a permanent presence in all but 18 of the 157 municipalities that lacked a police presence at the end of 2002. Police are authorized to execute arrest warrants and detain suspects "caught in the act" or fleeing the scene of a crime. Agents of the Department of Administrative Security (DAS), have broad intelligence gathering, law enforcement, and immigration control function, as do members of the Prosecutor General's Corps of Technical Investigators (CTI).

Police, DAS, and CTI officials executed arrest warrants issued by prosecutors based on probable cause. Law enforcement officials also arrested criminals caught in the act or fleeing the scene of a crime. Members of the Armed Forces detained members of illegal armed groups captured in combat, but were not authorized to execute arrest warrants. An anti-terrorism law passed by the Senate on December 10--but not yet endorsed by the Constitutional Court--would grant the military this power (see Section 1.f.). Law enforcement authorities must promptly inform suspects of the reasons for their arrest and bring suspects before a senior prosecutor within 36 hours of their detention. Prosecutors must rule on the legality of detentions within 72 hours.

The law prohibits incommunicado detention. Suspects have the right to prompt access to counsel of their choice, and public defenders from the Office of the Human Rights Ombudsman assist indigent defendants. Individuals accused of lesser or unintentional crimes have access to bail; bail is generally not available for serious crimes such as murder, rebellion, or narcotics trafficking. In the case of most felonies, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. In the cases of crimes deemed particularly serious, such as homicide or terrorism, authorities are allowed up to 360 days to file formal charges before a suspect must be released. Habeas corpus is available to address cases of alleged arbitrary detention.

Prominent human rights NGOs complained that the Government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. According to the Center for Popular Research and Education (CINEP), the security forces arbitrarily detained over 2,000 persons during the first 9 months of the year, a 400 percent increase over 2002. Many of these detentions took place in highly conflictive areas where the military was involved in active hostilities against terrorist insurgents. For example, on August 21 in the town of Saravena, Arauca department, military authorities arrested 42 persons, including social activists and human rights advocates, based on the accusations of masked informants who pointed out alleged guerrillas collaborators to prosecutors participating in the operation. The Government and prominent local NGOs frequently disagreed about how to define an "arbitrary" detention; the Government characterized detentions based on compliance with legal formalities, while NGOs typically applied other criteria that often had a political basis.

The Government said it did not hold political detainees, although some prominent NGOs considered captured guerrillas to be detained for political reasons.

Paramilitaries and guerrillas, particularly the FARC and the ELN, continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as political pawns in a prisoner exchange (see Section 1.b.).

The Constitution prohibits forced exile, and the Government respected this prohibition in practice. However, many persons from across the socio-economic spectrum went into self-exile because of threats from paramilitaries, guerrillas, or common criminals.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the suborning and intimidation of judges, prosecutors, and witness was a serious problem. The judicial system was also extremely overburdened. The administrative chamber of the Supreme Council of the Judiciary (CSJ) reported that, as of October, the civilian judiciary--including the criminal justice system--suffered from a backlog of at least 102,000 cases. These backlogs led to large numbers of pretrial detainees (see Section 1.c.) Impunity remained the greatest challenge to the credibility of the Government's commitment to human rights.

Judicial authorities were frequently subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees (ASONAL), numerous judicial branch employees received threats against their lives and some judges and prosecutors assigned to small towns worked out of departmental capitals because of security concerns. Others were less fortunate. For example, on January 27, paramilitary gunmen murdered municipal judge Marilis Hinojosa in the town of Becerril, Cesar department. As of the end of the year, the Human Rights Unit of the Prosecutor General's Office had charged more than 20 persons in the case, including the mayors of Becerril and the neighboring town of Codazzi. On September 4 in Bogota, suspected FARC operatives killed a former prosecutor who had been responsible for investigating the February bombing of the El Nogal social club (see Section 1.g.). Witnesses, who were even more vulnerable to intimidation, often lacked faith in the Government's ability to protect them and refused to testify.

The civilian justice system is a separate and independent branch of government that uses a Napoleonic legal system incorporating some accusatorial elements. In late 2002, Congress approved constitutional changes designed to convert the current mixed judicial system into a purely accusatorial system. The reforms will go into effect on January 1, 2005, prior to which major changes will have to be made to the penal, criminal procedure, and evidence codes. After that date, judges, rather than prosecutors, will issue arrest warrants and decide pretrial motions. Cases will be tried in open court and decided on the basis of oral trial proceedings, rather than an exhaustive written dossier.

The civilian justice system is composed of four functional jurisdictions: civil, administrative, constitutional, and special. The civil is the largest jurisdiction and handles all criminal, civil, labor, agrarian, and domestic cases involving non-military personnel. The civil jurisdiction is divided into 31 judicial districts, each containing at least one judicial circuit encompassing one or more municipalities. A superior tribunal serves as each district's court of appeals. The civil jurisdiction's 436 magistrates are distributed according to the population of each district. The lower

circuit and municipal courts--each staffed by a judge, a court clerk, and perhaps a few administrative personnel--are the basic cells of the civil jurisdiction. In small towns, a single "all-purpose" judge rules on all cases. Specialized circuit courts within the civil jurisdiction try cases involving particularly sensitive crimes such as narcotics trafficking and terrorism.

The Supreme Court is the highest court within the civil jurisdiction and serves as its final court of appeals. In addition to hearing appeals from lower courts, the Supreme Court has original jurisdiction in trials of the President, cabinet ministers, heads of independent Government agencies, admirals and generals, and magistrates of the Supreme Court, Council of State, Constitutional Court, and Supreme Council of the Judiciary (CSJ).

The administrative jurisdiction of the civilian justice system is divided into 27 judicial districts with an equal number of tribunals. Each tribunal has from 1 to 23 magistrates, depending on the population of the district. Administrative actions such as decrees and resolutions may be challenged in the administrative jurisdiction on constitutional or other grounds. The Council of State is the highest court in the administrative jurisdiction and serves as the final court of appeals for complaints arising from administrative acts.

The Constitutional Court, which is charged with "safeguarding the integrity and supremacy" of the Constitution, is the sole judicial body that encompasses the constitutional jurisdiction of the civilian justice system. It rules on the constitutionality of laws, presidential decrees, and constitutional reforms. The Constitutional Court may also issue advisory opinions on the constitutionality of bills not yet signed into law, and randomly reviews the decisions of lower courts on "tutelas", or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process as a legal defense of last resort. Courts must rule on the validity of a tutela within 10 days. Approximately 150,000 tutelas were before the Constitutional Court for possible review at the end of the year.

The final functional jurisdiction of the civilian justice system is the special jurisdiction. The special jurisdiction consists of the justices of the peace program, designed to encourage alternative dispute resolution at the municipal level, which has been implemented in less than 1 percent of the country's municipalities, and the indigenous jurisdiction, which grants indigenous leaders the right to exercise judicial functions on indigenous reservations in accordance with traditional laws (see Section 5.).

The Supreme Council of the Judiciary (CSJ) is responsible for the administration and discipline of the civilian justice system. The CSJ is divided into two chambers: administrative and disciplinary. The administrative chamber supervises the civilian justice system's budget and determines its organization. The disciplinary chamber disciplines judicial officials and resolves conflicts of jurisdiction, such as those between the civilian and military justice systems.

The Supreme Court, the Council of State, the Constitutional Court, and the CSJ are coequal supreme judicial bodies that sometimes issue conflicting rulings and frequently disagree about jurisdictional responsibilities.

The Office of the Prosecutor General (Fiscalia) is tasked with investigating criminal offenses and prosecuting the accused. The Supreme Court elects the Prosecutor General from a list of three candidates selected by the President. The Prosecutor General serves a 4-year term that overlaps two presidential administrations. The Office is independent of both the executive and judicial branches and is divided into national, regional, and local offices. The Office has its own corps of armed investigators known as the Corps of Technical Investigators (CTI). In 1994, the

Prosecutor General's Office established a special unit to investigate human rights crimes. The human rights unit is headquartered in Bogota and includes 11 satellite units in 7 regional capitals. The unit's 42 prosecutors were handling 1,458 cases at year's end.

The Office of the Inspector General (Procuraduria), also known as the Public Ministry, investigates allegations of misconduct by public employees, including members of the state security forces. The Inspector General, whose term overlaps those of two presidents, is elected by the Senate to a 4-year term from a list of three candidates nominated by the President, Supreme Court, and Council of State, respectively. The Office of the Inspector General imposes administrative sanctions that range from letters of reprimand to dismissal and permanent bans from public office. It has no authority to impose criminal sanctions, but can refer cases to the Prosecutor General. The Inspector General's Office referred all cases of human rights violations received during the year to the human rights unit of the Prosecutor General's Office.

A criminal case begins with a preliminary investigation that can last up to 180 working days. If evidence is found linking a particular individual to a crime, the case moves into a formal investigative stage in which prosecutors have a maximum of 360 working days to file formal charges. Once formal charges are filed, the Government has 35 working days to bring a case to trial. Trials are open to the public. Judges question witnesses directly and determine the outcome of all trials. There are no juries.

An accused is presumed innocent until proven guilty and has the right to timely consultation with counsel. Attorneys from the Office of the Human Rights Ombudsman (see Section 4) serve as public defenders and are required to represent indigent defendants. However, the Office is severely overburdened. Defendants have the right to be present at proceedings against them, review relevant government evidence, present witnesses and evidence on their own behalf, and confront and question prosecution witnesses. However, most evidence continued to be presented in writing, and judges generally relied on written records, rather than oral argument, to determine guilt or innocence. Defendants have the right to appeal a conviction to a higher court.

The military justice system, as part of the Ministry of Defense, falls under the executive branch. The director of the military penal justice system reports directly to the civilian Minister of Defense. The military justice system consists of the Supreme Military Tribunal, which serves as the court of appeals for all cases tried in military courts, and 40 military trial courts. The civilian Supreme Court serves as a second court of appeals for cases in which sentences of 6 or more years in prison are imposed.

The military judiciary may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The Military Penal Code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. A presidential directive issued in 2000 raised "to the category of law" a 1997 Constitutional Court ruling that defined all serious violations of human rights as unrelated to military service. Such cases are handled by the civilian justice system. The Military Penal Code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, even for service-related acts committed before their retirement. On July 29, the Minister of Defense inaugurated the new "Armed Forces School of Human Rights, International Humanitarian Law, and Military Penal Justice" at New Granada Military University.

Military prosecutors report to the director of the military penal justice corps, a senior flag rank officer, rather than to local commanders. The military penal code denies commanders the power to impose military justice discipline on their subordinates, and extends legal protection to service members who refuse to obey illegal orders to commit human rights abuses.

Criminal investigations within the military justice system are designed to be completed quickly. Military justice system investigators conduct fact-finding with the assistance of criminal investigators and/or judicial police. Preliminary investigations generally last 60 days or less, although investigations can last up to 180 days if a case implicates 2 or more suspects. If investigators believe there is reasonable evidence of guilt, a formal investigation, conducted within the same time frame, is initiated. During formal investigation, suspects in crimes punishable by 2 or more years in prison are usually placed in investigative detention, which can last up to 120 days. At the conclusion of the formal investigation phase, investigators can close a case for lack of evidence or turn it over to military prosecutors.

Prosecutors have 15 days in which to decide whether to return a case to investigators for further investigation, close it, or issue formal charges. If a suspect is charged, a court-martial takes place within 28 days. However, this rigorous timetable is suspended if a defendant appeals the court's jurisdiction or procedural rulings, an exception that causes some cases to drag on for years. For example, jurisdictional appeals accounted for some of the delay in the military's investigation of the 1998 Air Force bombing of the village of Santo Domingo, Arauca department (see Section 1.g.).

Military judges preside over Colombian courts-martial without the assistance of a jury. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within 8 days of a court-martial hearing. Representatives of the civilian Inspector General's Office are required to be present at courts-martial.

Criminal procedure within the military justice system is similar to that within the civilian justice system, with the exception that the military justice system has already incorporated many accusatorial elements. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A 1993 Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on public defenders from the Ombudsman's Office.

From August 2002 to October 2003 the CSJ ruled on 18 jurisdictional disputes between the civilian and military justice systems, assigning 12 cases to the civilian system and 6 cases to the military justice system. The Superior Military Tribunal reported that 72 cases were transferred from military to civilian jurisdiction from September 2002 to October 2003. An independent review of these cases revealed that approximately 26 involved allegations of gross violations of human rights or collaboration with paramilitaries.

The MOD reported--and the Prosecutor General's Office confirmed--that military and police personnel charged by civilian prosecutors routinely were suspended from their duties and placed on half-pay. Officers and NCOs were removed from command duties. Seventeen members of the military and at least seven police officers were suspended at year's end for human rights violations and/or collaboration with paramilitaries.

The Government did not hold political prisoners, although it held approximately 6,800 prisoners accused of terrorism, rebellion, or aiding and abetting insurgency. The Government gave the International Committee of the Red Cross (ICRC) access to these prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were exceptions.

With the exception of exigent circumstances, the law requires government authorities to obtain a warrant signed by a senior prosecutor in order to enter a private home without the owner's consent. The MOD continued training public security forces in legal search procedures that comply with constitutional requirements and human rights standards.

Government authorities generally need a judicial order to intercept mail or monitor telephone conversations, even in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization; such evidence could not be used in court. On December 10, the Senate passed an anti-terrorism statute containing provisions that would authorize government authorities to intercept private communications without judicial authorization in cases related to terrorism; implementing legislation elaborating on this exception had not been passed by the end of the year. Because the statute involves a constitutional reform, it must receive the endorsement of the Constitutional Court before becoming law. The Court had not ruled on the law by the end of the year.

On September 9, the Prosecutor General's Office charged 5 members of Medellin's anti-kidnapping unit (GAULA) with illegally wiretapping the telephone lines of 2,000 individuals and NGOs between 1997 and 2000. Separately, the Office of the Inspector General ordered the dismissal of Colonel Mauricio Santoyo, Medellin GAULA commander at the time the illegal wiretaps were placed and monitored. Santoyo, who was serving as Chief of Presidential Security at the time of his dismissal, appealed the charges. The Inspector General's ruling on Santoyo's appeal was pending at year's end. There was no significant progress in criminal and disciplinary investigations of the 2001 murder of police officer Carlos Ceballos, who testified in the case.

A key component of the Government's "Democratic Security Strategy" to combat terrorism and restore order throughout the country was a network of civilian informants who were paid to identify terrorist activists and sympathizers. Many national and international human rights groups criticized the network as vulnerable to abuse and a threat to privacy and other civil liberties.

The Government did not prohibit membership in most political organizations; however, membership in private organizations that espoused or carried out acts of violence--such as the AUC, FARC, and ELN--was illegal.

Paramilitaries and guerrillas routinely interfered arbitrarily with the right to privacy. Both groups forcibly entered private homes, monitored private communications, engaged in forced displacement (see Section 1.g.) and conscription, and punished family members for the alleged violations of individuals. The FARC, which employed large numbers of female combatants, prohibited pregnancies among its troops and ordered forced implantation of intrauterine devices and forced abortions.

#### g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

The country's 40-year-old internal conflict—among Government forces, several leftist insurgent groups, and a right-wing paramilitary movement nominally supportive of the State—continued. The internal armed conflict, and the narcotics trafficking that both fueled it and prospered from it, were the central causes of violations of human rights and international humanitarian law. Government security forces generally abided by international humanitarian law and respected human rights. The Human Rights Ombudsman's Office reported that only 2 percent of complaints it received about violations of human rights and international humanitarian law implicated members of the security forces. However, in violation of government and military policy, some members of the security forces violated human rights. For example, the CCJ asserted that state security forces committed 101 extrajudicial killings during the year (see Section 1.a.). Negligence by members of the public security forces, particularly during combat operations, also sometimes led to civilian deaths.

On January 18, the Human Rights Ombudsman's Office announced a \$5.3 million (15 billion pesos) lawsuit against the Government for alleged military negligence in failing to protect the citizens of Bojaya, Choco department, during a May 2002 battle between the FARC and AUC. One hundred nineteen civilians hiding in the town church were killed when a FARC gas cylinder bomb impacted the building.

On April 8, the Office of the Prosecutor General suspended three soldiers for their roles in the accidental deaths of six children caught in a crossfire between an army unit and ELN guerrillas in the town of Pueblo Rico, Antioquia department, in 2000. The case was still under investigation by the military penal justice system at year's end.

On January 14, the Inspector General's Office upheld the 90-day suspension of a helicopter pilot and flight technician for their roles in the 1998 Air Force bombing of the town of Santo Domingo, Arauca department. In February, consistent with an October 2002 ruling by the Constitutional Court, the Supreme Council of the Judiciary (CSJ) transferred the criminal investigation of the bombing from the military to the civilian justice system. On December 20, the Prosecutor General's Office charged the helicopter's pilot, copilot, and flight technician with involuntary manslaughter.

The Government, including military authorities, followed an open-door policy toward the ICRC, allowing free and safe passage to members of impartial humanitarian organizations, even in conflict zones.

Contrary to the explicit directives of civilian defense authorities and members of the military high command, some members of the public security forces—principally enlisted personnel and NCOs, but also some more senior officials—collaborated with or tolerated the activities of illegal paramilitaries. Reasons for collaboration or tolerance varied from ideological sympathy and perceived operational exigencies to corruption and participation in illegal paramilitary activities such as drug trafficking. Evidence suggested there were tacit arrangements between local military officers and paramilitary groups in some regions, and some members of the security forces actively assisted paramilitary groups by passing them through roadblocks, sharing intelligence, providing them with weapons and ammunition, and joining their ranks while off duty.

In January, an arrest warrant was issued for Major Renato Acuna, who was accused of trafficking arms and munitions to paramilitaries. Army Captain Jorge Ernesto Rojas will stand trial for alleged collaboration with Major Orlando Alberto Martinez in trafficking thousands of Bulgarian AK-47 assault rifles to the AUC.

Although there continued to be incidents of collaboration between members of the security forces and paramilitaries, the military substantially increased its offensive actions against paramilitary groups. According to the Ministry of Defense, members of the security forces captured 3,166 during the year, a 133 percent increase from 2002. They also killed 346 paramilitaries in combat over the year compared to 187 in 2002. Paramilitaries lost significantly more combatants per confrontation with the security forces than did the FARC or ELN.

Paramilitaries were responsible for numerous violations of international humanitarian law and human rights. There were approximately 12,000 paramilitary combatants in the country, the largest and most influential group of which was the United Self-Defense Forces of Colombia (AUC), a terrorist organization. The AUC operated as a loose confederation of disparate paramilitary groups, the largest of which was the United Self-Defense Forces of Cordoba and Uraba (ACCU), led by the principal organizers of the AUC, Carlos Castano and Salvatore Mancuso. Other important paramilitary organizations included the Cacique Nutibara Bloc (BCN), the Central Bolivar Bloc (BCB), and the Middle Magdalena Bloc (BMM).

On July 15, following 7 months of exploratory discussions between the AUC and a special government commission, the Government's Office of the High Commissioner for Peace (ACP) and senior representatives of the AUC agreed to begin formal negotiations for the AUC's full demobilization. Two pilot demobilizations took place near the end of the year. On November 25, 874 members of the AUC's Cacique Nutibara Bloc (BCN), a primarily urban organization, demobilized in Medellin, Antioquia department. On December 7, 168 members of the Peasant Self-Defense Groups of Ortega, a small paramilitary force with loose ties to the AUC, demobilized in Cauca department. The Government continued separate discussions with other paramilitary organizations, including the BCB and the AUC's Centauros Bloc, with the goal of fully demobilizing all overt paramilitary forces by the end of 2005.

The paramilitary demobilization process was controversial. Critics from across the ideological spectrum, including major domestic and international human rights groups, expressed concerns about the legitimacy of the process, the real motivations of the paramilitaries, and the potential for impunity for confessed human rights abusers.

In December 2002, the AUC and several other paramilitary organizations called cease-fires as signs of good will in anticipation of negotiations with the Government. The AUC cease-fire was reiterated in its July 15 agreement with the Government. However, none of the paramilitary cease-fires were fully observed, and some dissident paramilitary groups never agreed to a cessation of hostilities. Power struggles for leadership and control of drug trafficking resources provoked internecine warfare among paramilitary groups. For example, prior to its demobilization in November, the BCN engaged in a violent conflict with the dissident Metro Bloc that caused the Metro Bloc's total disintegration. On the country's eastern plains, the Centauros Bloc and the Peasant Self-Defense Forces of Casanare (ACC) continued to fight over drug cultivation areas and trafficking routes. Most paramilitary cease-fire violations, however, affected innocent civilians.

The Colombian Commission of Jurists registered at least 600 violations of paramilitary cease-fires during the year, including unlawful killings (see Section 1.a.), forced disappearances and kidnappings (see Section 1.b.), and forced displacements.

Paramilitaries were responsible for thousands of civilian deaths during the year. Combat between paramilitaries and guerrillas led to the deaths of hundreds of civilians. For example, in May, crossfire between paramilitaries and guerrillas killed five indigenous persons near Tame, Arauca department. On July 6, approximately 30 peasants were

killed during a battle between paramilitaries and guerrillas near Tibu, Norte de Santander department. Despite paramilitary cease-fire violations, however, the overall level of paramilitary violence appeared to drop significantly. According to figures released by the Presidential Program for Human Rights, paramilitaries committed fewer selective killings, particularly of vulnerable groups such as trade unionists, fewer massacres, and forcibly displaced fewer civilians. CCJ reported that, through September, paramilitaries were responsible for the deaths of 892 civilians, a negligible difference from 2002.

Although the overall number of displacements caused by paramilitaries fell, paramilitaries continued to forcibly displace civilians residing along key drug and weapons transit corridors or suspected of harboring sympathies for guerrillas. For example, on April 1, paramilitaries moved into the town of Viota, Cundinamarca department, and displaced 1,500 peasants suspected of having guerrilla sympathies. Paramilitaries also prevented or limited the delivery of foodstuffs and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement (see Section 1.d.). For example, in January, an AUC blockade of food and other essential items forced 74 rural families to flee to urban areas of southern Bolivar department.

Paramilitaries failed to respect the injured and medical personnel. Doctors and hospitals suspected of treating guerrillas were frequently declared military targets. For example, in August paramilitaries boarded a bus in Meta department and killed an indigenous doctor for allegedly collaborating with guerrillas.

Although paramilitaries continued to recruit minors (see Section 5), paramilitary groups turned over at least 75 minors to government authorities during the year, either as signs of good faith or as conditions of formal demobilization. For example, on June 26, paramilitaries operating in Meta and Vichada departments turned over 15 child soldiers to Government authorities. In conjunction with the BCN's formal demobilization in Medellin, 48 child soldiers were demobilized separately and turned over to government social services.

The country's two largest left-wing guerrilla organizations are the 13,500 member Revolutionary Armed Forces of Colombia (FARC), a terrorist organization, and the 3,500 member National Liberation Army (ELN), also a terrorist organization. Both organizations declined in numerical strength during the year because of strong pressure from the military that caused high numbers of guerrilla casualties and led thousands of guerrillas to desert. In many areas of the country, the two guerrilla groups worked together to combat both government forces and illegal paramilitaries. On August 26, the FARC and ELN high commands issued a joint communique acknowledging their cooperation and affirming that neither would enter peace negotiations with the administration of President Alvaro Uribe.

The FARC and ELN systematically violated international humanitarian law by committing unlawful killings, kidnapping civilians and military personnel, torturing captives, and recruiting child soldiers (see Sections 1.a., 1.b., and 1.c., and 5.).

Guerrillas were responsible for a large percentage of civilian deaths related to the internal conflict. Combat between guerrillas and state security forces caused hundreds of civilian casualties. For example, on February 18, two elderly women were killed in a crossfire between the Colombian Army and FARC guerrillas attacking the town of Mantanita, Caqueta department. CCJ attributed 427 civilian deaths to the FARC and ELN, and 361 to unidentified actors.

According to the Ministry of Defense, as of September 30, guerrillas, particularly the FARC, and to a lesser extent, the ELN, committed nearly 650 terrorist bombings. On February 7, for example, a FARC operative detonated a car

bomb in the parking garage of Bogota's exclusive El Nogal social club, killing 35 civilians, including 6 children, and injuring 173 others. On February 15, the FARC detonated a large cache of explosives during a police raid on a house in Neiva, Huila department that killed 17 persons and injured 37 others. The home was located near the city airport's main runway, and officials believed the explosives were intended for use in an assassination attempt against the President, who arrived by air the following day. On March 5, the ELN detonated a car bomb in a crowded shopping district in Cucuta, Norte de Santander department, that killed 7 persons and injured 60 others. In January, the FARC forced civilians to drive four cars loaded with explosives into military targets in Arauca department. The terrorists detonated the explosives by remote control, thereby killing the unwitting drivers. Guerrillas also detonated bombs attached to motorcycles, bicycles, animals, and human cadavers.

Guerrillas used landmines to defend static positions such as base camps and drug labs and as indiscriminate weapons of terror. According to the Vice-President's Office, between 70,000 and 100,000 landmines were deployed nationwide, and there were 860 registered landmine incidents during the year, a 30 percent increase over 2002. Landmines killed at least 155 people during the year, 25 percent of them civilians. Guerrillas were responsible for over 90 percent of landmine incidents. The FARC disguised landmines as everyday items such as soccer balls and paint cans, and increasingly used plastic mines that could not be detected by standard minesweeping technology. On February 27, the Government approved a National Mine Action Plan, and in March the Government and the OAS signed an agreement on cooperation and technical assistance.

Guerrillas failed to respect the injured and medical personnel. Both the FARC and the ELN frequently executed wounded prisoners, threatened and murdered doctors and nurses, and killed enemy combatants receiving medical care. For example, on April 22, ELN combatants entered a medical facility in the town of Fortul, Arauca department, and executed two wounded soldiers. On April 5, FARC guerrillas in Norte de Santander department opened fire on an ambulance carrying a critically ill 6-month-old girl and her family.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and removed potential Government or paramilitary collaborators from strategic zones. For example, in February, the FARC displaced 386 peasants near La Hormiga, Putumayo Department, in an attempt to force paramilitaries to retreat from this strategic coca-cultivation area. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, in March the ELN imposed a blockade on several municipalities in eastern Antioquia department, causing serious food shortages that led to the displacement of hundreds of civilians. In May, the FARC imposed an armed shutdown of highways between the towns of Pensilvania and Samana, Caldas department. Over a period of 3 weeks, and despite efforts by the security forces to neutralize the threat, the FARC disabled and burned vehicles that attempted to travel between the towns and destroyed local television and radio stations

The FARC continued its systematic campaign to attack and cripple the nation's vital infrastructure. According to government figures, the FARC destroyed 326 electrical towers, 19 communications towers, and 33 bridges, and made 3 unsuccessful attacks on aqueducts. The FARC, in conjunction with the ELN, increased the number of its attacks on the nation's oil infrastructure by 140 percent, blowing 179 holes in oil pipelines over the course of the year. Guerrillas reacted to an increase in security around the Cano Limon-Covenas pipeline in northern Colombia by conducting a majority of their attacks on more vulnerable pipelines in southern Colombia. For example, on July 23,

the FARC attacked five oil wells in Putumayo department, which were only repaired after the arrival of foreign experts who capped the exposed wells in mid-August. Former Minister of Environment Cecilia Rodriguez called the attacks the country's worst ecological disaster in years.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and press and the Government generally respected these rights in practice. Individuals criticized the Government both publicly and in private, and the media expressed a wide spectrum of political viewpoints and often sharply criticized the Government, all without fear of Government reprisal. However, journalists regularly practiced self-censorship to avoid retaliation and harassment by criminals and members of illegal armed groups.

Several major newspapers and news magazines circulated nationally, and there were many influential regional publications. There were two major national radio networks and many national and regional television channels. The National Television Commission continued to oversee television programming, although it did not censor substantive content. Major international wire services, newspapers, and television networks had a presence in the country and generally operated free of Government interference.

Media ownership remained concentrated in the hands of wealthy families, large national conglomerates, or groups associated with one or the other of the two dominant political parties. However, Spanish media conglomerate Prisa acquired majority ownership of the country's largest radio network, becoming the first foreign media owner in the country.

The Government did not assert "national security" to suppress views that were merely politically embarrassing or objectionable on other grounds, although a ban on publication of evidence related to criminal investigations remained in effect.

The Government did not appear to use libel laws to suppress criticism or engage in direct or indirect censorship of the media. However, in June, prosecutors charged newspaper columnist Roberto Posada with libel for publicly insinuating that prominent businessman Pedro Juan Moreno had links to paramilitaries. Posada successfully appealed the charges. The media's reliance on government advertising revenues may have reduced its criticism of government actions and policies.

Although the media generally did not practice self-censorship out of fear of government reprisal, national and international NGOs reported that media representatives regularly practiced self-censorship because of threats of violence. At least 7 journalists went into voluntary exile during the year, joining 13 who left the country in 2002.

The security forces generally did not subject journalists to harassment, intimidation, or violence; however, there were exceptions, as well as reports of threats and violence against journalists by corrupt local officials. In March, the Inter-American Press Association (IAPA) reported that members of the police and military had subjected journalists to arbitrary treatment in the departments of Antioquia, Arauca, and Cesar, as well as the city of Bogota. On April 7,

hired paramilitaries murdered watchdog radio journalist Jose Emeterio Rivas, who had publicly accused Julio Cesar Ardila, mayor of Barrancabermeja, Santander department, of granting lucrative municipal contracts to paramilitaries on preferential terms. On July 16, prosecutors charged Ardila and three city councilmen with ordering the murder. On September 18, Ardila, who had been in hiding, surrendered to the authorities. On December 31, he was released for lack of evidence.

During the year, journalists were intimidated, threatened, kidnapped, and killed by members of illegal armed groups. According to information gathered by the International Federation of Journalists and the Colombia Foundation for Press Freedom, 7 media representatives were killed, 11 kidnapped, and at least 55 threatened with death during the year.

Paramilitaries threatened, kidnapped, and murdered journalists. For example, in October, paramilitaries threatened newspaper correspondents Yaneth Montoya and Pedro Javier Galvis with death if they did not leave the city of Barrancabermeja, Santander department. Both left the city within 1 week of receiving the threats. On March 12, near the town of Victoria, Tolima department, police rescued broadcast journalist Pedro Cardenas from six paramilitaries who had kidnapped him 45 minutes earlier. On the morning of March 18, paramilitary gunmen murdered newspaper correspondent and local radio station reporter Luis Eduardo Alfonso as he arrived at work in Arauca City, Arauca department. Alfonso's former employer at the radio station, Efrain Varela, had been murdered by paramilitaries in June 2002.

In mid-December, prosecutors asked a presiding judge to impose the maximum sentence on AUC leader Carlos Castano and two other paramilitaries for their roles in the 1999 murder of prominent journalist Jaime Garzon. Castano had been tried in absentia. No verdict had been announced by the end of the year.

In May, the Valledupar Criminal Appeals Court overturned "not guilty" verdicts issued in January 2002 in favor of two paramilitaries accused of the 1999 murder of newspaper editor Guzman Quintero in Valledupar, Cesar department. The court imposed sentences of 39 years in prison on both suspects.

Guerrillas also threatened, kidnapped, and murdered journalists. For example, in March, the FARC made public a list of 16 journalists that it ordered to leave the department of Arauca on pain of death. All 16 left the department, leaving local media outlets to broadcast only cultural and musical programming. On January 21, the ELN kidnapped two Los Angeles Times journalists in Arauca department, allegedly for traveling in the region without its authorization. The ELN released the two on February 1. In August, the FARC kidnapped print journalist Jinet Bedoya in rural Guaviare department, releasing her after 5 days in captivity. Bedoya had been kidnapped and raped by paramilitaries in 2000. On August 23, FARC guerrillas killed radio journalist Juan Carlos Benavides when he failed to stop at a guerrilla roadblock outside Puerto Asis, Putumayo department.

The International Federation of Journalists operates an office in Bogota to monitor violence against the media and provide assistance to local journalists. The IAPA also runs its own rapid action unit in Bogota to help the Prosecutor General's Office investigate crimes against journalists. The Ministry of Interior operated a program for the protection of journalists that provided protection to 71 media representatives during the year. The Ministry of the Interior also supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line.

The Government did not ban, restrict, or censor books, other publications, films, art exhibits, music, plays, or other cultural activities. The Government did not limit or block access to the Internet or censor websites.

The Government did not restrict academic freedom. However, paramilitary groups and guerrillas maintained a presence on many university campuses to generate political support for their respective causes and undermine support for their adversaries through both violent and nonviolent means. Paramilitaries, for example, threatened university professors and students they suspected of leftist sympathies. For example, in April, paramilitaries clandestinely distributed flyers on the campus of Francisco de Paula Santander University, in Cucuta, Norte de Santander department, that announced a social cleansing campaign targeting guerrilla sympathizers at the school.

Guerrillas used university campuses to plan, prepare, and carry out terrorist attacks. On March 4, for example, police discovered 80 homemade explosive devices and a supply of ANFO--an explosive mix of ammonium nitrate and fuel oil--hidden in the biology lab of Bogota's Pedagogic University. On March 11, two medical students from the National University in Bogota detonated incendiary devices on Bogota's principal public bus system; investigators found guerrilla propaganda and other evidence at the students' residence connecting them to illegal student organizations linked to FARC urban militias. On April 29, the Prosecutor General's Office arrested and charged a FARC recruiter with coordinating the attacks and providing the students with explosives training.

Both paramilitaries and guerrillas regularly threatened and murdered public school teachers, especially at the high school level. According to the National Teacher's Union (FECODE), 33 teachers were murdered, 2 forcibly disappeared, and 91 displaced during the first 9 months of the year. Paramilitaries were responsible for most of these abuses. For example, on January 13, paramilitaries murdered Jose Marcelino Diaz, a teacher and FECODE organizer in Arauca City, Arauca department, and on March 12 murdered Soraya Patricia Diaz, a teacher from the town of Quinchia, Risaralda department. Guerrillas also murdered teachers. On April 22, in Corcora municipality, Antioquia department, ELN guerrillas kidnapped local teacher Ana Cecilia Duque, demanding that her father kill a local paramilitary leader to secure her release. When Duque's father refused, the ELN executed her.

On September 17, the army captured four paramilitaries suspected of killing a teacher in Cauca department. On July 21, police in Atlantico department captured Leonidas Ricardo Reyes, the AUC Southern Bloc's third-in-command, who was suspected of murdering several teachers and a student in Magdalena department.

Threats and harassment caused many professors and students to adopt lower profiles and avoid discussing controversial topics. Some academics went into voluntary exile.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly, and the Government generally respected this right in practice. The authorities normally did not interfere with public meetings and demonstrations and granted the required permits except when there was imminent danger to public order.

There were large demonstrations on many occasions by citizens throughout the country, some to repudiate terrorist activities, and others to protest Government budget cuts and social policies. The authorities generally did not interfere. For example, on August 12, more than 500,000 public employees throughout the country went on strike and held large marches in major cities to protest Government-proposed budget cuts and free trade policies. The

protest was generally peaceful; however, isolated protestors in Bogota's Plaza Bolivar threw rocks at police, who responded with tear gas. Following the October elections, accusations of fraud, vote buying, and other irregularities in a handful of regional elections sparked protests in several departments. In Malambo, Atlantico department, police had to transport ballots in an armored vehicle to prevent protestors from burning them.

The Constitution provides for freedom of association. The Government generally respected this right in practice. Legal organizations are free to associate with international groups in their field. However, membership in proscribed organizations such as the FARC, ELN, and AUC is a crime. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against labor unions and NGOs (see Sections 4 and 6.a.).

### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Although there is no official state religion, most citizens were Roman Catholic and the Roman Catholic Church retained a de facto privileged status. Accession to a 1997 public law agreement with the State is required for non-Roman Catholic religions to minister to their adherents in public institutions, such as schools and hospitals. Although 12 Christian churches had acceded to the agreement, the Government had not given a similar opportunity to hundreds of other mostly small, evangelical churches that received legal recognition after 1997.

Protestant churches complained that new zoning laws show de facto favoritism toward Roman Catholicism, since most Roman Catholic cathedrals were constructed before zoning laws were instituted and are therefore exempt from the laws' requirements.

Both paramilitaries and guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although generally for political, rather than religious, reasons. The Presidential Program for Human Rights reported that illegal armed groups made numerous threats against priests and other religious workers, killed 7 priests, and kidnapped 3 others. On February 10, for example, paramilitaries issued menacing statements against Catholic priest Francisco de Roux, Director of the Middle Magdalena Peace and Development Plan, who had publicly criticized paramilitaries and spoken out in favor of a possible humanitarian prisoner exchange between the Government and the FARC. On February 17, the FARC kidnapped a priest who was celebrating Mass on the outskirts of the town of Calvario, Meta department. On November 21, the body of Father Jose Rubin Rodriguez, who had been kidnapped a week earlier by armed men identifying themselves as guerrillas, was found in Tame, Arauca department.

On October 29, the criminal trial of FARC commander John Fredy Jimenez and hired gunman Alexander de Jesus Zapata began for the March 2002 murder of Roman Catholic Archbishop of Cali Isaias Duarte (see Section 1.e.).

According to the Evangelical Council of Churches (CEDECOL) and Colombian NGO Justapaz, 40 evangelical church leaders were assassinated during the year, most by the FARC. The FARC inhibited the right to free religious expression in areas it controlled, forcing the closure of hundreds of evangelical churches, particularly in the southwestern part of the country. In September, the FARC Secretariat ordered unit commanders to target evangelical pastors because of their alleged undercover work for the Government and foreign intelligence services.

On May 8, unidentified assailants wearing camouflage uniforms picked out and beheaded four members of a Protestant congregation in Tierralta, Cordoba department. The victims included the pastor, the church treasurer, an 80-year-old woman, and a teenage boy.

The Human Rights Unit of the Prosecutor General's Office reported that it was investigating 31 crimes that it believed were religiously motivated.

For a more detailed discussion, see the [2003 International Religious Freedom Report. \(//2009-2017.state.gov/j/drl/rls/irf/2003/\)](https://2009-2017.state.gov/j/drl/rls/irf/2003/).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right to travel domestically and abroad, and the Government generally respected this right in practice; however, there were exceptions. In areas where counterinsurgency operations were underway, police and military officials sometimes imposed curfews or required civilians to obtain safe-conduct passes. Paramilitaries and guerrillas continued to establish illegal checkpoints on rural highways, although a larger and more visible government security presence along major highways cut kidnappings at illegal checkpoints by 43 percent and led to a major increase in intercity vehicular traffic.

The Social Solidarity Network (RSS), the Government's displaced persons service agency, registered nearly 173,000 new displaced persons during the year, a decrease of 46 percent from 2002. The Consultancy for Human Rights and Displacement (CODHES), a human rights NGO specializing in displacement issues (see Section 4), estimated that 230,000 persons were displaced during the year, a 49 percent decrease from CODHES's figures for 2002. Various explanations were advanced to explain the sharp decline in displacements. The Government pointed to a larger state security presence throughout the country and a decrease in paramilitary violence related to the Government's ongoing negotiations with the country's largest paramilitary organization. CODHES and other NGOs asserted that instead of displacing peasants, paramilitaries and guerrillas were now forcibly preventing displacements.

The RSS had registered more than 1,200,000 displaced persons since 1995; UNHCR estimated there were over 2 million displaced persons in the country, placing it third among countries with the largest IDP populations. Precise numbers of IDPs were difficult to obtain, however, since some persons were displaced more than once and many did not register with the Government or NGOs. The FARC and ELN discouraged IDPs from registering with the Government through force, intimidation, and disinformation, and guerrilla agents sometimes masqueraded as IDPs to sow doubt and discontent among the displaced population. The vast majority of IDPs were rural peasants who were displaced to large cities such as Bogota. According to the UNHCHR, 25 percent of IDPs were indigenous or Afro-Colombian.

Although some persons voluntarily displaced for economic reasons, most IDPs were forcibly displaced by paramilitaries or guerrillas, who used forced displacement to gain control over strategic or economically valuable territory and weaken their opponents' base of support.

The Government was unable to provide sufficient humanitarian assistance to the displaced, despite statutes and court rulings requiring it to do so. Many IDPs lived in unhygienic conditions with little access to health care and educational or employment opportunities. Government assistance for the displaced was provided principally through the Social Solidarity Network (RSS), the Colombian Family Welfare Institute (ICBF), and the Ministry of Social Protection. However, the ICRC and various NGOs provided most humanitarian assistance to the displaced, who generally received assistance for only 90 days. In May, the UNHCR and the Government reached agreement on a program to help refugees and IDPs. Under the terms of the agreement, the UNHCR will work with the Senate and its human rights commission on promoting and implementing legislation to help the displaced.

In April, the Government of Panama forcibly repatriated 109 refugees to the Uraba region of Antioquia department, claiming the refugees had ties to the FARC. UNHCR monitored the repatriation and provided humanitarian assistance. In December, the Government cooperated with the Government of Panama in repatriating 84 refugees to the town of Jurado, Choco department. Unlike the April repatriation, December's cooperative effort was well managed and complied fully with international standards.

The Constitution provides for the right to asylum under terms established by law in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum. The country has a tradition of providing asylum dating from the 1920s. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the U.S. Committee for Refugees, 217 recognized refugees resided in the country at the end of the year. Eighteen persons applied for asylum during the year; 12 were approved, 4 rejected, and 2 were under review, along with 11 applications still pending from 2002.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic generally free and fair elections held on the basis of nearly universal suffrage. However, active duty members of the Armed Forces and Police may not vote, and civilian public employees, although eligible to vote, are not allowed to participate in partisan politics.

Congressional and presidential elections were last held in March and May 2002, respectively. In March 2002, voters elected a bicameral legislature with a mix of independents and members of the traditional Liberal and Conservative parties. In May 2002, voters elected independent candidate Alvaro Uribe president. Both elections were generally free and fair, in spite of a concerted campaign by terrorist organizations such as the FARC to disrupt them.

Political parties generally operated freely and without government interference. Parties that fail to garner 50,000 votes in a general election are automatically dissolved, but can reincorporate at any time by presenting 50,000 signatures to the National Electoral Commission (CNE). The Liberal and Conservative parties have long dominated politics, but the election of President Uribe as an independent in 2002 and the success of center-left candidates in regional elections suggested the political arena was widening. In August, representatives of several small, center-left parties created the larger Independent Democratic Pole (PDI) party.

On October 25, 14 of 15 items on a major political and economic reform referendum failed when turnout fell short of the required 25 percent of registered voters. On October 26, voters in 32 departments, the national capital, and

1,096 municipalities elected governors, mayors, and city council members. Center-left candidates fared well in the elections, winning, among other posts, the governorship of Valle del Cauca department and the mayor's office in Bogota. The elections were generally free and fair, despite attempts by paramilitaries and guerrillas to interfere. However, elections were not held in two rural municipalities in Vaupes department because of threats and violence by the FARC.

Paramilitaries attempted to influence local and regional elections through intimidation and violence. In some areas, paramilitary threats forced selected candidates to withdraw from key races. For example, in Cesar department, where the AUC has significant influence, a single gubernatorial candidate ran unopposed; nearly half those who voted submitted blank ballots in protest. In regions where paramilitaries exercised less political influence, they attempted to affect the elections by attacking candidates they opposed. For example, on June 5, four paramilitary gunmen killed Norte de Santander gubernatorial candidate and former National Peace Council member Tirso Velez.

As it did prior to the 2002 national elections, the FARC conducted a systematic campaign of violence to disrupt and discredit the referendum and local and regional elections. According to the Presidential Program for Human Rights, 29 candidates for regional offices were murdered during the year, and 8 were kidnapped. The FARC committed most of these crimes. For example, on August 30, FARC gunmen murdered Afro-Colombian mayoral candidate Jose Luciano Castillo in Roberto Payan municipality, Narino department. On October 19, the FARC killed Mario de Jesus Cordona, a mayoral candidate in the town of Chaparral, Tolima department. FARC threats led at least 160 candidates to drop out of the elections completely. For example, on October 18, 22 candidates for local offices in the town of Hacari, Norte de Santander department, resigned after receiving specific threats from the FARC.

The FARC also continued to threaten and commit acts of violence against incumbent government officials. The assassination of President Uribe remained a FARC priority. Military and judicial officials believed, for example, that a large cache of explosives detonated during a police raid on a house near the municipal airport in Nevia, Huila department, was intended to be used to attack the President when he arrived at the airport the following day. Although the perpetrators of 60 percent of the murders of local officials were still unknown at the end of the year, the FARC was responsible for at least 30 percent of these crimes. Nine mayors and 75 city council members were murdered during the year. Scores of local officials from throughout the country resigned because of threats from the FARC. For example, on March 31, three mayors from Norte de Santander department resigned because of specific FARC threats. The Office of the Human Rights Ombudsman reported that at least 300 mayors conducted business from regional capitals via telephone and messenger because they were not safe in their own towns.

The FARC continued to hold politicians hostage to pressure the Government into a prisoner exchange (see Section 1.b.).

There are no legal and few practical restrictions on the participation of women and minorities in politics. There were 5 women--including the Minister of Foreign Affairs--in the 13-member cabinet, 11 women in the 102-member Senate, and 18 women in the 166-member House of Representatives. There were 2 women on the 23-member Supreme Court, 2 women on the 13-member Supreme Council of the Judiciary (CSJ), and 1 woman on the 9-member Constitutional Court. On October 2, Clara Inez Vargas began a 10-month term as the Constitutional Court's first female president.

A quota law requires that women be placed in at least 30 percent of nominated government posts, and the government must report to Congress each year on the percentage of women in high-level government positions.

There were 4 indigenous Senators, two of whom occupied seats reserved for indigenous persons, and 2 indigenous members of the House of Representatives. There were no indigenous cabinet members and no indigenous persons on any of the nation's high courts.

There was 1 Afro-Colombian Senator and there were 3 Afro-Colombian members of the House of Representatives. There were no Afro-Colombian cabinet ministers and no Afro-Colombians on any of the nation's high courts.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their opinions on human rights conditions in the country.

Over 60,000 human rights and civil society NGOs were registered in the country, although most existed only on paper. The most prominent domestic human rights NGOs included the Colombian Commission of Jurists (CCJ) and Jose Alvear Restrepo Lawyers' Collective, both of which focused on defending human rights through legal analysis and case work; the Jesuit-founded Center for Popular Research and Education (CINEP), which managed the country's largest and most influential database of human rights violations; the Permanent Committee for the Defense of Human Rights (CPDDH), which provided support and assistance to victims of human rights violations and worked to organize civil society to defend human rights and promote a peaceful resolution to the country's armed conflict; the Committee in Solidarity with Political Prisoners (CSPP), which focused on the rights and treatment of persons detained for politically motivated crimes, particularly left-wing subversion; the Association of Families of Detained and Disappeared Persons (ASFADDES), the country's leading voice in demanding justice for the disappeared; the Consultancy for Human Rights and Displacement (CODHES) which advocated policies designed to prevent displacement and defended the rights of the displaced; the Association for Alternative Social Promotion (MINGA), which sought to promote respect for human rights through education, research, lobbying, and legal assistance; the Peace Network (Redepaz), a civil society organization dedicated to the promotion of peace at the national, regional, and local level; and the Free Country Foundation, which provided psychological, legal, and public relations assistance to kidnap victims and their families and lobbied the Government for better anti-kidnapping efforts. The Truth for Colombia ("Verdad Colombia") group was a relatively new association of small, centrist human rights NGOs that generally supported the Government's anti-terrorism security policies.

Local human rights NGOs had an influence that far exceeded their membership or resources. By sharing information among themselves and disseminating it to international human rights organizations and the media, they raised the country's human rights profile and contributed to significant levels of international attention.

Prominent local NGOs made an effort to be fair and objective in their analysis of a serious and complex human rights situation. However, their coverage of human rights abuses tended to focus on the Government and right-wing paramilitaries, rather than leftist guerrillas. Local NGOs' emphasis on the negative frustrated Government officials

whose own statistics indicated the human rights situation was improving. These drastically divergent understandings of the human rights situation deepened already profound mutual suspicions.

On September 9, in a nationally televised speech, President Uribe harshly criticized unspecified NGOs for masking a political--and even terrorist--agenda behind the shield of defending human rights. Human rights groups reacted strongly to the President's criticisms, noting that accusations of guerrilla collaboration could expose them to violent reprisals. Uribe's remarks were spurred by release of "The Authoritarian Spell", a report compiled by a group of approximately 80 NGOs, including some of the country's most prominent, that was highly critical of the Government's human rights performance. The report asserted that there had been a dramatic rise in what it defined as "grave violations of human rights" during the first year of Uribe's presidency.

The President's criticism of NGOs laid bare a fundamental controversy over the nature and accuracy of human rights statistics in Colombia. Government and NGO statistics on human rights often differed dramatically. Some of these discrepancies could be explained by differences in terminology and methodology. For example, the Government defined a massacre as the intentional killing of four or more persons at the same time and place, while NGOs defined a massacre as the deaths of three or more persons. CINEP strictly followed legal conventions that define "human rights violations" as crimes that can only be committed by the state or state-sponsored actors, which led it to attribute, directly or indirectly, all "human rights violations" to the Government. The Government, on the other hand, defined human rights violations to encompass crimes by all illegal armed groups, whether paramilitaries or guerrillas, as well as the state. The Government based its data on information reported to government authorities, supplemented by press reports and confirmable NGO statistics. NGOs, on the other hand, relied primarily on citizen complaints and press reports that satisfied the particular NGOs own standard of credibility. The Government's reliance on official reports undoubtedly led to an underreporting of violations. NGO statistics, on the other hand, undoubtedly overreported violations, since they relied heavily on unsubstantiated claims.

In a September 30 speech before the United Nations, President Uribe, while not retracting his September 9 criticisms, expressed his respect for the work of impartial human rights activists. However, the Government reserved the right to challenge reports considered biased.

Although the Government generally did not interfere with the work of domestic human rights NGOs, some NGOs claimed that the Government arrested human rights activists arbitrarily, particularly in highly conflictive areas (see Section 1.d.).

The Government asserted that many self-declared "human rights" activists were actually engaged in criminal activities that supported terrorism. For example, on October 21, authorities arrested Ramon del Carmen Garces, president of the Arauca departmental assembly and director of a local human rights NGO, for allegedly diverting \$370,000 (1 billion pesos) in government assistance from his NGO to the ELN. On August 1, authorities arrested human rights activist Maria Teresa Cedeno for allegedly bribing a demobilized guerrilla to retract testimony that had led to the conviction of five FARC guerrillas for a car bombing in October 2002.

On September 9, the Prosecutor General's Office indicted five police officers in Medellin for the alleged illegal wiretapping of NGO phone lines between 1997 and 2000. Separately, the Inspector General's Office ordered the dismissal of Colonel Mauricio Santoyo, then-commander of the police unit responsible for the illegal wiretapping (see Section 1.f.).

The Government, through the Ministry of Interior and Justice and the DAS, allocated approximately \$ 14,100,000 (36.65 billion pesos) to its program for the protection of human rights activists and other vulnerable populations. The Government provided protection to over 3,000 human rights activists during the year and bulletproofed 15 additional offices and residences. Requests for protection increased by 7 percent, a significant decline from the 106 percent increase registered in 2002. Nevertheless, human rights groups continued to complain that the protection program was inadequate.

According to the CCJ, 16 human rights activists were killed during the year. The CCJ attributed most of these killings to paramilitaries. In October, for example, leaders of the paramilitary Central Bolivar Bloc released a public letter accusing regional NGOs of acting as mouthpieces for leftist guerrillas. On October 17, paramilitary gunmen murdered Esperanza Amaris Miranda, a human rights activist with the Popular Women's Organization (OFP), one of the groups mentioned in the letter. On May 2, paramilitaries also tortured and murdered Henry Campos, son of OFP activist Maria Emma Garzon.

The Prosecutor General's Office reported little progress in its investigation of the November 2002 murder of Jose Rusbell, a member of the Joel Sierra Human Rights Committee in Arauca department.

On December 19, four armed men entered the offices of "La Corporacion Casa de la Mujer", a well-known feminist organization, and stole computer drives containing contact lists, financial information, project descriptions, and the identity of national and international organizations the organization worked with. There were no suspects in the robbery at the end of the year.

The Government generally did not interfere with the work of international human rights and humanitarian NGOs. Representatives of international human rights groups visited the country and held meetings with local human rights groups and individuals in various regions of the country without Government interference. These international delegations sometimes received active Government protection. The larger international NGOs, such as AI, Human Rights Watch, and the Washington Office on Latin America (WOLA), devoted equal attention to government forces, guerrillas, and paramilitaries; however, they held the Government to a higher standard and criticized it not only for direct violations of human rights, but also for high levels of impunity and failure to completely sever links between the military and paramilitaries.

The Government cooperated with international governmental organizations. The United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the International Labor Organization (ILO), the United Nations High Commissioner for Human Rights (UNHCHR), and the International Committee of the Red Cross (ICRC) had an active presence in the country and were allowed to carry out their work without government interference.

UNHCHR's Bogota office opened at government invitation in 1997; it later added field offices in Cali and Medellin and was in the process of establishing an office in Bucaramanga, Santander department. The office monitored and analyzed the national human rights situation and provided advice and assistance on human rights protection. In 2002, President Uribe extended UNHCHR's mandate in the country through the end of his administration in 2006.

In its human rights report for 2002, published in March, the Colombia office of the UNHCHR made 27 recommendations for improving the human rights situation in Colombia. Twenty-four of the recommendations were directed at the Government. At an international donor's conference held in London on July 10, the Government, while expressing some reservations, endorsed the recommendations in principle. The UNHCHR and local NGOs reported that the Government had not fully complied with most of the recommendations by the end of the year.

The National Human Rights Ombudsman ("Defensor del Pueblo"), who reports to the Inspector General (see Section 1.e.), is elected by the House of Representatives from a list of three candidates submitted by the President to serve a 4-year term overlapping those of two presidents. The Office has the constitutional duty to ensure the promotion and exercise of human rights. In addition to providing public defenders for the indigent (see Section 1.e.), the Ombudsman's 34 regional offices served as a channel for complaints of human rights violations. The Ombudsman's Bogota Office was the headquarters of a national Early Warning System (SAT) designed to alert public security forces to impending human rights violations, particularly large-scale massacres.

During the year, then-Ombudsman Eduardo Cifuentes resigned his post. President Uribe appointed Volmar Antonio Perez to fill the position until August 2004, when the House of Representatives will select a new Ombudsman. While in office, Cifuentes was active in his role, publicly criticizing a wide variety of human rights violations, visiting massacre sites, and pressing for increased security and humanitarian assistance for affected communities. In his caretaker role, Perez was a less public figure. However, the office, with international assistance, continued to provide training to regional ombudsmen and conducted public education on human rights. Despite the Office's successes, resource constraints meant the office was generally underfunded and understaffed, limiting its ability to effectively monitor human rights violations or prevent their occurrence.

In their role as human rights defenders, regional ombudsmen were under constant threat from illegal armed groups. Four paramilitaries remained on trial for the 2001 murder of regional human rights ombudsman Ivan Villamizar, in Cucuta, Norte de Santander department. An arrest warrant was outstanding for AUC leader Carlos Castano for his alleged involvement in the crime (see Section 1.a.).

## Section 5 Discrimination Based on Race, Sex, Disability, Language or Social Status

The Constitution specifically prohibits discrimination based on race, sex, religion, disability, language, or social status; however, in practice, many of these provisions were not enforced

### Women

The law prohibits domestic violence, including spousal abuse; however, it remained a serious problem. The Institute for Legal Medicine and Forensic Science reported 22,271 cases of domestic violence against women during the year, but noted that only a small percentage of cases of domestic violence against women were brought to its attention. The law provides legal recourse for victims of domestic violence. Judicial authorities may remove an abuser from the household and oblige him to seek therapy or reeducation. According to the Ministry of Justice and Interior, 1,290 persons were criminally charged for domestic violence during the year; 256 were convicted. The law stipulates that the Government must provide victims of domestic violence with immediate protection from physical or psychological abuse. Through its "Make Peace" program, the Colombian Family Welfare Institute (ICBF) provided safe houses and counseling for victims; however, its services were dwarfed by the magnitude of the problem. In

In addition to fulfilling traditional family counseling functions, the ICBF's 531 family ombudsmen were assigned a total of 18,686 new domestic violence cases through September. The Human Rights Ombudsman's Office conducted regional training workshops to promote the application of domestic violence statutes.

The law prohibits rape and other forms of sexual violence, including by a spouse; however, it remained a serious problem. The Institute for Legal Medicine and Forensic Science reported 8,666 cases of suspected sex crimes, including rape, but noted that, like cases of domestic violence, only a small percentage of such crimes came to its attention. The Penal Code provides for sentences of between 4 and 40 years for crimes against sexual freedom and human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The maximum sentence for violent sexual assault is 15 years; the minimum sentence is 8. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders. The ICBF provided support to victims of sexual violence.

Prostitution, which is legal in designated "tolerance zones", was widespread and remained a serious problem exacerbated by a poor economy and internal displacement. Sex tourism existed to a limited extent, especially in coastal cities such as Cartagena and Barranquilla, where marriage and dating services were often fronts for sexual tourism.

Trafficking in women for sexual exploitation continued to be a problem (see Section 6.f.).

The law prohibits sexual harassment; however, it was a pervasive problem.

The Constitution prohibits discrimination against women, and specifically requires authorities to ensure "adequate and effective participation by women at decision making levels of public administration. However, discrimination against women persisted. Women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that were generally incompatible with their education and experience. Government unemployment statistics indicated that the unemployment rate for women was 21.5 percent, 6.4 percent higher than the rate for men. According to the U.N., women earned an average of 34 percent less than men during the year. Female workers in rural areas were most affected by wage discrimination and unemployment.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to train them in parenting skills, women's groups reported that single mothers continued to face serious economic and social problems. According to a 1997 Constitutional Court ruling, a woman's decision to bear a child cannot be considered just cause for firing her if she is pregnant or the mother of a child under 3 months of age. There were no published reports of such firings during the year.

## Children

The Constitution imposes an obligation on the family, society, and the state to protect children, foster their development, and ensure their ability to fully exercise their rights; however, these obligations were not completely fulfilled. The Children's Code describes these rights and establishes the services and programs designed to enforce the protection of minors. The ICBF oversees all Government child protection and welfare programs and also funds nongovernmental programs that benefit children.

The Constitution stipulates that the state must provide a free public education for children between the ages of 6 and 15; however, the National Department of Statistics (DANE) estimated that only 75 percent of children between 6 and 15 attended school. By law, a primary education is universal, compulsory, and free. The Government covered the basic costs of primary education, although many families faced additional expenses such as matriculation fees, books, school supplies and transportation costs that were often prohibitive, especially for the rural poor.

The law requires the Government to provide medical care to children. However, medical facilities were not universally available, especially in rural areas.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 7,844 cases of child abuse during the year. According to the Association Against Child Abuse, less than 5 percent of child abuse cases are reported to government authorities. Although final statistics were unavailable for the year, the National Institute for Legal Medicine and Forensic Sciences estimated that of the 8,666 cases of suspected sex crimes reported to it, 70 to 80 percent involved the sexual abuse of children, the vast majority under them under 14. The ICBF estimated that 25,000 children were victims of sexual exploitation, and provided assistance, both directly and through other specialized agencies, to over 14,400 of them during the year.

According to UNICEF, an estimated 35,000 adolescents worked as prostitutes, in spite of legislation prohibiting sex with minors and the employment of minors for prostitution. The ICBF provided assistance to 6,200 of the country's estimated 30,000 street children. Children were also trafficked for sexual exploitation (see Section 6.f.).

Since 1999, persons under 18 are prohibited from serving in the public security forces. However, both paramilitaries and guerrillas used child soldiers. In September, HRW released a comprehensive study on child soldiers in Colombia that reported that approximately 11,000 children were members of illegal armed groups; UNICEF reported that the number was as high as 14,000. Both paramilitaries and guerrillas forcibly recruited minors as combatants. For example, in April, a captured child soldier from the FARC described how he was coerced into joining the guerrillas by a FARC recruiter who gave him food for his family and later insisted that the teenager either repay him or join the insurgency.

Paramilitary groups released some child soldiers as a sign of good faith in anticipation of demobilization negotiations with the Government (see Section 1.g.). On June 27, security forces in Sucre department captured retired Army Sergeant Omer Eligio Gonzalez, who was in charge of recruiting minors for paramilitaries.

Although many minors were forcibly recruited, a 2002 study by UNICEF found that 83 percent of child soldiers volunteered. Limited educational and economic opportunities and a desire for acceptance and camaraderie increased the appeal of service in armed groups. Nevertheless, many children found membership in guerrilla and paramilitary organizations difficult, and the MOD reported an increase in the number of minors deserting illegal armed groups. As of October 29, at least 301 children had surrendered to state security forces during the year. FARC child deserters reported that local guerrilla commanders threatened to kill their families should they desert or attempt to do so. A reinsertion program for former child soldiers administered by the ICBF provided assistance to 725 children during the year.

Child labor was a problem (see Section 6.d.).

According to UNHCR, 74 percent of all internally displaced persons were women and children (see Section 2.d.). The Human Rights Ombudsman's Office estimated that only 15 percent of displaced children attended school. Displaced children were especially vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

### Persons with Disabilities

The Constitution enumerates the fundamental social, economic, and cultural rights of persons with physical disabilities. However, serious practical impediments prevented their full realization of these rights. For example, there is no legal requirement that buildings provide special access for persons with disabilities. Consequently, the disabled could not access most public buildings and transportation systems; however, the Constitutional Court ruled that persons with physical disabilities must have access to voting stations and receive assistance if they request it. The Court also ruled that the social security fund for public employees cannot refuse to provide services for children with disabilities, regardless of the costs involved.

### Indigenous People

The Constitution gives special recognition to the fundamental rights of indigenous persons, who make up approximately 2 percent of the population.

By law, indigenous groups have perpetual rights to their ancestral lands. Traditional Indian authority boards operated approximately 545 reservations as municipal entities, with officials selected according to indigenous traditions. However, approximately 200 indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership. The National Agrarian Reform Institute (INCORA) administered a program to buy back lands declared to belong to indigenous communities. In March, the U'wa tribe said it would resume protests of exploration and drilling on lands it considers sacred near the U'wa reservation in Arauca department.

The Constitution provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws (see Section 1.e.). However, these jurisdictions were subject to manipulation and often rendered punishments that were much more lenient than those imposed by regular civilian courts. The law permits indigenous communities to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous men are not subject to the national military draft.

The Ministry of Interior and Justice, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous persons. Ministry representatives resided in all regions of the country and worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indigenous rights.

Despite special legal protections and government assistance programs, indigenous persons continued to suffer discrimination and often lived on the margins of society.

Members of indigenous communities continued to be victims of all sides in the internal conflict. According to the Presidential Program for Human Rights, 164 indigenous persons were killed during the year, 75 by paramilitaries, 18 by the FARC, and 8 by the ELN. The UNHCHR strongly criticized threats and violence against indigenous

communities and characterized government investigations of human rights violations against indigenous groups as inadequate. The National Organization of Indigenous Persons (ONIC) reported many incidents in which illegal armed groups forcibly recruited indigenous persons, restricted indigenous persons' freedom of movement, blockaded indigenous communities, or accused indigenous persons of sympathizing with their adversaries.

### National/Racial/Ethnic Minorities

Approximately 22 percent of the population was of African origin. Afro-Colombians are entitled to all constitutional rights and protections; however, they faced significant economic and social discrimination. Seventy-four percent of Afro-Colombians earned less than minimum wage. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as paramilitaries and guerrillas struggled for control of the department's key drug and weapons smuggling corridors. In July, the Prosecutor General's Office indicted 3 army generals for alleged dereliction of their duty to protect civilians, which contributed to the deaths of 119 Afro-Colombians during a FARC attack on the town of Bojaya in May 2002.

Little concrete progress was made on implementing a 1993 law designed to benefit Afro-Colombians by expanding public services and private investments in predominantly Afro-Colombian regions. The 1993 law also specifies that Afro-Colombian communities should receive collective titles to some Pacific coastal lands. However, Afro-Colombian leaders complained that the Government was slow to issue land titles and that access to these lands was often inhibited by the presence of paramilitaries and guerrillas.

### Section 6 Workers Rights

#### a. The Right of Association

The Constitution provides for the right to organize unions, except for members of the armed forces, police, and persons executing "essential public services" as defined by law. In practice, violence against union members and antiunion discrimination were obstacles to joining unions and engaging in trade union activities, and the number of unions and union members continued to decline. According to the National Labor College (ENS), a Medellin-based NGO that collects, studies, and consolidates information on organized labor, there were 2,357 unions registered in the country at the end of the year, with a total of 856,099 members, or approximately 4 percent of the labor force.

The heavily amended 1948 Labor Code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a simple registration process. However, this process is slow and sometimes takes years. Unions are legally authorized to determine their internal rules, elect their own officials, and manage their own activities. The law penalizes interference with freedom of association and forbids the dissolution of trade unions by administrative fiat. Although government interference in union activities is limited, the Government can compel trade unions to provide interested third parties with relevant information on their work, including books, registers, plans, and other documents. The ILO Committee of Experts considers this amendment to be inconsistent with freedom of association, since it believes an administrative authority only should conduct investigations when there are reasonable grounds to believe that an offense has been committed.

Labor leaders nationwide continued to be targets of attacks by illegal armed groups. According to the ENS, 6 union members were kidnapped, 4 disappeared, 295 were threatened with death, 20 survived attempts on their lives, and 80 were killed in 2003. By comparison, 161 union members were killed in 2002. In the case of over 82 percent of murders of trade union members, the ENS was unable to determine which illegal armed group was responsible. Based on available information, the ENS attributed 15 percent of these crimes to paramilitaries. The United Workers Central (CUT), the country's largest and most left-leaning labor federation, claimed that paramilitaries were responsible for 77 percent of the murders of trade union members through September and that paramilitaries were especially aggressive in targeting members of the CUT. For example, on April 9, alleged paramilitaries murdered Ivan Manuel Muniz in Riohacha, La Guajira department. Muniz was a local leader of the national teachers union, FECODE, a CUT affiliate. On July 15, alleged paramilitaries shot and killed Marco Tulio Diaz, a labor activist with the CUT-affiliated National Oil Workers Union, USO, in Cucuta, Norte de Santander department; paramilitaries have long accused USO of being a civilian arm of the ELN.

Union leaders contended that perpetrators of violence against workers operated with virtual impunity. There were few successful prosecutions of crimes against trade union members. However, on December 19, former army major Cesar Alonso Maldonado and paramilitary Regulo Rueda were convicted and received 28 years in prison for their roles in the December 2000 attempted murder of labor leader and current member of Congress Wilson Borja. Arrests were made in other important cases. For example, three Army NCOs were arrested for their alleged involvement in the September murder of Wilson Rafael Pelufo, a union activist in Barranquilla, Atlantico department. The Prosecutor General's Office continued to investigate paramilitaries for crimes against union leaders committed in previous years, such as the 2001 murders of Valmore Locarno, Victor Hugo Orcasita, and Gustavo Soler, activists with mine workers union SINTRAMINERGETICA.

High levels of impunity led some labor organizations to file civil suits against the alleged authors of paramilitary anti-labor violence. For example, in March, SINTRAMINERGETICA filed suit in a foreign court against the Drummond Company, which operates a large coal mine in Cesar department. The suit alleged that the company ordered or acquiesced in local paramilitaries' murders of three union activists. In April, a foreign court ruled that Panamerican Beverages, Coca-Cola's main bottler in Latin America, could be sued for allegedly hiring paramilitaries to kill and intimidate union leaders at several of its bottling plants; the court dismissed a similar lawsuit against the Coca-Cola Company.

Due to a lack of conclusive evidence, the ENS attributed only two murders of trade unionists to guerrillas. In one example, the ELN murdered an Antioquia teachers union member (see Section 2.a.).

During the year, the Government announced the establishment of an Inter-Institutional Commission for the Promotion and Protection of Worker's Human Rights. The Commission's work plan was negotiated with the country's principal labor federations. The Commission is charged with preventing human rights violations against union members and promoting and protecting freedom of association, collective bargaining, and the right to strike. In July, President Uribe called for the police, the justice system, and the public to afford union leaders better protection. The President said that unions are moral reference points necessary for the smooth functioning of communities.

To improve the security of particularly vulnerable union leaders, the Government increased resources devoted to the Ministry of Interior and Justice's protection program for trade union leaders. During the year, the program secured 30 union headquarters and residences and provided protection to 1,424 union members and activists, some of

whom owed it their lives. For example, on August 22, Juan Carlos Galvis, president of beverage workers union SINALTRAINAL in Barrancabermeja, Santander department, survived an attempt on his life because the protection program had provided him with an armored car and personal bodyguards. Although trade union leaders acknowledged the benefits of the program, they still complained that its resources were insufficient to adequately protect the large number of trade unionists under threat. The Executive Council of the CUT also complained that labor unions were not given an adequate voice in the administration of the program.

At the May meeting of the ILO's Committee on Freedom of Association, the body dropped a recommendation that the ILO Governing Body appoint a Fact-Finding and Conciliation Commission for the country. In June, the ILO's Governing Body rejected labor unions' request for a Commission of Inquiry, but did urge the Government "to put an end to the intolerable situation of impunity and to punish effectively all those responsible."

The ILO had a number of long-standing criticisms of the Labor Code: the requirement that Government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their trade once 6 months have passed following a strike or dispute; the requirement that candidates for trade union offices belong to the occupation that their unions represent; the prohibition of strikes in a wide range of public services that are not necessarily essential; the Government's power to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike.

Unions are free to join international confederations without government restrictions and did so in practice.

#### b. The Right to Organize and Bargain Collectively

The Constitution protects workers' right to organize. Workers in large firms and public services were the most successful in organizing, but they represented only a small percentage of the workforce. High unemployment, a large informal economic sector, traditional antiunion attitudes, and violence against trade union leaders made organizing unions difficult.

The Constitution provides for the right to collective bargaining. Consistent with the decline in union membership, however, the number of workers covered by collective bargaining agreements fell. According to the ENS, 176,774 workers were employed under collective bargaining agreements during 2002, compared to 409,918 during the period 1994-1995. Weak union organization and a requirement that trade unions represent a majority of a company's workers to negotiate on their behalf limited workers' bargaining power in all sectors. Paramilitaries threatened--and sometimes killed--union members who refused to renounce collective bargaining agreements.

Collective pacts between individual workers and their employers are not subject to collective bargaining and were used by employers to complicate and discourage labor organization. However, these practices did effectively complicate and discourage labor organization. Although employers must register collective pacts with the Ministry of Social Protection, the Government does not exercise oversight or control over them. There is no mandatory mediation in private labor-management disputes.

The Constitution provides for the right to strike, except for members of the armed forces, police, and persons executing "essential public services" as defined by law.

Before staging a legal strike, public sector unions must negotiate directly with management and accept mediation if they cannot reach an agreement. The law prohibits the use of strikebreakers. Legislation that prohibits public employees from striking is still in effect, although it is often overlooked. By law, public employees must accept binding arbitration if mediation fails; however, in practice, public service unions decide by membership vote whether or not to seek arbitration.

Various high profile strikes occurred during the year. For example, on January 16, the National Oil Workers Union (USO) called a 1-day strike to protest the arrest of former USO President Hernando Hernandez, who was accused of rebellion and subversion for alleged ties to the ELN. On February 21, after USO protestors began destroying company property at a refinery in Barrancabermeja, police and soldiers broke up the protest with tear gas and clubs, wounding 9 persons and arresting 15 others. On June 19, the country's 3 principal labor federations called a national work stoppage to protest a restructuring of three parastatal corporations that was expected to eliminate 40,000 jobs.

Labor law applies in the country's 15 free trade zones (FTZs), and its standards are enforced.

#### c. Prohibition of Forced or Bonded Labor

The Constitution forbids slavery and any form of forced or compulsory labor, and this protection generally was enforced by the Government and respected in practice in the formal sector.

Paramilitaries and guerrillas practiced forced conscription (see Section 5). There were some reports that guerrillas and paramilitaries used forced labor, including child labor, in areas outside full government control (see Section 6.d.).

#### d. Status of Child Labor Practices and Minimum Age

##### for Employment

The Constitution prohibits the employment of children under 14 in most occupations, and the Labor Code prohibits the granting of work permits to children under 18; however, child labor remained a significant problem, particularly in the informal sector. According to the National Department of Statistics (DANE), nearly 15 percent of children were employed. A National Committee for the Eradication of Child Labor, which included officials from the Ministries of Social Protection, Education, and Communications, as well as representatives of unions, employer associations, and NGOs, implemented the Government's Action Plan to Eradicate Child Labor. The Action Plan includes specific goals and strategies to protect children by updating information on child labor, strengthening the education system, and actively searching for child workers and removing them from the workplace.

The 1989 decree that established the Minors Code prohibits the employment of children under 12. It also requires exceptional conditions and the express authorization of the Labor Ministry to employ children between 12 and 17. Children under 14 are prohibited from working, with the exception that those ages 12 and 13 may perform light work with the permission of their parents and appropriate labor authorities. Children ages 12 and 13 may work a maximum of 4 hours a day, children ages 14 and 15 a maximum of 6 hours a day, and children ages 16 and 17 a

maximum of 8 hours a day. All child workers are prohibited from working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Children are prohibited from working in a number of specific occupations, including mining and construction; however, these requirements largely were ignored in practice, and only 5 percent of working children possessed the required work permits.

According to a recent report released by parastatal company Mineros de Colombia (MINERCOL), between 200,000 and 400,000 children worked in illegal gold, clay, coal, emerald, limestone and other mining operations. Children also worked extensively in agriculture, both on subsistence family farms and in larger, export-oriented industries such as flower cultivation. According to DANE, approximately 200,000 children worked as coca pickers or in other aspects of the illegal drug trade. The legal minimum age of 14 was inconsistent with completing a basic education, and only 38 percent of working children attended school.

The legal definitions of "worst forms of child labor" and "hazardous work" are consistent with ILO convention 182 and do not exempt specific sectors.

Although there were no reports of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see Sections 1.f. and 5), prostitutes (see section 5), or coca pickers. The Minors Code provides for fines ranging from 1 to 40 minimum monthly salaries for violations of child labor laws. If a violation is deemed to have endangered a child's life or threatened his or her moral values, sanctions can also include the temporary or permanent closure of the guilty establishment. In the formal sector, the Ministry of Social Protection enforced child labor laws through periodic inspections.

The Ministry had inspectors in each of the country's 32 departments and the national capital, responsible for certifying and conducting repeat inspections of workplaces that employed children; however, the system lacked resources and covered only 20 percent of the child labor force employed in the formal sector of the economy.

The National Committee for the Eradication of Child Labor conducted training on legislation and enforcement for approximately 600 public officials in 7 departments and created an information system on child labor to better measure and understand the problem. The Government, the major labor federations, and media representatives published articles, broadcasted documentaries, and launched other outreach programs to delegitimize child labor. UNICEF continued a program to encourage children to leave the workforce and return to school. An ILO pilot project removed nearly 3,000 child workers from dangerous jobs in low-tech, open-pit mines in the municipalities of Muzo and Sogamoso, Boyaca department, and Nemocon, Cundinamarca department.

#### e. Acceptable Conditions of Work

The Government sets a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, set by tripartite negotiations among representatives of business, organized labor, and the Government, was about \$117 (332,000 pesos). Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with real inflation. The national minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Social Protection estimated 17 percent of all workers received salaries below the poverty line. An estimated 70 percent of all workers earned wages that were insufficient to cover the costs of the Government's estimated low-income family shopping basket.

Colombia's labor code provides for a regular workday of 8 hours and a regular workweek of 48 hours. The code stipulates that workers are entitled to receive premium compensation for additional hours worked and for work performed on Sundays. A major labor reform bill, passed in December 2002, reduced the amount of overtime pay and monetary compensation for workers who are fired unjustly, and gave employers greater flexibility in devising work schedules by lengthening the period of "day work" by 4 hours, from 6 a.m. to 10 p.m. Colombian law requires employers to provide premium pay for work performed outside these hours. The law also created the country's first unemployment benefits program, which provides unemployed workers with benefits for 6 months.

Legislation provides comprehensive protection for workers' occupational safety and health, which the Ministry of Social Protection attempted to enforce through periodic inspections. However, a lack of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. The Social Security Institute reported 202,090 work-related accidents through the first 9 months of the year, resulting in 547 deaths. Workers in the informal sector sometimes suffered physical or sexual abuse.

According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment. However, unorganized workers, particularly those in the agricultural sector, often continued working in hazardous conditions because they feared losing their jobs if they criticized abuses.

#### f. Trafficking in Persons

The law prohibits trafficking in persons; however it remained a problem.

The Criminal Code provides for prison sentences of between 10 and 15 years and fines of up to 1,000 times the monthly minimum wage. These penalties, which are even more severe than those for rape (see Section 5), can be increased by up to one-third if there are aggravating circumstances, such as trafficking of children under the age of 14. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. Police actively investigated trafficking offenses and some traffickers were prosecuted. However, limited resources hindered prosecutions.

A Government advisory committee composed of representatives of the Presidency, the Ministry of Foreign Affairs, the Ministry of Interior and Justice, the DAS, the Office of the Inspector General, the Office of the Prosecutor General, and Interpol met every 2 months to discuss trafficking in persons. The committee prepared information campaigns, promoted information exchange between government entities, created trafficking hot lines for victims, and encouraged closer cooperation between the Government and Interpol.

The Government cooperated with foreign counterparts on investigations and successfully freed victims in solo and joint operations. To protect citizens trafficked to other countries, Government foreign missions provided legal aid and social welfare assistance. Colombia was a source country for trafficking in persons, primarily for sexual purposes and principally to Europe and Asia. Countries with large numbers of victims included Spain, the Netherlands, and Japan. Victims were also trafficked to the United States and other Latin American countries. According to the DAS, Colombia was the second most common country of origin for trafficking victims in the Western Hemisphere, with an

estimated 45,000 to 50,000 victims overseas. The vast majority of trafficking victims were young women, although children and young men were also at risk. Female trafficking victims were a high risk for sexually transmitted diseases, unwanted pregnancies, and forced abortions.

Many traffickers were honest about the sexual nature of the work they offered, but lied about working conditions, clientele, and compensation. Others disguised their intent by portraying themselves as modeling agents, offering marriage brokerage services, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loitered outside high schools, shopping malls, and parks to lure adolescents into accepting phantom jobs abroad. Most traffickers were well-organized and linked to narcotics or other criminal organizations.

The International Organization for Migration (IOM) strengthened government institutions involved in anti-trafficking efforts and assisted trafficking victims. Specifically, the IOM trained 1,610 officials in 18 regional departments on trafficking issues, provided victims with job training and employment opportunities, and helped victims obtain necessary medical care. The Hope Foundation ("Fundacion Esperanza"), an anti-trafficking NGO, also provided educational information, social support, and counseling to trafficking victims.

The IOM conducted a major anti-trafficking public relations campaign that included placing large posters in airports, foreign consulates, and travel agencies, and running professionally produced public service announcements on television.

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