

# COLOMBIA 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Colombia is a constitutional, multiparty republic. In June voters elected Ivan Duque Marquez president in elections that observers considered free and fair and the most peaceful in decades.

Civilian authorities generally maintained effective control over security forces.

Human rights issues included reports of unlawful or arbitrary killings; reports of torture and arbitrary detention by both government security forces and illegal armed groups; corruption; rape and abuse of women and children by illegal armed groups; criminalization of libel; violence and threats of violence against human rights defenders and social leaders; violence against and forced displacement of Afro-Colombian and indigenous persons; violence against lesbian, gay, bisexual, transgender, and intersex persons; forced child labor; and killings and other violence against trade unionists.

The government took steps to investigate, prosecute, and punish officials who committed human rights abuses, although some cases experienced long delays that raised concerns about accountability. The Special Jurisdiction for Peace (SJP, or JEP in Spanish)--the justice component of the Comprehensive System for Truth, Justice, Reparation, and Non-Repetition--started operations during the year.

As part of the 2016 peace accord, the Revolutionary Armed Forces of Colombia (FARC), formerly the country's largest guerrilla insurgency group, disarmed and reincorporated as a political party that participated in the March congressional elections and initially nominated a presidential candidate, who withdrew from the race in May. On July 20, FARC representatives took up eight of their guaranteed 10 seats in congress.

The National Liberation Army (ELN) perpetrated armed attacks across the country for much of the year, particularly following the conclusion of a brief bilateral cease-fire, which lasted from October 1, 2017, through January 9. Peace talks between the ELN and Santos government concluded without resolution in August, and the Duque administration suspended talks until the ELN agrees to new preconditions for negotiations. Other illegal armed groups and drug-trafficking gangs continued to operate. Illegal armed groups, as well as narcotics traffickers, were significant perpetrators of human rights abuses and violent crimes and

committed acts of extrajudicial and unlawful killings, extortion, and other abuses such as kidnapping, torture, human trafficking, bombings and use of landmines, restriction on freedom of movement, sexual violence, recruitment and use of child soldiers, and intimidation of journalists, women, and human rights defenders.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were reports that the government or its agents committed arbitrary or unlawful killings. According to the nongovernmental organization (NGO) Colombia Europe United States Coordination (*Coordinacion Colombia Europa Estados Unidos*, CCEEU), from January 1 through August, there were 27 cases of “intentional deaths of civilians committed by state agents” that included 34 victims.

For example, the Attorney General’s Office reported October 23 that eight members of the 29th Army Land Battalion attached to the Army’s Third Buffalo Company had been arrested and were under investigation for alleged crimes of aggravated homicide and attempted aggravated homicide in relation to the March killing of a peasant named *Ciro Alfonso Manzano Ariza* and attempted killing of *Andres Fabian Salcedo Rincon* in Arauca. An investigation by the Attorney General’s Office Special Investigations Unit, in conjunction with the army, revealed the killing was unrelated to a supposed confrontation. In a press release, the Attorney General’s Office stated its commitment to investigate and prosecute crimes of this type “so that these forms of violence do not continue to present themselves.”

Illegal armed groups including the ELN committed numerous unlawful or politically motivated killings, often in areas without a strong government presence (see section 1.g.).

Investigations of past killings proceeded, albeit slowly. From January 1 through July, the Attorney General’s Office registered one new case of alleged aggravated homicide by state agents. During the same period, authorities formally accused 123 members of the security forces of aggravated homicide or homicide of a civilian, almost all for crimes that occurred prior to 2017, and made one arrest. The Attorney General’s Office reported that through August, it obtained six new convictions of security force members in cases involving homicide of a “protected

person” (i.e., civilians and others accorded such status under international humanitarian law), four new convictions in cases involving aggravated homicide, and 14 new convictions in cases involving “simple homicide” committed by security force members. Of these sentences, 23 corresponded to cases that took place before 2018.

For instance, on August 14, Jose Miguel Narvaez, deputy director of the disbanded Administrative Department of Security, was sentenced to 30 years in prison for the 1999 killing of journalist Jaime Garzon.

There were developments in efforts to hold officials accountable in false positive extrajudicial killings, in which thousands of civilians were killed and falsely presented as guerrilla combatants in the late 1990s to late 2000s. During 2017 and through May 20, the Attorney General’s Office reported 246 members of the security forces were convicted in cases related to “false positives,” 716 cases were in the prosecution phase, and 10 new investigations were opened. In total, the government had convicted 1,176 members of the security forces in cases related to false positives as of May, including at least eight colonels, according to the Attorney General’s Office.

The Attorney General’s Office reported there were open investigations of 19 retired and active-duty generals related to false positive killings as of May. The Attorney General’s Office also reported there were 2,504 open investigations related to false positive killings or other extrajudicial killings as of May 20.

Additionally, the JEP reviewed some investigations related to false positive or extrajudicial killings. For example, on July 10, the JEP began to review the case against retired general William Henry Torres Escalante. Retired general Mario Montoya Uribe also chose to bring his pending case to the JEP. On August 10, after the JEP received his case, Colonel Gabriel Rincon publicly apologized for his involvement in false positive killings in 2008 in Soacha. More than 1,900 members of the armed forces signed a commitment to participate in the JEP’s processes.

In January media reports indicated the Attorney General’s Office intended to file charges of aggravated homicide against two members of the security forces in relation to the October 2017 events in the southwestern municipality of Tumaco, Narino Department, that the Inter-American Commission on Human Rights (IACHR) reported resulted in the killing of at least seven persons, including two members of the Awa indigenous people and the wounding of 20 others.

Illegal armed groups, including the ELN and narcotics traffickers, were significant perpetrators of violent crimes and committed unlawful killings (see section 1.g.).

Human rights organizations, victims, and government investigators accused some members of government security forces of collaborating with or tolerating the activities of organized-crime gangs, which included some former paramilitary members. According to the Attorney General's Office, between January and August 10, 83 members of government security forces were arrested for ties with illegal armed groups.

According to a December 26 UN report, the UN Office of the High Commissioner for Human Rights (OHCHR) reported 163 verified killings of social leaders and human rights defenders since the signing of the peace accord in November 2016 and a total of 454 cases reported. According to the Attorney General's Office, 28 persons in 19 cases have been convicted in the killings of human rights defenders and social leaders. According to the Centro Nacional de Consultoria and the NGO Consultancy for Human Rights and Displacement, 70 percent of the killings occurred in eight of the country's 32 departments: Antioquia, Cauca, Valle del Cauca, Narino, Norte de Santander, Choco, Cordoba, and Putumayo. The motives of the killings varied, and it was often difficult to determine the primary or precise motive in individual cases.

For example, on January 27, Temistocles Machado, a prominent human rights activist and Afro-Colombian community leader, was killed in Buenaventura in Valle Del Cauca. Former president Juan Manuel Santos requested the Elite Corps of the National Police to prioritize the investigation of the case, and authorities instituted proceedings against five persons as of year's end.

On November 19, President Duque created the Commission of the Timely Action Plan for Prevention and Protection for Human Rights Defenders, Social and Communal Leaders, and Journalists (*Comision del Plan de Accion Oportuna para Defensores de Derechos Humanos, Lideres Sociales, Comunales y Periodistas*, PAO) to strengthen coordination including efforts to investigate and prevent attacks against social leaders and human rights defenders. Additionally, the minister of interior reported to the UN Human Rights Council in May that the government established an elite corps of the National Police, a specialized subdirectoriate of the National Protection Unit, a special investigation unit of the Attorney General's Office responsible for dismantling criminal organizations and enterprises, and a unified command post, which the minister stated shared

responsibility for protecting human rights defenders from attack and investigating and prosecuting these cases.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities during the year. According to the National Institute of Forensic and Legal Medicine, from January 1 through August 30, 3,643 cases of disappearances were registered. During 2017 the National Institute of Forensic and Legal Medicine reported 6,670 cases of disappearances. The government did not provide information on the number of victims of disappearances who were located or a disaggregation of the number found alive or dead.

For example, on October 3, unknown organized criminal groups abducted Cristo Jose Contreras, a five-year-old boy, in the municipality of El Carmen. After a large search and rescue operation, the boy was released one week later. In the context of the peace process, the government took steps to establish a new search commission to investigate disappearances (see section 1.g.).

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

Although the law prohibits such practices, there were reports that government officials employed them. The NGO Center for Research and Education of the Populace (CINEP) reported that through October, security forces were allegedly involved in six cases of torture. Members of the military and police accused of torture generally were tried in civilian rather than military courts.

For example, media reported Colombian National Police officers in Bogota allegedly forced several youth to strip to their underwear and beat them with a blunt object, while verbally abusing them in an incident caught on video that later became public. Authorities stated the incident occurred on September 28 after an escape attempt at the El Redentor Detention Center in which a scuffle led to the injuries of two police officers. Media reported that authorities had initiated criminal and disciplinary investigations into the case, which a prosecutor said met the legal definition of torture.

Between January 1 and August 10, the Attorney General's Office charged 64 members of the military and police force with torture; in each case the alleged torture occurred prior to 2018.

CINEP reported organized-crime gangs and illegal armed groups were responsible for six documented cases of torture through June 30. Three of those cases were allegedly committed by FARC dissidents not participating in the peace process.

According to NGOs monitoring prison conditions, there were numerous allegations of sexual and physical violence committed by guards and other inmates.

### **Prison and Detention Center Conditions**

With the exception of some new facilities, prisons and detention centers were harsh and life threatening due to overcrowding, inadequate sanitation, poor health care, and lack of other basic services. Poor training of officials remained a problem throughout the prison system.

Physical Conditions: The National Prison Institute (INPEC), which operated the national prisons and oversaw the jails, estimated in 2017 there were 119,126 persons incarcerated in 135 prisons. A total of 69,276 persons were in pretrial detention. Overcrowding existed in men's and in women's prisons. INPEC cited several prisons in Cali, Santa Marta, Valledupar, Itagui, and Apartado that were more than 200 percent overcrowded. According to the Instituto Colombiano de Bienestar Familiar (ICBF), from 2006 until November, more than 234,000 minors had entered the criminal justice system through the Criminal Responsibility System for Adolescents. Between January and July, 64 children younger than age three were reported to be in prison with their incarcerated mothers.

The law prohibits holding pretrial detainees with convicted prisoners, although this sometimes occurred. Juvenile detainees are held in a separate juvenile detention center. The Superior Judiciary Council stated the maximum time that a person may remain in judicial detention facilities is three days. The same rules apply to jails located inside police stations. These regulations were often violated.

The practice of preventive detention, in combination with inefficiencies in the judicial system, continued to exacerbate overcrowding. The government continued to implement procedures introduced in 2017 that provide for the immediate release of some pretrial detainees, including many accused of serious crimes such as aggravated robbery and sexual assault.

Physical abuse by prison guards, prisoner-on-prisoner violence, and authorities' failure to maintain control were problems. The Inspector General's Office

continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally. The Inspector General's Office reported 139 disciplinary investigations against prison guards, including 126 for physical abuse and 13 for sexual crimes.

During the year there were 501 deaths in prisons, jails, pretrial detention, or other detention centers, including 476 attributed to natural causes, 10 attributed to suicide, 10 in which the cause was unknown, and five attributed to accidental causes.

Many prisoners continued to face difficulties receiving adequate medical care. Nutrition and water quality were deficient and contributed to the overall poor health of many inmates. Inmates stated authorities routinely rationed water in many facilities, which officials attributed to city water shortages.

INPEC's physical structures were generally in poor repair. The Inspector General's Office noted some facilities had poor ventilation and overtaxed sanitary systems. Prisoners in some high-altitude facilities complained of inadequate blankets and clothing, while prisoners in tropical facilities complained that overcrowding and insufficient ventilation contributed to high temperatures in prison cells. Some prisoners slept on floors without mattresses, while others shared cots in overcrowded cells.

Administration: Authorities investigated credible prisoner complaints of mistreatment and inhuman conditions, including complaints of prison guards soliciting bribes from inmates, but some prisoners asserted the investigations were slow.

Independent Monitoring: The government permitted independent monitoring of prison conditions by local and international human rights groups. INPEC required a three-day notice before granting consular access. Some NGOs complained that authorities, without adequate explanation, denied them access to visit prisoners.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention; however, there were allegations that authorities detained citizens arbitrarily. CINEP reported 13 cases of arbitrary detention committed by state security forces through June 30.

## **Role of the Police and Security Apparatus**

The Colombian National Police (CNP) is responsible for internal law enforcement and is under the jurisdiction of the Ministry of Defense. The Migration Directorate, part of the Ministry of Foreign Affairs, is the immigration authority. The CNP shares law enforcement investigatory duties with the Technical Investigation Body. In addition to its responsibility to defend the country against external threats, the army shares limited responsibility for law enforcement and maintenance of order within the country. For example, military units sometimes provided logistical support and security for criminal investigators to collect evidence in high-conflict or remote areas. The government continued to expand education and training of the armed forces in human rights and international humanitarian law.

Some NGOs complained that military investigators, not members of the Attorney General's Office, were sometimes the first responders in cases of deaths resulting from actions of security forces and might make decisions about possible foul play. By law the Attorney General's Office is the main entity responsible for investigating allegations of human rights abuses committed by security forces. The government made improvements in investigating and trying abuses, but claims of impunity for security force members continued. This was due in some cases to obstruction of justice and opacity in the process by which cases are investigated and prosecuted in the military justice system. Inadequate protection of witnesses and investigators, delay tactics by defense attorneys, the judiciary's failure to exert appropriate controls over dockets and case progress, and inadequate coordination among government entities that sometimes allowed statutes of limitations to expire--resulting in a defendant's release from jail before trial--were also significant obstacles.

The military functions under both the old inquisitorial and a newer accusatory system. The military had not trained its criminal justice actors to operate under the accusatory system, which they were to begin to implement in 2017. The military also had not developed an interinstitutional strategy for recruiting, hiring, or training investigators, crime scene technicians, or forensic specialists, which is required under the accusatory system. As such, the military justice system did not exercise criminal investigative authority; all new criminal investigations duties were conducted by judicial police investigators from the CNP and Corps of Technical Investigators.

## **Arrest Procedures and Treatment of Detainees**

Authorities must bring detained persons before a judge within 36 hours to determine the validity of the detention, bring formal charges within 30 days, and start a trial within 90 days of the initial detention. Public defenders contracted by the Office of the Ombudsman assisted indigent defendants. Detainees received prompt access to legal counsel and family members as provided for by law. Authorities generally respected these rights.

Arbitrary Arrest: The law prohibits arbitrary arrest and detention; however, this requirement was not always respected. NGOs characterized some arrests as arbitrary detention: arrests allegedly based on tips from informants about persons linked to guerrilla activities, detentions by members of the security forces without a judicial order, detentions based on administrative authority, detentions during military operations or at roadblocks, large-scale detentions, and detentions of persons while they were “exercising their fundamental rights.”

Pretrial Detention: The judicial process moved slowly, and the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees. The failure of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult. INPEC estimated that 33 percent of the country’s prison inmates were held in pretrial detention. In some cases detainees were released without a trial because they had already served more than one-third of the maximum sentence for their charges.

Civil society groups complained that authorities subjected some community leaders to extended pretrial detention.

### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality. Much of the judicial system was overburdened and inefficient, however, and subornation, corruption, and intimidation of judges, prosecutors, and witnesses hindered judicial functioning.

## **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced this right. While the government began

implementing an accusatory system of justice in 2008, the use of delay tactics by defense lawyers to slow or impede proceedings, prosecutors' heavy caseloads, and other factors diminished the anticipated increased efficiencies and other benefits of adopting the adversarial model. Under the criminal procedure code, the prosecutor presents an accusation and evidence before an impartial judge at an oral, public trial. Defendants are presumed innocent until proven guilty beyond a reasonable doubt and have the right to confront the trial evidence and witnesses against them, present their own evidence, and communicate with an attorney of their choice (or have one provided at public expense). Defendants have adequate time and facilities to prepare their defense. Defendants are not compelled to testify or confess guilt and have the right to appeal their proceedings. Although defendants have the right to an interpreter, the court system lacked interpreters for less commonly encountered languages. Crimes committed before 2008 are processed under the prior written inquisitorial system in which the prosecutor is a magistrate who investigates, determines evidence, and makes a finding of guilt or innocence. In those cases the trial consists of the presentation of evidence and finding of guilt or innocence to a judge for ratification or rejection.

In the military justice system, military judges preside over courts-martial. Counsel may represent the accused and call witnesses, but most fact finding takes place during the investigative stage. Military trial judges issue rulings within eight 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 includes elements of the inquisitorial and accusatory systems. The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel.

### **Political Prisoners and Detainees**

The government declared that it did not hold political prisoners; nevertheless, authorities held some members of human rights advocacy groups on charges of conspiracy, rebellion, or terrorism, which the groups described as government harassment against human rights advocates. According to INPEC, the government held 776 persons on charges of rebellion or of aiding and promoting insurgency. The government provided the International Committee of the Red Cross (ICRC) regular access to these prisoners.

## **Civil Judicial Procedures and Remedies**

Citizens may sue a government agent or entity in the Administrative Court of Litigation for damages resulting from a human rights violation. Although critics complained of delays in the process, the court generally was considered impartial and effective. Cases involving violations of an individual's human rights may be submitted through petitions by individuals or organizations to the IACHR, which in turn may submit the case to the Inter-American Court on Human Rights. The court may order civil remedies, including fair compensation to the individual injured.

## **Property Restitution**

The 2011 Victims' and Land Restitution Law (Victims' Law) continued to provide a legal basis for assistance and reparations to persons, including victims of government abuses, but the government admitted that the pace of restitution was slow. The government did not provide information on the number of those registered who received some form of assistance. The Land Restitution Unit, a semiautonomous entity in the Ministry of Agriculture, is responsible for returning land to displaced victims of conflict.

The Land Restitution Unit reported it had reviewed 276 requests for collective restitution of ethnic territories, covering an area of 17.1 million acres, including 99,754 families, and 114,768 individual restitution claims, of which 15,899 were awaiting final judicial decision. The claims encompassed more than 12 million acres benefitting 52,017 families.

## **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, but there were allegations the government failed to respect these prohibitions. Government authorities generally need a judicial order to intercept mail or email or to monitor telephone conversations, including in prisons. Government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization; the law bars evidence obtained this way from being used in court.

NGOs continued to accuse domestic intelligence or security entities of spying on lawyers and human rights defenders, threatening them, and breaking into their homes or offices to steal information.

On August 4, the Attorney General's Office arrested government agents, including three retired army officers, for illegal monitoring activities. *Semana* magazine alleged the agents illegally wiretapped government and private individuals. According to the Attorney General's Office, six criminal investigations against state agents had been initiated for surveillance and illegal monitoring of private individuals.

### **g. Abuses in Internal Conflict**

The government and the FARC, formerly the country's largest guerrilla insurgency group, continued to implement the November 2016 peace accord during the year. The FARC completed its disarmament, and former members reincorporated as a political party in 2017. An estimated 800 to 1,500 FARC dissident members were not participating in the peace process. Members of the FARC who did participate in the peace process alleged the government had not fully complied with its commitments to ensure the security of demobilized former combatants or to facilitate their reintegration, while the government alleged the FARC had not met its full commitments to cooperate on counternarcotics efforts. The Commission for the Clarification of Truth, Coexistence, and Non-Repetition, a body founded in accordance with stipulations in the peace accord, began its work officially on November 28 and will focus on building a shared understanding of the conflict's causes and effects on victims.

The ELN, a smaller leftist guerilla force of approximately 2,000 armed combatants, continued to commit crimes and acts of terror throughout the country--including bombings, violence against civilian populations, and violent attacks against military and police facilities--despite a brief bilateral cease-fire that concluded in January. Illegal armed groups and drug gangs such as the Gulf Clan also continued to operate. The CCEEU and other NGOs considered some of these illegal armed groups to be composed of former paramilitary groups. The government acknowledged that some former paramilitary members were active in illegal armed groups but noted these groups lacked the national, unified command structure and explicit ideological agenda that defined past paramilitary groups, including the disbanded United Self-Defense Forces of Colombia (AUC).

**Killings:** The CCEEU reported 34 deaths it attributed to arbitrary or unlawful killings by state agents, many of which occurred in the context of armed conflict. In some cases military officials stated the killings were military mistakes. In other cases military officials stated they believed an individual was fighting on behalf of

illegal armed groups, while community members stated the victim was not a combatant. For example, media reported that Luis Diaz Lopez and Miller Diaz Lopez were allegedly killed by members of Army Task Force Quiron during confrontations between the army and the ELN on January 18 in Tame, Arauca. According to the army, the brothers were identified as members of the ELN. Indigenous leaders disputed the army's account, stating the brothers were members of the Julieros indigenous community and asking for clarification into the circumstances behind their deaths.

There were no updates available at year's end on the investigation into the 2017 killing of Eduardo Antonio Gutierrez by members of the army.

Guerrillas, notably the ELN, committed unlawful killings.

For example, on January 27, a bomb in a police station in Barranquilla killed five police officers and wounded 42 other persons. National Police arrested Camilo Bellon, a member of the ELN, in connection with the attack.

Illegal armed groups committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or without a strong government presence. The Attorney General's Office reported that through August, it had arrested 27 members of illegal armed groups in cases involving homicide.

Organized-crime gangs and guerrilla groups killed, threatened, and displaced educators and their families for political and financial reasons, often because teachers represented the only government presence in the remote areas where the killings occurred.

There were no updates available at year's end regarding the status of the investigation into the 2017 killing of student and social leader Ivan Torres Acosta.

Independent observers raised concerns inadequate security guarantees were facilitating the killing of former FARC militants. According to the September 28 *Report of the Secretary-General on the UN Verification Mission in Colombia*, 71 former FARC combatants had been killed since the signing of the 2016 peace accord.

Abductions: Organized-crime gangs, the ELN, and common criminals continued to kidnap persons, both for ransom and for political reasons.

For example, on March 26, members of an illegal armed group kidnapped three persons from an Ecuadorian reporting team from the newspaper *El Comercio* and later killed them. On November 1, the IACHR reported the Attorney General's Office had made "significant progress" in the case, including the capture and prosecution of at least three of those responsible for these crimes.

Between January and July, the Ministry of Defense reported 28 hostages were freed, nine hostages died in captivity, two escaped, and 16 were released after pressure from the government.

The Special Unit for the Search for Disappeared Persons (UBPD) provided for in the peace accord is mandated to account for those who disappeared in the context of the armed conflict and, when possible, locate and return remains to families. Presidential decrees issued in February and August established the UBPD's internal framework, personnel structure, and formally appointed the UBPD director, Luz Marina Monzon. According to the Observatory of Memory and Conflict, more than 80,000 persons were reported missing as a result of the armed conflict, including 1,214 military and police officers who were kidnapped by the FARC and the ELN.

Physical Abuse, Punishment, and Torture: CINEP reported FARC dissidents and organized-crime gangs were responsible for six documented cases of torture through June 30 (see section 1.c.).

The ELN, FARC dissidents, and other groups continued to lay land mines during the year. According to the government's civilian demining authority (Descontamina), there were 113 victims of improvised explosive devices (IEDs) and land mines during the year, including 72 civilians, of whom 20 were children, and 41 were members of the security forces. This was a significant increase over the 57 victims in 2017.

Child Soldiers: There were reports the ELN and other illegal armed groups recruited persons younger than age 18. According to Virginia Gamba, special representative of the UN secretary-general for children and armed conflict, the ELN was responsible for the majority of cases of recruitment of child soldiers, with 113 minors kidnapped by the ELN during the year. The second recruiting group was the Gulf Clan, which was responsible for 35 kidnappings. Most of these children were recruited before 2016. During the year the government launched a program called "My future is today" to counter recruitment of child soldiers in 500 at-risk villages, affecting an estimated 27,000 minors and 15,000 families. The

Attorney General's Office also collected and compiled the testimony of 121 children who had been recruited, and authorities issued arrest warrants against five members of the Central Command of the ELN and 11 other commanders of different blocks.

Other Conflict-related Abuses: During the year reports of other human rights abuses occurred in the context of the conflict and narcotics trafficking. Drug traffickers, guerrilla fighters, and other illegal armed groups continued to displace predominantly poor and rural populations (see section 2.d., Internally Displaced Persons).

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The law provides for freedom of expression, including for the press, and the government generally respected this right. Violence and harassment, as well as the criminalization of libel, inhibited freedom of the press, and the government frequently influenced the press, in part through its large advertising budgets. The independent media were active and expressed a wide variety of views without restriction.

Violence and Harassment: According to the domestic NGO Foundation for Press Freedom (FLIP), through August 30, there were 153 threats against journalists, doubling the 61 threats registered throughout 2014 and exceeding the 129 documented in 2017. FLIP also reported that between January and August, one journalist was illegally detained, 13 were physically assaulted, and 26 were victims of judicial harassment based on defamation and slander. As of July the Human Rights Unit of the Attorney General's Office was investigating 51 active cases of crimes against journalists and had obtained eight sentences.

As of June 30, the National Protection Unit (NPU) provided protection services to 168 journalists. Some NGOs raised concerns about perceived shortcomings in the NPU, such as delays in granting protection and the appropriateness of measures addressing specific threats.

Censorship or Content Restrictions: FLIP alleged some journalists practiced self-censorship due to fear of being sued under libel laws or of being physically attacked, mostly by nongovernment actors. FLIP argued the high degree of

impunity for those who committed aggressions against journalists was also a factor.

Libel/Slander Laws: By law slander and libel are crimes. There is no specific law against slandering public officials, and the government did not use prosecution to prevent media from criticizing government policies or public officials. Political candidates, businesspersons, and others, however, publicly threatened to sue journalists for expressing their opinions, alleging defamation or libel. FLIP reported 66 cases were filed against journalists for libel or slander as of August 30, including two new cases filed during the year.

Nongovernmental Impact: Members of illegal armed groups sought to inhibit freedom of expression by intimidating, threatening, kidnapping, and killing journalists. National and international NGOs reported local media representatives regularly practiced self-censorship because of threats of violence from these groups.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. Due to the general climate of violence and impunity, self-censorship occurred both online and offline, particularly within rural communities.

The 2016 investigation continued into past abuses by the Army Intelligence Unit (see section 1.f.).

The International Telecommunication Union estimated that 62 percent of the population used the internet in 2017.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

## **Freedom of Peaceful Assembly**

The law provides for the freedom of peaceful assembly, and the government generally respected this right. Some NGOs alleged that riot police (Esmad) used excessive force to break up demonstrations. For example, on December 14, media reported eight students were injured as a result of confrontations between student protesters and the Esmad in Popayan. An unknown number of police officers were also injured.

## **Freedom of Association**

The law provides for the freedom of association, and the government generally respected this right. Freedom of association was limited by threats and acts of violence committed by illegal armed groups against NGOs, indigenous groups, and labor unions.

Although the government does not prohibit membership in most political organizations, membership in organizations that engaged in rebellion against the government, espoused violence, or carried out acts of violence, such as FARC dissidents, the ELN, and other illegal armed groups, was against the law.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights, although there were exceptions. Military operations and armed conflict in certain rural areas restricted freedom of movement.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

According to media reports, on August 31, the navy intercepted a vessel with 22 migrants from Bangladesh, Cameroon, Cuba, Gambia, India, and Pakistan, in the

Gulf of Uraba, adjacent to the country. The migrants, who allegedly were bound for Central America, were turned over to the Migration Directorate, the government's migration monitoring and control authority. The Migration Directorate reported that during 2017, 2,254 Indian citizens, 567 Nepalese, and 510 Bangladeshis were identified as being illegally in Colombia; 554 came from Africa.

In-country Movement: There were no government restrictions on movement within the country. Organized-crime gangs, ELN guerrillas, and other illegal armed groups continued to establish illegal checkpoints on rural roads.

International organizations also reported that illegal armed groups confined rural communities through roadblocks, curfews, car bombs at egress routes, and IEDs in areas where narcotics cultivation and trafficking persisted. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), between January and October, more than 1,037,491 persons faced mobility restrictions that limited their access to essential goods and services due to armed incidents and geographical factors. This reflected a 750 percent increase compared with the same period in 2017. Additionally, OCHA identified 56 events in which humanitarian actors and international organizations faced restrictions in access to communities by armed groups.

### **Internally Displaced Persons (IDPs)**

There were approximately 7.6 million IDPs in the country, largely a result of the armed conflict. Threats posed by illegal armed groups drove internal displacement in remote areas as well as urban settings. In some areas the FARC withdrawal resulted in a struggle for control by other illegal armed groups causing violence and internal displacement. The government, international organizations, and civil society groups identified various factors driving displacement, including threats, extortion, and physical, psychological, and sexual violence by illegal armed groups against civilian populations, particularly women and girls. Competition and armed confrontation among and within illegal armed groups for resources and territorial control and confrontations between security forces, guerrillas, and organized-crime gangs, in addition to forced recruitment of children or threats of forced recruitment, were also drivers of displacement. Drug trafficking, illegal mining, and large-scale commercial ventures in rural areas also contributed to displacement. Local institutions lacked the capacity in many areas to protect the rights of, and provide public services to, displaced persons and communities at risk

of displacement, and as such the government struggled to provide adequate protection or humanitarian assistance to IDPs.

OCHA reported that 30,068 persons had been affected in 103 displacement events between January and October. Approximately 45 percent of the individuals affected were of Afro-Colombian and indigenous origin. Departments with the highest rate of mass displacements included Antioquia, Cordoba, Choco, Narino, and Norte de Santander.

As of July the NPU was providing protection services to 330 land-restitution leaders.

The Victims' Unit maintained the Single Victims Registry as mandated by law. Despite improvements in the government registration system, IDPs experienced delays in receiving responses to their displacement claims because of a large backlog of claims built up during several months, lack of the unit's presence in territory, and other constraints. Government policy provides for an appeals process in the case of refusals.

The ELN and organized-crime gangs continued to use force, intimidation, and disinformation to discourage IDPs from registering with the government. International organizations and civil society expressed concern over urban displacement caused by violence stemming from territorial disputes between criminal gangs, some of which had links to larger criminal and narcotics-trafficking groups.

The Victims' Unit cited extortion, recruitment by illegal armed groups, homicides, and physical and sexual violence as the primary causes of intraurban displacement. UNHCR reported that in some departments displacement disproportionately affected indigenous and Afro-Colombian groups.

According to OCHA, 15 percent of the 30,068 persons affected by displacements were indigenous.

The NGO National Association of Displaced Afrodescendants (AFRODES) stated that threats and violence against Afro-Colombian leaders and communities continued to cause high levels of forced displacement, especially in the Pacific Coast region. OCHA reported that approximately 29 percent of the individuals affected by displacement events were Afro-Colombian. AFRODES and other local

NGOs expressed concern that large-scale economic projects, such as agriculture and mining, contributed to displacement in their communities.

By law 52 government agencies are responsible for assisting registered IDPs.

Dozens of international organizations, international NGOs, and domestic nonprofit groups, including the International Organization for Migration, World Food Program, ICRC, UNHCR, and Colombian Red Cross, coordinated with the government to provide emergency relief and long-term assistance to displaced populations.

International organizations and NGOs remained concerned about the slow and insufficient institutional response to displacement. As a result, NGOs took responsibility for providing humanitarian assistance to recently displaced individuals. International organizations and civil society reported that a continuing lack of local capacity to accept registrations in high-displacement areas often delayed assistance to persons displaced individually or in smaller groups. Humanitarian organizations attributed the delays to a variety of factors, including the lack of personnel, funding, declaration forms, and training. Insecurity in communities affected by the conflict, including areas in the departments of Antioquia, Cauca, Choco, Narino, and Norte de Santander, sometimes delayed national and international aid organizations from reaching newly displaced populations.

Despite several government initiatives to enhance IDP access to services and awareness of their rights, in many parts of the country municipalities did not have the resources or capacity to respond to new displacements and provide humanitarian assistance to IDPs. Many IDPs continued to live in poverty in unhygienic conditions and with limited access to health care, education, shelter, and employment.

Displaced persons also sought protection across international borders. UNHCR previously stated that Colombia was the country of origin for 360,000 refugees and persons in a refugee-like situation, the majority in Ecuador, with additional populations in Venezuela, Costa Rica, and Panama. UNHCR estimated that between 400 and 500 Colombians crossed into Ecuador every month. The governments of Colombia and Ecuador continued to meet throughout the year regarding the situation of Colombian refugees and asylum seekers in Ecuador, and the Colombian government offered a program to assist Colombians abroad who returned to Colombia. Additionally, the government estimated that 300,000

Colombians, many of whom were displaced by the conflict in Colombia and registered as refugees in Venezuela, returned to Colombia from Venezuela during the year.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. According to the government, it had approved 47 applications for refugee status since 2009. Between January 1 and October 2, the government reported it received 1,258 new asylum-seeker cases for refugee status, of which three cases were approved. Venezuelans represented approximately 95 percent of applications during the year. Authorities stated that the asylum process took at least one year, during which solicitants were given a permit to stay in the country but were not allowed to work.

During the year there was a large increase in migration flows from Venezuela. According to the Migration Directorate, as of October the country hosted more than one million Venezuelans. While the government generally provided access to the asylum process for persons who requested international protection, many opted for alternative migration status, due to the slow processing time of asylum applications.

Temporary Protection: The government also provided temporary residence permits (PEP) to Venezuelans who met certain eligibility requirements. Approximately 180,000 Venezuelans who entered with passports legally were granted PEPs prior to February, when the program was discontinued. In June the government announced that 442,462 irregular Venezuelans who participated in the government's census exercise would be eligible for PEPs until December 2. As of November approximately 255,000 of the 442,462 Venezuelans eligible for PEPs had requested the residence permit, and other Venezuelans were in the registration process. A new registration period for the PEP was announced December 27. PEPs provide access to work permits, access to the social insurance system, and the ability to open bank accounts. The temporary residency permit is valid for up to two years.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on nearly universal suffrage.

Active-duty members of the armed forces and police may neither vote nor participate in the political process. Civilian public employees are eligible to vote, although they may participate in partisan politics only during the four months immediately preceding a national election.

As part of the peace accord, the FARC registered a political party composed of former FARC members in 2017 under the name People's Alternative Revolutionary Force (*Fuerza Alternativa Revolucionaria del Comun*), maintaining the same acronym. The FARC political party participated in the March congressional elections and initially nominated a presidential candidate, who withdrew from the race in May. On July 20, FARC political party representatives took up eight of their guaranteed 10 seats in congress.

### **Elections and Political Participation**

Recent Elections: There were no reports of election-related violence during the June 17 presidential runoff, in which the candidate of the *Centro Democrático* (Democratic Center) party, Ivan Duque, beat the candidate of *Colombia Humana* (Humane Colombia) Gustavo Petro. The then minister of defense Carlos Luis Villegas described it as the most peaceful election in decades. The leading domestic elections NGO, Electoral Observation Mission, deployed 3,524 nonpartisan volunteers to monitor the elections. International observers included an Electoral Observation Mission of the Organization of American States.

Political Parties and Political Participation: Organized-crime gangs and the ELN threatened and killed government officials (see section 1.g.). As of July 31, the NPU, under the Ministry of Interior, was providing protection to 353 mayors, 17 governors, and 181 other persons, including members of departmental assemblies, council members, judges, municipal human rights officers, and other officials related to national human rights policies. By decree the CNP's protection program and the NPU assume shared responsibility for protecting municipal and district mayors.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate. The share of female officials in President Duque's cabinet was more than 50 percent.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively, although officials sometimes engaged in corrupt practices without punishment. The World Bank's worldwide governance indicators reflected that government corruption was a serious problem. Revenues from transnational organized crime, including drug trafficking, exacerbated corruption.

Corruption: On March 7, the Supreme Court sentenced former top anticorruption official Luis Gustavo Moreno Rivera to four years and 10 months in prison on corruption charges. Related reporting led the Attorney General's Office to more than 25 criminal investigations and unveiled a corruption network throughout the justice system, other government bodies, and Congress. From August 1, 2016, to year's end, the Attorney General's Office had undertaken approximately 2,330 corruption investigations.

Financial Disclosure: By law public officials must file annual financial disclosure forms with the tax authority. The information is not made public. The law states that persons who intend to hold public office or work as contractors for the government for more than three months shall submit a statement of assets and income, as well as information on their private economic activity. The Administrative Department of Public Service is in charge of preparing the required forms, and the human resources chief in each entity is responsible for verifying the information submitted. Congress maintained a website on which members could voluntarily post their financial information.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were typically cooperative and willing to listen to local human rights groups' concerns.

Several NGOs reported receiving threats in the form of email, mail, telephone calls, false obituaries, and objects related to death, such as coffins and funeral bouquets. The government condemned the threats and called on the Attorney General's Office to investigate them. Some activists claimed the government did not take the threats seriously.

The government announced advances in the investigations into attacks and killings of human rights defenders and assigned priority resources to these cases.

Through August the Attorney General's Office reported 37 active investigations, with eight persons charged, and no convictions in cases of threats against human rights defenders.

As of July 31, the NPU's protection program provided protection to a total of 6,752 individuals. Among the NPU's protected persons were 780 human rights activists.

To help monitor and verify that human rights were respected throughout implementation of the peace accord, the government formally renewed the mandate of the OHCHR in 2016 for a period of three years. The accord requests that the OHCHR include a "special chapter on implementation of the agreements from the standpoint of human rights" in its annual reports.

Government Human Rights Bodies: The ombudsman is independent, submits an annual report to the House of Representatives, and has responsibility for providing for the promotion and exercise of human rights. According to human rights groups, underfunding of the Ombudsman's Office limited its ability to monitor violations effectively. The ombudsman, as well as members of his regional offices, reported threats from illegal armed groups issued through pamphlets, email, and violent actions.

The National System for Human Rights and International Humanitarian Law--led by a commission of 18 senior government officials, including the vice president--designs, implements, and evaluates the government's policies on human rights and international humanitarian law. The Office of the Presidential Advisor for Human Rights coordinates national human rights policy and actions taken by government entities to promote or protect human rights.

Both the Senate and House of Representatives have human rights committees that served as forums for discussion of human rights problems.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: Although prohibited by law, rape of men or women, including spousal rape, remained a serious problem. The law provides for sentences ranging from eight to 30 years' imprisonment for violent sexual assault. For acts of spousal sexual violence, the law mandates prison sentences of six months to two years. By law femicide is punishable with penalties of 21 to 50 years in prison, longer than the minimum sentence of 13 years for homicide.

Violence against women, and impunity for perpetrators, continued to be a problem. Members of illegal armed groups, including former paramilitary members, and guerrillas also continued to rape and abuse women and children sexually. For example, an August 1 report by the Mission to Support the Peace Process in Colombia of the Organization of American States detailed its "concern about the continuation and, in some cases, exacerbation of violence against women and girls."

The government continued to employ the Elite Sexual Assault Investigative Unit interagency unit in Bogota, which was dedicated to the investigation of sexual assault cases. From January to August, the Attorney General's Office opened 28,942 new investigations for sexual crimes.

The law requires the government to provide victims of domestic violence immediate protection from further physical or psychological abuse. During 2017 more than 70,000 cases of intrafamily violence were reported.

The Ministry of Defense continued implementing its protocol for managing cases of sexual violence and harassment involving members of the military. The District Secretary of Women, in Bogota, and the Ombudsman's Office offered free legal aid for victims of gender violence and organized courses to teach officials how to treat survivors of gender violence respectfully.

The law augments both jail time and fines if a crime causes "transitory or permanent physical disfigurement," such as acid attacks, which have a penalty of up to 50 years in prison. Acid attacks remained a problem and predominately targeted women. In August a woman in Cauca attacked her sister-in-law with acid, burning the victim's eye, face, and neck. There were no updates on advances in this case at year's end.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C, but isolated incidents were reported in several indigenous communities in different

parts of the country. Two-thirds of women from the Embera community had undergone FGM/C, according to the UN Population Fund.

Sexual Harassment: The law provides measures to deter and punish harassment in the workplace, such as sexual harassment, verbal abuse or derision, aggression, and discrimination, which carries a penalty of one to three years' imprisonment. Nonetheless, NGOs reported sexual harassment remained a pervasive and underreported problem in workplaces and in public.

Coercion in Population Control: Coerced abortion is not permitted under the law. The law allows the involuntary surgical sterilization of children with cognitive and psychosocial disabilities in certain cases.

Through August 18, the Attorney General's Office reported it opened 15 investigations related to cases of forced abortion.

Discrimination: Although women have the same legal rights as men, serious discrimination against women persisted. The Office of the Advisor for the Equality of Women has primary responsibility for combating discrimination against women, but advocacy groups reported that the office remained seriously underfunded. The government continued its national public policy for gender equity.

## **Children**

Birth Registration: Citizenship is derived by birth within the country's territory in most cases. Most births were registered immediately. If a birth is not registered within one month, parents may be fined and denied public services.

Child Abuse: Child abuse was a serious problem. The ICBF reported between January and July 31, there were 8,039 cases of sexual abuse against children. According to the National Council of Economic and Social Policy (CONPES), the government reported in October that the ICBF had undertaken 740 instances to address violations against Venezuelan children.

Early and Forced Marriage: Marriage is legal at age 18. Boys older than age 14 and girls older than age 12 may marry with the consent of their parents. According to UNICEF, 5 percent of girls were married before age 15 and 23 percent before the age of 18.

Sexual Exploitation of Children: Sexual exploitation of children remained a problem. The law prohibits sexual exploitation of a minor or facilitating the sexual exploitation of a minor and stipulates a penalty of 14 to 25 years in prison, with aggravated penalties for perpetrators who are family members of the victim and for cases of sexual tourism, forced marriage, or sexual exploitation by illegal armed groups. The law prohibits pornography using children younger than age 18 and stipulates a penalty of 10 to 20 years in prison and a fine. The minimum age for consensual sex is 14. The penalty for sexual activity with a child younger than age 14 ranges from nine to 13 years in prison. The government generally enforced the law.

According to the ICBF, between January and July 31, there were 151 reported cases of sexual exploitation of children. The Attorney General's Office reported opening 837 investigations related to cases of child pornography and 334 cases of sexual exploitation of minors, with one conviction reported during the year. In July authorities in Cartagena conducted a three-day operation, arrested 18 persons, and charged them with the sexual exploitation of more than 250 women and girls. According to press reports, the trafficking ring was led by Liliana Campos Puello and retired marine infantry captain Raul Danilo Romero Pabon. Prosecutors alleged that some of the women and girls were tattooed and trafficked for purposes of commercial sexual exploitation. Media reported authorities conducted several raids to dismantle networks of sexual exploitation of minors in Cartagena and other cities as of December 12. In total, 42 persons were captured and goods valued at Colombian pesos (COP) 154 billion (\$49 million) were seized.

Displaced Children: The NGO Consultancy for Human Rights and Displacement estimated in 2016 that 31 percent of persons registered as displaced since 1985 were minors at the time they were displaced (see also section 2.d.). According to CONPES, the government reported in October that approximately 27 percent of Venezuelans registered in the government's yet-to-be-released 2018 census were minors, of whom approximately half had received government services.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

## **Anti-Semitism**

The Jewish community, which had an estimated 5,000 members, continued to report instances of anti-Israeli rhetoric connected to events in the Middle East, accompanied by anti-Semitic graffiti near synagogues, as well as demonstrations in front of the Israeli embassy that were sometimes accompanied by anti-Semitic comments on social media. In particular the Colombian Confederation of Jewish Communities expressed concern over the presence of BDS (Boycott, Divestment, Sanctions) Colombia, which aggressively promotes the boycott of Israeli products, culture, and travel and does not actively counter the conflation of anti-Israeli policies with anti-Semitic rhetoric.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The law punishes those who arbitrarily restrict the full exercise of the rights of persons with disabilities or harass persons with disabilities, but enforcement was rare. The law prohibits discrimination against persons with physical and mental disabilities but does not explicitly prohibit discrimination against persons with sensory or intellectual disabilities. No law mandates access to information and telecommunications for persons with disabilities.

The Office of the Presidential Advisor for Human Rights under the High Counselor for Post-Conflict, Public Security, and Human Rights, along with the Human Rights Directorate at the Ministry of Interior, is responsible for protecting the rights of persons with disabilities. According to Somos Defensores and other NGOs, the law was seldom enforced.

Although children with disabilities attended school at all levels, advocates noted the vast majority of teachers and schools were neither trained nor equipped to educate children with disabilities successfully. Advocacy groups also stated children with disabilities entered the education system later than children without disabilities and dropped out at higher rates. Persons with disabilities were unemployed at a much higher rate than the general population.

In 2013 the State Council ordered all public offices to make facilities accessible to persons with disabilities and asked public officials to include requirements for accessibility when granting licenses for construction and occupancy. The State

Council also asked every municipality to enforce rules that would make all public offices accessible to persons with disabilities “in a short amount of time.” It was not clear if much progress had been made.

### **National/Racial/Ethnic Minorities**

According to the 2005 national census, the most recent census available at the time of drafting, approximately 4.5 million persons, or 10 percent of the country’s population, described themselves as being of African descent. A 2011 UN report estimated Afro-Colombians made up 15 to 20 percent of the population, while human rights groups and Afro-Colombian organizations estimated the proportion to be 20 to 25 percent.

Afro-Colombians are entitled to all constitutional rights and protections, but they faced significant economic and social discrimination. According to a 2016 UN report, 32 percent of the country’s population lived below the poverty line, but in Choco, the department with the highest percentage of Afro-Colombian residents, 79 percent of residents lived below the poverty line.

In 2010 the government approved a policy to promote equal opportunity for black, Afro-Colombian, Palenquera, and Raizal populations. (Palenquera populations inhabit some parts of the Caribbean coast, Raizal populations live in the San Andres archipelago, and Blacks and Afro-Colombians are Colombians of African descent who self-identify slightly differently based on their unique linguistic and cultural heritages.) The Ministry of Interior provided technical advice and funding for social projects presented by Afro-Colombian communities.

The National Autonomous Congress of Afro-Colombian Community Councils and Ethnic Organizations for Blacks, Afro-Colombians, Raizales, and Palenqueras, consisting of 108 representatives, met with government representatives on problems that affected their communities.

### **Indigenous People**

The constitution and law give special recognition to the fundamental rights of indigenous persons, who make up approximately 3.4 percent of the population, and require the government to consult beforehand with indigenous groups regarding governmental actions that could affect them.

The law accords indigenous groups perpetual rights to their ancestral lands, but indigenous groups, neighboring landowners, and the government often disputed the demarcation of those lands. Traditional indigenous groups operated 710 reservations, accounting for approximately 28 percent of the country's territory. Illegal armed groups often violently contested indigenous land ownership and recruited indigenous children to join their ranks.

The law provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws. Legal proceedings in these jurisdictions were subject to manipulation and often rendered punishments more lenient than those imposed by regular civilian courts.

Some indigenous groups continued to assert they were not able to participate adequately in decisions affecting their lands. The constitution provides for this "prior consultation" mechanism for indigenous communities, but it does not require the government to obtain the consent of those communities in all cases.

The government stated that for security reasons it could not provide advance notice of most military operations, especially when in pursuit of enemy combatants, and added that it consulted with indigenous leaders when possible before entering land held by the communities.

Despite special legal protections and government assistance programs, indigenous persons continued to suffer discrimination and often lived on the margins of society. They belonged to the country's poorest population and had the highest age-specific mortality rates.

Killings of members and leaders of indigenous groups remained a problem. According to the NGO National Indigenous Organization of Colombia, since the signing of the peace accord, 46 indigenous persons have been killed.

Despite precautionary measures ordered by the IACHR, ethnic Wayuu children continued to die of malnutrition. The United Nations and the government reported an increase in binational Wayuu families, including children, arriving in Colombia as a result of deteriorating conditions in Venezuela. Several hundred members of the Venezuelan Yukpa tribe crossed into Colombia in April due to deteriorating conditions in Venezuela. The government worked with the United Nations to provide the population basic services.

## **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

There were no reports of official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. A 2015 Constitutional Court decision required that the Ministry of Education modify its educational materials to address discrimination in schools based on sexual orientation or gender identity.

Transgender individuals cited barriers to public services when health-care providers or police officers refused to accept their government-issued identification. Some transgender individuals stated it was difficult to change the gender designation on national identity documents and that transgender individuals whose identity cards listed them as male were still required to show proof they had performed mandatory military service or obtained the necessary waivers from that service. NGOs claimed discrimination and violence in prisons against persons due to their sexual orientation and gender identity remained a problem.

Despite government measures to increase the rights and protection of lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, there were reports of societal abuse and discrimination, as well as sexual assault. NGOs claimed transgender individuals, particularly transgender men, were often sexually assaulted in so-called corrective rape. The Constitutional Court pronounced in 2016 that transgender persons faced discrimination and social rejection within the LGBTI community and recommended measures to increase respect for transgender identities in the classrooms.

As of September 18, the Attorney General's Office was investigating at least two alleged homicides of LGBTI individuals. Investigations into crimes committed by members of the security forces did not appear in the Attorney General's Office system. NGO Colombia Diversa reported six cases, involving eight victims, of police abuse of persons due to their sexual orientation or gender identity, with the majority of complaints coming from transgender individuals.

NGOs reported several cases of threats against LGBTI human rights defenders, as well as a high level of impunity for crimes against LGBTI persons. Such organizations partially attributed impunity levels to the failure of the Attorney General's Office to distinguish and effectively pursue crimes against LGBTI persons.

## **HIV and AIDS Social Stigma**

There were no confirmed reports of societal violence or discrimination against persons with HIV/AIDS. In its most recent demographic and health survey (2010), the government reported the responses of 85 percent of those surveyed indicated discriminatory attitudes towards persons with HIV/AIDS, reflecting low levels of social acceptance throughout the country.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join unions, bargain collectively, and conduct legal strikes, and it prohibits antiunion discrimination. Members of associated workers' cooperatives are not allowed to form unions, since the law recognizes members of a cooperative as owners. The law prohibits members of the armed forces and police from forming or joining unions. The law provides for automatic recognition of unions that obtain 25 signatures from potential members and that comply with a registration process. Public-sector employees legally have the right to bargain collectively. The government and employers generally respected freedom of association and collective bargaining in practice. Workers faced some obstacles to exercising those rights, and the government faced numerous challenges effectively enforcing applicable laws governing those two rights.

The law permits associated workers' cooperatives (CTAs), collective pacts, and union contracts. Under collective pacts employers may negotiate accords on pay and labor conditions with workers in workplaces where no union is present or where a union represents less than one-third of employees. Law and regulations prohibit the use of CTAs and collective pacts to undermine the right to organize and bargain collectively, including by extending better conditions to nonunion workers through such pacts. Through a union contract, a company may contract a union, at times formed explicitly for this purpose, for a specific job or work; the union then in essence serves as an employer for its members. Workers who belong to a union that has a union contract with a company do not have a direct employment relationship with either the company or the union. Labor disputes for workers under a union contract may be decided through an arbitration panel versus labor courts if both parties agree.

The law does not permit members of the armed forces, police, and persons performing “essential public services” to strike. Before conducting a strike, unions must follow prescribed legal procedures, including entering into a conversation period with the employer, presenting a list of demands, and gaining majority approval in the union for a strike. The law limits strikes to periods of contract negotiations or collective bargaining and allows employers to fire trade unionists who participate in strikes or work stoppages ruled illegal by the courts.

The government has the authority to fine labor-rights violators. The government sought to enforce most applicable labor laws, but a lack of an inspection strategy, as well as an overburdened judicial system, inhibited speedy and consistent application. The maximum penalty for violations of law, including those that prohibit the misuse of CTAs, is 5,000 times the minimum monthly wage, or COP 3.4 billion (\$1.07 million), which is sufficient to deter violations if levied consistently. The law also stipulates that offenders repeatedly misusing CTAs or other labor relationships shall receive the maximum penalty and may be subject to losing their legal status to operate. Employers who engage in antiunion practices may also be imprisoned for up to five years, although government officials admitted a fine was more likely than imprisonment. Prohibited practices include impeding workers’ right to strike, meet, or otherwise associate, and extending better conditions to members of collective pacts than to union members. Through the first nine months of the year, the government reported finalizing 55 fines on certain subcontracting entities for abusive forms of subcontracting at a value of COP 8.24 billion (\$2.6 million).

The Ministry of Labor’s Special Investigations Unit continued to exercise its power to investigate and impose sanctions in any jurisdiction. The vice minister for labor relations decides on a case-by-case basis whether to assign the Special Investigations Unit or the regional inspectors to investigate certain sites. The unit was reportedly overburdened with cases, resulting in denials of recent union requests for review by the unit.

The Ministry of Labor leads a tripartite Inter-Institutional Commission for the Promotion and Protection of the Human Rights of Workers, with participation by the government, organized labor groups, and business community. The commission met three times during the year, in the departments of Valle del Cauca and Cauca.

As part of its commitments under the 2011 Colombian Action Plan Related to Labor Rights (Labor Action Plan), the government continued to take steps to

protect internationally recognized labor rights. Labor inspections by the Ministry of Labor for abusive subcontracting in the five priority sectors of palm oil, sugar, ports, mines, and cut flowers remained infrequent, however. Critics claimed inspections lacked necessary rigor, assessed fines were not collected, and abusive subcontracting continued. In the first nine months of the year, there appeared to be no fines collected for illegal labor intermediation in any of the five priority sectors, and only one new fine was imposed for this violation in each of the cut flower and mining sectors. The government continued to engage in regular meetings with unions and civil society groups.

The Ministry of Labor, in collaboration with the International Labor Organization (ILO), continued a virtual training program to prepare labor inspectors to identify antiunion conduct. It also implemented methods, including contract and process maps, as strategic planning tools to prioritize interventions. The ministry continued to employ a telephone- and internet-based complaint mechanism to report alleged labor violations. Union members complained that existing systems did not allow citizens to register anonymous complaints and noted that complaints registered through the telephone and internet systems do not result in action.

Judicial police, the Technical Investigation Body, and prosecutors investigating criminal cases of threats and killings are required to determine during the initial phase of an investigation whether a victim is an active or retired union member or is actively engaged in union formation and organization, but it was unclear whether they did so. It could take several months to transfer cases from regional field offices of the Attorney General's Office to the Attorney General's Human Rights Directorate, and cases are transferred only with the approval of the attorney general in response to direct requests, instead of automatically.

The government continued to include in its protection program for labor activists persons engaged in efforts to form a union, as well as former unionists under threat because of their past activities. Through July the NPU provided protection to 377 trade union leaders or members (others protected included 168 journalists, 780 human rights advocates, and 330 land restitution claimants). Approximately 8.6 percent of the NPU's budget was dedicated to unionist protection. Between January 1 and July, the NPU processed 306 risk assessments of union leaders or members; 100 of those cases were assessed as posing an "extraordinary threat," and the NPU provided them protection measures. The NPU reported that during the year the average time needed to implement protection measures upon completion of a risk analysis was 65 days in regular cases or five days for emergency cases. NGOs, however, complained about slow processing times.

The protection and relocation of teachers falls under the Ministry of National Education and the departmental education secretaries, but the NPU retains some responsibilities for the risk analysis and protection of family members. Through July 31, the NPU evaluated 341 threat cases against teachers and found 74 to be of extraordinary risk.

In cases of unionist killings from previous years, the pace of investigations and convictions remained slow, and high rates of impunity continued. Labor groups stated more needed to be done to address impunity for perpetrators of violence against trade unionists and the large number of threat cases. The Attorney General's Office indicated it prioritized cases in order of severity and had a backlog of lower-priority cases. As of July 31, the Attorney General's Office reported 765 sentences against 626 persons in cases of violence against unionists since 2006 that were filed in the Human Rights Directorate.

Violence, threats, harassment, and other practices against trade unionists continued to affect the exercise of the right to freedom of association and collective bargaining. According to the Attorney General's Office, through September 19, 10 teachers were registered as victims in cases of homicide.

The Attorney General's Office reported the killing of 18 trade unionists during the year. There was progress in the investigation of several of these cases, with one case already receiving a sentence and four cases in the prosecution phase. The National Union School (ENS), a labor rights NGO and think tank, reported 28 trade unionists were killed. ENS and other labor groups stated that focusing on killings alone masked the true nature and scope of the violence against labor activists. Labor groups noted that in some regions nonlethal violations continued to increase. ENS reported 136 death threats, six nonlethal attacks, two cases of forced displacement, four cases of harassment, and one illegal raid.

Unions cited multiple instances in which companies fired employees who formed or sought to form new unions. Some employers continued to use temporary contracts, service agencies, and other forms of subcontracting, including cooperatives, to limit worker rights and protections. Fines assessed by the government did little to dissuade violators because fines were often not collected. Formalization agreements in firms with illegal subcontracting increased during the year. In the first nine months of the year, the government reported 2,606 workers benefited from 29 formalization agreements that the Ministry of Labor reached with employers in key sectors, including agriculture, mining, manufacturing,

education, and transport. Labor rights groups expressed concern that previously signed formalization agreements were not sufficiently monitored by the ministry.

Labor confederations and NGOs reported that business owners in several sectors used “simplified stock corporations” (SAS), union contracts, foundations, or temporary service agencies in attempts to circumvent legal restrictions on cooperatives. While in theory SAS workers may exercise their right to organize and bargain collectively with SAS management, it appeared that in some cases the SAS had little or no control over the conditions of employment. The Ministry of Labor stated that an SAS, like any corporate structure, may be fined for labor violations if they occurred. Labor confederations and NGOs reported these enforcement actions did not address the scope of abusive subcontracting and illegal labor intermediation in the country.

According to ENS, Indupalma, a large employer in the palm sector located in the municipality of San Alberto, Cesar Department, previously fined for employing more than 1,200 workers through illegal cooperatives, formalized 592 workers in October through a formalization agreement reached with the Ministry of Labor.

Metal and mineworkers’ union SINTRAIME reported that inspections for abusive subcontracting carried out by the Ministry of Labor at the Drummond coalmines were ineffective in safeguarding the freedom of workers to organize.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government did not effectively enforce the law in all cases, and there continued to be reports that such practices occurred. The law prescribes punishments of 13 to 23 years’ imprisonment plus fines for forced labor violations.

There were reports ELN guerrillas and organized-crime gangs used forced labor, including forced child labor, in coca cultivation and illegal mining in areas outside government control as well as forced criminality, such as extortion, in urban areas. The ICBF indicated that between November 16, 1999, and July 31, the number of children and adolescents who had demobilized was 6,512, of whom 709 were indigenous and 482 Afro-Colombian. As part of a temporary bilateral cease-fire between the government and the ELN from October 1, 2017, to January 9, the ELN committed to stop the recruitment of minors. High Commissioner for Peace Miguel Ceballos, however, indicated the ELN continued to recruit minors during the year.

Forced labor in other sectors, including organized begging, mining, agriculture, forced recruitment by illegal armed actors, and domestic service, also remained a serious problem. Afro-Colombians, indigenous Colombians, and inhabitants of marginalized urban areas were at the highest risk of forced labor, domestic servitude, forced begging, and forced recruitment. In September authorities in Bogota sentenced Claudia Maritza Castiblanco Parra to 12 years in prison on conviction for the forced labor of an indigenous woman hired as a domestic servant. This was the first conviction for labor trafficking of an individual in domestic servitude.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law sets the minimum age for employment at 15 and for hazardous work at 18. Children 15 and 16 years of age may work no more than 30 hours per week, and children age 17 may work no more than 40 hours per week. Children younger than age 15 may work in arts, sports, or recreational or cultural activities for a maximum of 14 hours per week. In all these cases, working children and adolescents must have signed documentation filed by their parents and approved by a labor inspector or other local authority.

The law prohibits child workers from working at night or where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. During the year the government updated its hazardous work regulations in consultation with employers' and workers' organizations to include an extensive list of 36 kinds of activities that are prohibited to children, including in agriculture, hunting and forestry, fishing, mining and quarrying, manufacturing, construction, transport and storage, health services, and defense.

The law authorizes inspectors to issue fines of up to 5,000 times the minimum monthly wage for labor law violations, including child-labor violations, which would be sufficient to deter violations, but the government did not enforce the law effectively in all cases. A violation deemed to endanger a child's life or threaten moral values may be punished by temporary or permanent closure of the establishment. Nationwide, labor inspectors are responsible for enforcing child labor laws and supervising the formal sector through periodic inspections. An

estimated 80 percent of all child labor, however, occurred in the informal sector of the economy.

Government agencies carried out several activities to eradicate and prevent exploitative child labor. With ILO assistance the government continued to improve cooperation among national, regional, and municipal governments on child labor issues. It also continued to employ a monitoring system to register working children, although the system was not always regularly updated. The government also sought to reduce demand for child labor through public awareness and training efforts, often working with international and civil society organizations.

The government, through the Ministry of Labor, followed the National Policy to Prevent and Eliminate Child Labor and Protect the Young Worker, adopted in 2017. It also continued its roundtable discussion group, which included government representatives, members of the three largest labor confederations, and civil society. The group concentrated its efforts on formalizing an integrated registration system for information on child labor that would permit public and private entities to register information about child workers.

The government continued to combat illegal mining and formalize artisanal mining production, with goals including the elimination of child labor and forced labor. Regional ICBF offices were charged with leading efforts to combat child labor in mining at the local level, working with the Ministry of Labor and other government agencies to coordinate responses. The Department for Social Prosperity continued to implement the More Families in Action program to combat poverty through conditional cash transfers; it included a specific focus on addressing child labor. In interagency child labor meetings, the Ministry of Labor reported that whichever government presence was available in the area--whether police, the ICBF, teachers, or the Administrative Department for Social Prosperity--attended to children found working in illegal mining operations. While all agencies had directives on how to handle and report child labor cases, it was unclear whether all cases were referred to the ICBF.

The ICBF continued to implement several initiatives aimed at preventing child labor, including producing an extensive section of its website designed specifically for young audiences to educate children on child labor, their rights, and how to report child labor. The Ministry of Labor continued its work with the Network against Child Labor, in which the ministry operates alongside member businesses that pledged to work within the network to prevent and eradicate child labor.

Child labor remained a problem in the informal and illicit sectors. Although the government does not publish data on child labor, the National Administrative Department of Statistics (DANE) collects and publishes information on the economic activities of children ages five to 17 through a module in its Comprehensive Household Economic Survey during the fourth quarter of each calendar year. According to DANE's 2017 survey, 7 percent of children were working, with 44 percent engaged in agriculture, livestock raising, fishing, and hunting, and 30 percent in commerce, hotels, and restaurant work. To a lesser extent, children engaged in the manufacturing and transport sectors. Children also routinely performed domestic work, where they cared for children, prepared meals, tended gardens, and carried out shopping duties.

Significant rates of child labor occurred in the production of clay bricks, coal, emeralds, gold, coca, and pornography. Children were also engaged in child labor in street vending, domestic work, begging, and garbage scavenging. There were also reports that children engaged in child labor in agriculture, including coffee production and small family production centers in the unrefined brown sugar market, as well as selling inexpensive Venezuelan gasoline. Commercial sexual exploitation of children occurred (see section 6, Children).

Prohibitions against children working in mining and construction were reportedly largely ignored. Some educational institutions modify schedules during harvest seasons so that children may help on the family farm. Children worked in artisanal mining of coal, clay, emeralds, and gold under dangerous conditions and in many instances with the approval or insistence of their parents. The government's efforts to assist children working in illegal mining focused on the departments of Antioquia and Boyaca.

There continued to be instances of child trafficking with the purpose of forced labor in mines, quarries, and private homes. According to government officials and international organizations, illegal drug traders and other illicit actors recruited children, sometimes forcibly, to work in their illegal activities. The ELN and organized-crime gangs forced children into sexual servitude or criminality to serve as combatants or coca pickers (see section 1.g.). Children working in the informal sector, including as street vendors, were also vulnerable to labor trafficking. The ICBF identified children and adolescents who qualified for and received social services.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment or occupation based on race, ethnicity, sex, religion, political preference, national origin or citizenship, gender, disability, language, sexual orientation or gender identity, HIV-positive status or infection with other communicable diseases, or social status. Complaints of quid pro quo sexual harassment are filed not with the Ministry of Labor but with the criminal courts. The government did not effectively enforce the law in all cases.

Unemployment disproportionately affected women, who faced hiring discrimination and received salaries that generally were not commensurate with their education and experience. Sisma Mujer reported on average women were paid 28 percent less than men. In a previous year, a senior government official estimated that 85 percent of persons with disabilities were unemployed. Afro-Colombian labor unions reported discrimination in the port sector.

#### **e. Acceptable Conditions of Work**

The legal minimum monthly wage is roughly twice the amount of the poverty line; however, almost half of the total workforce earned less than the minimum wage.

The law provides for a regular workweek of 48 hours and a minimum rest period of eight hours within the week. Exceptions to this may be granted by the Ministry of Labor and were frequently granted in the mining sector. The law stipulates that workers receive premium compensation for nighttime work, hours worked in excess of 48 per week, and work performed on Sundays. The law permits compulsory overtime only in exceptional cases where the work is considered essential for the company's functioning.

The law provides for workers' occupational safety and health in the formal sector. The legal standards were generally up to date and appropriate for the main formal industries. The law does not cover informal-sector workers, including many mining and agricultural workers. In general the law protects workers' rights to remove themselves from situations that endanger health or safety without jeopardy to their employment, although some violations of this right were reported during

the year. In cases of formal grievances, authorities generally protected employees in this situation.

The Ministry of Labor is required to enforce labor laws in the formal sector, including occupational safety and health regulations, through periodic inspections by labor inspectors. The government reported that as of April, the ministry employed 868 inspectors countrywide, although not all conducted worksite inspections; 778 of them were in provisional appointments. In April the Civil Service Commission held a national exam that produced a list of eligible candidates for permanent appointment as labor inspectors and other civil servant positions. The exam was challenged, potentially delaying appointments. Individual labor violations can bring fines of up to 5,000 times the minimum monthly wage, but infractions for occupational safety and health can trigger fines of only up to 1,000 times the minimum monthly wage. Unionists stated that more fines needed to be collected to impact occupational safety and health issues.

While the government's labor inspectors undertook administrative actions to enforce the minimum wage in the formal sector, the government did not conduct any action to do so in the informal sector.

The Ministry of Labor continued to promote formal employment generation. As of the third quarter of the year, DANE reported that 8.6 million, or 39 percent, of the 22 million workers employed nationwide pay into the pension system. The proportion of informal workers in cities and metropolitan areas was 48 percent, according to DANE. The government continued to support complementary social security programs to increase the employability of extremely poor individuals, displaced persons, and the elderly.

Nonunion workers, particularly those in the agricultural and port sectors, reportedly worked under hazardous conditions because they feared losing their jobs through subcontracting mechanisms or informal arrangements if they criticized abuses. Some unionized workers who alleged they suffered on-the-job injuries complained that companies illegally fired them in retaliation for filing workers compensation claims. Only the courts may order reinstatement, and workers complained the courts were backlogged, slow, and corrupt. The Ministry of Labor may sanction a company found to have broken the law in this way, but it may offer no other guarantees to workers.

Security forces reported that illegal armed actors, including FARC dissidents, the ELN, and organized-crime groups, engaged in illegal mining of gold, coal, coltan,

nickel, copper, and other minerals. Illegal mines were particularly common in the departments of Antioquia, Bolivar, Cauca, Cordoba, Choco, Narino, and Tolima.

According to the National Mining Agency, through August 23, a total of 61 workers died as a result of accidents in the mines, the majority due to cave-ins.