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## 2009 Human Rights Reports: Colombia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

March 11, 2010

Colombia is a constitutional, multiparty democracy with a population of approximately 45 million. In May 2006 independent presidential candidate Alvaro Uribe was reelected in elections that were considered generally free and fair. The 45-year internal armed conflict continued between the government and terrorist organizations, particularly the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). While civilian authorities generally maintained effective control of the security forces, there were instances in which elements of the security forces acted in violation of state policy.

Although significant human rights abuses remained, the government continued to make efforts to confront and address these abuses. The following societal problems and governmental human rights abuses were reported during the year: unlawful and extrajudicial killings; insubordinate military collaboration with new illegal armed groups and paramilitary members who refused to demobilize; forced disappearances; overcrowded and insecure prisons; torture and mistreatment of detainees; arbitrary arrest; a high number of pretrial detainees, some of whom were held with convicted prisoners; impunity and an inefficient judiciary subject to intimidation; illegal surveillance of civilian groups, political opponents, and government agencies; harassment and intimidation of journalists; unhygienic conditions at settlements for displaced persons, with limited access to health care, education, or employment; corruption; harassment of human rights groups and activists, including unfounded prosecutions; violence against women, including rape; child abuse and child prostitution; trafficking in women and children for the purpose of sexual exploitation; some societal discrimination against women, indigenous persons, and minorities; and illegal child labor.

The FARC and ELN committed the following human rights abuses: political killings; widespread use of landmines; killings of off-duty members of the public security forces and local officials; kidnappings and forced disappearances; massive forced displacements; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; widespread recruitment of child soldiers; attacks against human rights activists; violence against women, including rape and forced abortions; and harassment, intimidation, and killings of teachers and trade unionists.

New illegal armed groups and paramilitary members who refused to demobilize also committed numerous human rights abuses. The last United Self Defense Forces of Colombia (AUC) block demobilized in 2006, but AUC members who refused to demobilize, AUC members who demobilized but later abandoned the peace process, and other new illegal armed groups remained targets of security force action. These new groups lacked the organization, reach, and military

capacity of the former AUC and focused primarily on narcotics trafficking and extortion. The AUC demobilization led to a reduction in killings and other human rights abuses, but paramilitary members who refused to demobilize and new illegal armed groups continued to commit numerous unlawful acts and related abuses, including the following: political killings and kidnappings; physical violence; forced displacement; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; recruitment and use of child soldiers; violence against women, including rape; and harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists.

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Government statistics indicated that during the year kidnappings decreased 18 percent and mass killings decreased 13 percent compared with the same period in 2008. The Prosecutor General's Human Rights Unit achieved convictions of 421 defendants for human rights crimes, including 157 military personnel for extrajudicial executions, during the year. Through December the Justice and Peace Law (JPL) process, wherein former paramilitary leaders confess their crimes and surrender assets in exchange for reduced sentences, helped clarify more than 38,000 crimes involving 50,000 victims and led to the exhumation of 2,800 remains in 2,300 common graves, while the Supreme Court and prosecutor general's investigations of links between politicians and paramilitary groups implicated 87 members of Congress, 15 governors, and 35 mayors, 66 of whom were detained at year's end. In total, 18 politicians (13 members of Congress, four governors, and one mayor) had been convicted for ties to paramilitary groups at year's end.

## RESPECT FOR HUMAN RIGHTS

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

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

Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings during the internal armed conflict (see section 1.g.). Unlike in the preceding year, there were significantly fewer reports of military officials presenting murdered civilians as killed in combat.

The UN special rapporteur on extrajudicial killings, Philip Alston, reported extrajudicial killings of civilians presented as combat kills in the departments of Antioquia, Arauca, Valle del Cauca, Casanare, Cesar, Cordoba, Huila, Meta, Norte de Santander, Putumayo, Santander, Sucre, and Vichada. While the special rapporteur noted there was no evidence to suggest these killings were carried out as a matter of official government policy, the number of cases, their geographic spread, and the diversity of military units implicated, indicated that these killings were carried out in a systemic fashion by significant elements within the military.

Guerrillas, notably the FARC and ELN, committed unlawful killings (see section 1.g.).

Paramilitary members who refused to demobilize and new illegal armed group members committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or without a strong government presence (see section 1.g.).

The Jesuit-founded Center for Popular Research and Education (CINEP), a local human rights nongovernmental organization (NGO), reported there were at least 192 political and unlawful killings, committed by all actors, during the first six months of the year, 28 fewer than those reported in the same period in 2008. Some NGOs, such as CINEP, considered the new illegal groups to be a continuation of the paramilitary groups and attributed reports of human rights violations committed by these groups directly to the government. Those NGOs also included killings by these groups in their definition of "unlawful killings."

The Presidential Program for Human Rights reported that through November 30, illegal armed groups killed 133 persons in 26 massacres (defined by the government as killings of four or more persons), an 8 percent reduction in the number of massacre victims from the same period in 2008 (see section 1.g.).

Some members of government security forces, including enlisted personnel, noncommissioned officers, and senior officials, in violation of orders from the president and the military high command, collaborated with or tolerated the activities of new illegal groups or paramilitary members who refused to demobilize. Such collaboration often facilitated unlawful killings and may have involved direct participation in atrocities.

In certain areas, such as Medellin, Antioquia; Tierralta, Cordoba; Buenaventura, Valle del Cauca; the Uraba region of Antioquia and Choco; and Meta, corrupt dealings reportedly continued between local military and police forces and new illegal groups or paramilitary members who refused to demobilize. Although impunity for these military personnel remained a problem, the Ministry of Defense carried out investigations and handed over culpable parties to civilian authorities in a number of high-profile cases during the year. In several cases of extrajudicial executions falsely reported as combat deaths, former paramilitary members were associated with the crimes (see section 1.g.). In July the Prosecutor General's Office accused 11 members of the police of collaborating with the illegal group Oficina de Envigado. In October four police from the Carepa, Antioquia, station were charged with sharing police and military operations information with Daniel Rendon Herrera's (alias Don Mario) criminal group.

In conformity with the law, military or civilian authorities investigated killings committed by security forces. Investigations of past killings proceeded, albeit slowly. Some high-profile cases against military personnel resulted in convictions or were reopened in large part due to testimony in the Justice and Peace process. On June 3, the Third Penal Circuit Court of Monteria, Cordoba, sentenced two officers and four professional soldiers to 28 years in prison for the 2006 homicides of two young men presented as killed in combat. In June the Prosecutor General's Office reopened the 1989 case of the Rochela massacre, in which paramilitary forces, working in collaboration with elements of the military, killed 12 judicial officials investigating the forced disappearances of 19 merchants.

Governmental and nongovernmental actors used landmines, although the armed forces stopped planting new landmines after the government signed the Mine Ban Treaty in December 1997. Preliminary reports indicated that landmines, used primarily by the FARC and ELN, caused 94 deaths and 450 injuries during the first 11 months of the year (see section 1.g.), a 27 percent decrease in landmine incidents from the same period in 2008.

#### b. Disappearance

Forced disappearances, many of them politically motivated, continued to occur. CINEP reported 18 victims of forced disappearance by unknown actors during the first six months of the year, compared with 27 victims in the same period in 2008. The Prosecutor General's Office charged members of the armed forces in nine cases of forced disappearance during the year, although the alleged crimes did not all occur in 2009. According to the Presidential Program and the Disappeared Persons registry (SIRDEC), coordinated by the National Institute of Legal Medicine and Forensic Science, 348 persons were reported as forcibly disappeared during the year, a reduction of 19 percent from 2008. In August the government presented a new interagency plan to improve efforts to identify remains of victims of forced disappearances.

Although kidnapping, both for ransom and for political reasons, continued to diminish, it remained a serious problem. The government's National Fund for the Defense of Personal Liberty (Fondelibertad) reported 160 kidnappings for extortion during the year, a decrease of 18 percent from 2008. After reviewing 3,300 kidnapping cases since 1996, Fondelibertad revised its current estimate of the number of victims currently kidnapped down to 125 (66 held by the FARC, 10 by the ELN, and the rest by new illegal groups or paramilitary members who refused to demobilize). Some human rights groups questioned the figure, arguing that the true number ranged from 600 to several thousand.

GAULAs (Unified Action Groups for Personal Liberty, military and police entities formed to combat kidnapping and extortion) and other elements of the security forces freed 64 hostages during the year; Fondelibertad reported that at least five kidnapping victims died in captivity, compared with 13 in 2008, a 62 percent reduction. The FARC and ELN, as well as new illegal groups and paramilitary members who refused to demobilize, continued the practice of kidnapping. All illegal groups, including guerrillas, sometimes killed kidnapping victims (see section 1.g.). The FARC voluntarily released 15 individuals through November 30.

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

Although the law prohibits such practices, there were reports that the police, military, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture were tried in civilian rather than military courts. CINEP asserted that during the first six months of the year, government security forces were involved in 16 incidents of torture, a 78 percent decrease compared with the first six months of 2008. The Prosecutor General's Office charged four members of the armed forces with torture during the year.

CINEP reported, for example, that:

- On January 1, in Caloto, Cauca, troops assigned to the Eighth Infantry Battalion "Battle of Pichincha" allegedly arbitrarily detained and tortured Gerardo Barona Avirama and James Barona Avirama.
- On February 28, in Paya, Boyaca, members of the army allegedly tortured 16-year-old Neftali Blanco to force him to confess to being a guerrilla.
- On March 10, in Argelia, Cauca, the National Police allegedly arbitrarily detained, tortured, and threatened Oscar Gomez Zapata, a member of ASCAMTA, an NGO that focuses on agrarian rights issues.

CINEP reported that demobilized paramilitary members were responsible for at least 24 cases of torture as of June, compared with 19 in the same period of 2008.

Cases of military hazing were reported. On April 13, an army captain was arrested for torture committed in October 2006. On August 26, the Special Circuit Court of Ibague sentenced 13 soldiers to between 15 and 16 years in prison for their involvement in torturing 37 lower-ranked soldiers at the Piedras military base in Tolima in January 2006.

#### Prison and Detention Center Conditions

With the exception of new facilities, prison conditions were poor, particularly for prisoners without significant outside support. The National Prison Institute (INPEC) runs the country's 139 national prisons and is responsible for inspecting municipal jails.

Overcrowding, lack of security, corruption, and an insufficient budget remained serious problems in the prison system. As of year's end, more than 77,000 prisoners were held in facilities designed to hold fewer than 55,000; overcrowding rates exceeded 34 percent. Many of INPEC's 5,746 prison guards were poorly trained. The NGO Committee in Solidarity with Political Prisoners noted that improved training, increased supervision, and more accountability for prison guards had helped but expressed fear that greater privatization of the prisons system may lead to further corruption.

Constrained budgets adversely affected prison conditions. INPEC spent 5,300 pesos (\$2.65) per day on each inmate for food. Private sources continued to supplement food rations of many prisoners.

INPEC reported that there were 27 violent deaths among inmates related to fighting and riots during the year. Through November, 22 riots occurred at various penal institutions. The Prosecutor General's Office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally. According to INPEC, three prison guards were convicted of extortion and conspiracy during the year.

The law prohibits holding pretrial detainees with convicted prisoners, although some cases were reported. Minors were not held with adults; however, minor children of female prisoners were able to stay with their mothers in some cases.

The government permitted independent monitoring of prison conditions by local and international human rights groups, and such monitoring occurred during the year. The FARC and ELN continued to deny the International Committee of the Red Cross (ICRC) access to police and military hostages.

#### d. Arbitrary Arrest or Detention

Although the law prohibits arbitrary arrest and detention, there were allegations that authorities detained citizens arbitrarily.

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

The National Police are responsible for internal law enforcement and are under the jurisdiction of the Ministry of Defense. Law enforcement duties are shared with the Administrative Department of Security (DAS) and the Prosecutor General's Corps of Technical Investigators (CTI). The army also shared 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 hard-to-reach areas. During the year the Prosecutor General's Human Rights Unit issued 518 arrest orders for armed forces personnel involved in extrajudicial killings, the majority of which took place prior to 2009. However, claims of impunity continued to be widespread, due in some cases to obstruction of justice, a lack of resources for investigations and protection for witnesses and investigators, and inadequate coordination among government entities. Many human rights groups criticized the Prosecutor General's Office for indicting low-ranking military personnel only while avoiding investigations of high-ranking intellectual authors. During the year the Ministry of Defense relieved from duty 55 officers and 41 noncommissioned officers and soldiers of the armed forces for inefficiency, unethical conduct, corruption, and suspected involvement in human rights violations.

##### Arrest Procedures and Treatment While in Detention

Police apprehended suspects with warrants issued by prosecutors based on probable cause. However, a warrant is not required to arrest criminals caught in the act or fleeing the scene of a crime. Members of the armed forces detained members of illegal armed groups captured in combat but were not authorized to execute arrest warrants; however, members of the CTI, who accompanied military units, could issue such warrants.

Under the accusatorial system that took effect nationwide in January 2008, persons detained must be brought before a judge within 36 hours to determine the validity of the detention. Formal charges must then be brought within 30 days, and a trial must start within 90 days of the initial detention. Crimes committed before implementation of the new code, however, must be tried under the previous, inquisitorial system.

The previous system required law enforcement authorities to inform suspects promptly of the reasons for an arrest and bring suspects before a senior prosecutor within 36 hours of detention. Prosecutors had to rule on the legality of detentions within 72 hours. Under both the new and previous systems, in most felony cases, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. Under the old system, in cases of crimes deemed particularly serious, such as homicide, terrorism, or rebellion, authorities were allowed up to 360 days to

file formal charges before a suspect had to be released. Habeas corpus is available to address cases of alleged arbitrary detention.

Bail is not available for serious crimes such as murder, rebellion, or narcotics trafficking. Detainees have the right to prompt access to counsel of their choice, and nearly 1,600 public defenders from the Office of the Human Rights Ombudsman assisted indigent defendants.

Prominent human rights NGOs complained that the government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. CINEP reported that security forces arbitrarily detained 113 persons during the first six months of the year, compared with 224 in the same period of 2008. Many of these detentions took place in high-conflict areas (notably in the departments of Santander, Antioquia, Arauca, and Narino), where the military was involved in active hostilities against insurgents.

The government and prominent local NGOs frequently disagreed on what constituted "arbitrary detention." While the government characterized detentions based on compliance with legal formalities, NGOs applied other criteria in defining "arbitrary detention," such as arrests 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, large-scale detentions, and detentions of persons while they were "exercising their fundamental rights."

Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult. Trial delays were caused by large numbers of detainees, financial constraints, and staff shortages.

#### e. Denial of Fair Public Trial

While the law provides for an independent judiciary, much of the judicial system was overburdened, inefficient, and hindered by subornation and intimidation of judges, prosecutors, and witnesses. In these circumstances impunity remained a serious problem, although the government took action to address these issues. The Superior Judicial Council (CSJ) reported that the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees. Implementation of the new criminal accusatory system reduced the time for resolving new criminal cases by over 75 percent, with conviction rates of approximately 60 percent under the new system, compared with 3 percent under the old, inquisitorial system. However, a large backlog of old-system cases remained.

Judicial authorities were subjected to threats and acts of violence. According to the protection program in the Prosecutor General's Office, during the year 470 judicial employees sought varying forms of protection from the CSJ for reasons including threats. Although the Prosecutor General's Office ran a witness protection program for witnesses in criminal cases, witnesses who did not enter the program remained vulnerable to intimidation, and many refused to testify.

The UN special rapporteur on the independence of judges and lawyers, Gabriela Carina Knaul de Albuquerque e Silva, reported on a high level of threats and attacks against judicial officials such as judges, defense lawyers, prosecutors, and investigators as well as civilian participants in the justice system such as witnesses and victims. The special rapporteur acknowledged the government had programs in place to provide protection but called for increased measures to ensure the protection of justice officials. The special rapporteur noted that threats against judicial personnel contributed to the high rate of impunity, along with insufficient resources for the administration of justice and inadequate initial investigations.

The civilian justice system is composed of four functional jurisdictions: ordinary, administrative, constitutional, and special. The ordinary jurisdiction is the largest and handles all criminal, civil, labor, agrarian, and domestic cases involving

nonmilitary personnel. The Supreme Court is the highest court within the civil jurisdiction and serves as its final court of appeal.

The Constitutional Court is the sole judicial authority on the constitutionality of laws, presidential decrees, and constitutional reforms. The court also may issue advisory opinions on the constitutionality of bills not yet signed into law and acts within its discretion to review the decisions of lower courts on "tutelas," or writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process, by any citizen.

The special jurisdiction of the civilian justice system consists of the justices of the peace program and the indigenous jurisdiction. The CSJ is responsible for the administration and discipline of the civilian justice system.

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

The military justice system consists of 44 military courts and the Supreme Military Tribunal, which serves as the court of appeals for all cases tried in military courts. The Supreme Court serves as a second court of appeal for military cases with prison sentences of six or more years.

The military justice system may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The military penal code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. All human rights violations are considered unrelated to military service and must be handled by the civilian justice system, although this did not always happen in practice. More than 250 human rights cases were transferred during the year from the military to the civilian justice system. The military penal code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, although military courts are responsible for service-related acts committed prior to their retirement.

The military penal code denies commanders the power to impose military justice discipline on their subordinates and extends legal protection to service members who refuse to obey orders to commit human rights abuses. The army has discretionary authority to dismiss personnel who may be implicated in human rights abuses.

The Prosecutor General's Office is responsible for investigations and prosecutions of criminal offenses. Its Human Rights Unit, which includes 13 satellite offices, specializes in investigating human rights crimes. As of December the unit's 100 specialized prosecutors were handling a total of 5,586 active cases.

The Inspector General's Office investigates allegations of misconduct by public employees, including members of the state security forces. The Inspector General's Office referred all cases of human rights violations it received to the Prosecutor General's Human Rights Unit.

During the year the Office of the Inspector General opened disciplinary processes against 546 members of the armed forces for human rights offenses. In addition the Prosecutor General's Office achieved convictions of 157 military personnel during the year.

#### Trial Procedures

Under the new, accusatorial criminal procedure code, which was fully implemented in January 2008, the prosecutor presents an accusation and evidence before an impartial judge at an oral, public trial. The defendant is presumed innocent and has the right to confront the evidence against him at trial and to present his own evidence. No juries are involved. Crimes committed before implementation of the new code were processed under the prior written inquisitorial system in which the prosecutor is an investigating magistrate who investigates, determines evidence, and makes a finding of guilt or

innocence. The "trial" was actually the presentation of evidence and finding of guilt to a judge for his/her ratification or rejection.

In the military justice system, military judges preside over courts-martial without juries. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within 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 accusatorial systems. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on defenders paid by a private fund.

At year's end the Ministry of Defense was prepared to launch its transition to the oral accusatory system used by the civilian judiciary. The roll-out of the new system will take place regionally and is scheduled to be completed in 2012. The military justice system transferred more than 250 human rights cases from military justice to civilian systems during the year.

Civilian courts convicted military members for past human rights violations; for instance:

- **On September 1, the Third Criminal Circuit Court of Ibague convicted five soldiers of murder and sentenced them to 35 to 40 years of prison for the 2004 homicides of a family of five, including a minor child and an infant, in Potosi de Cajamarca, Tolima.**
- **On September 24, the Twelfth Circuit trial judge of Bogota convicted two pilots of murder for their involvement in the 1998 bombing of the village of Santo Domingo, Arauca, which left 17 persons dead. A 2007 conviction of manslaughter was overturned because the higher court said the pilots' actions violated international humanitarian law prohibiting the use of bombs in populated areas, even if enemy fighters are present.**
- **On November 25, the Superior Tribunal of Bogota sentenced retired general Jaime Humberto Uscategui to 40 years in prison for his involvement in the 1997 paramilitary massacre in Mapiripan, Meta, in which an estimated 50 persons were killed.**

#### Political Prisoners and Detainees

The government stated that it did not hold political prisoners. Some human rights advocacy groups characterized as political detainees some detainees held on charges of rebellion or terrorism in what the groups reported were harassment tactics by the government against human rights advocates (see section 5). According to INPEC, there were 3,698 detainees accused of rebellion or aiding and abetting insurgence in the year. The government provided the ICRC access to these prisoners.

#### Civil Judicial Procedures and Remedies

Citizens can sue a state agent or body in the Administrative Court of Litigation for damages for a human rights violation. Although critics complained of delays in the process, the court generally was considered impartial and effective.

#### Property Restitution



For many small landowners, formal land titling remained inaccessible. Government agencies and human rights groups estimated that illegal groups, including guerrillas, seized between 1.1 and 2.7 million acres of land from small landowners during the decades-long conflict. Paramilitary groups stole the majority, only a fraction of which was reclaimed by the government after the demobilization of the AUC. On June 18, the Congress voted down a victims' law that, inter alia, would have addressed land reform and land restitution, with some opponents charging the law did not go far enough, and others saying the government could not afford its cost.

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

The law prohibits such actions; while the government generally respected these prohibitions in practice, there were notable exceptions by some intelligence agencies. The law requires government authorities to obtain a warrant signed by a senior prosecutor to enter a private home without the owner's consent unless the suspect has been caught in hot pursuit, and government authorities generally adhered to these regulations.

Government authorities generally need a judicial order to intercept mail or monitor telephone conversations, even in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization, although evidence obtained in such a manner could not be used in court.

Surveillance by the DAS of high court magistrates, journalists, human rights organizations and activists, opposition leaders, and the Vice Presidency prompted an investigation by the CTI. Press reports indicated DAS surveillance included physical monitoring of individuals and their families, phone and e-mail intercepts, and collection of personal and financial data. A CTI report described a twofold strategy to mount prosecutions against the victims of the surveillance and to disrupt human rights groups' activities through "offensive intelligence." According to a publication released by the National and International Campaign for the Right to Defend Human Rights, examples of DAS harassment included operations involving diverse attacks, setups, and death threats. Former DAS director Jorge Noguera and deputy director Jose Narvaez were under investigation for colluding with paramilitary members to instigate the murders of three unionists, a college professor, and a journalist. The Prosecutor General's Office launched a separate investigation into the wiretapping scandal, and 34 DAS employees were under investigation, 10 of whom, including four directors, were detained. Investigations into the surveillance continued at year's end.

The government continued to use voluntary civilian informants to report terrorist activities and identify terrorists. Some national and international human rights groups criticized this practice as subject to abuse and a threat to privacy and other civil liberties. In the August report of the UN secretary-general on children and armed conflict, the UN called on the government to ensure children were not used for military intelligence purposes, noting this practice puts children at risk of retaliation by illegal armed groups. The FARC publicly justified its February 4 massacre of eight Awa indigenous persons as retaliation for collaboration with the military.

New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas routinely interfered with the right to privacy. These groups forcibly entered private homes, monitored private communications, and engaged in forced displacement and conscription. The standing orders of the FARC, which had large numbers of female combatants, prohibited pregnancies among its troops, and there were numerous credible reports of compulsory abortions to enforce the order.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

The country's 45-year-long internal armed conflict, involving government forces, two terrorist guerrilla groups (FARC and ELN), and new illegal groups and paramilitary members who refused to demobilize, continued. The conflict and narcotics

trafficking, which both fueled and prospered from the conflict, were the central causes of multiple violations of human rights.

After the conclusion of a process in which approximately 34,000 paramilitary personnel demobilized between 2003 and 2006, the government confronted militarily any groups that did not demobilize, as well as new illegal groups. The Organization of American States (OAS) continued to verify all stages of demobilization and reincorporation of former combatants into society. In its October report, the OAS noted significant advances in the process, citing an increase in victims' participation, while also pointing to areas for improvement, such as the need to confront new illegal groups. The OAS noted that of the 959 members of new illegal groups captured through June, 181 (19 percent) were formerly demobilized paramilitary members who had returned to criminal life.

### Killings

Security forces were responsible for alleged unlawful killings. CINEP reported that there were 45 such killings during the first six months of the year, compared with 76 in the same period of 2008. Of those unlawful killings, CINEP reported two were cases of civilians murdered by the military and falsely reported as killed in combat. As of November the Human Rights Unit in the Prosecutor General's Office was assigned 1,302 cases, involving 2,177 victims (1,949 men, 112 women, and 116 minors), of extrajudicial killings by the armed forces that occurred between 1985 and 2009. The majority of the killings under investigation occurred in the departments of Antioquia (378), Meta (116), Norte de Santander (76), and Casanare (52). A large number of the reported cases involved army members. The Prosecutor General's Office achieved a number of convictions of members of the armed forces for extrajudicial killings during the year; complete information was unavailable on those convicted during the year. At year's end the Prosecutor General's Office was investigating 12 colonels, 14 lieutenant colonels, 43 majors, and 89 captains and hundreds of lower ranked military personnel.

According to CINEP, the UN High Commissioner for Human Rights (UNHCHR), and the Presidential Program for Human Rights, reports of extrajudicial killings falsely reported as killed in combat fell significantly during the year. CINEP reported two cases involving four victims through June. The Prosecutor General's Human Rights Unit opened five new cases of extrajudicial killings alleged to have occurred during the year. The cases reported by CINEP, included:

- On January 16, members of the armed forces allegedly executed Jose Maria Hoyos, Islena Garcia Valencia, and Noe Pena Navarro in Salento, Quindio, and reported them as killed in combat.
- On March 14, members of the armed forces allegedly executed Arbey Diaz, the president of a local peasant organization, in Marcarena, Meta, and presented him as killed in combat.

The National Indigenous Organization Colombia (ONIC) reported the following case:

- On May 23, in Barbacoas, Narino, members of the armed forces allegedly executed Gonzalo Rodriguez Guanga, a member of the Awa indigenous group, and presented him as killed in combat. His wife, Tulia Garcia Guanga, the sole witness to the event, was subsequently killed in the August 26 massacre of 12 Awa.

According to CINEP, cases of extrajudicial killings attributed to the government also included "social cleansing" (including vagrants, gay men, lesbians (see section 6), and other "undesirables"). Examples of extrajudicial executions by security forces reported by CINEP included:

- On March 6, three members of the armed forces allegedly executed Alvaro Miguel Rivera, a lesbian, gay, bisexual, and transgender (LGBT) activist, in Cali, Valle del Cauca.

· On May 24, members of the National Police and a new illegal group allegedly executed 30-year-old Reinaldo Delgado Londono in Guadalajara de Buga, Valle del Cauca.

In a "social cleansing" case, the NGO Colombian Commission of Jurists (CCJ) reported that on January 9, police officers allegedly tortured and killed Robinson de Jesus Gil, a homeless man in Bogota. On February 10, the Prosecutor General's Office charged two police officers for the crime.

There were developments in some continuing human rights cases. Cases involving killings in 2008 included:

- The Prosecutor General's Office implicated 40 members of the military in the case of the approximately 14 Soacha residents who were lured to Ocana by civilian recruiters and later killed by members of the military, who then falsely reported the victims as killed in combat. Trials had not begun at year's end.
- The Prosecutor General's Office ordered the preventive detention of 15 members of the antiguerrilla unit of the 14th Brigade's Calibio Battalion in Cimitarra, Santander, for two January 2008 murders of civilians who were falsely presented as killed in combat.

Cases involving killings that took place before 2008 included:

- The Prosecutor General's Office charged two professional soldiers in the case of 10 young men from Toluviejo, Sucre, who were killed by the military between July and August 2007 and falsely reported as killed in combat. Former AUC member Jose Dionisio Ramos Castillo, alias Joselito Carnaval, was sentenced to 22 years for recruiting the victims and turning them over to the military.
- On March 16, the Circuit Penal Court of Apartado (Antioquia) sentenced seven soldiers from the 17th Brigade to 30 years in prison for their involvement in the 2006 murder of Edilberto Vasquez Cardona, a member of the San Jose de Apartado Peace Community who was falsely presented as killed in combat.
  - On May 10, Jose Wilson Giraldo, witness in the 2006 extrajudicial killing case of his brother Jose Orlando Giraldo, was shot in the head; he survived the attack. Another witness in the case, Orlando Giraldo's daughter Martha Giraldo, received numerous threats during the year. The trial of former sergeant Luis Eduardo Mahecha Hernandez of the Third Brigade's High Mountain Battalion for the 2006 killing continued at year's end. Trials had not begun for several other military personnel implicated in the case.
- In the 2005 case of eight civilians killed in San Jose de Apartado, Antioquia, the Prosecutor General's Office charged 10 soldiers from the 47th Infantry Battalion of the 17th Brigade with homicide. The government captured suspect Yamid de Jesus Gonzalez Galaraga for his involvement in the killings. The Prosecutor General's Office opened an investigation into retired army general Hector Fandino for his alleged involvement in the crime.
  - On October 5, the Fourth Administrative Circuit Court of Sincelejo ordered the government to pay 2.5 billion pesos (\$1.25 million) to the families of the victims of the 2001 Chengue massacre by the AUC.

The government initiated reforms to improve the human rights performance of the security forces. The reforms included opening a new human rights school in May, establishing a new human rights department under the command of a brigadier general, creating "operational legal advisors" who provide legal advice on planning, follow-up, and control of

military operations, and developing new rules of engagement. The government held six televised accountability hearings to receive complaints against military members, hosted by the Presidency, with participation by the Prosecutor General's Office, the Inspector General's Office, and the Office of the Human Rights Ombudsman.

New illegal groups and paramilitary members who refused to demobilize killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities, showed leftist sympathies, or were suspected of collaboration with the FARC. They also reportedly committed massacres or "social cleansing" killings of prostitutes, gay men and lesbians, drug users, vagrants, and gang members in city neighborhoods they controlled. New illegal groups and paramilitary members who refused to demobilize, according to CINEP, were responsible for the deaths of 279 civilians from January through June, an 89 percent increase from the 148 deaths reported during the same period in 2008. On February 26, an illegal armed group allegedly killed a transgender sex worker in Dabeiba (Antioquia). Members of the group were reported to have bragged that they killed a gay drug user.

Guerrilla group members continued to demobilize. According to the Ministry of Defense, during the year 2,481 members of guerrilla groups demobilized, compared with an estimated 3,240 demobilized over the same period in 2008, a 23 percent reduction in demobilizations. In August, 22 Embera indigenous persons demobilized collectively from the FARC's 34th Front and rejoined indigenous reserves in the Uraba region of Antioquia. Also in August, 24 Nasa indigenous persons demobilized from the FARC's Sixth Front.

FARC and ELN guerrillas killed journalists, religious leaders, candidates for public office, local elected officials and politicians, alleged paramilitary collaborators, and members of government security forces. On December 22, the FARC kidnapped and killed the governor of Caqueta. In many areas of the country, the 8,000- to 9,000-member FARC and the 2,000-member ELN worked together to attack government forces or demobilized paramilitary members; in other areas, especially in Arauca, Valle del Cauca, Cauca, and Narino departments, they fought each other. Various courts convicted members of the FARC secretariat in absentia on various charges including aggravated homicide, such as the 2001 massacre of 22 people in Tierralta, Cordoba, and the 1999 attack on Puerto Lleras that left 10 civilians and 11 police dead.

The FARC killed persons it suspected of collaborating with government authorities or paramilitary groups. The Presidential Program for Human Rights reported that during the first 11 months of the year, the FARC killed at least 220 civilians, while another 106 persons were killed in massacres in which the perpetrators remained unidentified.

- On January 13, the FARC's 29th Front attacked the town of Roberto Payan, Narino, with improvised mortars, killing six civilians, including three children, and injuring 11 others.

• On January 27, the FARC bombed a Blockbuster video store in Bogota, killing two civilians.

- On February 12, the ELN killed three police officers and three civilians in an ambush in Convencion, Norte de Santander. The ELN first killed a married couple to serve as bait and, from the cover of high ground, attacked police first responders and civilians on the scene. Seventeen persons were wounded.

#### Abductions

New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN terrorists continued to take hostages for ransom.

Fondelibertad reported that new illegal group members continued to be responsible for kidnappings. During the year government statistics began to track kidnappings by new illegal groups as organized crime, which accounted for 13 kidnappings during the year. The majority of kidnapping cases, 98, were attributed to common crime.

The FARC and ELN continued to commit numerous kidnappings, which remained a major source of revenue. The FARC also held politicians, prominent citizens, and members of the security forces to use as pawns in prisoner exchanges. Fondelibertad reported that guerrillas kidnapped 49 persons (in 28 percent of all cases a perpetrator was identified), the FARC 38 individuals, and the ELN 11 persons.

The FARC continued to hold 22 political hostages, as well as an estimated 44 economic hostages, representing a downward revision of estimates by the government. Foundation Free Country, an NGO that monitors kidnapping, estimated that the FARC held 48 hostages. Military action freed 81 kidnap victims through November 30.

Foundation Free Country criticized Fondelibertad's numbers. It estimated that at least 63 cases of kidnap victims were not included in Fondelibertad's database.

#### Physical Abuse, Punishment, and Torture

According to preliminary reporting from the Presidential Program of Integrated Action Against Anti-personnel Mines, landmines, used primarily by the FARC and ELN, caused 94 deaths and 450 injuries during the first 11 months of the year, a 27 percent decrease in landmine incidents from the same period in 2008. Approximately 70 percent of landmine victims during the year were military personnel. The International Campaign to Ban Landmines stated that the FARC continued to be the largest individual user of landmines and that the ELN also continued to use landmines. The government created two additional Humanitarian Demining (HD) brigades, bringing the total number to six. The HD brigades had cleared 26 of the 34 military landmine fields. According to the Ministry of Defense, during the year the government cleared more than 90 mined areas. In November the government hosted the Second Review Conference for the Ottawa Convention Banning Anti-Personnel Landmines and signed the Cartagena Action Plan, which commits the government to ensure landmine victims receive timely and affordable assistance.

#### Child Soldiers

Guerrillas and illegal armed groups used children as soldiers. According to the report of the UN secretary-general on children and armed conflict, the recruitment and use of children by illegal armed groups was widespread and remained a serious concern. The United Nations Children's Fund (UNICEF) and the Colombian Family Welfare Institute (ICBF) estimated the number of children participating in illegal armed groups ranged from 10,000 to 13,000. Effective November 1, when the government's reservation to the Rome Statute expired, the penalty for leaders of armed groups who use child soldiers rose to life imprisonment. The government agreed to the International Criminal Court's penalty for child recruitment when it ratified the Rome Statute in 2002 but delayed application of the law to provide an incentive to all illegal groups, especially the FARC, to free recruited children. The United Nations High Commission for Refugees (UNHCR) linked the phenomenon of forced displacement of families to that of forced recruitment of children. The FARC issued letters to indigenous communities outlining a policy to conduct child recruitment and warning recipients not to challenge it.

#### Other Conflict-related Abuses

Guerrillas failed to respect injured and medical personnel. Both the FARC and the ELN frequently executed injured prisoners, threatened and harassed doctors and nurses, and killed enemy combatants receiving medical care.

- On January 12, in Tibu, Norte de Santander, the FARC burned six cars, including an ambulance.
- On February 28, in Popayan, Cauca, the FARC kidnapped Tomas Vernaza Nino, a member of a medical mission.
- On May 18, in El Tarra, Norte de Santander, the FARC killed civilian Jesus Duran Ascanio because he allegedly was a member of a paramilitary organization, a fact contested by the community. Adolfo Perez Avendano, a bystander,

was injured. As Perez was being transported in an ambulance, the FARC stopped the ambulance and killed Perez at point blank range.

Guerrilla groups, new illegal groups, and paramilitary members who refused to demobilize also prevented or limited the delivery of food and medicines to towns and regions in contested drug trafficking corridors, straining local economies and increasing forced displacement.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes in strategic zones and to remove individuals who collaborated with the government or new illegal groups and paramilitary members who refused to demobilize. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, ONIC and international organizations reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted their freedom of movement, and blockaded their communities in Choco, Valle del Cauca, Narino, and other departments. According to Awa indigenous authorities, after the February 4 massacre of eight members of the Awa indigenous group in Narino, the FARC confined several villages, affecting approximately 280 people. In the two-week period following the massacre, five children under two years of age died of malnutrition. On January 8, the special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, stated that it was evident that violence from the internal armed conflict disproportionately affected indigenous groups in the country.

New illegal groups and paramilitary members who refused to demobilize continued to displace civilians residing along key drug and weapons transit corridors. In March confrontations between the Los Rastrojos criminal group and the ELN over control of drug and weapons trafficking routes resulted in the displacement of 335 Embera indigenous people, including 130 children. Nearly 30 individuals, including 21 children, were confined and unable to flee. Members of Los Rastrojos raped an unknown number of women, destroyed a school, damaged a power generator, and looted several houses (see section 2.d.).

In a report released in September, Oxfam International reported sexual violence against women and girls had become a "generalized and systemic practice" by all armed actors in the conflict. According to the report, sexual violence was one of the main causes of forced displacement. The report acknowledged that the crime was grossly underreported and that there was no way to estimate the number of victims (see section 6).

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The independent media were active and expressed a wide variety of views without restriction. A number of independent newspapers and magazines published freely, and all print media were owned privately. Privately owned radio and television stations broadcast freely.

Government security forces and corrupt officials occasionally subjected journalists to harassment, intimidation, or violence (see section 1.f.).

Members of illegal armed groups intimidated, threatened, kidnapped, and killed journalists. National and international NGOs reported that local media representatives regularly practiced self-censorship because of threats of violence. During the year 171 journalists received protection from the Ministry of the Interior and Justice's protection program. The ministry also supported an alert network organized for journalists by providing a small number of radios and an emergency

telephone hotline. The Prosecutor General's Human Rights Unit was investigating 48 cases of crimes against journalists involving 67 victims. The Unit achieved 22 convictions, and five additional defendants were standing trial at year's end.

According to the NGO Foundation for Press Freedom, during the year one journalist was killed for reasons related to his work, compared with none in 2008. A total of 65 journalists received death threats, compared with 94 in the same period in 2008. Four journalists went into voluntary exile as a result of threats, compared with two in 2008. Foundation for Press Freedom considered the greatest threat to journalists during the year to have been illegal intelligence gathering by state agencies (see sections 1.f. and 1.g.).

#### Internet Freedom

There were no government restrictions on access to the Internet. Individuals could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that in 2008 there were 38 users of the Internet per 100 inhabitants.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. However, guerrillas maintained a presence on many university campuses to generate political support for their respective causes and undermine support for their enemies through both violent and nonviolent means. New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas threatened, displaced, and killed educators and their families for political and financial reasons. According to the Presidential Program for Human Rights, various assailants killed 19 educators through November 30, a reduction of 30 percent from the same period in 2008. The teachers' union, Colombian Federation of Educators, reported 18 educators were killed. Threats and harassment caused many educators and students to adopt lower profiles and avoid discussing controversial topics.

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

The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against NGOs, indigenous groups, and labor unions (see section 1.g.).

Although the government does not prohibit membership in most political organizations, membership in organizations that espoused or carried out acts of violence, such as the FARC, ELN, and paramilitary groups, was illegal.

#### c. Freedom of Religion

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

The Roman Catholic Church retained a de facto privileged status. Accession to certain voluntary stipulations within a 1997 public law is required for non-Catholic religions to minister to their adherents in public institutions and to perform marriages recognized by the state. When deciding whether to grant accession, the government considers a religion's total membership, its degree of popular acceptance within society, and other relevant factors.

#### Societal Abuses and Discrimination

New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although often for their role as community leaders rather than for religious reasons (see section 1.g.). The NGO Justapaz reported that during the year two Protestant pastors were killed; another pastor, along with his pregnant wife and two children, were abducted. According to the Catholic National

Conference, 17 Catholic leaders received protection due to threats against them. The Presidential Program for Human Rights reported that illegal armed groups, especially the FARC, made numerous threats against priests and other religious workers.

The Jewish community had an estimated 5,000 members. Reports of anti-Semitism continued, including graffiti painted on the exterior walls of synagogues and anti-Semitic statements in pamphlets published by small anti-Semitic organizations.

Indigenous Christians reported they were prevented from practicing their faith while on indigenous reserves. Protestant groups reported approximately 28 Kogui Christians were detained for nearly two months by the Gonawindua Tayrona Organization (OGT), the governing body of the Sierra Nevada reserve, for practicing their faith. The OGT denied any individuals were held against their will and cited recent high court decisions that protect indigenous autonomy and the right of indigenous governments to deny public practice of religions different from traditional indigenous rites on reserves.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and while the government generally respected these rights in practice, there were exceptions. Military operations and occupation of certain rural areas restricted freedom of movement in conflict areas.

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

New illegal groups, paramilitary members that refused to demobilize, and FARC and ELN guerrillas continued to establish illegal checkpoints on rural highways, but an enhanced government security presence along major highways reduced the number of kidnappings. The Ministry of Defense reported no kidnappings at illegal roadblocks during the year, compared with nine in 2008 (see section 1.b.).

The law prohibits forced exile, and the government did not employ it. However, many persons went into self-imposed exile because of threats from new illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas.

#### Internally Displaced Persons

The internal armed conflict, especially in remote areas, was the major cause of internal displacement. International organizations and civil society identified various factors driving displacement including confrontations between security forces, terrorists, new illegal groups, and paramilitary members who refused to demobilize, competition among illegal armed groups for resources and territorial control, forced recruitment of children, and threats and violence from new illegal groups and paramilitary members who refused to demobilize. Most IDPs were rural peasants displaced to cities. Estimates of the numbers of IDPs varied. During the year Accion Social, the government's internal welfare and foreign coordination agency, registered 111,414 new displacements, a 47 percent decline over the same period in 2008. The GOC's national IDP registry showed an 8 percent decline in new displacements, with 301,817 IDPs in 2008 compared with 328,264 IDPs in 2007. Accion Social cited continued improvement in security and territorial control and improved verification of fraudulent IDP claims as contributing factors in the decline. During the year Accion Social refused approximately 36 percent of registrations as ineligible, compared with a 29 percent refusal rate in 2008.



The NGO Consultancy for Human Rights and Displacement (CODHES) said that the government arbitrarily denied many registrations and that underregistration of IDPs remained a problem due to lack of access to the registration system or fear of retaliation from illegal armed groups. On January 26, the Constitutional Court acknowledged that despite some improvements, underregistration remained a problem and ordered the government to improve the IDP registration system. International organizations and civil society expected the number of registrations to rise as IDPs from previous years continued to register. According to Accion Social, the department of Narino registered the highest number of IDPs (17,110) during the year, followed by Antioquia (14,100), Cauca (9,013), and Tolima (8,354). CODHES estimated that 286,389 persons were displaced during the year, a 24 percent reduction compared with CODHES' estimate for 2008.

The government has registered a total of 3.3 million IDPs since 1995, while CODHES estimated that as many as 4.9 million persons have been displaced since 1985. Accion Social attributed the growth in cumulative IDP registrations in the past year to a 2008 Administrative Court (Consejo de Estado) order requiring the government to include displacements from all previous years. Under the previous system, an IDP only had one calendar year from displacement to register. The government's national registry included registered IDPs whose applications for recognition had been accepted, while CODHES estimated new displacements based on information from the media, civil society, and fieldwork. CODHES also included as IDPs an undetermined number of coca and opium poppy producers who migrated in response to government drug eradication efforts, as well as those who migrated due to poor economic conditions resulting from the armed conflict. During the year the ICRC provided assistance to 51,176 newly displaced persons--11,217 persons from massive displacements (groups of 50 or more persons) and 39,959 persons in individual displacements.

New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas continued to use forced displacement to gain control over strategic or economically valuable territory, weaken their opponents' base of support, and undermine government control and authority. Illegal armed groups also used landmines and roadblocks to confine entire villages in order to protect illicit crops and to prevent pursuit by state security forces. The FARC, ELN, new illegal groups, and paramilitary members who refused to demobilize continued to use force, intimidation, and disinformation to discourage IDPs from registering with the government; guerrilla agents often forced local leaders and community members to demonstrate against illicit crop eradication efforts, including causing mass displacements.

During the year the government registered 4,308 new IDPs who identified themselves as indigenous and 17,844 new IDPs who identified themselves as Afro-Colombian. ONIC estimated the number of displaced indigenous people to be much higher, since many indigenous people did not have adequate access to registration locations due to geographic remoteness, language barriers, or unfamiliarity with the national registration system. The local NGO Association of Internally Displaced Afro-Colombians (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. CODHES estimated that 83 percent of mass displacement events during the year involved indigenous and Afro-Colombian communities. The UNHCR concurred that indigenous and Afro-Colombian groups were disproportionately affected by displacement.

The government, international humanitarian assistance organizations, and civil society observed that the rate of mass displacements declined during the year. The ICRC assessed 53 mass displacement events during the year, a 23 percent decline compared with 2008. Accion Social reported a 63 percent decline in the number of IDPs from mass displacements through November compared with the same period last year. According to Accion Social, the departments with the highest numbers of IDPs from massive displacements in the year were Narino with 3,575, Choco with 1,432, Cauca with 523, and Antioquia with 496. CODHES recorded 77 mass displacement events affecting 19,981 persons during the year, compared with 82 mass displacement events affecting 43,357 persons in 2008. According to CODHES, Narino accounted for 56 percent of mass displacement events. CODHES estimated that 12,934 Afro-Colombians were displaced in 28 mass

displacement events in Narino, Choco, Cauca, Valle del Cauca, and Antioquia. For example, the UNHCR and the UN Office of the Commissioner for Humanitarian Affairs (OCHA) reported that:

- On February 4, approximately 500 persons fled the area of Tortugana-Telembi in the municipality of Barbacoas, Narino, after the reported massacre of eight members of the Awa indigenous group by the FARC (see sections 1.g and 6).
- On March 2, combat between the military and the FARC caused the displacement of 576 persons (116 families) from Afro-Colombian communities in the municipality of Lopez de Micay, Cauca.
- On March 4, approximately 2,000 members of the Embera indigenous group started to displace from rural areas along the Baudo River in Choco as result of threats and clashes between illegal armed groups in the area.
- On September 24, intense combat between the military and the FARC near Bocas de Napi in the municipality of Guapi, Cauca, forced 212 persons from Afro-Colombian communities to flee the area.

OCHA, the ICRC, and the UNHCR reported on other mass displacements in other departments throughout the year:

- On June 12, 550 persons (147 families) were displaced from Ituango, Antioquia, due to threats and attacks by the FARC.
- On July 7, 224 individuals from the indigenous Zenu community left Puerto Libertador, Cordoba, due to confrontations between the army and the FARC. Fifty of the displaced were children under the age of 14.
- During October and November, more than 450 persons displaced from rural areas in the municipality of Buenaventura, Valle del Cauca, due to threats and abuses by an illegal armed group and confrontations between that group and the military.
- During the first week of December, 80 persons (21 families) from Afro-Colombian communities were displaced in the rural area of Bajo Baudo municipality, Choco, after members of an illegal armed group kidnapped two members of the Litoral del San Juan community.

CODHES also reported that at least eight IDP community leaders were killed during the year. On April 14, Ana Isabel Gomez Perez, a leader of displaced communities and a victims' advocate, was killed by unknown assailants in Los Cordobas, Cordoba. On July 23, an unknown assailant killed Guillermo Ramos Rosso in Volador, Cordoba. Ramos worked on a program to recuperate land from former paramilitary members for redistribution to IDPs. On May 22, a UNHCR official expressed concern over death threats against human rights workers and social activists, including displaced leaders.

The government budgeted approximately 1.3 trillion pesos (approximately \$650 million) to provide assistance to IDPs during the year. Assistance to registered IDPs was delivered through Accion Social, the ICBF, the Ministry of Social Protection (MSP), and other governmental ministries and agencies.

Assistance organizations pointed out that the emergency response to mass displacements was more difficult and costly to mount, since most displacements took place in more remote locations; however, the speed and effectiveness of the response has improved in recent years. Additionally, international organizations and civil society reported that a lack of

local capacity to accept registrations in high-displacement areas often delayed by several weeks or months assistance to persons displaced individually or in smaller groups. Intense fighting and insecurity in conflict zones, including areas in the departments of Antioquia, Arauca, Cauca, and Narino, sometimes delayed national and international aid organizations from accessing newly displaced populations.

Despite several government initiatives to enhance IDP access to services and knowledge of their rights and notable improvements in meeting their social and economic needs, many IDPs continued to live in unhygienic conditions with limited access to health care, education, or employment. On January 26, the Constitutional Court ordered the government to reformulate its IDP programs and policies, including improving the IDP registration system, to address the continuing "unconstitutional state of affairs" in providing for IDP rights. The court also ordered the government to implement specific protection and assistance programs for displaced indigenous people, Afro-Colombians, disabled persons, and IDP community leaders (a previous 2008 order provided this right for displaced women and children). Several international organizations and domestic nonprofit groups, such as the International Organization for Migration (IOM), the ICRC, and the Colombian Red Cross, worked with the government to provide emergency relief and long-term assistance to displaced populations.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol to which the country is a party, and the government has established a system for providing assistance to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government reserved the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the government, 193 recognized refugees resided in the country. During the year 334 persons applied for refugee status, of which 27 refugee cases were approved and 237 rejected.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair elections held on the basis of nearly universal suffrage. Active duty members of the armed forces and police may not vote or 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.

#### Elections and Political Participation

In 2006 independent candidate Alvaro Uribe won a second four-year term as president in elections that were considered generally free and fair, despite a concerted campaign by the FARC and ELN to disrupt or manipulate the outcome. The OAS electoral observation mission stated that the elections took place "in an atmosphere of freedom, transparency, and normalcy."

Political parties could operate without restrictions or outside interference. The Liberal and Conservative parties previously dominated politics. The reelection of President Uribe as an independent in 2006 and the second-place showing of the Polo Democratico presidential candidate, Carlos Gaviria, reflected a widening of the political arena. More than 20 political parties from across the political spectrum were represented in Congress. In 2007 Polo Democratico candidate Samuel Moreno was elected mayor of Bogota.

New illegal groups, paramilitary members who refused to demobilize, and the FARC threatened and killed government officials (see section 1.g.). According to the Presidential Program for Human Rights, eight municipal council members were killed through November, compared with 12 in the same period 2008.

Some local officials throughout the country resigned because of threats from the FARC. A program by the Ministry of Interior and Justice provided protection to 233 mayors, 29 former mayors, and 3,338 council members during the year.

The law requires that women be placed in at least 30 percent of appointed government posts and that the government report to Congress each year the percentage of women in high-level government positions. There were 13 women in the 102-member Senate and 14 in the 166-member House of Representatives. There were three women in the 13-member cabinet and four on the 23-member Supreme Court. Additionally, there were 11 women on the higher courts: one on the Constitutional Court, eight on the State Council, and two on the CSJ.

Two indigenous senators and one indigenous member of the House of Representatives occupied seats reserved for indigenous persons. There were no indigenous cabinet members and no indigenous persons on any of the nation's high courts.

There were 10 self-identified Afro-Colombian members of the House of Representatives; nine were part of the Afro-Colombian caucus and two occupied seats reserved for Afro-Colombians. There were no seats reserved for Afro-Colombians in the Senate. There was one Afro-Colombian cabinet minister; there were no Afro-Colombians on any high court.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government actively prosecuted cases of governmental corruption; however, officials sometimes engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that government corruption was a problem. Drug trafficking revenues exacerbated corruption.

On September 21, five senior officials from the Ministry of Transportation and the National Concessions Institute, including its director, were forced to resign after recorded telephone conversations implicated them in soliciting bribes in connection with the Central Magdalena railroad concession. Investigations continued at the end of the year.

Former agricultural minister Andres Felipe Arias and other ministry officials were implicated in a scandal involving inappropriate use of the Agriculture Ministry's irrigation and drainage loan program. Investigations continued at the end of the year.

On April 13, the Superior Tribunal of Medellin sentenced the former president of the Antioquia Assembly to eight years and three months for irregularities in contracts.

In July the Supreme Court's criminal chamber sentenced former representative Teodolindo Avendano to eight years in prison for accepting a bribe to abstain from voting against changing the constitution to allow President Uribe's 2006 reelection.

The Justice and Peace Law (JPL) process continued to expose corruption and paramilitary ties within the government and security forces. The president continued funding for the Supreme Court's investigative unit, which investigated members of Congress and senior government officials. On August 19, the Supreme Court convicted former representative Karelly Patricia Lara Vence to six years in prison for paramilitary ties. The primary government body to investigate corruption is the Presidential Program for the Fight Against Corruption.

By law public officials must file annual financial disclosure forms.

The law provides for public access to government information, and the government generally provided such access in practice. While there are no prohibitive fees to access government information, there were reports that some low-level officials insisted on bribes to expedite access to information.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government and prominent local human rights groups differed in their evaluations and analyses of the human rights situation, which led to mutual suspicion. NGOs reported that criticism from high-level officials, including President Uribe, linking the groups to guerrilla groups, put them at risk for retaliation by new illegal groups and paramilitary members who refused to demobilize. Many domestic NGOs also said that the government arbitrarily arrested and detained human rights activists, particularly in high-conflict areas. NGOs reported that the Prosecutor General's Office had pursued numerous unfounded judicial cases against legitimate human rights defenders with the purpose of discrediting their work. The government asserted that some human rights activists engaged in activities that supported terrorism (see section 1.e.).

The UN special rapporteur on the situation of human rights defenders, Margaret Sekaggya, concluded patterns of harassment and persecution against human rights defenders, including arbitrary arrest and detention, continued to exist in the country. Sekaggya said the primary reason for insecurity of human rights defenders lay in the systematic stigmatization of defenders by government officials. NGOs also complained about what they described as intolerant and hostile statements from the government regarding the work of human rights defenders. On September 17, during the special rapporteur's visit, President Uribe made a public statement supporting the work of human rights defenders.

Several thousand human rights and civil society NGOs were registered in the country, although most existed only on paper. Local human rights NGOs had far-reaching influence. By sharing information and disseminating it to international human rights organizations and the media, NGOs raised the country's human rights profile and contributed to significant levels of international attention.

According to the CCJ, eight human rights activists were killed during the year. Two were female IDP leaders and two were LGBT activists. The CCJ reported a rising trend of attacks against women leaders of the IDP population.

Several NGOs reported receiving threats in the form of e-mail, mail, telephone calls, obituaries, objects, or directly from unknown individuals. According to the UNHCHR, reports of threats doubled during the year. The government condemned the threats, and the police launched a special unit to work on such cases. The Prosecutor General's Office launched 193 investigations, which continued at year's end.

A Ministry of Interior and Justice program provided protection to more than 567 human rights activists during the year (see section 2.a.). The government enhanced this security at eight NGO offices during the year.

The government cooperated with international organizations. The UNHCR, IOM, International Labor Organization (ILO), UNHCHR, and ICRC had an active presence in the country and carried out their work without government interference.

UN special rapporteur missions included the special rapporteur on extrajudicial killings, June 8-18; the special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, July 22-27; the special rapporteur on the

situation of human rights defenders, September 7-19; and the special rapporteur on the independence of judges and lawyers, December 7-16.

The government continued to meet with the UNHCHR, local NGOs, and members of the diplomatic corps to discuss steps it had taken to comply with UNHCHR recommendations on improving human rights practices. While acknowledging progress on several recommendations, the UNHCHR and local NGOs reported that the government had not fully implemented most of them by year's end.

The national human rights ombudsman is independent, submits an annual report to the House of Representatives, and has responsibility for ensuring the promotion and exercise of human rights. The ombudsman's Bogota office was the headquarters of a national Early Warning System designed to alert public security forces and the national and regional governments of impending massive human rights violations. The ombudsman's office was underfunded, which limited its ability to monitor human rights violations effectively. Some human rights groups complained that the government lacked the political will to publish Early Warning System reports, and they said a significant number of regional reports were never published. Members of the ombudsman's regional offices were under constant threat from illegal armed groups via pamphlets, e-mails, and violent actions. On May 11, a pamphlet signed by the illegal armed group Black Eagles declared early warning system workers in Magdalena, Guajira, and Cesar departments to be "targets." On July 28, unknown assailants shot at the car of the human rights ombudsman for Valle del Cauca; no one was injured.

The Presidential Program for Human Rights, which operated under the authority of the vice president, coordinates national human rights policy and actions taken by government entities to promote or protect human rights. The program is the government's primary interlocutor with domestic and international NGOs and with foreign governments on human rights issues. The program publishes the *Human Rights Observer* magazine, which provides analyses of major human rights issues and the human rights situation in various regions of the country.

Both the Senate and House of Representatives have human rights committees. The committees serve as forums for discussion of human rights issues but have no authority to draft legislation.

Implementation of the 2005 JPL continued. The Justice and Peace Unit in the Prosecutor General's Office is responsible for the required investigation and prosecution of demobilized persons under the law, and an interinstitutional commission on Justice and Peace was created to coordinate its implementation. Through November, 3,950 persons had been presented as eligible for the JPL; 3,727 of these were former paramilitary members, including 25 commanders, and 223 were former guerrilla members. More than 1,952 proffers or "versiones libres" have been taken, in which the Prosecutor General's Office identified almost 35,000 crimes, more than 29,000 of them homicides. There were 50,000 victims involved in the 35,000 identified crimes. A total of 274,000 victims had registered with the Prosecutor General's Office, and 2,300 graves had been exhumed involving the remains of 2,800 persons; remains of 850 victims were identified, and 721 were returned to their families. Testimony from the voluntary confessions also triggered investigations of politicians, military members, major agricultural producers, and government officials' ties to paramilitary forces.

Despite advances in the JPL process, the application of the law continued to face many challenges, including zero convictions of paramilitary leaders since 2005, thousands of former paramilitary members who remained in legal limbo, and no land or money reparations of properties confiscated from paramilitary leaders. NGOs and victims criticized the slow pace of determining the truth, while the Prosecutor General's Office said pressure to reveal all truths behind paramilitary crimes delayed prosecutions.

The government's Program of Administrative Reparations paid 200 billion pesos (\$100 million) in reparations to victims of illegal armed groups. The Victim Protection Program under the Ministry of Interior and Justice protected 126 victims

involved in the Justice and Peace process, and during the year the government spent 90 billion pesos (approximately \$45 million) on the program. The National Commission of Reconciliation and Reparation maintained offices in nine cities, including Sincelejo, Barranquilla, Bucaramanga, and Medellin. The offices contained one-stop informational centers for victims and assisted victims with enrollment, and receipt of legal and psychological support.

In spite of the advances in the implementation of the Justice and Peace process and the increasing participation of victims, the OAS reported continuing shortfalls in protection of victims. The OAS reported that victims were highly susceptible to killings, threats, and intimidation, and that government effort was uncoordinated.

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

Although the law specifically prohibits discrimination based on race, gender, disability, language, or social status, many of these prohibitions were not enforced in practice.

##### Women

Although prohibited by law, rape, including spousal rape, remained a serious problem. The law provides for sentences ranging from eight to 15 years' imprisonment for violent sexual assault. For acts of spousal sexual violence, the law mandates sentences of six months to two years and denies probation or bail to offenders who disobey restraining orders. The National Institute for Legal Medicine and Forensic Science reported 15,418 cases of suspected sex crimes, including rape, during the year, but indicated that many cases went unreported. New illegal group members, paramilitary members who refused to demobilize, and guerrillas raped, sexually abused, and sometimes sexually mutilated women and children for fraternizing with the enemy, working as prostitutes, having sexual relations outside of marriage, or violating imposed codes of conduct or restrictions on dress (see section 1.g.). The ICBF provided psychosocial, medical, and legal support to victims of sexual violence.

Although prohibited by law, domestic violence, including spousal abuse, remained a serious problem. Judicial authorities may remove an abuser from the household and require therapy or reeducation. The law provides prison time if the abuser causes grave harm or the abuse is recurrent; however, provisions for fines were not applied. The National Institute for Legal Medicine and Forensic Science reported approximately 54,000 cases of domestic violence against women during the year, but it noted that only a small percentage of cases were brought to its attention for investigation and follow-up. The law stipulates that the government must provide victims of domestic violence with immediate protection from physical or psychological abuse. The ICBF provided safe houses and counseling for victims, but its services could not meet the magnitude of the problem. In addition to fulfilling traditional family counseling functions, ICBF family ombudsmen handled domestic violence cases. The Human Rights Ombudsman's Office conducted regional training workshops to promote the application of domestic violence statutes.

Adult prostitution is legal in designated "tolerance zones," but enforcement of, and restriction to, the zones remained difficult. Prostitution was widespread and exacerbated by poverty and internal displacement. Sex tourism existed to a limited extent, particularly in coastal cities such as Cartagena and Barranquilla, where marriage and dating services were often fronts for sexual tourism. The law prohibits organizing or facilitating sexual tourism and provides penalties of three to eight years' imprisonment. Trafficking in women for sexual exploitation continued to be a problem.

The law provides measures to discourage and punish harassment at the workplace, such as sexual harassment, verbal abuse or derision, aggression, and discrimination. Nonetheless, sexual harassment remained a pervasive problem.

Although women enjoy the same legal rights as men, discrimination against women persisted. Women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that generally were incompatible with

their education and experience. Female workers in rural areas were affected most by wage discrimination and unemployment.

Couples and individuals had the right to decide on the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Women and men had access to contraception. According to the Population Reference Bureau, 93 percent of women were able to satisfy their family planning needs. The majority of births, 86 percent, were attended by a skilled professional. Women have equal access to health care and diagnosis for sexually transmitted diseases.

The president's advisor for equality of women has primary responsibility for combating discrimination against women. The advisor managed a program to help women who were microbusiness entrepreneurs and heads of families to get favorable lines of credit for their companies. During the year the government provided to women 10,247 microcredit loans, in the amount of 11.4 billion pesos (approximately \$5.7 million). During the year 5,851 women attended 29 government-sponsored seminars on establishing microbusinesses.

#### Children

Citizenship is derived by birth within the country's territory. By law primary education was compulsory, free, and universal, but this was not always true in practice. Rural schools often could not offer classes because they lacked teachers.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 10,396 cases of child abuse through November 30. The institute also estimated that approximately 86 percent of reported sex crimes involved sexual abuse of children, most of whom were under age 14.

Female genital mutilation (FGM) is performed in the 20,000-person Embera Chami indigenous community in Risaralda. During the year the indigenous community suspended the practice for a period of two years to evaluate its effects on girls. Despite this decision, the NGO Committee for the Defense of Women and Girls of the Embera Chami reported at least two cases of FGM performed on infant girls who required hospitalization. Since FGM is practiced privately in the home, there were no estimates for how often FGM was practiced during the year.

According to the ICBF, as of November 30, there were 470 reports of minors engaging in independent or forced prostitution; many other cases went unreported. Children were trafficked for sexual exploitation and engaged in child pornography. On July 30, the president approved a law that increases the penalties for sexual tourism involving minors. The law authorizes the government to confiscate profits from hotels and other establishments where sex with minors is performed.

Guerrillas forcibly recruited and used children as soldiers, including indigenous children (see Section 1.g.). An estimated 10,000 to 13,000 children were child combatants. At least 269 children (202 of them former members of the FARC) surrendered to state security forces during the year and were transferred to the ICBF, which operated a reintegration program for former child soldiers.

According to government registrations, 77 percent of IDPs were women and children. Displaced children particularly were vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

#### Trafficking in Persons

Although the law prohibits trafficking in persons, there were reports that persons were trafficked from, through, and within the country.



The country was a major source for trafficking in persons, primarily for sexual and labor purposes. During the year the national trafficking prevention hotline received 2,097 calls, 39 (1.86 percent) directly related to trafficking. Most calls were preventive in nature, with callers asking for information on a potential trafficking scheme. The vast majority of trafficking victims were young women, although children and young men were also at risk. Destinations and routes included Aruba, China, Ecuador, Germany, Holland, Italy, Iran, Japan, Jordan, Mexico, Panama, the Philippines, Portugal, Spain, and the United States. Victims also transited the country from other South American and African countries on their way to Europe and the United States. Internal trafficking of women and children from rural to urban areas for sexual exploitation and forced labor remained a serious problem.

Many traffickers disclosed the sexual nature of the work they offered but concealed information about working conditions, clientele, freedom of movement, and compensation. Others disguised their intent by portraying themselves as modeling agents, offering marriage brokerage services, providing study programs, or operating lottery or bingo scams with free trips as prizes. Recruiters reportedly loitered outside high schools, shopping malls, and parks to lure adolescents into accepting nonexistent jobs abroad. The IOM and domestic NGOs estimated that international organized crime networks were responsible for most transnational trafficking. Domestically, organized crime networks, some related to illegal armed groups, were also responsible for trafficking for sexual exploitation or organized begging, and the armed conflict made a large number of IDP victims vulnerable.

The law provides for prison sentences between 13 and 23 years and fines up to 1,000 times the monthly minimum wage for trafficking offenses. These penalties may be increased by up to one-half if there are aggravating circumstances, such as trafficking of children younger than 12. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. While limited resources hindered prosecutions, the Prosecutor General's Office continued to open new investigations and continued progress on current trials. The Prosecutor General's Office opened 134 cases for trafficking in persons during the year; 21 individuals were placed in preventive detention; 27 individuals were convicted and sentenced.

With the support of the IOM, the National Committee against Trafficking (composed of 14 agencies) prepared information campaigns, promoted information exchange among government agencies, and began use of a database to monitor trafficking cases. During the year 15 departments established interagency committees to combat trafficking in persons locally. The Ministry of Interior and Justice, with technical assistance from the UN Office on Drugs and Crime (UNODC) and IOM, worked with the Prosecutor General's Anti-Human Trafficking Center to take the lead on combating trafficking. The government cooperated with foreign counterparts on investigations. In August the government hosted a bilateral antitrafficking conference for counterparts in Panama. There was no evidence of institutional involvement in trafficking in persons by government bodies or officials.

The country's diplomatic missions worked with the IOM to repatriate victims. The IOM strengthened government institutions involved in antitrafficking efforts and assisted trafficking victims; during the year the IOM and the UNODC trained officials on specific trafficking issues and provided awareness-raising training to NGO groups. The IOM also provided victims with job training and employment opportunities, temporary emergency shelter, necessary medical and psychological care, and opportunities for social reintegration. The Hope Foundation, an antitrafficking NGO, provided educational information, social support, and counseling to trafficking victims. The Rebirth Foundation (another antitrafficking NGO) provided housing, psychosocial therapy, medical care, and legal assistance to child victims of sexual exploitation.

The government advertised a national hotline to prevent trafficking and report violators. The IOM worked with the government to continue its antitrafficking public awareness campaign that included placing posters in airports, bus

stations, consulates, and travel agencies, and running public service announcements on radio and television. The UNODC provided training to public prosecutors on trafficking issues.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, and the government sought to enforce these prohibitions. No law mandates access to public buildings for persons with disabilities, thus limiting the power of the government to penalize those schools or offices without access, but both national and local governments addressed this with programs aimed at improving access. The law provides persons with physical disabilities access to voting stations. The Presidential Program for Human Rights is responsible for protecting the rights of persons with disabilities.

#### National/Racial/Ethnic Minorities

According to the 2005 national census, approximately 4.5 million persons, or 10.6 percent of the population, described themselves of African descent. However, human rights groups and Afro-Colombian organizations estimated that Afro-Colombians comprised up to 20 to 25 percent of the population. While Afro-Colombians are entitled to all constitutional rights and protections, they faced significant economic and social discrimination. According to the National Administrative Department of Statistics (DANE), an estimated 58 percent of Afro-Colombians lived in poverty; their infant mortality rate was almost two times higher than the general population. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as new illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas struggled for control of the department's drug- and weapons-smuggling corridor (see section 1.g.).

The Commission for Advancement of Afro-Colombians, headed by the vice president and consisting of several government officials, academics, business and community leaders, and two foreign congressmen, provided recommendations to the government in May on how to improve education, income generation, and political representation within the Afro-Colombian population. The recommendations were based on data collected from 17 regional workshops with civil society throughout the country. Although the Ministry of Interior and Justice in conjunction with the Vice President's Office drafted a Law of Equality to implement the recommendations, it was never introduced in Congress.

#### Indigenous People

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

The law accords indigenous groups perpetual rights to their ancestral lands. Traditional indigenous authorities operated 711 reservations, accounting for 30 percent of the country's territory, with officials selected according to indigenous traditions. However, many indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership.

The law provides for special criminal and civil jurisdictions within indigenous territories based on traditional community

laws. Proceedings in these jurisdictions were subject to manipulation and often rendered punishments that were more lenient than those imposed by regular civilian courts. The law permits indigenous communities to educate their children in traditional dialects and in the observance of cultural and religious customs. Indigenous people are not subject to the national military draft.

Indigenous leaders complained about the occasional presence of government security forces on indigenous reservations and asked that the government consult with indigenous authorities prior to taking military action against illegal armed groups and guerrillas operating in or around such areas. The government stated that for security reasons it could not provide advance notice of most military operations and that it consulted with indigenous leaders when possible before accessing land held by the communities. The law permits the presence of government security forces on indigenous lands; however, Ministry of Defense directives instructed security forces to respect the integrity of indigenous communities, particularly during military and police operations. The Ministry of Defense's Integrated Policy on Human Rights stresses the importance of protecting indigenous communities.

The Ministry of Interior and Justice, through its Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and traditional rights of indigenous people. Ministry representatives, together with inspector general and human rights ombudsman representatives, worked with other governmental human rights organizations and NGOs to promote indigenous interests and investigate violations of indigenous rights. The ministry is also responsible for buying land to add to indigenous reserves.

Despite special legal protections and government assistance programs, indigenous people continued to suffer discrimination and often lived on the margins of society. The indigenous people were the country's poorest population and had the highest age-specific mortality rates and rates of intestinal diseases, tuberculosis, hepatitis, and malaria.

UNHCHR reported that ethnic groups, particularly indigenous people and Afro-Colombian populations, were increasingly vulnerable as a result of the internal armed conflict. The special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, reported that there were alarming patterns of forced displacement, homicide, hunger, and other serious problems due to the internal armed conflict. The special rapporteur also signaled the FARC's complete disregard for human rights.

The Presidential Program for Human Rights reported that through November 30, there were 101 homicides of indigenous people, an increase of 63 percent from the same period in 2008. Mass killings of indigenous people included:

- On February 4, the FARC killed eight members of the Awa indigenous community in Barbacoas, Narino. The FARC announced the Awa were killed due to their alleged collaboration with the Colombian military.
- On August 26, 12 Awa indigenous persons, including six minors, were killed in their home. Five members of an illegal armed group were arrested in conjunction with the crime.

The UNHCHR continued to criticize threats and violence against indigenous communities, characterized government investigations of human rights violations against indigenous groups as inadequate, and appealed to the government to do more to protect indigenous people.

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

Colombia Diversa, an NGO focused on violence and discrimination due to sexual orientation, reported at least 39 killings

during the year due to prejudice regarding sexual orientation. LGBT activists were the subjects of "social cleansing" threats and attacks (see section 1.g.). The Constitutional Court recognized the right of same-sex couples to pension; nevertheless, Colombia Diversa reported the law was frequently not applied due to lack of knowledge by government employees. There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. However, Colombia Diversa reported societal discrimination. Colombia Diversa reported cases of police abuse against persons due to their sexual orientation, with the majority of complaints coming from transgender individuals. The group also claimed that violence in prisons against persons due to their sexual orientation remained a problem. Colombia Diversa reported several cases of threats against human rights defenders working on LGBT issues. Colombia Diversa cited a high level of impunity for crimes against members of the LGBT community. Government authorized Gay Pride marches took place in several cities on June 28; there were no reports of insufficient security for the participants.

#### Other Societal Violence or Discrimination

There were no confirmed reports of societal violence or discrimination towards persons with HIV/AIDS.

#### Section 7 Worker Rights

##### a. The Right of Association

The law provides for the right to organize unions, and the government generally respected this right in practice. The law does not extend this right to members of the armed forces or police. Approximately 815,000 workers (4.4 percent of the workforce of 18.4 million) were union members. Almost 60 percent of the workforce was employed in the informal sector.

The labor code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a registration process. Until recently, trade union leaders claimed that this process was slow and used to block union registration. Some union leaders claimed that bureaucratic hurdles gave companies time to fire organizers before they could officially establish unions. However, in July 2008 the Constitutional Court ruled that filing union registration documents with the Ministry of Social Protection (MSP) immediately establishes the legal status of a union and that the MSP has no discretion over the content of the registration documents. With this ruling the courts largely removed any legal basis for the MSP to interfere in the registration process.

Violence and discrimination against union members discouraged some workers from joining and engaging in union activities. The MSP reported that 28 trade unionists were killed during the year, compared with 38 in 2008, while the National Union School (ENS), a labor rights NGO, reported that 39 trade unionists were killed, compared with 49 in 2008. ENS and government figures differed because of different methodological conceptions of trade union membership. According to data provided by the government and ENS, during the year the homicide rate per 100,000 was five for unionists and 35 for the general population.

The ENS and other labor groups acknowledged an improvement from 2008 but warned that focusing on murders alone masked the true nature and scope of the antiunion violence. ENS reported that only 26 percent of the 10,364 "violations of life, liberty, and integrity" of unionists it had tallied since 1986 had been murders. The majority consisted of death threats (4,418) and forced displacements (1,611), as well as arbitrary detentions, harassment, nonlethal attacks, disappearances, kidnappings, torture, and illegal searches. Labor groups said that while murders had dropped, nonlethal violations continued.

Teachers made up the largest percentage of union members who were victims of violence by illegal armed groups, both because they constituted 27 percent of all registered unionists and because of their presence in rural, conflict-ridden parts of the country. The MSP reported that 15 of the 28 (54 percent) of the unionists killed during the year were teachers, while

ENS reported 15 of 39 (38 percent) unionists were teachers. The teachers union, Colombian Federation of Educators, reported three nonunionized educators were also killed during the year, for a total of 18.

The government provided protection to 11,179 at-risk individuals of whom 1,550 were trade union leaders (others protected included journalists, human rights advocates, and social leaders); the protection program received annual funding of 90 billion pesos (\$45 million). The Ministry of Education (MOE) managed a separate protection program for educators, the majority of whom are unionized, consisting of a transfer program. The MOE has removed 2,043 educators from dangerous situations since the program began in 2003.

Since 2000 the Prosecutor General's Office obtained 234 convictions (209 for murders) of 334 perpetrators of violent acts against trade unionists. A special Labor Sub-Unit was set up in 2006 to prosecute those who commit such acts and was assigned a total of 1,344 cases. It obtained 184 convictions (79 percent of the labor crimes convictions), including 69 in 2009. Still, a majority of the 1,344 cases remained under investigation or were in the preliminary stages of the prosecutorial process. While labor groups recognized important advances made by the Labor Sub-Unit of the Prosecutor General's Office, they said more needed to be done to end impunity for perpetrators of violence against trade unionists.

The law provides for the right to strike, and workers exercised this right in practice. Members of the armed forces, police, and persons performing "essential public services" were not permitted to strike. During the year the courts declared three work stoppages illegal.

Before conducting a strike, unions must follow prescribed legal procedures and give advance notice to their employers and local authorities. The law prohibits the use of strikebreakers. The law prohibiting public employees from striking was often ignored. Employees are not required to accept binding arbitration if they cannot reach an agreement.

There were reports that employers used temporary contracts and associated workers' cooperatives (CTA), both of which are legal, to reduce nonwage costs and avoid unionization. Such workers are not covered by the labor code. Unionists advocated revising the labor code, which currently defines a "worker" as a direct hire with an employment contract, to include a greater percentage of the workforce.

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

The law provides workers the right to organize and bargain collectively, and the government respected this right in the private sector; however, collective bargaining was not implemented fully in the public sector. Labor unions assessed that high unemployment, a large informal economy, antiunion attitudes, and violence against trade union leaders made organizing difficult, which limited workers' bargaining power across sectors. Economists judged that mandatory high nonwage benefits in the formal sector depressed formal employment and union membership, and increased informality. According to the ENS, in 2008, 0.8 percent of the workforce was covered by a collective bargaining agreement.

In February the president issued Decree 535, creating a formal process whereby public-sector unions may submit demands to their public-sector employers, who are obliged to respond or initiate "discussions." Unions criticized the decree as ineffectual for lack of any binding mechanisms. There are no collective bargaining agreements in the public sector.

Collective pacts between individual workers and their employers were not subject to collective bargaining and were often used to subvert collective bargaining. Collective pacts, which are legal, give employers the right to negotiate accords on pay and labor conditions at any time with groups of workers when no union is present or when a union represents less than one-third of employees. Labor groups complained that when a minority union presented a collective bargaining proposal, employers offered some workers better conditions and pay in exchange for their leaving the union and joining the pact, which undermined organized labor's ability to bargain collectively.

The continued growth and prevalence of CTAs further diminished collective bargaining because CTA workers were not covered by the labor code and hence could not bargain collectively. Law 1233, passed in 2008, requires CTAs to register with the government and provide compensation at least equivalent to the minimum wage and the same health and retirement benefits normally offered to directly hired employees. While this reduced the economic incentive to hire CTA workers over direct hires, unions complained that it did nothing to extend collective bargaining rights to CTA workers.

Decree 4588 prohibits the use of CTAs as subcontractors when they do not own the means of production, when they are used to perform core functions for a company, and when a company itself directly disciplines CTA workers. Still, evidence suggests that many cooperatives engaged in illegal forms of subcontracting, and in some cases private-sector employers forced workers to join CTAs that they themselves managed. The government has the authority to fine labor rights violators but seldom shuts down repeat offenders. During the year the government investigated 788 cooperatives and sanctioned 86. In practice nominal fines assessed by the government did little to dissuade violators.

While the law prohibits antiunion discrimination, some longstanding ILO criticisms of the labor code remained, including the right to fire trade unionists who participate in illegal strikes or work stoppages as determined by the courts, and the prohibition of strikes in a wide range of public services that are not strictly "essential," as defined in ILO standards.

There are no special laws or exemptions from regular labor laws in export processing zones. Labor law applies in the country's 58 free trade zones where its standards were enforced.

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

The law prohibits forced or compulsory labor, including by children, but there were some reports that such practices occurred (see section 6.d.).

New illegal groups, paramilitary members who refused to demobilize, and FARC and ELN guerrillas practiced forced conscription. There were some reports that FARC and ELN guerrillas, new illegal groups, and paramilitary members that refused to demobilize used forced labor, including child forced labor in coca cultivation, in areas outside government control (see section 1.g.). There were also reports of forced commercial sexual exploitation. In addition, there were reports of children from Ecuador working as coca pickers and children from Honduras and Nicaragua working in forced-labor fishing.

#### d. Prohibition of Child Labor and Minimum Age for Employment

While there are laws to protect children from exploitation in the workplace, child labor remained a problem in the informal and illicit sectors. Significant incidences occurred in the following eight industries: clay bricks, coal, coffee, emeralds, gold, sugar cane, coca, and pornography. By September the ICBF reported 6,884 complaints of labor exploitation and 470 child victims of commercial sexual exploitation. The ICBF assisted 1,806 children victimized through commercial sexual exploitation throughout the country.

The minimum age for employment is 15. Minors between 15 and 17 years of age must obtain authorization from the local inspection units of the MSP. Such minors may work only six hours per day and 30 hours per week, with no work hours past 6 p.m. Minors between 17 and 18 years of age may only work eight hours per day, 40 hours per week with no work hours past 8 p.m. Minors under age 15 may receive authorization from the local inspection unit to engage in remunerated activities in art, culture, recreation, or sport. However, the authorization establishes the maximum number of hours and specific labor conditions; a minor younger than 15 may not engage in remunerated activities more than 14 hours per week. According to the DANE, there were 11.5 million children between the ages of five and 17, of whom approximately 1.6 million worked. Member organizations of the National Inter-agency Committee to reduce the worst forms of child labor and

to protect minor workers reported up to two million children who worked, the majority of whom worked illegally. ENS reported that 38 percent of children who worked did not receive payment.

The legal minimum age for work was consistent with completing basic education. All child workers were prohibited from working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Although children were prohibited from working in a number of specific occupations, including mining and construction, in practice these prohibitions largely were ignored. Children worked in artisanal mining of coal, clay, emeralds, and gold under dangerous conditions.

The ICBF identified and assisted 2,137 children working in illegal mining operations during the year. Estimates of the total number of children who worked in illegal mining operations varied from 10,000 to 200,000. The minor's code provides for fines of up to 40 times the minimum monthly wage for violations of child labor laws. A violation deemed to endanger a child's life or threaten moral values may be punished by temporary or permanent closure of the responsible establishment.

According to the DANE, children also worked in the illegal drug trade and other illicit activities. Several thousand children were forced to serve as combatants, prostitutes or coca pickers for the FARC, ELN, new illegal groups, or paramilitary groups that refused to demobilize (see section 1.g.).

The MSP's 180 labor inspectors nationwide were responsible for enforcing child labor laws in the formal sector (which covered approximately 20 percent of the child labor force) through periodic inspections. Resources were inadequate for effective enforcement. With assistance from the ILO, the government worked to improve cooperation among national, regional, and municipal governments through its national plan to eradicate child labor and protect working youth. The ILO's International Program on the Elimination of Child Labor operated a program to prevent children from engaging in commercial sexual exploitation, while private groups and foreign governments conducted programs to remove children from the worst forms of child labor. The government, in conjunction with the IOM and UNICEF, provided services to former child soldiers and carried out awareness-raising campaigns to prevent the recruitment of children by armed groups.

#### e. Acceptable Conditions of Work

The government establishes a uniform minimum wage every January that serves as a benchmark for wage bargaining. The monthly minimum wage, which is negotiated by a committee of representatives of business, organized labor, and the government, was approximately 496,900 pesos (\$250), a 7.6 percent increase from the previous year. If the negotiation process fails to reach agreement, as has occurred frequently in the past, the president can set the minimum wage unilaterally. The national minimum wage did not provide sufficient income to purchase the basic market basket of goods for a family of four. Furthermore, it was impossible to enforce the minimum wage in the informal sector.

The labor code provides for a regular workweek of 48 hours and a minimum rest period of eight hours within the week. The code stipulates that workers are entitled to receive premium compensation for additional hours worked over the regular workweek of 48 hours and for work performed on Sundays. Compulsory overtime is permitted only in exceptional cases where the work is considered essential for the company's functioning.

The law provides comprehensive protection for workers' occupational safety and health, which the MSP enforced through periodic inspections. However, a scarcity of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. Moreover, workers in the informal sector sometimes suffered physical or sexual abuse. The law provides workers with the right to leave a hazardous work situation without jeopardizing continued employment, and the government enforced this right. Nonunion workers, particularly those in the agricultural and in some parts of the flower sector, reportedly worked under hazardous conditions because they feared losing their jobs if they criticized abuses. The Colombian Flower Industry Association

(ASOCOLFLORES) continued to implement voluntary principles on environmental and worker safety practices and reduce the use of pesticides. Nevertheless, problems remained, particularly among producers who remained unaffiliated to ASOCOLFLORES.