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## Colombia

### Country Reports on Human Rights Practices - [2005](#)

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Colombia is a constitutional, multiparty democracy with a population of approximately 44 million. In 2002 independent candidate Alvaro Uribe won the presidency in elections that were considered generally free and fair. The 41-year internal armed conflict continued between the government and Foreign Terrorist Organizations, particularly the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and certain blocs of the United Self-Defense Forces of Colombia (AUC) that were not involved in demobilization negotiations with the government. 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 serious problems remained, the government's respect for human rights continued to improve. All actors in the internal armed conflict committed human rights violations; the majority of violations were committed by illegal armed groups. There were improvements in certain human rights categories related to the government's concentrated military offensive and ongoing demobilization negotiations with the AUC. The following human rights categories and societal problems were reported:

- unlawful and extrajudicial killings
- insubordinate military collaboration with paramilitary groups
- torture and mistreatment of detainees
- overcrowded, underfunded, insecure prisons
- arbitrary arrest
- high number of pretrial detainees
- pretrial detainees held with convicted prisoners
- impunity
- an inefficient, significantly overburdened judiciary
- harassment and intimidation of journalists
- journalistic self-censorship
- significant internal displacement
- unhygienic conditions at internal displacement camps, with limited access to health care, education, or employment
- corruption
- harassment of human rights groups
- violence against women that was exacerbated by the conflict and displacement, including rape
- child abuse and child prostitution
- trafficking in women and children for the purpose of sexual exploitation
- societal discrimination against women, indigenous persons, and minorities
- illegal child labor

The government took steps to improve the human rights situation. Government statistics noted that killings decreased by 10 percent, terrorist massacres by nearly 4 percent, killings of trade union leaders by 67 percent, and forced displacements by more than 27 percent. According to authorities, the number of homicides during the year was the lowest in 18 years. Perceptions of corruption improved slightly.

Despite a unilateral cease-fire declared by the AUC in 2002 and ongoing demobilization negotiations with the government, paramilitaries continued to violate the cease-fire, recruit soldiers, and commit human rights abuses. The following violations by paramilitaries were reported during the year: political killings and kidnappings; forced disappearances; torture; interference with personal privacy; forced displacement; suborning and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; attacks against human rights workers, journalists, and labor union members; recruitment and employment of child soldiers; and harassment, intimidation, and killings of teachers and union leaders.

The FARC and ELN committed the following human rights violations: unlawful and political killings; kidnappings; forced disappearances; killings of off-duty members of the public security forces; killings of local officials; massive forced displacements; suborning 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; harassment, intimidation, and killings of teachers and union leaders; and use of female conscripts as sex slaves.

Representatives of the government, the ELN, civil society, and international observers met in Cuba starting on December 17 to explore the possibility of peace talks.

## RESPECT FOR HUMAN RIGHTS

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

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

Political and unlawful killings remained an extremely serious problem, and there were periodic reports that members of the security forces committed extrajudicial killings.

The Jesuit-founded Center for Popular Research and Education (CINEP), a local human rights nongovernmental organization (NGO), claimed there were at least 298 political and extrajudicial killings, committed by all actors, during the first 6 months of the year. Some NGOs, such as CINEP, attributed all reports of paramilitary human rights violations directly to the government and called paramilitary homicides "extrajudicial killings." The government's Presidential Program for Human Rights reported that 131 persons died in 26 massacres (killings of 4 or more persons as defined by the government) committed by illegal armed groups through June, a 14 percent decrease compared with 2004.

CINEP reported that state security forces were responsible for 94 extrajudicial killings during the first 6 months of the year. For example in January suspected army troops from the 17th Brigade assassinated Pedro Murillo, a 50-year-old unarmed resident of Jiguamiando, Choco Department.

In conformity with the law, incidents cited by CINEP where a complaint was filed were being investigated by military or civilian authorities at year's end. Civilian courts tried a number of military personnel accused of human rights violations (see section 1.e.). Investigations of past killings proceeded, albeit slowly.

Security forces were responsible for unlawful killings.

In February armed assailants killed and dismembered eight civilians, including three children, near the community of San Jose de Apartado. Community members claimed the attack was carried out by the military. Military and government authorities denied army responsibility and blamed the FARC. Community members sporadically cooperated with a few offices involved with the government investigation, demanding the government investigate approximately 150 other killings and disappearances in the community during the past 8 years before they would cooperate fully. Amnesty International (AI) claimed that a March 20 statement by President Uribe, which accused some San Jose de Apartado community leaders of being FARC auxiliaries who sought to obstruct justice, put members of the community at risk of further paramilitary attacks. The community's limited cooperation slowed the investigation by the prosecutor general's Human Rights Unit, which continued at year's end.

In February CINEP stated that members of the army's Battalion 21 Vargas allegedly killed two peasants in Castillo, Meta Department and dressed them in military clothes with weapons to claim to the media that they were members of the FARC's 26th Front.

Also in February CINEP reported that Leonel Guerra Garcia and an unidentified male allegedly were executed by troops from the army's Santander Battalion in Aguachica, Cesar Department. The battalion claimed the men were members of the AUC.

In March CINEP alleged that troops from the army's Second Division executed three people and injured seven others at a police checkpoint in Cocito Macagua, Arauca Department. The 10 persons were traveling in 2 trucks on their way to a sporting event.

In September the press reported that police shot and killed 21-year-old student Jhonny Silva Aranguren, who had been leaving a peaceful student protest at Valle University. The regional human rights ombudsman's office, the prosecutor general's office, and the police opened investigations into Silva's death.

In April the Supreme Military Tribunal, an appellate court for all service-related crimes, exonerated army members involved in the March 2004 killings of seven policemen and four civilians in Guaitarilla, Narino Department. The prosecutor general's office continued investigating allegations that the soldiers tampered with evidence in the case and that the police and civilians killed were in the area to pick up a shipment of cocaine. The investigator general's office closed its investigation.

On January 4, the prosecutor general's office turned over its investigation into the August 2004 killings of two policemen by members of the army's antiskidnapping unit (GAULA) in a "friendly fire" incident in Floridablanca, Santander Department to the 34th Military Penal Court.

Security forces allegedly killed civilians during the internal armed conflict (see section 1.g.).

Landmines were used by both government and non-government actors (see section 1.g.). The government took steps to eliminate the 34 government-controlled minefields in compliance with its Ottawa treaty agreements.

There continued to be credible reports that some members of the security forces cooperated with illegal paramilitaries in violation of orders from government leaders, including the president and the military high command (see section 1.g.). Such collaboration often facilitated unlawful killings and sometimes may have involved direct participation in paramilitary atrocities.

Impunity for military personnel who collaborated with members of paramilitary groups remained a problem (see section 1.g.).

Paramilitaries committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or lacking a strong government presence. Paramilitaries 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 (see section 1.g.).

Guerrillas, particularly the FARC, committed unlawful killings. Guerrillas killed journalists, religious leaders, candidates for public office, elected officials and politicians, alleged paramilitary collaborators, and members of the security forces (see section 1.g.).

Other terrorist groups also carried out attacks (see section 1.g.).

#### b. Disappearance

Forced disappearances, many of them politically motivated, continued to occur. The law specifically defines forced disappearance as a crime. CINEP reported 59 cases of forced disappearance during the first 6 months of the year, an increase of 7 percent compared with the same period in 2004. The UN Working Group on Enforced or Involuntary Disappearances reported in July that there had been at least 1,161 forced disappearances since 1981, 897 of which remained unresolved.

There were no new developments in the investigation of three members of the National Police charged with the April 2004 forced disappearance and subsequent death of Ruben Suarez.

Although the number of kidnappings continued to decline, kidnapping, both for ransom and for political reasons, remained a serious problem. According to the government's Presidential Program for Human Rights, there were 800 kidnappings during the year, a reduction of 44 percent compared with 2004. The Ministry of Defense reported 339 kidnappings for extortion (defined as kidnapping to obtain a benefit, utility, act or omission) through November, a 51 percent decrease compared with the same period in 2004.

GAULAs and other elements of the security forces freed 49 hostages during the first 8 months of the year. However, the NGO Free Country Foundation reported that at least 18 persons died in captivity through August.

Kidnapping continued to be an unambiguous, standing policy for paramilitaries, the FARC, and the ELN. There were numerous reports that guerrillas killed kidnapping victims (see section 1.g.).

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

Although the law prohibits such practices, there were reports that the police, military, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture are tried in civilian, rather than military, courts (see section 1.e.). CINEP asserted that, as of June, security forces were involved in 25 incidents of torture, a 67 percent decrease compared with the first 6 months of 2004. CINEP also reported that during the first 6 months of the year there were 97 victims of torture: 5 victims resulting from abuse of authority and social intolerance by "direct and indirect" state agents; 75 victims resulting from political persecution by direct and indirect state agents; and 17 victims resulting from political persecution or social intolerance where the perpetrator was unknown. Of these cases, 66 victims implicated the armed forces.

For example CINEP reported that in January troops accredited to the army's Mobile Brigade arbitrarily detained and tortured Ferney Vargas Hernandez in Cartagena de Chaira, Cauqueta Department. The troops accused Vargas of being a guerrilla sympathizer.

In February authorities indicted three police officers for torturing and killing Edison Watsein in Medellin, Antioquia Department in 2002.

In October the Inter-American Court of Human Rights found a police officer and former soldier guilty of torturing Wilson Gutierrez Soler in 1994. The court ruled that the government pay approximately \$400 thousand (900 million pesos) to Gutierrez and his family, as well as find the perpetrators of the crime, reform the country's detention centers, and set up training programs on the investigation and documentation of torture.

CINEP reported that paramilitaries were responsible for at least 25 cases of torture as of September. For example, on January 16, members of a paramilitary group in the municipality of Gigante, Huila Department tortured community leader Israel Guzman.

Also in January paramilitaries of the AUC under control of an individual with the alias "Giovanny" detained, tortured, and sexually abused Yeni Zurley Toro Bonilla, the local coordinator for the NGO Fundepaz in Charco, Narino Department.

In April AUC paramilitaries, apparently with the knowledge and acquiescence of the national police, arbitrarily detained, tortured, and executed 12 minors in Buenaventura, Valle de Cauca Department. The mutilated bodies of the victims were found floating in the ocean in an area known to be used by the AUC for torture and execution. The victims were all relatives of leaders of the Yurumangu community which was displaced by AUC paramilitaries.

CINEP did not report any cases of torture by guerrillas as of September. The Human Rights Unit of the prosecutor general's office reported it was investigating 14 cases of torture, of which 4 allegedly involved guerrillas and 10 involved the AUC.

#### Prison and Detention Center Conditions

The National Prison Institute (INPEC) runs the country's 139 national prisons and is responsible for inspecting municipal jails. Although part of the Ministry of Interior and Justice, INPEC has an independent budget and administrative decentralization. With the exception of new facilities, prison conditions were poor, particularly for prisoners without significant outside support.

Many of INPEC's 8,757 prison guards and administrative staff were poorly trained or corrupt. Overcrowding, insecurity, corruption, and an insufficient budget continued to be serious problems. As of March there were more than 69 thousand prisoners held in spaces designed to accommodate fewer than 50 thousand, an overcrowding rate of nearly 40 percent. In 13 institutions overcrowding exceeded 100 percent, and in Bucaramanga's penitentiary, where more than 2 thousand prisoners lived in a space designed for 664, the rate surpassed 200 percent. INPEC representatives estimated that nine thousand guards would be needed to provide adequate security. The Committee in Solidarity with Political Prisoners (CSPP) noted a decrease in corruption resulting from improved training, increased supervision, and more accountability for prison guards.

Budget problems affected prisons in many ways. At Combita Prison lack of money to pay sanitation fees led to water rationing. During the year INPEC spent approximately \$2 (4,990 pesos) per day on each inmate for food. Private sources continued to supplement many prisoners' food. CSPP reported that the doctor to patient ratio was as low as 1 to 1,200 in some institutions and noted that INPEC failed to negotiate a nationwide healthcare contract for all its facilities.

Authorities sometimes failed to prevent deadly violence among inmates. INPEC reported that from January to June, there were 20 violent deaths among inmates related to fighting and riots. In March a fight between inmates at Villahermosa jail in Cali resulted in two deaths. During this period there were 56 escapes, including 44 because of security failures and 1 with the aid of outside assistance.

Inmates typically rioted to force changes in administrative policies. From January to June there were 28 riots at various institutions motivated principally by inmates' attempts to force changes in administrative policies, including acts of civil disobedience and hunger strikes motivated by poor water quality, mistreatment by guards, and changes in medical assistance. For example in April inmates at Modelo Prison in Barranquilla, Magdalena Department staged a protest that evolved into a riot. Prisoners protested the poor quality of food and overcrowding. The prison was built to hold 493 inmates but held 781. The regional human rights ombudsman met with the inmates to discuss their situation. The prosecutor general's office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally.

INPEC officials and CSPP agreed that prison violence was on the decline. Enforcement of a law prohibiting the circulation of cash within prisons improved security and decreased bribery. As a result extortion, theft of inmate property, and prostitution decreased. INPEC attributed some of the decrease in violence to heightened professionalism among prison guards.

Pretrial detainees were held with convicted prisoners.

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 (see section 1.g.).

#### 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 Department of Administrative Security (DAS) and the prosecutor general's Corps of Technical Investigators (CTI). During the year the Human Rights Unit of the prosecutor general's office had issued preventive detention orders for 58 members of the armed forces for human rights violations or paramilitary collaboration. However, impunity continued to be widespread because of a lack of resources for investigations, lack of protection for witnesses and investigators, lack of coordination between government entities, and, in some cases, obstruction of justice. The Ministry of Defense relieved 458 members of the armed forces of duty for inefficiency, unethical conduct, corruption, and reasonable doubt regarding possible violations of human rights. As part of its strategic goal of achieving greater efficiency, the Ministry of Defense increased scrutiny of misuse of authority and resources to uncover cases of corruption.

#### Arrest and 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. In July the Constitutional Court ruled that authorities require solid proof that a crime had been committed before making arrests without a warrant. Members of the armed forces detained members of illegal armed groups captured in combat but were not authorized to execute arrest warrants.

Law enforcement authorities must promptly inform suspects of the reasons for the arrest and bring suspects before a senior prosecutor within 36 hours of detention. Prosecutors must rule on the legality of detentions within 72 hours. These requirements were enforced in practice. In the case of most felonies, detention prior to the filing of formal charges cannot exceed 180 days, after which a suspect must be released. In cases of crimes deemed particularly serious, such as homicide or terrorism, authorities are allowed up to 360 days to file formal charges before a suspect must be released. Habeas corpus is available to address cases of alleged arbitrary detention.

While Individuals accused of lesser or unintentional crimes have access to bail, it generally is not available for serious crimes such as murder, rebellion, or narcotics trafficking. Suspects have the right to prompt access to counsel of their choice, and public defenders from the office of the human rights ombudsman assist indigent defendants.

In April the UN High Commissioner for Refugees (UNHCR) claimed that in its fight against paramilitary groups, the government and the prosecutor general's office continued its systemic practice of arbitrary searches and arrests without sufficient evidence. Prominent human rights NGOs also 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 321 persons during the first 6 months of the year. Many of these detentions took place in high conflict areas where the military was involved in active hostilities against terrorist insurgents.

In May the DAS issued arrest warrants for 200 indigenous members of the Paez tribe for collaborating with the FARC to attack the town of Toribio near Popayan, Cauca Department. Of that number authorities arrested 21 persons and later charged 11 of them. A prosecutor in Popayan said the detentions were arbitrary because the information leading to their arrest was provided by paramilitary informants. The prosecutor also stated that the detainees were sincere in their denials.

In August the Regional Indigenous Council of Cauca (CRIC) denounced the detention of 12 indigenous community members in Jambalo, Cauca Department. According to CRIC no one had been informed of the reasons for their detention.

The government and prominent local NGOs frequently disagreed about how to define an "arbitrary" detention. While the government characterized detentions based on compliance with legal formalities, NGOs typically applied other criteria, such as: arrests based on tips from informants about people allegedly linked to guerrilla activities; detentions by members of the security forces without a judicial order; detentions allegedly based on administrative authority; detentions during military operations; large-scale detentions; detentions as a mechanism for political persecution; and detentions of people while they were "exercising their fundamental rights."

The government did not hold political detainees. Paramilitaries and guerrillas, particularly the FARC and the ELN, continued to take hostages for ransom. The FARC and ELN also kidnapped politicians, prominent citizens, and members of the security forces to use as pawns in a prisoner exchange (see section 1.g.).

Due to overcrowding convicted individuals in some cases remained at police stations for up to seven months before being transferred to a prison. Under the new accusatory justice system, individuals would be detained at police stations for a maximum of 36 hours before either being released or moved to a permanent detention facility.

According to INPEC, as of December there were 28,148 pretrial detainees (nearly 41 percent of prison inmates) held in overcrowded police jails. Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees 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, the judicial system was overburdened, inefficient, and hindered by the suborning and intimidation of judges, prosecutors, and witnesses. Impunity remained a serious problem. According to the Supreme Council of the Judiciary, a perpetrator was punished in less than 1 percent of crimes. The administrative chamber of the Supreme Council of the Judiciary (CSJ) reported that the civilian judiciary suffered from a backlog of cases to be processed. These backlogs led to large numbers of pretrial detainees (see section 1.d.).

Judicial authorities frequently were subjected to threats and acts of violence. According to the National Association of Judicial Branch Employees and the Corporation Fund of Solidarity with Colombian Judges, 14 judicial branch employees were killed and 53 received threats against their lives. One employee was kidnapped, one was "disappeared," and four left the country in self-imposed exile because of death threats. Some judges and prosecutors assigned to small towns worked out of departmental capitals because of security concerns. Witnesses were even more vulnerable to intimidation and many refused to testify.

There were reports that judicial workers were killed during the year. For example during a March investigation into the February San Jose de Apartado massacre, a commission of investigators from the offices of the prosecutor general, the human rights ombudsman, and the inspector general were attacked with mortar shells and machine gun fire, killing the police escort accompanying the commission.

In April suspected paramilitaries killed a police captain and prosecutor general's office investigator Susana Castro. The pair was conducting an investigation in La Hormiga, Putumayo Department.

In September five members of a judicial commission conducting an investigation in Tumaco, Narino Department disappeared after members of the FARC attacked and sunk their river transport boat. The bodies of a prosecutor and a technical investigator on the commission were found three days later.

There were no new developments in the investigations of two cases from 2004 involving judicial workers: the August killing by unknown assailants of former superior court judge and La Guajira Department magistrate Ronaldo David Redondo and the November killing of state attorney Mario Canal.

The civilian justice system is composed of four functional jurisdictions: civil, administrative, constitutional, and special. The civil jurisdiction is

the largest and handles all criminal, civil, labor, agrarian, and domestic cases involving nonmilitary personnel. The Supreme Court of Justice is the highest court within the civil jurisdiction and serves as its final court of appeal.

The administrative jurisdiction handles administrative actions such as decrees and resolutions, which may be challenged in the administrative jurisdiction on constitutional or other grounds. The Council of State is the highest court in the administrative jurisdiction and serves as the final court of appeal for complaints arising from administrative acts.

The Constitutional Court is the sole judicial authority on the constitutionality of laws, presidential decrees, and constitutional reforms. The Constitutional 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.

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 Office of the Prosecutor General is responsible for investigations and prosecutions of criminal offenses. Its Human Rights Unit, which included 15 satellite offices in 7 regional capitals, specialized in investigating human rights crimes. The unit's 48 prosecutors were handling 2,320 cases at year's end.

An internal affairs unit was created in the prosecutor general's office. The prosecutor general's office fired 31 employees for corruption based on the work of this unit.

The office of the inspector general, also known as the public ministry, 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 received during the year to the human rights unit of the prosecutor general's office.

Through August the office of the inspector general charged 22 members of the armed forces with human rights offenses, which were referred to the prosecutor general for criminal investigation. According to the Ministry of Defense, during the year authorities sentenced several members of the army who were found to be guilty of the 1994 murder of Elcias Munoz and 6 other people in Neiva, Huila Department, to prison terms ranging from between 16 and 40 years. In addition authorities found 7 other members of the army guilty of murders, massacres, and kidnappings and sentenced them to prison terms ranging between 20 and 38 years. For example Lieutenant Sandro Quintero Carreno was found guilty for his role in the 1998 La Cabuya massacre and sentenced to 38 years in prison.

#### Trial Procedures

On January 1, the country began implementation of a new accusatory style criminal procedure code. The code replaced the "Napoleonic" system whereby a person was detained pending an investigation that involved the formal acceptance of evidence, without an actual trial. The percentage of convictions under the old system was extremely low, and criminal cases typically lasted three to five years.

Under the new code, a prosecutor files a formal charge with a judge and the accused is notified of the charges. Trials are public and juries are used. Defendants have the right to be present and consult with an attorney; the right to confront witnesses; and the right to present evidence. The accused is presumed innocent and has a right of appeal.

The new code was being implemented gradually over a four-year period. During the year authorities introduced the code in the departments of Armenia, Bogota, Manizales, and Pereira.

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

The military judiciary may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The Military Penal Code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. All serious human rights violations are considered unrelated to military service and are handled by the civilian justice system. The Military Penal Code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, even for service-related acts committed before their retirement. 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.

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

special military officer's fund.

By year's end authorities began implementing reforms to the military justice system to halt the growth of administrative cases, establish a forensic investigative corps, transition to an accusatorial system, and establish a military defense corps.

In March the prosecutor general's office suspended Corporal Juan De los Rios and Sergeant Oscar Chia for injuring two civilians while shooting at cars in 2001.

In April an inspector general proceeding and the military justice system found members of the army innocent of wrongdoing in a 2004 police-army friendly fire incident in Guaitarilla.

Other military-related cases involving civilians, such as the five civilians killed in April 2004 in Cajamarca and the three unionists killed in Saravena, Arauca in August 2004, remained in civilian criminal courts.

#### Political Prisoners

The government did not hold political prisoners, although there were 4,721 prisoners accused of rebellion or aiding and abetting insurgency. The government provided the ICRC access to these prisoners.

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

The law prohibits such actions, and while the government generally respected these prohibitions in practice, there were exceptions.

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. The Ministry of Defense continued training public security forces in legal search procedures that comply with constitutional requirements and human rights standards.

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

Despite being dismissed in November 2004 for illegally wiretapping the telephone lines of more than two thousand citizens and NGOs between 1997 and 2000, Colonel Mauricio Santoyo continued to report to work as the chief of security for President Uribe.

The government continued to use a network of civilian informants to identify terrorist activists and sympathizers. Some national and international human rights groups criticized the network as subject to abuse and a threat to privacy and other civil liberties. The government maintained that the network was voluntary and established to facilitate citizens' right to self-defense.

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

Paramilitaries and guerrillas routinely interfered arbitrarily with the right to privacy. Both groups forcibly entered private homes, monitored private communications, engaged in forced displacement (see section 1.g.) and conscription, and punished family members for alleged wrongdoing. The FARC, which employed large numbers of female combatants, prohibited pregnancies among its troops and, according to military accounts from deserters, executed women who became pregnant.

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

The country's 41-year internal armed conflict, involving government forces, a right-wing paramilitary movement, and two leftist insurgent groups, continued. The conflict and the narcotics trafficking that both fueled and prospered from it were the central causes of violations of human rights and international humanitarian law.

The government continued demobilization negotiations with most major blocs of the AUC, but continued to confront militarily any paramilitary group not involved in negotiations. According to government statistics, approximately 13 thousand of the estimated 20 thousand paramilitaries demobilized during the last 2 years. The Organization of American States continued to verify all stages of demobilization and reincorporation of ex-combatants into society. In July President Uribe signed the Justice and Peace Law, which would provide for the legal processing of demobilized paramilitary combatants. The government issued an implementing decree on December 30 and the law was expected to be implemented in early 2006. Critics, including domestic and international human rights groups, expressed concerns that the law does not take into account sufficiently international standards on the principles of truth, justice, and reparations.

The 12 thousand-member FARC and the 2 thousand-member ELN declined in numerical strength during the year in part because of pressure from the military, which has caused significant numbers of guerrilla casualties that, according to the Ministry of Defense, led to approximately 5 thousand guerrilla desertions during the year. In many areas of the country, the two guerrilla groups worked together to combat government forces or paramilitaries.

Members of security forces committed human rights abuses related to the internal armed conflict. CINEP reported that on May 4, air force units bombarded and indiscriminately sprayed machine gun fire in the communities of El Aguila, San Jose, San Jeronimo, and El Queso near Buenaventura, Valle de Cauca Department. At the same time CINEP alleged that marine infantry and army troops entered the areas of San Jeronimo and San Jose. As a result of the incursion one resident died, several were injured, and two were detained. Troops searched houses illegally, stole belongings and money, and broke down several doors to residences.

The Office of the Prosecutor General and the Office of Military Penal Justice initiated an investigation of two soldiers who shot and killed two suspected paramilitaries in June. The families of the victims denied they were paramilitaries, and the investigation continued at year's end.

In November a grenade allegedly from the army's 17th Brigade killed San Jose de Apartado community leader Arlen Salas David during combat between the army and the FARC. The Ministry of Defense and the Office of the Prosecutor General ordered investigations, which were ongoing at year's end.

In June the prosecutor general's office ordered the arrest and detention of six soldiers from the Sixth Brigade involved in the April 2004 killing of a family of five in Cajamarca, Tolima Department, during a military operation against the FARC. The investigation continued at year's end.

In 2004 the Office of the Inspector General brought charges against six members of the Pijaos Antiterrorist Battalion for the death of Norberto Mendoza Reyes, also in Cajamarca. The prosecutor general's office continued to collect evidence to determine what disciplinary action to take in the case. In November the prosecutor general's office closed its preliminary investigation against five members of the security forces in the same case. At year's end the prosecutor general's office was determining against whom to bring charges.

In July the prosecutor general indicted the Commander of the Mobile Battalion Reveis Pizarro, Colonel Luis Francisco Medina, Captain Luis Eduardo Castillo, and Captain Hisnardo Alberto Zambrano, of the army's 18th Brigade, and one civilian for their role in the August 2004 killing of three trade union members near Saravena, Arauca Department. The case continued at year's end. In September the Office of the Inspector General also opened a disciplinary investigation for the case into the actions of a colonel, a second lieutenant, and three soldiers in the Reveis Pizarro Battalion. The investigation continued at year's end.

In September the Human Rights Unit of the prosecutor general's office captured 5 of the 11 army members with outstanding arrest warrants for their involvement in the October 2004 killing of Kankuamo indigenous leader Victor Hugo Maestre Rodriguez. While the military justice system had absolved the men for lack of proof, the Human Rights Unit found ballistic evidence and testimony that implicated them.

There were no new developments and none were expected in the air force investigation of the killing of a nine-year-old girl in November 2004.

On June 29, the Office of the Inspector General brought disciplinary charges against several members of the army in the case of the 2002 deaths of Florentino Castellanos and his son during a military operation near the town of Cantagallo, Bolivar Department. The military penal justice system continued its separate investigation into the case.

In April authorities transferred to Bogota the civilian criminal trial against the helicopter pilot, co-pilot, and navigator for the 1998 air force bombing of the village of Santo Domingo, Arauca Department that killed 17 persons. The proceedings began on August 31 and were ongoing at year's end.

Some members of the public security forces, including enlisted personnel, non-commissioned officers, and senior officials collaborated with or tolerated the activities of illegal paramilitaries. Evidence suggested tacit nonaggression pacts between local military officers and paramilitary groups existed in certain regions, such as eastern Antioquia, Choco, and Meta Departments, and indicated that members of the security forces actively assisted or sought the assistance of paramilitary groups. Impunity for military personnel who collaborated with members of paramilitary groups remained a problem.

According to AI, the May 2004 paramilitary massacre of 11 peasant farmers in the municipality of Tame, Arauca Department, took place during large-scale military operations in the area. On November 8, the prosecutor general's office issued an arrest warrant for AUC member Victor Manuel Mejia Munera for his role in the massacre.

There were developments in several cases related to military collusion with paramilitaries.

In January the case against retired Rear Admiral Rodrigo Quinones for failing to prevent the 2001 paramilitary massacre of 27 persons in the village of Chengue, Sucre Department was dropped for lack of evidence. The Human Rights Unit of the prosecutor general's office filed an appeal against the decision that subsequently was denied.

On July 17, the prosecutor general's office issued an arrest warrant for Sergeant Sergio Salazar Soto for conspiracy to commit crimes. According to the indictment, he is accused of helping paramilitaries carry out the massacre of 40 persons in Cienaga, Magdalena Department, in 2000.

In April the inspector general's office overturned the July 2004 ruling by the Administrative Tribunal of Cundinamarca Department that the government pay approximately \$22 million (50 billion pesos) to 120 families of victims of the 1999 paramilitary massacre near La Gabarra, Norte de Santander Department. The inspector general's office stated that the Administrative Tribunal's ruling that the police and army failed to prevent the massacre was premature.

In August the defense concluded its case involving retired Brigadier General Jaime Uscategui for his role in the 1997 massacre of at least 27 civilians in Mapiiripan, Meta Department. The trial in absentia of former army colonel Hernan Orozco, who testified against Uscategui in an earlier military trial, also continued for his role in the massacre. In February authorities rejected the appeal of retired Colonel Lino Sanchez and upheld a 40-year sentence for his involvement in the massacre. In September the Inter-American Court of Human Rights ruled that the government had violated the rights of the victims of the Mapiiripan massacre. In March the government announced it would accept responsibility for the massacre, carry out the court's conditions, and compensate the families of the victims.

In August 2004 the inspector general's office recommended that 8 members of the army be tried criminally for participation in the deaths of 10 persons in Huila Department between 1993 and 1994. In March a court sentenced Colonel Jose Ancizar Hincapie and Captain Enrique Bernardo Camacho to 36 years and 38 years in prison, respectively, for their participation in the massacre.

In September the government asked forgiveness from the families of the members of an investigative commission who were killed by paramilitaries in La Rochela, Santander Department, in 1989. The commission had been sent to investigate the deaths of the 19 merchants in Puerto Boyaca and the government apologized for not providing them sufficient protection.

In 2004 the Inter-American Court of Human Rights ruled the government shared responsibility for the 1987 killings of 19 merchants by paramilitaries in Puerto Boyaca, Boyaca Department. In July the media reported that the government asked forgiveness from the families of the merchants and constructed a monument in the memory of the victims, fulfilling 2 of the 23 conditions of the court's ruling. Many of the families of the victims remained concerned about the slow pace of implementing the court's decision. In addition the Ministry of Foreign Affairs reported that compensation funds were obligated and the form of payment was being finalized at year's end.

Paramilitaries continued to violate the 2002 cease-fire, including violations of international humanitarian law and human rights, which primarily affected innocent civilians. As of November the human rights ombudsman's office had received complaints concerning 1,132 alleged cease-fire violations including reports of massacres, kidnappings, selective killings, displacements, robberies, and the recruitment of children, a 28 percent decrease compared with 2004. On June 30, the Colombian Commission of Jurists (CCJ) claimed paramilitaries had killed at least 2,548 civilians since the 2002 cease-fire declaration. There were also numerous reports that demobilized paramilitaries committed human rights violations.

According to CINEP, paramilitaries were responsible for the deaths of 234 civilians from January through June, a 23 percent decrease from 304 deaths reported during the same period in 2004. Paramilitaries killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities or showed leftist sympathies. Paramilitaries also killed persons to protect criminal activities.

In January suspected paramilitaries killed Jaime Orlando Reuto Manosalve, the former mayor of Tame, Arauca Department.

The office of the UN High Commissioner for Human Rights (UNHCHR) reported that in January presumed paramilitaries killed eight indigenous people in La Guajira Department.

AI reported that on April 19, the bodies of at least 12 youths were found in Buenaventura, Valle del Cauca Department. Autopsies showed that the bodies had been burnt with acid and the victims were shot in the head. Amongst the youths were Afro-Colombians who reportedly had been threatened repeatedly by paramilitaries.

In May authorities arrested top AUC commander Diego Murillo Bejarano (a.k.a. "Don Berna") and eight members of the AUC bloc "Heroes of Tolova" for the April assassination of Orlando Benitez Palencia, a local official in Cordoba Department, and two others. Authorities initially confined Murillo to house arrest, but moved him to a maximum security facility in Bogota in October.

In August alleged paramilitaries killed Factor Antonio Durango, president of the labor union representing lottery ticket vendors who had denounced the infiltration of lotteries by armed groups. Durango told United Workers Federation (CUT) members that influential paramilitary members in Bello, Antioquia Department, summoned him to a meeting. The union allegations coincided with the findings of the police and other government investigators. *El Tiempo* reported that Durango had received death threats, but at the time of his death he was not receiving protection from the government program.

In October Afro-Colombian leader Orlando Valencia was kidnapped and killed (see section 5).

There were no new developments and none were expected in the investigations into the 2004 killings of the following individuals, reportedly by paramilitaries: Kankuamo indigenous leader Fredy Arias; Medellin community activist Ana Teresa Yance; television announcer Ines Pena; radio journalist Luis Alberto Castano; investigative journalist Claudia Julieta Duque; and local television hosts Milton Delgado and Milton Rosero.

There were reports that paramilitaries continued to commit "social cleansing" killings of prostitutes, drug users, vagrants, and gang members in city neighborhoods they controlled.

Continuing a trend that began in 2002, paramilitaries committed fewer massacres. The government's Presidential Program for Human Rights reported that at least 8 persons died in paramilitary massacres, compared with 18 in 2004. For example, on December 4-5, members of the AUC's Northern Bloc entered the town of Curumani in Cesar Department and killed several residents. Estimates as to how many were killed ranged from 8 to 22 people, and bodies were still being uncovered. The Office of the Prosecutor General opened an investigation that was ongoing at year's end.

In April authorities discovered two mass graves on former AUC ranches in San Onofre, Sucre Department containing 72 bodies. Residents suspected that the paramilitaries linked to local officials committed the killings, which the prosecutor general's office estimated occurred two or three years prior. The investigation continued at year's end.

In May the human rights ombudsman's office recommended that the government investigate the discovery by the NGO Foundation for Progress of 16 mass graves in Norte de Santander Department. The Association for the NGO Promotion of Social Alternatives attributed the deaths to conflicts between paramilitary and guerilla groups during the past five years.

In October the prosecutor general's office found a mass grave with 13 bodies buried in Medellin, Antioquia Department. Members of the families of the deceased and others attributed the killings to paramilitaries belonging to the Cacique Nutibara Bloc, run by "Don Berna."

In February a judge condemned 70 paramilitaries to 40 years in prison and a fine of \$148 thousand (340 million pesos) for the 2001 massacre of at least 20 peasants and indigenous people.

There were no new developments into the following killings committed by paramilitaries in 2004: Carlos Javier Sabogal, former governor of Meta Department; Euser Rondon, former mayor of Meta's El Dorado municipality; former member of congress Nubia Sanchez; and academic and sociologist Alfredo Correa.

In December the Office of the Prosecutor General issued arrest warrants for alleged paramilitaries Gilberto Leon Giraldo Gallego, Orlando Sanchez Gutierrez, and Cesareo de Jesus Hernandez for their participation in the 1996 massacre of 14 people in Segovia, Antioquia Department.

According to CINEP, paramilitaries committed at least 30 forced disappearances during the first 6 months of the year, compared with 48 in 2004. Paramilitaries often abducted persons suspected of collaboration with guerrillas; almost all of these persons were presumed dead. For example in November four armed men wearing camouflage uniforms abducted Jose William Martinez, a lawyer in Riohacha, La Guajira Department and businessman Mauricio Ernesto Vives Lacouture, the brother of Senator Luis Vives Lacouture. Police stated the kidnappers identified themselves as members of the AUC.

The National Foundation for the Defense of Personal Liberty (*Fondelibertad*) reported that paramilitaries were responsible for 16 kidnappings through November, or 5 percent of all kidnappings in which a perpetrator was identified. This constituted an 84 percent reduction compared with the same period in 2004.

Paramilitaries continued to forcibly displace civilians residing along key drug and weapons transit corridors or suspected of harboring sympathies for guerrillas (see section 2.d.).

Paramilitaries also prevented or limited the delivery of foodstuffs and medicines to towns and regions considered sympathetic to guerrillas, straining local economies and increasing forced displacement (see section 2.d.). For example in April authorities arrested Heibe Perea, a leader of a paramilitary group in Choco Department that embargoed the provision of food to four cities bordering the San Juan River, allegedly because the residents were guerilla collaborators.

According to Human Rights Watch, approximately 20 percent of child soldiers in the country belonged to paramilitary groups.

FARC and ELN guerillas committed unlawful killings, kidnapping civilians and military personnel, displacing populations, and recruiting child soldiers. They killed journalists, religious leaders, candidates for public office and local elected officials and politicians, alleged paramilitary collaborators, and members of the security forces. CINEP reported that guerrillas were responsible for 120 unlawful killings during the first 6 months of the year. The government's Presidential Program for Human Rights reported that, as of June, the FARC killed at least 14 persons in 3 massacres, although another 109 persons were killed in massacres in which the perpetrators remained unidentified.

In January authorities attributed to the FARC the shooting death of Ever Conda, governor of the indigenous reserve of La Ciria in Miranda, Cauca Department. Also in January the FARC accepted responsibility for the kidnapping and death of Efred Pascal Nastacuas, governor of the Kuambi Yalasbi indigenous reserve of Ricaurte, Narino Department.

In February three FARC members killed the mayor of Genova, Quindio Department, and his escort. In March two FARC gunmen assassinated Oscar Gonzalez, congressional representative of Caldas Department. In October authorities sentenced Andres Felipe Ramirez Gomez and Diosley Delgado Hernandez to 52 1/2 years and 26 years and 3 months in prison respectively for their roles in the killings.

In April the FARC attacked the town of Toribio, Cauca Department. Combat between the military and the FARC resulted in the deaths of four indigenous people. The attack also resulted in the displacement of thousands of persons (see section 2.d.).

In May several FARC members entered a Puerto Rico town hall council session in Caqueta Department and killed four councilors and the council secretary.

In August a suspected FARC member shot and killed parish priest Jesus Adrian Sanchez in Chaparral, Tolima Department. A taped conversation of a FARC deserter indicated that FARC Eastern Bloc Commander Jorge Briceno Suarez ordered the killing.

On August 15 the ELN attacked a car carrying priests Jesus Emilio Mora and Vicente Rosso Bayona, killing them both. The ELN publicly

declared responsibility for the killings on August 19, asking for forgiveness from the families of the victims for having committed an error in attacking that car.

On December 3, former congressman and governor of Huila Department Jaime Lozada Perdomo was killed. Authorities suspected the FARC's Teofilo Forero Front was responsible. Lozada paid ransom in 2004 to the FARC to release his two kidnapped sons, who had been held for three years. Lozada's wife, Representative Gloria Polanco, was kidnapped by the FARC in 2001 and remained a hostage.

In September the DAS captured Fernando Arellan, a FARC member who authorities believed had a role in the 2003 car bombing of the club El Nogal in Bogota, which killed 36 persons. The trial of seven suspects in the case began in November.

In January the Specialized Penal Chamber of Cali sentenced FARC commander John Fredy Jimenez to 36 years' imprisonment, and sentenced hired gunman Alexander de Jesus Zapata Rios to 37 years' imprisonment for the 2002 killing of Isaias Duarte, the Roman Catholic Archbishop of Cali.

In July the prosecutor general's office indicted Gilberto de Jesus Torres, a suspected FARC member, for killing 74 people in a church in Boyaja, Choco Department in 2002.

There were several FARC massacres of public security forces. Reuters reported that, as of September, the FARC had killed 300 members of the public security forces.

In February, subsequent to infiltrating its ranks, the FARC killed 17 navy infantrymen in Iscuande, Narino Department. In December authorities brought charges against 5 navy infantrymen involved in the killing. The trial continued at year's end.

In March the FARC attacked a naval convoy escorting a military penal justice commission near Puerto Leguizamo, Putumayo, killing a Navy judge, an officer, two navy escorts, five marine infantrymen, and an army corporal.

On June 25, the FARC attacked a military base in Teteye, Putumayo Department, killing 21 soldiers. On the same day in Bucarasica, Norte de Santander Department, the FARC killed 6 soldiers who were trying to remove a road block between 2 communities.

On August 1, the FARC detonated a bomb that killed police officers riding in a truck as it traveled from Valledupar to Atanquez, Cesar Department.

On September 22, the FARC set off a land mine that destroyed a truck and killed nine police officers on patrol in an area of La Cruz, Narino Department.

Many FARC atrocities were related directly to drug trafficking activities. For example in July members of the FARC exploded charges of dynamite along the road between the towns of Juan y Medio and Riojacha in La Guajira Department, killing nine civilians.

The FARC also killed persons it suspected of collaboration with government authorities or paramilitaries.

There were no new developments into the investigation of suspected FARC leader Jorge Eliecer Martinez "Jeronimo Aljure," accused of killing 3 foreign indigenous rights activists in 1999 and at least 69 others since 1998.

The Security and Democracy Foundation reported that 43 demobilized paramilitaries were killed during the year. For example in February suspected guerillas shot and killed demobilized paramilitary Wilson Caicedo Hurtado.

In April police arrested six guerillas connected with an April 22 grenade attack on a daycare center in Buenaventura, Valle de Cauca Department that killed one child. Police suspected the attack was directed against the families of recently demobilized paramilitaries.

According to the Ministry of Defense, guerrillas committed 392 terrorist acts during the first 8 months of the year. For example in February suspected FARC members detonated an explosive device in the inspection station in Puerto Toledo, Meta Department that killed 3 soldiers and 2 civilians, including a 3-year-old child, and injured 18 others.

On April 14, FARC and ELN members invaded the municipality of Toribio, Cauca Department, killing a policeman and subsequently destroying the local church, the cultural center, and four houses around the town's central square.

The FARC and ELN continued to commit numerous kidnappings. *Fondelibertad* reported that guerrillas were responsible for 177 kidnappings through November, or 52 percent of those in which a perpetrator was identified. Of that number the FARC had kidnapped 115 persons, and the ELN kidnapped 62 persons.

In January members of the ELN kidnapped former congressman, Amadeo Rodriguez, in Curmani, Cesar Department.

In February FARC members kidnapped 10 persons from a bus on a route known for drug trafficking in Antioquia Department. The FARC released 6 of them, but 4 remained captive at year's end.

In March FARC members kidnapped six persons in separate incidents in Calima, El Darien, and Silvia, Cauca Department. Investigations into the six cases were ongoing at year's end.

In March suspected FARC guerrillas kidnapped five members of the NGO Inter-ecclesiastical Commission of Justice and Peace in Jiguamiando and Curvardo, Choco Department. They were released unharmed eight days after the kidnapping.

In November the FARC set up a roadblock and stopped a bus traveling near El Retorno, Guaviare Department, kidnapping 22 persons. Fourteen of the hostages were released on the same day.

In September the Office of the Prosecutor General brought charges against FARC members Wilmar Antonio Marin and Jose Rozo for the kidnapping and killing of Japanese national Chikao Muramatsu in 2001. The two remained in prison awaiting trial.

Kidnapping for ransom remained a major source of revenue for both the FARC and ELN. The Free Country Foundation reported that as of March there had been 88 kidnappings for ransom, representing approximately 50 percent of all kidnappings. *Fondelibertad* reported 187 kidnappings for ransom during the first 7 months of the year.

In January and February, the FARC released eight hostages kidnapped in December 2004 in San Rafael, Antioquia Department.

At least 58 children were kidnapped during the year. For example on June 14 FARC guerrillas kidnapped 16 indigenous children in Tame, Arauca Department.

The FARC and ELN committed politically motivated kidnappings, which they used to discredit the government or pressure it into a so-called "humanitarian exchange." For example in April members of the FARC kidnapped Carlos Ayala Saavedra, a member of the Delegation of the European Commission, in Cucuta, Norte de Santander Department. Ayala later escaped.

In September members of the ELN delivered the remains of former governor Ancizar Lopez Lopez to the ICRC. Lopez was kidnapped in 2002 and died in captivity.

In April the media reported a FARC announcement that it had killed Ramon Carranza, former DAS director of foreign affairs, who was kidnapped in 2001.

In September the army's 4th Brigade reported that FARC leader Francisco Puerta, (a.k.a. "Argemiro") said that Father Cesar Dario Pena had been killed. The FARC kidnapped Pena in 2001.

The FARC continued to hold political hostages taken in previous years, including former presidential candidate Ingrid Betancourt; former Senator Jorge Eduardo Gechem; former members of congress Orlando Bernal, Luis Eladio Perez, Francisco Giraldo, and Consuelo Gonzalez; Congresswoman Gloria Polanco; former Governor of Meta Department Alan Jara; 12 former regional legislators from Valle del Cauca Department; and at least 4 foreign-born persons. The FARC released several proof-of-life videos during the year, which stirred debate over the possibility of an exchange of hostages for imprisoned FARC members. The hostages' families, national and international NGOs, foreign governments, and prominent public figures pressured the government to cede to FARC demands for an exchange. On December 12, the government agreed to a proposal by an international commission to meet with the FARC in a secure location in Valle Department to discuss an exchange of hostages for prisoners. The FARC had not responded to the international commission's proposal by year's end.

In June the Special Tribunal of Florencia, Caqueta Department, sentenced the FARC leadership in absentia to nearly 40 years in prison for the 2002 kidnapping of Ingrid Betancourt.

According to the vice president's office, between 70 thousand and 100 thousand landmines were deployed nationwide, and 838 persons were injured in at least 1,424 mine explosions, a decrease of 23 percent compared with 2004. Guerrillas were responsible for more than 75 percent of landmine incidents, which killed at least 200 persons during the year. Some 28 percent of the victims were civilians.

Guerrillas failed to respect the 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. In March the FARC kidnapped six Caqueta Institute of Health workers who were vaccinating the population of Florencia, Caqueta Department. The FARC released the workers five days later.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes and remove potential government or paramilitary collaborators from strategic zones. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example in April the FARC blockaded the town of Toribio, laying landmines on the road to prevent vehicles from delivering food. In August the FARC blockaded major roads in Putumayo, cutting off the delivery of food and supplies. In October the FARC blockaded the border with Venezuela for 23 days cutting off food supplies to the region.

In November the FARC bombed electrical towers forcing hospital administrators in Buenaventura to postpone all surgeries and send patients home or to other cities for care.

Other terrorist groups also carried out attacks. In May the Guevarist Revolutionary army killed 10 police officers on the road between Quibdo and Pueblo Rico, Risaralda Department. In August 13 members of the Popular Liberation army (EPL) killed 4 police officers in Monterredondo, Norte de Santander Department. In October the army rescued Arturo Ramirez, a businessman and cattle farmer, who had

been kidnapped by the EPL three weeks prior.

## 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.

Although security forces generally did not subject journalists to harassment, intimidation, or violence, there were exceptions, as well as reports of threats and violence against journalists by corrupt officials. Journalists practiced self-censorship to avoid reprisals by corrupt officials, criminals, and members of illegal armed groups.

In January journalist Antonio Colmenares left the country after receiving threats from unidentified persons. Colmenares reported on economic and governance issues in Cucuta, Norte de Santander Department.

In August the director of a television news show, Daniel Coronell, left the country after receiving repeated death threats. Coronell had accused former senator Carlos Nader of sending him threatening e-mail messages and making threatening phone calls citing the precise location, clothing, and arrival times of Coronell's daughter at her school. Nader admitted that the e-mail messages had been sent from his computer but denied sending them. An investigation was ongoing at year's end.

In September police beat German Palma, a cameraman for the *Noticias Uno* television station, after Palma filmed a story in Bogota. Police also confiscated his camera and damaged the cassette before releasing him.

There were no new developments and none were expected into the investigation of the 2004 killing by unknown persons of journalist Oscar Alberto Polanco, a frequent critic of corrupt local government officials.

In January unidentified gunmen killed Julio Hernando Palacios Sanchez in Cucuta, Norte de Santander Department. Palacios was an investigative reporter on political corruption for a local radio station. An investigation was ongoing at year's end.

In February unidentified gunmen shot and killed photojournalist Hernando Marne Sanchez in Tulua, Valle de Cauca Department. Sanchez had not previously reported being threatened, and local police had not determined a motive by year's end.

In April two unidentified persons stabbed Oscar Acosta Arias to death in Sabaneta, Antioquia Department. Acosta was the director of the local newspaper and a member of the CUT. His newspaper regularly reported on cases of corruption in the region.

In September radio and print journalists Juan Gossain, Julio Sanchez, and Mauricio Vargas said they had received threats due to their coverage of corruption in the elections in Cartagena.

In September unidentified assailants attacked director of the publication *The New Century*, Juan Gabriel Uribe. The case was under investigation at year's end.

During the year members of illegal armed groups intimidated, threatened, kidnapped, and killed journalists. According to information gathered by the Colombia Foundation for Press Freedom, as of October, 1 journalist was killed and at least 52 threatened with death (see section 1.g.).

In May Reporters Without Borders noted that members of the FARC continued to destroy radio and television antennae.

The Ministry of Interior and Justice operated a program to protect journalists that covered 113 media representatives during the year. The ministry also supported an alerts network organized for journalists by providing a small number of radios and an emergency telephone hot line.

National and international NGOs reported that local media representatives regularly practiced self-censorship because of threats of violence from illegal armed groups, corrupt officials, and common criminals. At least 5 journalists went into voluntary exile during the first 10 months of the year.

There were no government restrictions on the Internet or academic freedom. However, guerrillas maintained a presence on many university campuses to generate political support for their respective causes and to undermine support for their adversaries through both violent and nonviolent means. Paramilitaries and guerillas threatened, displaced, and killed academics and their families for political and financial reasons. According to the Ministry of Education, 18 teachers were killed during the year, a decrease of 62 percent compared with 2004.

Threats and harassment caused many professors and students to adopt lower profiles and avoid discussing controversial topics.

The Ministry of Education, in conjunction with the Colombian Federation of Educators (FECODE) and the Presidential Program for Human Rights, operated a program for at-risk teachers with 78 regional committees to investigate specific threats against teachers and, in some cases, facilitate relocation with continued employment as educators. Approximately 1,500 threatened educators have been successfully

relocated since 2004. According to FECODE, of the 21 cases of forced displacement registered through the end of September, 17 were carried out by paramilitaries. FECODE also reported 26 death threats during the same period and claimed that most of them were made by paramilitaries.

#### 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.).

#### 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 a 1997 public law agreement with the state is required for non-Roman 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.

The prosecutor general's human rights unit continued its investigation after finding grenades, ammunition, and two-way radios at a small Taoist commune in a mountainous rural region of Santander Department in 2004. During the year three members of the community gave testimony about other alleged illegal activities perpetrated by the community, such as child sexual abuse.

#### Societal Abuses and Discrimination

Both paramilitaries and guerrillas harassed, threatened, and sometimes killed religious leaders and activists, although generally for political, rather than religious, reasons (see section 1.g.). The Presidential Program for Human Rights reported that illegal armed groups, particularly the ELN, made numerous threats against priests and other religious workers and killed five priests. The Catholic Church reported that four priests were killed during the year.

The Jewish community had an estimated population of 5 to 10 thousand members. There were isolated reports of anti-Semitism, including graffiti painted on the exterior walls of synagogues and anti-Semitic statements in pamphlets published by small xenophobic organizations.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#)

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

The law provides for these rights, and while the government generally respected them in practice, there were exceptions. Military operations and occupation of certain rural areas was criticized by NGOs as restricting freedom of movement. During the year the Constitutional Court determined that the use of official curfews and safe-conduct passes is unconstitutional, and there no reports of these practices. Paramilitaries and guerrillas continued to establish illegal checkpoints on rural highways, although a larger and more visible government security presence along major highways reduced the number of kidnappings at illegal checkpoints.

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

#### Internally Displaced Persons (IDPs)

The internal armed conflict was the major cause of internal displacement. The Social Solidarity Network (RSS), the government's displaced persons service agency, registered 131,716 newly displaced persons, down from 161,921 during 2004. The government attributed the decline to the large state security presence throughout the country and a decrease in paramilitary violence related to the government's negotiations with paramilitary groups. The NGO Consultancy for Human Rights and Displacement (CODHES) estimated that 252,801 persons were displaced during the first 9 months of the year, a 23 percent increase compared with CODHES' estimate for the same period in 2004. The apparent difference was because the government registered new IDPs whose applications for benefits have been accepted, while CODHES estimated new displacements based on information from the media, civil society, and some field work. CODHES also included as displaced persons coca and opium poppy producers who migrated in response to government drug eradication efforts but did not quantify the scope of this problem.

While precise numbers were difficult to obtain, the RSS has registered more than 1.7 million displaced persons since 1995; the UNHCR estimated that more than 2.5 million persons in the country had been displaced at some point during the last 15 years. The FARC and ELN discouraged IDPs from registering with the government through force, intimidation, and disinformation, and guerrilla agents sometimes masqueraded as IDPs to sow doubt and discontent among IDPs. Most IDPs were rural peasants displaced to large cities such as Bogota.

The UNHCR reported that exact numbers of indigenous or Afro-Colombian IDPs were difficult to obtain because of geographic isolation,

displacement within traditional territories, and a tendency to seek assistance from other communities rather than the government. The National Indigenous Organization (ONIC) reported that 19,060 indigenous persons were displaced during the year. The government registered 5,880 new indigenous IDPs in the first 10 months of the year. CODHES estimated that during the year, 30 percent of the displaced population was Afro-Colombian. Paramilitaries and 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.

In February fighting between FARC and AUC members for control of drug producing and narcotics trafficking zones in Choco Department resulted in the displacement of more than 1,200 persons to Bellavista, according to the UNHCR. In April conflict between guerrillas and paramilitaries in Choco displaced an estimated 1,300 persons. In April the FARC also attacked Toribio, Cauca Department, shelling it and other towns nearby with gas cylinder bombs, resulting in additional forced displacement. The ICRC estimated that more than five thousand were displaced, many of them indigenous people. In September the FARC attacked the village of Samaniego in Narino Department, displacing the entire population of 350 residents to the neighboring town of Barbacoas.

On November 29, the government announced that it would spend \$2 billion in assistance for IDPs from 2005-10 and disbursed \$250 million during the year. Although the government increased its assistance to IDPs, it was seen as insufficient. IDPs continued to live in unhygienic conditions with little access to health care, education, or employment. The government provided assistance for the displaced principally through the RSS, the Colombian Family Welfare Institute (ICBF), and the Ministry of Social Protection. The ICRC provided the greatest amount of emergency (first 90 days) humanitarian assistance to the displaced.

#### Protection to Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing assistance to refugees. In practice the government provided protection against *refoulement*, the return of persons to a country where they feared persecution. The government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers. The government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the government, 254 recognized refugees resided in the country, and 17 refugee cases were approved during the year.

#### 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, and civilian public employees, although eligible to vote, are not permitted to participate in partisan politics. Beginning in 2006, legislation passed in December 2004 would allow public sector employees to participate in partisan politics during the four months immediately preceding a national election. The armed forces and police would still be prohibited from participating in the political process.

#### Elections and Political Participation

In 2002 independent candidate Alvaro Uribe won the presidency in elections that generally were considered free and fair, despite a concerted campaign by the FARC and AUC to disrupt or manipulate the outcome.

Political parties generally operated without government interference. Political reforms approved during the year and scheduled to take effect for the March 2006 elections would raise the vote threshold that parties must meet from 50 thousand voters to 2 percent for either the Senate or the House of Representatives to retain formal status and gain access to government funds. While projections vary, most estimates hold that approximately 7 to 10 of the 60 existing parties would maintain their official status after the March 2006 elections.

The Liberal and Conservative parties have long dominated politics, but the election of President Uribe in 2002 as an independent and the success of third party candidates in regional elections suggested the political arena was widening.

Both paramilitaries and the FARC threatened and killed government officials (see section 1.g.). During the year the FARC killed eight serving and former mayors. According to the National Federation of Councils (FENACON), 23 council members were killed as of December 1. In Caqueta Department, 10 council members and one secretary were assassinated. FENACON stated that 70 percent of attacks on council members were attributable to the FARC.

Scores of local officials throughout the country resigned because of threats from the FARC. In February Nelson Mazabuel, the mayor of Purace in Cauca Department resigned because of death threats from the FARC. Seven town councilors and the entire cabinet also resigned in solidarity.

The Ministry of Interior and Justice reported that, due to safety concerns, at least one mayor conducted business from a regional capital via telephone. Councils from Algeciras, Huila Department; Purace, Cauca Department; San Vicente del Caguan, Doncello, and Puerto Rico, Caqueta Department all met in department capitals during the year. A ministry of interior and justice program to protect vulnerable populations provided protection to 195 mayors, former mayors, and 1,006 council members during the year.

The law requires that women be placed in at least 30 percent of nominated government posts, and that the government report to Congress each year the percentage of women in high-level government positions. There were 11 women in the 102-member Senate, and 20 women in the 166-member House of Representatives, including its president. There were 5 women in the 13-member cabinet and 2 on the 23-member Supreme Court.

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

There were two Afro-Colombian senators and three Afro-Colombian members of the House of Representatives. There were no Afro-Colombian cabinet ministers and no Afro-Colombians on any of the nation's high courts. In September President Uribe appointed Afro-Colombian Hitler Roseau Chaverra Ovalle as director of the Presidential Program for Colombian Youth.

#### Government Corruption and Transparency

The country suffered from endemic corruption and graft in both the public and private sectors. Drug trafficking revenues exacerbated corruption, which was as effective a tool as violence for illegal armed groups and large drug trafficking organizations. The NGO Transparency International noted that perceptions of corruption improved slightly during the year.

Government and private sector analysts agreed that a black market of illegal commissions governed incentives for many business transactions.

For example in September the prosecutor general's office opened a case against the governor of Meta Department to investigate irregularities in the awarding of a \$64,700 (149 million pesos) contract for school supplies. In August the inspector general barred Bogota city official German Ruiz Silva from holding public office for five years for fraud in the granting of construction licenses. In October the mayor of Villavicencio and the former minister of health were barred from public service for 10 and 12 years, respectively, for accepting bribes in the awarding of hospital contracts.

In February authorities canceled 9.3 percent of the 2002 Senate election results because the National Electoral Commission detected fraud in the ballots. New elections were held in March.

Corruption related to illegal armed groups was a serious problem. For example in October DAS Director Jorge Noguera and DAS Deputy Director Jose Miguel Narvaez both resigned following allegations that Narvaez had ties (including information sharing) to paramilitaries. In November new DAS Director Andres Penate fired five regional DAS directors suspected of ties to paramilitaries.

In March a judge and jury determined that there was insufficient evidence to convict Cucuta Mayor Ramiro Suarez Corzo of having ties to paramilitary groups because he met with individuals linked to paramilitary groups in 2004.

In June authorities arrested Casanare Department Governor Miguel Angel Perez for allegedly receiving \$217 thousand (500 million pesos) from paramilitary chief "Martin Llanos" to finance his 2003 political campaign. An investigation into the case and the related assassination of paramilitary Luis Martin, who delivered the money, was ongoing at year's end.

In November the prosecutor general's office indicted four people on charges of alien smuggling, conspiracy, filing false declarations, and extortion in the 2004 case involving allegations that staff from the Senate Human Rights Committee sold fabricated death threats used by purchasers to bolster petitions for asylum in foreign countries.

The law provides for public access to government information, and the government generally provided such access in practice. Information relating to defense or national security, or sensitive personal information that could be used to intimidate or embarrass private citizens, was not available to the public. While there are no prohibitive fees to access government information, there were reports that a few low-level officials insisted on bribes to expedite access to information.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to their views, NGOs claimed that high-level criticisms put them at risk for retaliation by illegal armed groups.

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 among themselves and disseminating it to international human rights organizations and the media, they raised the country's human rights profile and contributed to significant levels of international attention.

The government and prominent local NGOs differed in their evaluations and analyses of the human rights situation, which led to profound mutual suspicions.

Some NGOs claimed criticisms made by President Uribe put them at risk for retaliation by paramilitaries. In February the Constitutional Court determined that Uribe should avoid statements that put human rights workers at risk. In May the Jose Alvear Restrepo Lawyers' Collective told the president that they believed his verbal attacks on human rights NGOs provoked threats and harassment.

Many domestic NGOs also contended that the government arbitrarily arrested human rights activists, particularly in high conflict areas (see sections 1.d. and 6.a.). The government asserted that some human rights activists actually were engaged in activities that supported terrorism. There were no significant updates regarding the 2004 arrest of Luz Perly Cordoba, secretary general of the agricultural workers union FENSUAGRO and human rights director of the Arauca Peasants Association.

The Ministry of Interior and Justice and the DAS allocated approximately \$25 million (57.5 billion pesos) to its program to protect human rights activists and many other vulnerable populations. The government provided protection to more than 604 human rights activists during the year and bulletproofed 223 additional offices and residences.

According to the CCJ, 38 human rights activists were killed and 3 were forcibly disappeared during the year; 8 of the killings were attributed to paramilitaries (see section 1.g.).

There were several reports of thefts of computers and electronic data from human rights groups. For example in March unidentified thieves entered the headquarters of the NGO Association of Relatives of the Disappeared in Popayan, Cauca Department, and stole a computer hard drive. During the year unidentified burglars entered the headquarters of the Permanent Assembly of Civil Society for Peace and stole hard drives. In December unidentified robbers entered the headquarters of the National Victims Movement, tied up a person, stole their hard drive, \$100 (227 thousand pesos), and other items.

International NGOs criticized the government for some direct violations of human rights, for high levels of impunity, and for its failure to sever links between the military and paramilitaries.

While the Uribe Administration maintained an open dialogue with NGOs and met with them several times during the year, NGOs complained that they had difficulty getting meetings with government officials or getting prompt replies to their correspondence.

In January the Government of Denmark announced it had found no proof that the Danish NGO Association Rebellion's 2004 donation of \$8,500 (18 million pesos) to the FARC was an act that supported international terrorism. However, on December 1, Danish police charged the group's spokesman, Patrick MacManus, with having directly or indirectly transferred approximately \$16 thousand (100 thousand kroner) between the FARC and a Palestinian group. MacManus also was charged with attempting to raise funds for the two groups.

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

In May UNHCHR Louise Arbor visited the country. Arbor stated that while violent crimes continued to decrease the human rights situation remained critical, and concerns continued regarding the lack of progress in specific cases (see sections 1.a. and 1.g.).

In its 2004 human rights report, the UNHCHR again issued 27 recommendations to improve the human rights situation in the country, 24 of which were directed at the government and the independent prosecutor general's office (see section 1.e.). Some of the recommendations had been broadened from previous years. Throughout the year the government met with the UNHCHR, local NGOs, and members of the diplomatic corps to discuss its action plan and the steps it had taken to comply with the recommendations. While acknowledging progress on several recommendations, the UNHCHR and local NGOs reported that the government had not fully complied with most of them by year's end. In November the UNHCHR signed an agreement with the Ministry of Defense to evaluate whether the ministry's implementation of the recommendation regarding human rights training for the security forces was adequate.

The national human rights ombudsman is independent, reports to the inspector general (see section 1.e.), and has responsibility for ensuring the promotion and exercise of human rights. The government generally cooperated with the ombudsman. The ombudsman's Bogota office was the headquarters of a national Early Warning System designed to alert public security forces of impending human rights violations, particularly large-scale massacres. Due to resource constraints the office generally was underfunded and understaffed, limiting its ability to effectively monitor human rights violations or prevent their occurrence.

Regional human rights ombudsmen were under constant threat from illegal armed groups. For example in July La Guajira Department ombudsman Rafael Caro resigned due to death threats by unknown actors. The military had previously uncovered an April 2004 FARC threat against Caro.

The government's Presidential Program for Human Rights and International Humanitarian Law, 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. It is the government's primary interlocutor with domestic and international NGOs and with foreign governments on human rights issues. The program publishes a regular *Human Rights Observer* magazine that 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 fora for discussion of human rights issues but have no authority to draft legislation. As a result they lacked prestige and added little of substance to the national human rights debate.

#### Section 5 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

While the law prohibits domestic violence, including spousal abuse, it remained a serious problem. Judicial authorities may remove an

abuser from the household and require therapy or

re-education. The law provides prison time if the abuser causes grave harm or is recurrent; however, provisions for fines were not applied. The Institute for Legal Medicine and Forensic Science reported 19,251 cases of domestic violence against women in the first 6 months of the year, but noted that only a small percentage of cases were brought to its attention. The ICBF stated that only 5 percent of domestic violence cases were reported. The law stipulates that the government must provide victims of domestic violence with immediate protection from physical or psychological abuse. ICBF provided safe houses and counseling for victims, but its services were dwarfed by 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.

Although the law prohibits rape, including spousal rape, it remained a serious problem. The law provides for a maximum sentence of 15 years and a minimum sentence of 8 years for violent sexual assault. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years and denies probation or bail to offenders who disobey restraining orders. The Institute for Legal Medicine and Forensic Science reported 17,802 cases of suspected sex crimes, including rape, but estimated that approximately 25 percent of such crimes actually were reported. Paramilitaries and guerrillas raped, sexually abused, and, in some cases, sexually mutilated women and children for allegedly fraternizing with the enemy, working as prostitutes, having sexual relations outside of marriage, or violating imposed codes of conduct or restrictions on dress. ICBF provided psychosocial, medical, and legal support to victims of sexual violence.

Adult prostitution is legal in designated "tolerance zones" but enforcement of and restriction to the zones remained difficult. Prostitution was widespread and exacerbated by a poor economy 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 (see section 5, Trafficking).

There were no laws prohibiting sexual harassment, and it remained a pervasive problem.

Although women enjoy the same legal rights as men, discrimination against women remained a persistent problem. 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. Women also were affected disproportionately by the internal armed conflict, making up 58 percent of internally displaced persons in the country.

The president's advisor for equality of women has primary responsibility for combating discrimination against women and ran a program to help women who were micro business entrepreneurs and heads of families to get favorable lines of credit for their companies. NGOs such as the Popular Women's Organization in Barrancabermeja, Santander Department, and the Women's Path to Peace, in Medellin, Antioquia Department, worked on women's issues, particularly peace initiatives.

## Children

The government generally was committed to children's rights and welfare. ICBF oversees all government child protection and welfare programs and also funds nongovernmental programs that benefit children.

Public schooling is provided up to age 18, and is universal, compulsory, and free up to age 15. The National Department of Statistics (DANE) estimated that more than 8 million children between ages 6 and 15 attended school. The government covered the basic costs of primary education, although many families struggled with additional expenses such as matriculation fees after age 15, books, school supplies, and transportation costs that often were prohibitive, particularly for the rural poor.

While the government provided equal medical care to boys and girls, medical facilities were not widely available, especially in rural areas.

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 10,170 cases of child abuse during the year. The institute also estimated that 86 percent of the 17,802 reported sex crimes involved sexual abuse of children, the vast majority of whom were under the age of 14.

Children were trafficked for sexual exploitation (see section 5, Trafficking).

Although the law prohibits service in the public security forces before age 18, both paramilitaries and guerrillas forcibly recruited and used children as soldiers. The IOM estimated that since 1999 it assisted 2,426 children in the country who had been members of illegal armed groups. The Ministry of Defense estimated that 20 percent of FARC members were minors and that most guerrilla fighters had joined the FARC ranks as children.

A 2002 UN Children's Fund (UNICEF) study noted that because of limited educational and economic opportunities and a desire for acceptance and camaraderie, an estimated 83 percent of child soldiers volunteered. Nevertheless, many children found membership in guerrilla and paramilitary organizations difficult, and the Ministry of Defense reported an increase in the number of minors deserting illegal armed groups. At least 526 children surrendered to state security forces during the year and were transferred to ICBF, who operated a reinsertion program for former child soldiers. Of these, 176 were former members of the FARC. Unlike in previous years, no child ex-combatants were assisted in their communities.

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

The UNHCR reported that 74 percent of IDPs were women and children (see section 2.d.). 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 law provides for prison sentences of between 13 and 23 years and fines of up to 1 thousand times the monthly minimum wage for violators. These penalties may be increased by up to one-third if there are aggravating circumstances, such as trafficking of children under the age of 14. Additional charges of illegal detention, violation of the right to work in dignified conditions, and violation of personal freedom also may be brought against traffickers. While limited resources hindered prosecutions, between 2000 and December, the prosecutor general's office opened 33 trafficking investigation cases, of which 3 resulted in indictments. Trials were pending at year's end. There was a general perception that government enforcement efforts were poor.

An advisory committee composed of several government agencies prepared information campaigns, promoted information exchange between government entities, and maintained a database to monitor trafficking cases. The prosecutor general's Anti-Trafficking Unit has the lead on combating trafficking. The government cooperated with foreign counterparts on investigations.

The country was a source for trafficking in persons, primarily for sexual purposes. The IOM received 9,760 phone calls, of which 36 were related to trafficking. Destination countries included Spain, Japan, Hong Kong, the United States, and other South American countries. The vast majority of trafficking victims were young women, although children and young men were also at risk. Internal trafficking of women and children from rural to urban areas for sexual exploitation and forced labor remained a serious problem. Victims also transited the country from other South American countries on their way to Europe and the United States.

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, 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. Most traffickers were well-organized and linked to narcotics or other criminal organizations. The armed conflict created situations of vulnerability for a large number of internal trafficking victims.

The country's diplomatic missions provided legal and social welfare assistance to victims abroad and worked with the IOM to repatriate victims. The IOM strengthened government institutions involved in antitrafficking efforts and assisted trafficking victims. From September 2004 to December, the IOM trained 197 officials on trafficking issues, gave sensitivity training to 1,389 officials, and provided victims with job training and employment opportunities. The IOM also helped victims obtain necessary medical and psychological care. The antitrafficking NGO the Hope Foundation provided educational information, social support, and counseling to trafficking victims. The Rebirth Foundation also provided housing, psychosocial therapy, medical care, and legal assistance to child victims of sexual exploitation through trafficking.

The IOM continued its major antitrafficking public awareness campaign that included placing large posters in airports, foreign consulates, and travel agencies, and running professionally produced public service announcements on television.

### Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or in the provision of other state services, and the government effectively enforced these prohibitions. There is no law mandating access to public buildings for persons with disabilities. 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

Approximately 26 percent of the population was of African origin. While Afro-Colombians are entitled to all constitutional rights and protections, they faced significant economic and social discrimination. An estimated 74 percent of Afro-Colombians earned less than minimum wage. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as paramilitaries and guerrillas struggled for control of the department's key drug and weapons smuggling corridors.

In October two men, alleged by witnesses to be known paramilitaries, kidnapped community leader Orlando Valencia in Belen de Bajira, Choco Department. Valencia's body was found 10 days later in a nearby river. An investigation was ongoing at year's end.

### Indigenous People

The constitution gives special recognition to the fundamental rights of indigenous people, who comprised approximately 2 percent of the population.

By law indigenous groups have perpetual rights to their ancestral lands. Traditional Indian authority boards operated approximately 866 reservations as municipal entities, 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 National Agrarian Reform Institute administered a program to buy back lands declared to belong to indigenous communities.

The law provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws (see section 1.e.). 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 men 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 paramilitaries and guerrillas in such areas. The government stated that for security reasons it could not provide advanced notice of most military operations.

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

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

Members of indigenous communities continued to be victims of all sides in the internal armed conflict (see section 1.g.). According to the Presidential Program for Human Rights, 48 indigenous people were killed during the year, at least 3 by paramilitaries and 13 by the FARC. The Ministry of Interior and Justice operated a program that provided protection to 85 indigenous leaders during the year.

In March the Office of the Human Rights Ombudsman concluded in its preliminary investigation that several army soldiers were responsible for firing on a school bus carrying 30 indigenous students (seriously injuring 1) on February 14 in Totoro, Cauca Department. The investigation continued at year's end.

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. The ONIC reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted indigenous people's freedom of movement, and blockaded indigenous communities.

## Section 6 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 cover members of the armed forces or police. Violence against union members and antiunion discrimination remained obstacles to joining unions and engaging in trade union activities, and the number of unions and union members continued to decline. Approximately 900 thousand workers were members of unions, representing less than 5 percent of the labor force.

The labor code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a registration process; however, the process was slow and sometimes took years. The government can compel trade unions to provide interested third parties with relevant information on their work, including books, registers, plans, and other documents, but this power rarely was used.

In June the ILO noted that the country had a deplorable record for union activism. The ILO urged the government to stop what it described as an "intolerable situation of impunity" and expressed concern that the impunity "contributed to the climate of violence affecting all sectors of the society and the destruction of the trade union movement." The government responded that the freedom of association was protected under the law. In October the ILO Committee of Experts made a technical visit to investigate the issue of right of association and other impediments to organizing. While highlighting government cooperation and progress, the ILO also noted the need for further efforts in the area of impunity for labor-related violence and recommended the establishment of a permanent ILO presence in the country to address these issues.

Labor leaders continued to be targets of attacks by illegal armed groups, primarily for political reasons (see section 1.g.). According to the Ministry of Social Protection (MSP) 13 trade unionists were killed during the year, compared with 21 in 2004. While noting that killings of trade union leaders had declined, the ILO Committee of Experts noted a "persistent climate of violence" in the country, with killings occurring in several departments.

Illegal armed groups disproportionately targeted educators, who represented approximately 33 percent of the organized work force. Labor groups count teachers affiliated with trade unions as a part of the total number of trade unionists killed, whereas the MSP counts them as separate statistics. The MSP reported that 26 teachers affiliated with unions were killed during the year. There had been no convictions in any of these cases by year's end. The teachers' federation president stated that the situation was most serious in Toribio, where every teacher was displaced due to threats and violence.

Illegal armed groups killed, kidnapped, and threatened trade union members for political and financial reasons (see section 1.g.).

Not all violence against trade unionists was committed by illegal armed groups. In May unknown perpetrators killed Adan Alberto Pacheco, an electrical worker's union leader, in Barranquilla, Atlantico Department. According to CUT Vice President Jesus Tovar, at least 29 unionists in this region have been killed since 1993. In September Luciano Enrique Romero Molina, a leader in the food workers union, was found tortured and stabbed to death on the outskirts of Valledupar, Cesar Department. Molina had just returned from a year of exile in Spain, where

he had participated in an international program to protect labor leaders receiving death threats. In August Roberto Valiente, president of the Magdalena chapter of the Hotel Association of Colombia, was shot twice by unidentified gunmen as he was leaving a hotel.

Some labor leaders alleged the government attempted to marginalize trade unions by arbitrarily arresting trade union members on suspicion of engaging in terrorist activity. According to the National Labor College, security forces arbitrarily detained trade unionists during the year. For example in November authorities arrested union activist Miguel Fernandez-Orozco on charges of contempt of court, aggravated threats, and false accusations. The charges were based on an anonymous phone tip that accused Fernandez-Orozco of mounting a false security threat. Labor groups expressed concern that prosecutors took advantage of Fernandez-Orozco's personal problems to imprison him as a means of quelling his union activism. A trial was pending at year's end.

Union leaders contended that perpetrators of violence against workers operated with virtual impunity. At year's end authorities had not identified those responsible for the killings of 13 trade unionists and 26 teachers affiliated with unions during the year. Threats, intimidation, or coercion against prosecutors, judicial investigators, and witnesses contributed to impunity in these cases.

In July the prosecutor's office ordered the arrests of four army officers for the killing of three labor leaders in Arauca in August 2004, and the investigation continued at year's end (see section 1.g.).

There were no new developments in the 2003 civil suit in a foreign court brought by the National Union for the Mining and Energy Industry (SINTRAMINERGETICA) involving company acquiescence in the killings by paramilitaries of three local union activists.

In September the prosecutor general created a new taskforce dedicated to investigating all human rights violations against union leaders.

While the law prohibits antiunion discrimination, a number of long-standing ILO criticisms of the labor code challenged the scope and effectiveness of the law. The ILO specifically criticized: the requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from their jobs within six months following a strike or dispute; the requirement that candidates for trade union offices belong to the occupation that their unions represent; the prohibition of strikes in a wide range of public services that are not necessarily essential; the government's power to intervene in disputes through compulsory arbitration when a strike is declared illegal; and the power to dismiss trade union officers involved in an unlawful strike. The government countered that the ILO technical assistance helped to draft the labor code, and that it does not impede labor rights.

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

The law provides for workers' 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. There were 900 thousand workers nationwide with collective bargaining contracts. However, high unemployment, a large informal economic sector, traditional antiunion attitudes, and violence against trade union leaders made organizing unions difficult. Weak union organization and a requirement that trade unions represent a majority of a company's workers to negotiate on their behalf limited workers' bargaining power in all sectors. There are no special laws or exemptions from regular labor laws in export processing zones. Labor law applies in the country's 15 free trade zones, and its standards were enforced.

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

The continued growth and prevalence of workers' cooperatives further diminished collective bargaining. Workers' cooperatives are required to register with the superintendent of economic cooperatives, which estimates the number of such cooperatives at 1,500 and the number of associated workers at 150 thousand. Workers' cooperatives are obligated to provide compensation at least equivalent to the minimum wage and the same health and retirement benefits as other workers receive.

Investigators discovered that most cooperatives engaged in subcontracting and, in some cases, that private sector employers had forced workers to form cooperatives and were themselves managing the cooperatives' daily operations. The government has the authority to fine violators but has no recourse to shut down repeat offenders. In practice nominal fines assessed by the government did little to dissuade violators.

The law provides for the right to strike, and workers exercised this right in practice; however, members of the armed forces, police, and persons performing "essential public services" as defined by law are not permitted to strike.

Before staging a legal strike, public sector unions must negotiate directly with management and accept mediation if they cannot reach an agreement. The law prohibits the use of strikebreakers. The law that prohibits public employees from striking often was overlooked. By law public employees must accept binding arbitration if mediation fails.

During the year the National Oil Workers Union (USO) tried unsuccessfully to reopen negotiations with Ecopetrol (the state-owned oil company) concerning their failed labor contract negotiations in 2004. In December the Arbitration Tribunal stated that a new negotiation proposal could be submitted after December 8. The USO presented its arguments for a new negotiation to the MSP and Ecopetrol, but Ecopetrol refused to negotiate, claiming the Arbitration Tribunal's order in 2004 was final and could not be appealed. Negotiations continued at year's end.

### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred.

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

### 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 significant problem, particularly in the informal sector. The Colombian Family Welfare Institute reported that at least 2.5 million children worked in the country. Only one in five children was estimated to be working legally.

The Minor's Code categorically prohibits the employment of children under 12 and severely limits work between the ages of 12 and 13. The constitution allows the employment of children between the ages of 14 and 17 in a limited number of occupations. The labor code allows the granting of work permits to children under 18 in certain occupations. The Minor's Code also requires exceptional conditions and the express authorization of the Ministry of Labor to employ children between 12 and 17.

The legal minimum age for work was inconsistent with completing a basic education, and only 38 percent of working children attended school. All child workers are prohibited from working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Although children are prohibited from working in a number of specific occupations, including mining and construction, in practice these prohibitions largely were ignored.

According to a recent report released by the Colombian Institute for Children and Families, 300 thousand children worked in illegal mining operations. According to DANE, children also worked as coca pickers or in other aspects of the illegal drug trade. Children are also engaged in illegal conscripted labor as child soldiers.

Although there were no reports of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see sections 1.f. and 5), prostitutes (see section 5), or coca pickers. The Minor's Code provides for fines of up to 40 minimum monthly salaries 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.

The MSP is 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.

The National Committee for the Eradication of Child Labor, which includes officials from several government agencies and civil society groups, conducted training on legislation and enforcement and operated an information system on child labor to better measure and understand the problem. The committee was instrumental in presenting child labor legislation in December that would prohibit children from performing 104 types of work (including domestic employees, garbage collectors, and messengers) considered unsuitable for those under 18; the legislation was subsequently passed.

UNICEF continued a program to encourage children to leave the workforce and return to school.

### 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 set by tripartite negotiations among representatives of business, organized labor, and the government, was approximately \$167 (380 thousand pesos). The national minimum wage did not provide a decent standard of living for a worker and family.

The labor code provides for a regular workweek of 48 hours and a minimum rest period of 8 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 cases where it is considered essential for the functioning of the company and where the work could not be required routinely.

The law provides comprehensive protection for workers' occupational safety and health, which the MSP enforced through periodic inspections. However, a lack of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions. Workers in the informal sector sometimes suffered physical or sexual abuse.

The law provides workers with the right to remove themselves from a hazardous work situation without jeopardizing continued employment, and the government enforced this right. Non-union workers, particularly those in the agricultural sector, often continued working in hazardous conditions because they feared losing their jobs if they criticized abuses.

policies contained therein.

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