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## U.S. Department of State

### Colombia Country Report on Human Rights Practices for 1996

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#### COLOMBIA

Colombia is a constitutional, multiparty democracy in which the Liberal and Conservative parties have long dominated politics. President Ernesto Samper avoided possible removal from office on June 13 when the House of Representatives voted that there was insufficient evidence to impeach him on charges that he knowingly accepted contributions from narcotics traffickers during his 1994 campaign. The ongoing crisis diminished the President's moral authority to govern, but he vowed to complete his term of office through August 1998. The judiciary is largely independent.

Widespread internal armed conflict and rampant killings continued to overwhelm society. An estimated 10-15,000 full-time guerrillas organized in over 100 groups represented a growing challenge to government security forces--and exercised a degree of permanent influence in more than half of the country's municipalities. The major guerrilla groups showed no serious interest in peace talks. Some guerrilla groups continued to collaborate with narcotic traffickers, especially in rural regions in the eastern part of the country. Paramilitary forces played a major role in the internal conflict.

The Ministry of Defense is responsible for internal security and oversees both the armed forces and the national police. The Department of Administrative Security (DAS), with broad intelligence gathering, law enforcement, and investigative authority, reports directly to the President. The armed forces and the police committed numerous, serious human rights abuses.

Colombia has a mixed private and public sector economy. The Government continued an economic

liberalization program and the privatization of selected public industries, although at a slower pace than in 1995. Crude petroleum rivaled coffee as the principal export; two new fields of as yet unverified size are expected to increase petroleum's importance to the economy. Narcotics traffickers controlled vast numbers of enterprises, and drug-related corruption exerted enormous influence throughout society and political life.

The Government took some steps to reduce human rights violations, but its overall human rights record remained poor. Although extrajudicial killings by the security force declined somewhat, the armed forces and the police continued to be responsible for serious abuses including, according to credible reports, instances of death squad activity within the army. Such killings specifically attributed by credible nongovernmental organizations (NGO's) to government security forces declined by approximately 11 percent in the first 9 months of the year, compared with the same period in 1995. With notable exceptions, the security forces generally exercised restraint in dealing with protesters. However, soldiers reportedly killed several militant coca farmers and field workers ("cocaleros") and injured hundreds who--supported in part by guerrillas and narcotics traffickers--were seeking to impede antinarcotics programs in the south in August; guerrillas also were responsible for some of the deaths. Security forces were responsible for dozens of disappearances. Police and soldiers continued to torture and beat detainees. Prison conditions are generally harsh. Arbitrary arrest and detention, as well as prolonged pretrial detention, are problems. The judiciary is severely overburdened, and has a huge case backlog estimated at over 1 million cases. The use of "faceless" prosecutors, judges, and witnesses, under cover of anonymity for security reasons, continued.

The independent Prosecutor General's office achieved a record number of human rights indictments and arrests, including that of a retired three-star general. However, in many instances including that of the general, the Prosecutor General's office was subsequently compelled to transfer the cases to the military justice system, which has established an almost unbroken record of impunity. The Government allows the military to exercise primary jurisdiction over military personnel accused of abuses; the most prevalent form of sanction is informal dismissal from the service without benefit of court-martial. Moreover, the Government's early, high priority on human rights became a casualty of the crisis over contributions by drug traffickers to the President's election campaign.

Rampant impunity is at the core of the country's human rights violations. According to government reports, in from 97 to 99.5 percent of all crimes, the lawbreakers are never brought to justice. Victims never even report an estimated 74 percent of all crimes to the authorities. The Prosecutor General's office, however, increased efforts to prosecute high-profile human rights cases involving grave violations such as massacres and forced disappearances committed by government forces, paramilitary groups, and guerrillas. While the National Human Rights Ombudsman confirmed that documented cases of security force abuse had declined, he cautioned that the situation remained critical. At the Government's request, the United Nations High Commissioner for Human Rights agreed to open a field office in early 1997.

The Samper administration has not taken action to curb increased abuses committed by paramilitary groups, verging on a policy of tacit acquiescence. Even in areas where they had heavy influence, the armed forces seldom restrained paramilitary activity and abuses.

For 36 of the past 44 years, including much of 1996, the Government has operated under declared states of emergency that enabled the executive to rule by decree in broad areas of the country. The decrees frequently limited due process rights and freedom of movement. The Government created special "public order zones" to permit military commanders in areas of high conflict to direct all government security efforts--including, with authorization by the elected governor or president, imposing curfews, check-points, and requiring safe conduct passes. A Samper administration reform proposal to expand

presidential emergency decree powers and remove declarations of states of emergency from oversight by the Constitutional Court moved forward in Congress, and debate on the proposal was scheduled to resume in 1997. The presence of paramilitary, guerrilla, and narcotics trafficking organizations, and the armed confrontations among them, as well as with the armed forces, has displaced 750,000 persons; this total increased by 25 percent compared with 1995.

The Government increased pressure on the media to influence reporting, and in December, the President signed a bill that is expected to lead to intrusive, partisan censorship of television newscasts. Violence against women and children is a serious problem. Unofficial but extensive discrimination against women, minorities, and the indigenous continued. Child labor is a widespread problem. Vigilante groups that engaged in "social cleansing"--the killing of street children, prostitutes, homosexuals, and others deemed socially undesirable--continued to be a serious problem.

Guerrilla forces continued to be responsible for numerous killings and disappearances, as well as 30 to 50 percent of all kidnappings. The Revolutionary Armed Forces of Colombia (FARC) guerrilla group showed no interest in releasing three American missionaries whom the FARC kidnaped on January 31, 1993. According to credible NGO sources, during the first 9 months of the year, members of paramilitary groups committed 59 percent of politically motivated extrajudicial killings; guerrillas were responsible for 33 percent; and government forces for 8 percent of them.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

Political and extrajudicial killing continued to be a serious problem. Members of the security forces continued to commit extrajudicial killings, at a somewhat reduced rate. According to the Bogota-based NGO Intercongregational Justice and Peace Commission and the Center for Investigation and Popular Education (CINEP), the security forces were responsible for about 8 percent of political murders in which the perpetrators could be identified. This represented a decline from the 16 percent reported for the same period in 1995. However, this marked a small drop in absolute numbers, from 55 to 49, due to generally escalated violence throughout the country. A study by the Colombian Commission of Jurists (CCJ) also indicated a downward trend in security force abuses. CCJ reported that in 1995, agents of the State committed 16 percent of political killings, forced disappearances, and social cleansing operations in which perpetrators could be generically identified, compared with 54 percent in 1993. Preliminary figures for 1996 indicate a continuation of this trend, with 18 percent of abuses attributed to the security forces.

According to its 1996 report, the independent, state-sponsored Defensoria del Pueblo (National Human Rights Ombudsman) received 219 complaints in 1995 against the army alleging murder, forced disappearances, and threats. The same report cited 169 complaints against the police for murder, disappearances, and threats. The Ombudsman's figures for 1996 are not yet available, but he praised the police for substantially improving their human rights record. The Attorney General's office reported that of the 3,000 complaints against public officials received between June 1995 and October 1996 (some of which occurred before that reporting period), it opened proceedings in 1,338 cases, including 28 massacres and 202 homicides. Some of the other cases did not involve public officials and were passed on to other government investigative bodies. Government officials give credence to reports of isolated death squad activity by at least one army unit, the 20th Intelligence Brigade.

Although security forces generally exercised restraint in dealing with protesters, soldiers reportedly killed several militant coca farmers and field workers and injured hundreds in August (see Section 2.b.).

While security force killings declined slightly, killings by paramilitary forces increased, and killings by guerrillas and narcotics traffickers also continued to be a serious problem. According to the Institute of Legal Medicine, there were 25,274 murders in 1995, down from 26,764 in 1994. The Institute reported an average of 77.4 violent deaths per 100,000 inhabitants. The National Police reported that 12,824 citizens were victims of homicide during the first 6 months of 1996, down from 13,001 during the last 6 months of 1995.

The police and the judiciary have insufficient resources to investigate most killings adequately. In June the Superior Council of the Judiciary reported that 74 percent of all crimes go unreported, and between 97 and 98 percent of all crimes go unpunished. The government commission on public spending placed the impunity rate for all crimes at 99.5 percent. Although data were lacking in a majority of murder cases, the CCJ study estimated that the killers targeted 4 out of every 10 murder victims for their involvement with political, labor, or social causes.

The CCJ study also indicated that as the number of political killings and forced disappearances carried out by members of the armed forces and police decreased since 1993, those committed by paramilitary organizations increased. In cases of political killings, forced disappearances, and social cleansing during 1995 in which perpetrators could be generically identified, the CCJ concluded that paramilitary members committed 46 percent of those offenses, compared with 18 percent in 1993; and that guerrilla organizations committed 38 percent of those offenses, compared with 28 percent in 1993. Preliminary figures for 1996 indicate a continuation of this trend, with 48 percent attributed to paramilitary organizations and 38 percent to guerrilla organizations, from October 1995 through March. The CCJ claimed the impunity rate for politically motivated crimes is virtually 100 percent.

Another source came to a similar finding. Combined data collected by the Justice and Peace Commission and CINEP showed evidence sufficient to establish a probable perpetrator in 582 extrajudicial killings (including unresolved forced disappearances) known or presumed to be politically motivated during the first 9 months of 1996, compared with 342 political murders during the first 9 months of 1995. Of the perpetrators generically identified in 1996, 6 percent were military, 2 percent were police, 59 percent were members of paramilitary groups, and 33 percent were guerrillas. In absolute numbers, extrajudicial killings attributed to the military and police dropped slightly (55 to 49), representing 8 percent of such killings compared to 16 percent in 1995, even though the overall level of violence escalated. Comparing January through September for 1995 and 1996 respectively, paramilitary killings (334 in 1996; 164 in 1995) increased from 48 percent to 59 percent of the total, while guerrilla killings (189 in 1996; 123 in 1995) accounted for 33 percent of the total, down slightly from 36 percent in 1995. Thus both paramilitary and guerrilla killings increased significantly in absolute numbers during the months of January through September. The CINEP, the Justice and Peace Commission, and the CCJ caution, however, that these relative comparisons could change significantly if all the perpetrators could be identified. They agree that the statistics represent rough approximations which at best point to general trends.

Human rights monitors reported continued incidents of social cleansing--including attacks and killings--directed against individuals deemed socially undesirable such as drug addicts, prostitutes, transvestites, beggars, and street children. The Justice and Peace Commission reported 60 cases of social cleansing during the months of January through June; it attributed 22 of those cases to members of paramilitary or private justice groups. In the remaining cases, a likely perpetrator could not be identified. (During the same time period in 1995, Justice and Peace reported 71 cases of social cleansing, and attributed 15 to the police, 6 to paramilitaries, and 12 to the guerrillas.) The Attorney General reported one case under

investigation that may have involved a state security agent. The regional prosecutor in Medellin had a former policeman under investigation for participation in a social cleansing group and other crimes.

Killings by paramilitary groups increased significantly, often with the alleged complicity of individual soldiers or of entire military units and with the knowledge and tacit approval of senior military officials. The groups targeted teachers, labor leaders, community activists, mayors of towns and villages, town council members, and, above all, peasants. Many of these victims included members of indigenous communities. The Ombudsman reported that despite a 60 percent increase in various forms of paramilitary activity since 1992, the military failed to give priority to confronting those illicit groups. Whether organized as drug traffickers' private armies or landowners' private defense groups in response to kidnaping threats and extortion demands, these illegal groups reportedly killed suspected guerrilla members and supporters on sight as normal operating procedure.

Allegations of cooperation by members of the armed forces with paramilitary groups, including tacit support and direct collaboration by members of the armed forces, in particular the army, continued to generate controversy. The army commander categorically denied the charge that such cooperation existed, but informed observers reported that tacit arrangements between local military commanders and paramilitary groups did occur in some regions. Both government human rights advocates and academics reported that paramilitary groups freely operated in some areas that were under military control. As paramilitary violence surged in November and December, the Government offered a reward of over \$1 million (1 billion pesos) for the capture of paramilitary leader Carlos Castano. Belatedly, the army sent special troops to Sucre department, one of the regions most affected by paramilitary attacks. Concrete results of the Government's efforts by year's end could not be measured.

The Ombudsman and the Prosecutor General's office agreed that some cases show that some members of the armed forces have collaborated with paramilitary groups. The prosecutor ordered the arrest of an army captain and a paramilitary leader implicated in the April massacre of 15 persons in the town of Segovia. It also ordered the arrest of retired three-star army General Farouk Yanine, who voluntarily returned to Colombia to face charges of having supported paramilitary groups in the mid to late 1980's. He is accused of implementing a strategy to have paramilitary groups carry out counter guerrilla activities the army was prohibiting from doing, and with having had knowledge of the 1987 massacre by paramilitaries of 19 civilians suspected of aiding guerrillas. In November the Superior Council of the Judiciary transferred the case to the military justice system. While acquiescing to the Council's ruling, the civilian Prosecutor General demurred that formation of a paramilitary group did not constitute an act of service. General Yanine remained under detention but as yet unindicted while the investigation continued as of year's end.

Although most paramilitary killings remain unsolved, in June the regional prosecutor in Bogota indicted 185 members of paramilitary groups active in the Magdalena Medio region since 1991. The Prosecutor General's human rights unit conducted a broad investigation into the paramilitary groups active in this region since the 1980's. The investigation included extensive testimony of an imprisoned paramilitary member (and former guerrilla) implicated in at least 200 crimes and the deaths of as many as 700 people. In addition to General Yanine, the prosecutor arrested an army colonel and a sergeant and issued a warrant for an army major. In the case of all four suspects, the Superior Council of the Judiciary transferred jurisdiction to the military justice system. However, paramilitary leaders such as known drug traffickers Fidel and Carlos Castano and emerald magnate Victor Carranza remained beyond the reach of justice.

The Ombudsman attributed the majority of massacres committed in Uraba, Cesar, Cordoba, Magdalena Medio, and the eastern plains to paramilitary groups. Of the 1,379 political murders and 323 disappearances registered by the Permanent Committee for the Defense of Human Rights from January

through August, the committee likewise attributed a majority to paramilitary groups and paid killers. The committee cautioned that these totals could rise by 30 to 40 percent if statistics gathered by other NGO's were taken into account.

The leftist coalition party known as the Patriotic Union (UP) continued to be the target of political killing. It has lost approximately 3,500 members in what the UP perceived as a campaign of targeted killings waged against its leadership over the last 11 years. There were 600 reported murders of UP members in Meta department alone since the campaign began, including the head of the Meta Committee for Human Rights, Josue Giraldo, who was killed in October. The Inter-American Commission on Human Rights (IACHR) adopted a resolution requesting the Government to prosecute anyone targeting human rights advocates for murder and to provide protection for Giraldo's family. In May, Aida Abella, national head of the UP and Bogota city council member, was nearly killed in an attack by unknown persons.

The UP brought a complaint before the IACHR that charges the Government with "action or omission" in what the UP terms "political genocide" against the UP and the Communist Party. In its October submission to the IACHR, the human rights organization Fundacion Reiniciar reported that, between January 1 and September 20, UP activists were killed at the rate of one every other day. Many murdered UP members held or had previously held elected office: 1 regional deputy, 13 municipal council members, 2 former mayors, and 3 former council members. UP leader Hernan Motta is the party's member of the Senate, replacing UP leader Manuel Vargas Cepeda who was killed in 1994. An investigation of two army colonels and two army sergeants implicated in his murder was still underway at year's end. A court sentenced the murderers of UP leader Jaime Pardo Leal to prison nearly 10 years after his killing.

In Cesar department, paramilitary enforcers violently displaced peasants from land on the Hacienda Bellacruz in a land dispute in which the national Government had ruled in favor of the peasants. On September 28, paramilitary members killed Eliseo Narvaez, one of the peasant leaders and negotiators, and his brother Eder, bringing to 15 the number of small farmers killed in this dispute since January, according to a report by the National Association of Peasants for Unity and Reconstruction. NGO's cite this case as an example of the central Government's inability or lack of will to enforce the law in the face of deadly paramilitary force.

Overall, paramilitary killings escalated not only in all of the areas which in 1995 suffered the greatest concentration of violence, such as Meta, Uraba, Cordoba and Cesar, but in other regions as well, including Sucre, parts of Antioquia beyond Uraba, Magdalena Medio, and Putumayo. This increase reflects the intensified competition between paramilitary and guerrilla organizations for control across a broad sweep of territory (see Section 1.g.). The victims of paramilitary killings, however, were overwhelmingly unarmed, noncombatant civilians whose summary murders the paramilitary forces rationalized as punishment for possible ties to the guerrillas.

In January unknown assailants shot and killed Marta Elena Sanchez, director of Palmira prison outside Cali. Other unknown assailants killed Miraflores mayor Mauro Restrepo Oliveros that month. In June FARC guerrillas allegedly were responsible for killing the governor of Caqueta department, Jesus Angel Gonzalez.

There was some progress in the case of the 1995 murder of American missionaries Timothy Van Dyke and Steven Walsh. The authorities identified the FARC commanders responsible for these killings and issued warrants for their arrest; however, they were not in custody at year's end (see Section 1.e.).

## b. Disappearance

Colombia continued to suffer from extremely high overall rates of disappearance and kidnaping. In July the private foundation Pais Libre and the directorate for the Government's special antikidnaping task forces reported 557 kidnapings during the first half of the year. They estimated that this represented only one-half the actual total because many families of kidnaping victims chose not to report kidnapings in order to conceal ransom negotiations. A U.S. security consulting firm estimated an annual total of 3,500 kidnapings.

The law codifies kidnaping for extortion and "simple kidnaping" as crimes. Efforts to identify the act of forced disappearance as a crime have not been successful, however, in part because the military justice system may treat forced disappearances as acts performed in the line of duty. By October the Attorney General for Human Rights reported 40 forced disappearances attributed to members of the armed forces, police, and the DAS. NGO's reported several cases of forced disappearances allegedly committed by government forces during the coca cultivators' protests of July and August.

Guerrillas were responsible for between 30 and 50 percent of all kidnapings. They continued to deny, implausibly, that their practice of kidnaping constitutes common criminal extortion. Arrests or prosecutions in any of these cases were rare. Foreigners were attractive targets for kidnaping by both the FARC and the ELN, which generally demanded exorbitant ransom payments for their release.

In April members of an ELN splinter group known as JEGA (Jorge Eliecer Gaitan Alianza) kidnaped Juan Carlos Gaviria, brother of former Colombian president and current OAS Secretary General Cesar Gaviria. JEGA issued a number of incoherent demands for political concessions during the 2 ensuing months, but in June his captors released Gaviria in return for safe conduct to Cuba. This case generated considerable controversy because it represented a departure from government policy not to grant concessions to kidnapers.

In July the paramilitary group headed by Fidel and Carlos Castano began a retaliation campaign of kidnapings, targeting relatives of FARC and ELN leaders. In October the Costa Rican Government granted refuge to 20 threatened guerrilla family members at the petition of the U.N. High Commissioner for Refugees and the Red Cross. Interior Minister Horacio Serpa played a key role in convincing the Costa Rican Government to accept the guerrillas' relatives. As in the Gaviria case, Serpa's intervention marked a departure from the Government's handling of other kidnapings.

FARC guerrillas kidnaped American missionaries David Mankins, Mark Rich, and Rick Tenenoff near the border with Panama on January 31, 1993. Mankins, Rich, and Tenenoff along with their wives and families were members of the New Tribes Mission (NTM) at the time of their kidnaping. For more than 2 years, the FARC has failed to discuss the release of the three missionaries, despite numerous efforts by NTM representatives to contact the FARC.

The Prosecutor General's human rights unit continued its investigation of the 1987 forced disappearance, torture, and murder of Nydia Erika Bautista, a member of the April 19th Movement, or M-19. However, in December the Superior Council of the Judiciary transferred this case to the military justice system. In October the Administrative Tribunal of Cundinamarca ruled that the Government was responsible for the 1990 disappearance of human rights activist Alirio de Jesus Pedraza and ordered that his family receive financial indemnification.

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

The law prohibits torture, but reports of incidents of police and military beatings and torture of detainees continued. There was no appreciable decrease in cases of torture committed by individuals from various government security agencies. The Attorney General for Human Rights reported investigating 462 cases of torture committed by the police, DAS, army, prison officials, and other agents of the State during the period from June 1995 to October 1996. These abuses often occurred in connection with illegal detentions in the context of counterinsurgency or counternarcotics operations. In August soldiers beat a cameraman because he had filmed them beating an unarmed civilian during a protest by coca growers and harvesters (see Section 2.a.). Paramilitary groups operating in rural areas were also reportedly responsible for many instances of torture, which, however, cannot be documented. In cases of extrajudicial killings, the authorities rarely sent bodies that bore the traces of physical torture for extensive forensic investigation.

Prison conditions are generally harsh, especially for those prisoners without significant outside support. Overcrowding and dangerous sanitary and health conditions remained a serious problem. Local or regional commanders do not always prepare mandatory detention registers or follow notification procedures, and as a result, accurate detainee counts do not exist.

The International Committee of the Red Cross (ICRC) continued to have access to most prisons and police and military detention centers.

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

The Constitution includes several provisions designed to prevent illegal detention; however, the authorities continued to arrest and detain citizens arbitrarily.

Suspects must be brought before a judge within 36 hours of their

arrest, and they have a right to petition for habeas corpus from any judge. The judge must act upon that petition within 36 hours of its application. Despite these legal protections, instances of arbitrary detention continued, and a significant percentage of the prison population remained in an undetermined pretrial status. Justice and Peace received 598 reports of arbitrary detentions during the first 6 months of the year, a number far higher than the Ombudsman's full-year count of 374 illegal or arbitrary arrests in 1995. Although the Ombudsman's 1996 figures were not yet available, a similar discrepancy with the NGO's was likely because of different reporting criteria.

The state of emergency permits preventive detention with or without prior judicial authorization but requires the authorities to bring detainees before a judicial officer within 36 hours of arrest. Although the authorities were able to increase the number of arrests, in many cases they failed to bring the detainees before the judicial authorities within the required time. Citizens were thus often held without formal justification before eventually being released. The Government failed to anticipate the impact which its declarations of states of emergency would have on an overburdened judicial system that could not address the needs of citizens even under normal circumstances.

Exile is not practiced.

#### e. Denial of Fair Public Trial

The judicial system, reorganized under the 1991 Constitution, is largely independent of the executive and legislative branches, both in theory and practice.



The judiciary includes the Constitutional Court, Supreme Court of Justice, the Council of State, the Higher Judiciary Council, tribunals, and courts. The 1991 Constitution modified the structure of the judicial branch by creating the Office of the Prosecutor General as an independent prosecutorial body.

The judiciary has long been subject to threats and intimidation when dealing with cases against members of paramilitary, guerrilla, and narcotics organizations. Although violent attacks against prosecutors and judges dropped with the decline in drug-related terrorism in the late 1980's (and as extradition of Colombian citizens was halted in 1991), prosecutors, judges, and defense attorneys are still subject to threats and acts of violence. In August alleged ELN guerrillas abducted and killed Pedro Alfonso Marquez, director of the prosecutor's office of investigations in La Guajira department. In February a member of the Attorney General's office designated to investigate corruption among government intelligence services was killed with her husband in what appeared to be a contract murder, although no direct link to her work could be established. A civil municipal judge was killed in Cali in August. Other victims included prosecuting attorneys, investigators working on their cases, as well as other employees of courts and prosecutors' offices. Justice and Peace received reports of seven attorneys murdered for political reasons during the first 6 months of the year.

The Constitution specifically provides for the right to due process. The accused has the right to representation by counsel, although representation for the indigenous and the indigent historically has been inadequate. The Government continued to labor under staffing and funding shortages in an effort to develop a credible public defender system. As in past years, the judiciary remained overburdened and often in a state of chaos, staggering under a backlog estimated at over 1 million cases.

The system of justice incorporates regional or public order jurisdictions to prosecute cases involving the crimes of narcotics trafficking, terrorism, kidnaping, subversion, and extortion. In these courts, faceless prosecutors, judges, witnesses, and attorneys act under cover of anonymity for security reasons. The Government intends to end the system of regional jurisdictions in 1999. Human rights groups continued to charge that this system violates basic legal norms and procedural rights, and the Prosecutor General agreed that these cases needed stricter controls and limits. While a late 1993 reform of the Criminal Procedures Code addressed certain procedural shortcomings within the system, problems remained. It was still difficult for defense attorneys to impeach or cross-examine anonymous witnesses, and often they did not have unimpeded access to the State's evidence. As a result of such concerns, judges may no longer base a conviction solely on the testimony of an anonymous witness. Prosecutors, judges, and witnesses generally maintained, however, that the protection of anonymity that is provided by a faceless system is essential to the successful investigation and prosecution of human rights cases in a country where violence is endemic and acts of revenge against those prosecuting violent crime may be expected.

Human rights groups also criticized the Government's policy of allowing major narcotics traffickers to surrender voluntarily and negotiate their sentences. These critics charged that lower-income defendants were at a disadvantage under the system, while powerful criminals received deferential treatment. They also charged that the system, lacking resources, could not effectively prosecute the major guerrilla leaders and was left to handle only low-level criminals suspected of subversive activity. Prosecutors reported, moreover, that potential witnesses in major cases often lacked faith in the Government's ability to protect their anonymity and were unwilling to testify.

The Attorney General's office is part of the Public Ministry. It investigates misconduct by public officials and orders administrative sanctions as applicable. The Attorney General for Human Rights investigates some allegations of human rights abuses by members of the state security apparatus, drawing upon a network of government human rights ombudsmen covering over 1,000 municipalities. The office of the human rights Ombudsman has the constitutional duty to ensure the promotion and exercise of human rights, but it is severely underfunded. In addition to providing public defense

attorneys in criminal cases, the Ombudsman's offices throughout the country provide a legal channel for thousands of complaints and allegations of human rights violations. The new Ombudsman, who took office on August 30, reported that his office needed a minimum of 2,000 public defenders to fulfill its constitutional duty. By year's end, however, there were only 500 public defenders. Moreover, the budget the Finance Ministry presented to Congress fell significantly short of the Ombudsman's basic requirements to cover staffing and technical infrastructure.

The Prosecutor General's specially designated human rights unit achieved major results in 1996. Under the direction of a coordinating prosecutor and supported by a team of investigators, this group of 25 faceless prosecutors addressed approximately 100 cases involving massacres, extrajudicial killings, kidnappings, and forced disappearances. They issued numerous arrest warrants against members of the armed forces, paramilitary groups, guerrilla organizations, and drug trafficking organizations and had successfully arrested some of those suspects by year's end (see Section 1.a.). For the first time, the authorities ordered the arrest of a retired three-star general, Farouk Yanine, alleged to have supported paramilitary activity in Magdalena Medio region. The unit also ordered the arrest of an army colonel on similar charges. In addition, the unit identified and issued arrest warrants for the FARC commanders responsible for the June 1995 murders of FARC-abducted American missionaries Timothy Van Dyke and Steve Welsh. In another major case, the authorities arrested an army major and a paramilitary leader on charges of complicity in the April massacre of 15 civilians in the city of Segovia, Antioquia department. Although top military leaders hailed the cases brought against guerrilla leaders, they strongly objected, and in some cases tried to obstruct, prosecution of cases against members of the armed forces and of paramilitary organizations. Decisions by the Superior Council of the Judiciary in November and December to transfer certain key cases to military courts suggested a reversal of its position on military versus civilian jurisdiction earlier in the year and aroused concern that additional cases involving allegations of military collaboration with paramilitary organizations would likewise be passed on to the military courts.

Faceless prosecutors handle most cases involving criminal violations of human rights, with caseloads that commonly exceed 100. In March a faceless judge sentenced four persons to a total of 114 years and 5 months for the 1994 massacre of 20 members of the indigenous Guataba community in Caloto, Cauca department.

The Government states that it does not hold political prisoners. However, the ICRC reported that it monitored approximately 2,000 cases of citizens imprisoned under accusations of rebellion or aiding and abetting the insurgency, which are punishable under law. Critics charge that prisoners held under suspicion of collaboration with guerrillas are detained for political reasons. Many of these prisoners were noncombatants who in some cases were held for months during preliminary proceedings before their cases could be dismissed.

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

The law generally requires a judicial order for authorities to enter a private home, except in cases of hot pursuit. In remote regions, the military forces have civilian prosecutorial units attached to them. Some human rights groups charged that these attached units were unconstitutional, and Congress has so far refused to grant them permanent status. To address this problem, the Ministry of Defense continued training in legal search procedures that comply with constitutional and human rights.

A judicial order is likewise required to authorize telephone monitoring and the interception of mail. This protection extends to prisoners held in jails. However, various state authorities monitor telephones without obtaining authorization.

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

The internal armed conflict and narcotics trafficking are the central causes of violations of human rights and humanitarian law. Guerrilla and paramilitary groups, in particular, but also government security forces violated international humanitarian law in Colombia's internal conflict. The ICRC reported that the Government, including military authorities, followed an open door policy toward the ICRC and incorporated Red Cross curriculums on international humanitarian law in standard military training. A persistent, if unofficial, emphasis by the army on body count as a means of assessing field performance is a main contributing cause of violations of international humanitarian law. With rare exceptions, according to military sources, local commanders typically preferred to discharge soldiers accused of raping civilian women and other serious human rights violations, rather than to initiate court martial proceedings.

A consortium of NGO's in eastern Antioquia reported an operation conducted on January 29 by 40 soldiers of a battalion stationed at Rionegro together with a number of civilians, who surrounded the San Vicente home of the Diaz Alzate. The attackers fired indiscriminately and threw two grenades at the house in which two elderly members of the family, two adults, and one child were present. The head of the household was wounded and taken to the military base where he was held for 24 hours before the family was informed of his whereabouts. Also in January, witnesses reported receiving threats from paramilitary groups in the city of Ocana that they should attend a meeting of business people, allegedly guarded by soldiers, at which members of paramilitary groups subjected the attendees to death threats and extortion if they did not cooperate with the military forces in the region.

In Sucre, during the first 113 days of the year, paramilitary or self-defense groups killed 137 persons. This escalation of violence effectively forced 800 families to abandon their land. The victims were typically campesinos, teachers, civic leaders, and other noncombatants suspected of sympathizing with guerrillas. The violence continued throughout the year, with a marked upsurge beginning in late November. The paramilitary massacre of 17 peasants during a 1-day campaign was just one of a number of paramilitary attacks in Sucre. The CINEP reported that Putumayo department had surpassed Uraba with Colombia's highest violent death rate, 425 per 100,000 persons, in 1995. Firearms were used in 95 percent of these killings. That violence escalated in the first months of 1996, according to the CINEP and the Putumayo Departmental Committee for Human Rights. Both attributed the violence to drug traffickers, guerrillas, and paramilitary groups. A paramilitary group massacred 15 people in Segovia, Antioquia, in April. In May the prosecutor arrested an army captain and a paramilitary organization member in connection with the massacre. Parts of Antioquia also saw an escalation of paramilitary violence during November and December. The year ended with a massacre on December 31 by paramilitaries of as many as 11 civilians, including 2 indigenous leaders of the Nendo community in Dabeiba, Antioquia.

On February 15, Protocol II of the Geneva Convention entered into force. The Constitutional Court had earlier ruled that the law ratifying the protocol would be equally applicable to government and guerrilla forces. Despite some pronouncements of support, guerrilla organizations continued to pursue a strategy that included kidnaping, targeting of civilian populations and installations, deployment of land mines, and recruitment of minors.

The loosely organized guerrilla groups of the Simon Bolivar Coordinating Body, which include primarily the FARC and ELN, commanded an estimated 10,000 to 15,000 full-time guerrillas organized in over 100 "fronts." These groups exercised a degree of permanent influence in over half of Colombia's local municipalities. They committed a host of violations, including killings, kidnapings, deployment of antipersonnel land mines, oil pipeline bombings, and other acts of sabotage.

According to estimates by CINEP and Justice and Peace, guerrillas were responsible for killing at least 189 civilians between January and September. In the continuing struggle for control of the narcotics and arms trafficking corridor of Uraba, guerrilla retaliation for paramilitary attacks regularly victimized innocent civilians, although some direct clashes with paramilitary units did occur. To justify summary executions of civilians, guerrillas typically charged that their victims were either informants for the army or related in some other way to the State, or that they simply refused to support the guerrillas' operations.

The FARC continued its campaign of assassination against the Hope, Peace, and Freedom Movement, whose members had left the EPL in the early 1990's and had since become active in the National Syndicate of Agro-Industry Workers in Uraba. FARC guerrillas killed 2 children near Miraflores, Guaviare, when they detonated 1 of 50 land mines that their forces had deployed in the area. The FARC's September attack on unarmed policemen playing sports in the town of Uramita, Antioquia, was typical. In addition to one policeman and one adult civilian, the FARC killed a 3-year-old child during the attack. In another incident the FARC killed four policemen transporting prisoners in Antioquia. They then released the prisoners, including three murderers and one narcotics trafficker. In August and September, FARC forces killed over 100 people, at one point paralyzing traffic in half the country's departments by threatening to burn vehicles on the highway.

The National Liberation Army (ELN) also targeted civilians. In one incident in May, ELN guerrillas intercepted a bus and shot four of its passengers. There are confirmed reports of continued instances of ELN and FARC death threats against the girlfriends, fiancées, and wives of policemen and soldiers. According to press reports, in November an ELN front active in southern Antioquia summarily executed 11 of its own members.

In May a FARC guerrilla attack killed at least 16 persons, including 2 children, in the fishing town of Turbo, Uraba. The guerrillas burned numerous houses; 20 persons were victims of forced disappearance. In September members of the fifth FARC front summarily executed four rural community leaders near Apartado, Uraba. In February the ELN attacked and nearly killed the 17-year-old girlfriend of a policeman.

On March 13, FARC guerrillas attacked a police station in Chalan, Sucre, killing 11 police members. The police accused townspeople of advance knowledge of the attack, and eventually withdrew from the town center. Paramilitaries moved in shortly thereafter. On April 15, a guerrilla ambush killed 31 soldiers on patrol, and Jose Maya Garcia, chair of the Chamber of Representatives' peace commission, was kidnapped. These assaults prompted President Samper to create special public order zones by decree 2 days later.

On August 30, FARC and ELN guerrillas coordinated forces to launch a major offensive, with 28 attacks in 11 departments during a 48-hour period. The most notable attack was the FARC assault on an army outpost in Las Delicias, Putumayo department. The guerrillas killed 29 soldiers and took another 60 hostage. At year's end, the soldiers remained in FARC custody, with negotiations for their release at an impasse. Guerrilla violence continued at an escalated level throughout September and October, with roadblocks and sporadic killings throughout the country.

Initial reports implicated guerrillas in the social cleansing homicide of two other individuals in Valle del Cauca department in February. Guerrilla organizations continued to recruit minors between the ages of 12 and 15; some press accounts reported cases of children under the age of 12 among guerrilla ranks. Once recruited, the child guerrillas are virtual prisoners of their commanders and subject to various forms of widespread abuse. Sexual abuse of young girls is a particular problem.

In general, the guerrilla leadership continued to exploit the issue of human rights violations for propaganda purposes but took no measurable steps to abide by international standards. In March the Dutch NGO Pax Christi sharply criticized the FARC leadership for their human rights practices. The FARC demonstrated this lack of good faith by drawing out negotiations for the release of the soldiers captured during the attack on Las Delicias and renegeing on their promise to release the soldiers to the ICRC. The president of the Catholic Conference of Bishops criticized the FARC leadership for prolonging the captive soldiers' ordeal and made a direct televised appeal for their immediate release, to no avail.

A CINEP report on violence in Putumayo department also cited guerrilla violations of international humanitarian law. Other accounts of guerrilla abuse included reports that the bodies of 20 soldiers killed at La Carpa in Guaviare department in September showed signs of mutilation by dogs. The FARC force had overwhelmed a small army unit called in to aid a small community that had been harassed and intimidated by the guerrillas.

In 1994 the Government initiated a program to organize and register legal civilian rural defense cooperatives, known collectively as Convivir, which were to provide counterinsurgency intelligence to local military commanders. These groups numbered approximately 200 by June, primarily in central and northern Colombia, according to the CINEP. Although the authorities originally intended these groups to be unarmed, by mid-1996 they had authorized a number of them to carry arms. By year's end, government officials had received the first citizen complaints that some of these groups had exceeded their authority and were acting as vigilantes.

Although the governor of Antioquia expressed the belief that the Convivir groups could be controlled, some mayors and other local officials in Antioquia disagreed. The Ombudsman's 1996 report to Congress reiterated his office's opposition to the Convivir program. Citing the Government's inability to control such groups in past administrations, the Ombudsman expressed concern that the Convivir cooperatives, too, would lack accountability. Other government human rights monitors expressed concerns.

Drug traffickers, guerrillas, and common criminals continued to target soldiers and police on a daily basis. A FARC ambush that killed 31 soldiers in April was typical of the guerrilla strategy of attacking small and vulnerable units. Guerrillas intensified this strategy during the September offensive which began with the attack on Las Delicias.

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

### **a. Freedom of Speech and Press**

The authorities generally respected these constitutionally protected rights, but were quick to apply subtle (and not so subtle) pressure on the media when their core interests were threatened. Most media resisted such pressure, but the less powerful media organizations submitted to it. Other signs of government efforts to influence the media included occasional calls on patriotic grounds to limit negative reporting that might hurt the country's image in the world. On January 30, a member of the National Television Commission ordered the state-controlled television network to cut off the live broadcast of congressional debate that followed the President's address to a special session of Congress. The Government thus cut off a Senator in the midst of her denunciation of the President, based on her first-hand knowledge, for having solicited contributions from drug traffickers for his presidential campaign.

The National Television Commission threatened to review the license of the television newscast "24

HOURS" unless the news director appeared before the commission and justified an interview with a foreign ambassador that was critical of the President. The threat was an obvious effort by Samper administration allies on the commission to intimidate newscasts into softening their stances toward the Government.

In December the National Television Commission singled out "TV HOY," a national television news network, by threatening to impose a fine and a 2-day broadcast suspension for an inaccurate report. The network retracted the broadcast report, but at year's end, the issue of the fine and the suspension remained unresolved. Critics charged that the Commission was selectively applying standards of accuracy, its primary criterion apparently being whether a report reflected positively on President Samper's image.

Congressional allies of the Samper administration introduced legislation that would suspend the licenses of 12 television newscasts, valid under existing law until December 31, 2003. Ignoring concerns expressed by the Inter-American Press Association (IAPA), Congress passed and in late December, President Samper signed into law fundamental changes in treatment of television newscasts that are expected to have a chilling effect on freedom of the press. The new law revoked previous hands-off licensing procedures and made license holders of television newscasts on the three government channels subject to review--and possible revocation and mandatory exclusion from television newscasting for 5 years--every 6 months. This law also opens the door to the creation of two new private television channels that will fall under the ownership of economic conglomerates that have historically enjoyed a privileged relationship with whatever government is in power. While court challenges are expected, the new law is an obvious effort by the Samper administration to eliminate troubling television news coverage of a scandal-ridden administration and to reward its powerful backers for remaining loyal. Television news, previously relatively free, albeit prone to sensationalism and low journalistic standards, is now subject as never before to intrusive government censorship.

The privately owned print media published a wide spectrum of political viewpoints and often voiced harsh antigovernment opinions without administrative reprisals. The Government imposed some restrictions on electronic media coverage of incidents of public disorder and of drug terrorist activity and reserved the right to prohibit coverage of certain news events that could affect state security. During the protest of coca growers and harvesters in Caqueta department in August, army soldiers injured two television cameramen. The soldiers severely beat one cameramen because he had filmed them beating an unarmed civilian.

Under a state of emergency the Government may regulate the media only to the extent of controlling information that may endanger lives or directly induce public disturbances. The Government may use television and radio stations as it deems appropriate but may not prohibit reports of human rights violations. The Government may not establish an official censorship board, but accredited media associations are to act as a self-regulatory tribunal.

All citizens have the right to seek a judicial injunction or motion (tutela) in cases involving violations of basic constitutional rights. This provides all persons and organizations, including the media, with a mechanism to denounce both private and government violations of basic constitutional rights.

In October unknown assailants murdered journalist Norvey Diaz in Cundinamarca department. For over 5 years, Diaz had investigated and reported the existence of social cleansing groups, which he claimed had links to the police in the city of Girardot. He had received death threats throughout the year. The Ombudsman reported in 1995 that 107 journalists had been murdered since 1980--often victims of paramilitary organizations, guerrilla groups, and narcotics traffickers.

Both Colombian and international journalists typically work in an atmosphere of threat. In January Mexican journalist Jorge Ramos of the Univision News Network curtailed his stay because of death threats he received after an interview with former Defense Minister Fernando Botero. During that interview, Botero accused President Samper of being behind the strategy to solicit campaign donations from drug traffickers. In February DAS agents detained a journalist who was collaborating with Botero on a forthcoming book. They questioned her at the Bogota airport and reportedly photocopied her notes before permitting her departure. Another Univision journalist, Colombian Raul Benoit, was the target of a murder attempt in March in connection with his work.

The Government generally respected academic freedom, and there exists a wide spectrum of political activity throughout the country's universities. Paramilitary groups and guerrillas, however, often targeted teachers at the elementary and secondary levels in areas of conflict. They also threatened university-level academics doing studies on internal conflict and human rights.

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

The Constitution provides for freedom of peaceful assembly and association, and the Government respects these rights in practice. The authorities do not normally interfere with public meetings and demonstrations and usually grant the required permission except when they determine that there is imminent danger to public order. In Bogota, however, officials who routinely issue demonstration permits indicated they were under pressure to discriminate against some of the civic action groups that organized to criticize the President. Any organization is free to associate with international groups in its field.

NGO's criticized the Government's response to protest demonstrations involving an estimated 80,000 to 150,000 "cocaleros" (coca cultivators and field workers, supported in part by guerrillas and narcotics traffickers) who mobilized in July, August, and early September to impede the Government's counternarcotics operations in coca-growing regions. In the resulting confrontations, government forces generally abided by standing orders not to employ deadly force. However, soldiers did kill some protesters, and some abuses were alleged. Investigators sent to the region by a consortium of NGO's attributed 13 killings to the army, 1 to the police, and 4 to guerrillas. They cautioned, however, that the death toll may have been higher. An estimated 200 demonstrators were injured; soldiers and police also sustained injuries. The NGO delegation reported other types of abuse, including incidents of excessive use of force, forced disappearances, arbitrary arrests, destruction of private property, and eradication of legitimate crops. The NGO's also reported that the murder of two soldiers may have been related to the protest.

#### c. Freedom of Religion

The Constitution provides for complete religious freedom, and the Government respects this right in practice. There is little religious discrimination. Roman Catholic religious instruction is no longer mandatory in state schools, and a Constitutional Court decision in 1994 found unconstitutional any official government reference to religious characterizations of the country. The Government permits proselytizing among the indigenous population, provided that it is welcome and does not induce members of indigenous communities to adopt changes that endanger their survival on traditional lands. The law on the freedom of cults provides a mechanism for religions to obtain the status of recognized legal entities.

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

The Constitution provides citizens with the right to travel domestically and abroad. Outsiders wishing to enter Indian tribes' reserves must be invited. In areas where military operations against guerrillas are underway, police or military officials occasionally required civilians to obtain safe-conduct passes; guerrillas reportedly used similar means to restrict travel in areas under their control. Guerrilla incursions, military counterinsurgency operations, guerrilla and paramilitary conscription, and land seizures by narcotics traffickers often forced peasants to flee their homes and farms. In October the office of the President's adviser for human rights reported that 750,000 out of a total population of 35 million are displaced persons. This marks a significant increase since 1995, when the Colombian Conference of Bishops reported 600,000 displaced persons. The President's adviser attributed the mass displacement to the presence of paramilitary, guerrilla, and narcotics trafficking organizations in many regions and the armed confrontations among them, as well as with the armed forces. The report cited factors such as threats, murder attempts, selective killings, massacres, torture, and aerial combat operations provoked by participants in the armed conflict. The adviser's office further estimated that 195 persons per day must leave their homes because of the violence.

According to the System of Information on Households Displaced by Violence (SISDES), the army was responsible for 16 percent of the displacement, paramilitary organizations for 32 percent, and guerrilla organizations for 26 percent. SISDES attributed the remaining 26 percent to the influence of the police, urban militias, and drug traffickers. The Uraba region of Antioquia and Choco departments suffered the greatest displacement. The Ombudsman reported that 300,000 persons fled Uraba for other regions during the last 10 years.

A case that aroused considerable controversy was that of 106 families violently displaced by members of paramilitary groups from land in Cesar department that the Colombian ambassador to the European Union claims to be his property. Many of these families sought shelter with the Ombudsman in Bogota, where they remained at year's end for lack of other refuge. On November 5, the ambassador resigned, following an October 24 resolution by the European Parliament criticizing the Government for gross human rights violations and calling for the ambassador to step down. Displaced persons continued to face a crucial dilemma: They could not stay in conflict zones because of legitimate fears for their safety, but they also were rejected and perceived as an economic burden by the regions and cities that were their most common destinations.

Colombia has had a tradition of providing political asylum since the 1920's. During the 1970's, Colombia granted asylum to Argentine, Chilean, Uruguayan, and Paraguayan citizens seeking refuge from dictatorial regimes in their own countries.

The Government cooperates with the office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the political nature of the persecution an applicant may have suffered. The issue of the provision of first asylum did not arise. There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens exercise this right in regular, secret ballot elections that have historically been considered fair and open. However, critics question if they are indeed fair, pointing out that vote buying is a regular feature of elections in some regions, and that President Samper's 1994 election campaign solicited and received contributions from drug traffickers. Presidential elections are held every 4 years. The Liberal and Conservative parties have long monopolized the formal political process with one or the other customarily winning the presidency. The President serves only one term and may not be reelected. All citizens are enfranchised at the age of 18. Public employees are not permitted to participate in



campaigns but, with the exception of the military, may vote. Officially, all political parties operate freely without government interference. Those that fail to garner 50,000 votes in a general election may lose the right to present candidates and may not receive funds from the Government. However, they may reincorporate at any time by presenting 50,000 signatures to the National Electoral Board.

The 1991 Constitution created the office of vice president, replacing an arguably less significant "presidential designate," elected by Congress. In 1994 the country held a national presidential election as well as congressional, gubernatorial, and mayoral elections. For the first time, the country also elected a Vice President, Humberto de la Calle, who ran on the Liberal Party ticket with presidential candidate Ernesto Samper. (Carlos Lemos Simmonds replaced De la Calle, who resigned in September.) Liberal Party representatives made a strong showing in the congressional elections, providing a Liberal majority in both houses. However, bipartisan coalitions were still often necessary for the Liberals to enact legislation. A group of Conservative Party supporters was key in the 111-to-44 vote not to impeach Samper on charges of knowingly receiving campaign contributions from drug traffickers.

The high level of violence has a profound effect on the political process: Reiniciar's report to the IACHR listed freely elected officials forced to leave Colombia because of death threats. In addition to the murdered UP officials (see Section 1.a.), the office of the High Commissioner for Peace reported that 1,143 civic and political leaders of other parties were killed between 1990 and 1995.

There are no legal restrictions, and few practical ones, on the participation of women or minorities in the political process. Seven female senators and 19 female representatives served among the 267 members of Congress, including the first vice president of the House of Representatives. The Ministers of Foreign Affairs, Agriculture, Education, and Health were women, as were the President's advisers for juridical affairs, for Bogota, for Medellin, and for public administration affairs.

The Constitution reserves 2 seats in the 102-seat Senate for representatives of the indigenous population, and a 1993 law set aside 2 seats in the 165-seat House of Representatives for citizens of African heritage. In September, however, the Constitutional Court declared the latter law unconstitutional. The Court tasked the two African-Colombian representatives to redraft the law during the remaining 2 years of their terms in order to establish the permanent seats in a manner consistent with provisions of the 1991 Constitution.

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

A large nongovernmental human rights community is active. It includes the Center for Investigations and Popular Research, the Colombian Commission of Jurists, the Intercongregational Commission for Justice and Peace, the Permanent Committee for the Defense of Human Rights, the Catholic Bishops Conference, the Latin American Institute for Alternative Legal Services, the Association of Families of Detained and Disappeared Persons, and Peace Brigades International.

NGO's investigated and reported on human rights abuses committed by government forces, the paramilitaries, and guerrillas. They expressed serious concern at what they viewed to be the increasing militarization of Colombia as the internal armed conflict escalated, and with it, a loss of interest in seeking peace through negotiation. NGO's almost unanimously criticized the deterioration of the Samper administration's human rights policies, particularly his reliance on declared states of emergency and establishment of special order zones--which they characterized as allowing the military to displace civil authority, and imposing abusive restrictions on citizens. NGO's were highly critical of the Government's handling of the protest of the cocaleros, whom they believed unfairly bore the brunt of the Government's

antidrug policy.

The Government in November took a significant step to expand human rights monitoring by signing an agreement with the United Nations High Commissioner on Human Rights to establish a field office in Bogota. This seven-person office, scheduled to open in February 1997, is to monitor, analyze, and report on human rights abuses throughout the country. It is expected to serve as an experiment and model for other countries under U.N. scrutiny for their high incidence of human rights violations.

The Government has an extensive human rights apparatus, which includes the office of the President's Adviser for Human Rights, the Ombudsman and its regional representatives, the Attorney General's office for human rights and regional representatives, and a special unit within the Prosecutor General's office. The Ministry of Defense has had a Secretariat for Human Rights since 1994, with a system of 208 human rights offices, down to the battalion level, distributed through all branches of the armed services, including the police. By year's end, the Interior Ministry had selected a candidate to head its new human rights office, which is to expand existing programs within the Ministry. The Red Cross and presidential adviser collaborated with the armed services to expand training in human rights and international humanitarian law.

In general, a state of estrangement continued between the Samper administration and the NGO's, which found no reason to return to the Joint Commission on Human Rights which they left in 1995. Prominent military officials voiced feelings of frustration and outright hostility toward the NGO community. After much debate, a majority of NGO's agreed that the establishment of a field office of the U.N. Commissioner for Human Rights was a workable alternative to a Special Rapporteur. This agreement implied recognition for the efforts of the Government's civilian human rights officials who proposed the office despite fierce opposition from high-ranking military officials. Nevertheless, the corps of government human rights advisers and monitors was often unsuccessful in getting its recommendations adopted on government policy issues.

Although the Government generally did not interfere with the work of human rights NGO's, staff members and volunteers often faced threats and intimidation by individual members of the police and armed forces, paramilitary groups, or guerrillas. Since October human rights lawyer Pedro Julio Macheca Avila has been under surveillance by unidentified individuals who also attempted to locate members of his family. The motivation for this pattern of harassment may be Macheca Avila's legal representation of controversial figures, among whom are acknowledged members of the ELN guerrilla group. Macheca Avila's representation of peasant families threatened by paramilitaries in Cesar department may also be the cause of the harassment.

Peace Brigades International expressed concern that an investigation of the organization in June by the SIJIN (local police investigators), possibly working with the army, may have been part of an effort to intimidate and discredit the organization. Many prominent human rights monitors worked under constant fear for their physical safety. The executive director of the Permanent Committee for the Protection of Human Rights left the country in May after narrowly escaping an attempt on his life by armed assailants.

The outgoing Ombudsman expressed serious concern over the Samper administration's declining commitment to human rights programs initiated during the President's first year in office. This decline began in mid-1995 with the onset of the political crisis related to formal testimony indicating that President Samper knew of and welcomed donations from drug traffickers to his 1994 presidential campaign. Many government and NGO human rights monitors expressed concern that Samper's failure to promote reform of the military justice system, coupled with hard-line Senators' "counterreform" proposals, indicated a growing willingness by both the executive and legislative branches to cede to the

military some of the already limited checks that the Attorney General and Prosecutor General exercise under the 1991 Constitution. Such counterreforms are scheduled for congressional debate in 1997.

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

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

NGO's report that homosexuals are occasional victims of violence and the vigilante killings known as social cleansing.

#### **Women**

Rape and other acts of violence against women are pervasive in society, and like other crimes, are seldom prosecuted successfully. Spousal abuse in itself is not considered a crime. The quasi-governmental Institute for Family Welfare (ICBF) and the Presidential adviser's Office for Youth, Women, and Family Affairs continued to report high levels of spouse and partner abuse throughout the country. The ICBF conducted programs and provided refuge and counseling for victims of spouse but the level and amount of these services were dwarfed by the magnitude of the problem.

The law provides relatively mild sentences, ranging from 6 months to 8 years, for crimes of sexual abuse and allows for significant sentence reductions based on the conduct of the convicted perpetrator. In cases of sexual abuse, police may not legally detain the perpetrators unless the abuse was committed in conjunction with other crimes. In most cases, the assailant is released because the law permits the probationary release of criminals convicted of crimes carrying minimum sentences of less than 2 years. In July President Samper signed Law 294 on family violence, which identifies as crimes violent acts committed within families, including spousal rape. It also provides legal recourse for victims of family violence, immediate protection from physical or psychological abuse, and judicial authority to remove the abuser from the household. The law also allows a judge to oblige an abuser to seek therapy or reeducation. For acts of spousal sexual violence, the law mandates sentences of 6 months to 2 years. It denies probation or bail to offenders who disobey court restraining orders. At year's end, it was too soon to measure the effect the new law may have.

The Constitution prohibits any form of discrimination against women and specifically requires the authorities to "guarantee adequate and effective participation by women at decisionmaking levels of public administration." Even prior to implementation of the 1991 Constitution, the law had provided women with extensive civil rights. Despite these constitutional provisions, however, discrimination against women persists. According to figures published by the United Nations, women's earnings for formal sector, nonagricultural work correspond to approximately 85 percent of men's earnings for comparable work, and women must demonstrate higher qualifications than men when applying for jobs. Moreover, women constitute a disproportionately high percentage of the subsistence labor work force, especially in rural areas. Women's groups such as Promujer and the Association of Twenty-First Century Women reported that the social and economic problems of single mothers remained great throughout the year, despite government efforts to provide them with training in parenting skills.

#### **Children**

The Government provide public education, which is compulsory for children 6 through 14 years of age. Nevertheless, an estimated 25 percent of children in this age group do not attend school, due to lax enforcement of truancy laws and inadequate classroom space.

Despite significant constitutional and legislative commitments to the protection of the rights of children, these were only minimally implemented. The Constitution imposes the obligation on family, society, and the State to assist and protect children, to foster their development, and to assure the full exercise of these rights. A special Children's Code sets forth many of these rights and establishes services and programs designed to enforce the protection of minors. Children's advocates reported the need to educate citizens with regard to the code as well as the new Law on Family Violence, which was drafted particularly to increase legal protection for women and children. The ICBF oversees all government child protection and welfare programs and funds nongovernmental and church programs for children.

Child prostitution was commonplace in the five major cities. In Medellin the city initiated in August a program called "Street Dwellers" as an outreach program to assist child prostitutes ranging in age from 8 to 18 years. Street children continued to be the targets of social cleansing gangs. In conflict zones, children were also often caught in the crossfire between the security forces, paramilitary groups, and guerrilla organizations. Deadly land mines known as "leg breakers" laid by guerrillas killed or mutilated many children in these areas. Guerrilla groups continued to recruit minors, and there were increased reports that they sexually abused teenage female recruits. According to figures published by the army, approximately 2,000 children participated in some fashion in the guerrilla combat. An estimated 48 percent of all persons displaced by violence are children. According to statistics compiled by the President's antikidnaping czar and the Pais Libre foundation, children surpassed businessmen and ranchers as prime kidnaping targets during the first months of the year.

#### People with Disabilities

The Constitution enumerates the fundamental social, economic, and cultural rights of the physically disabled, but serious practical impediments exist to prevent disabled persons' full participation in society. There is no legislation that specifically mandates access for people with disabilities. According to the Constitutional Court, physically disabled individuals must have access to receive assistance at voting stations. Also according to a Constitutional Court ruling, the social security fund for public employees cannot refuse to provide services for the disabled children of its members, regardless of the cost involved.

#### Indigenous People

There are approximately 82 distinct ethnic groups among the 800,000 indigenous inhabitants. The Constitution gives special recognition to the fundamental rights of indigenous people. It provides for a special criminal and civil jurisdiction, based upon traditional community laws, within Indian territories. The Ministry of Interior, through the Office of Indigenous Affairs, is responsible for protecting the territorial, cultural, and self-determination rights of Indians. Ministry representatives are located in all regions of the country with indigenous populations and work with other governmental human and civil rights organizations to promote Indian interests and investigate violations of indigenous rights. Nonetheless, members of indigenous groups suffer discrimination in the sense that they have traditionally been relegated to the margins of society. Few opportunities exist for those who might wish to participate more fully in modern life.

Traditional Indian authority boards operate some 334 designated Indian reserves; the boards handle national or local funds and are subject to fiscal oversight by the national Comptroller General. These boards administer their territories as municipal entities, with officials elected or otherwise chosen according to Indian tradition. Indigenous communities are free 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.

In June members of the Wayuu community occupied the headquarters of the Government's Office of Indigenous Affairs to protest what the wayuu considered the Government's condescending treatment of the community. The protesters subsequently moved their protest to the offices of the Colombian Conference of Bishops. The protest ended after 36 days, when the Government issued two decrees creating a human rights commission for indigenous communities and a permanent board for coordination with the indigenous communities.

Indigenous communities suffer disproportionately from the internal armed conflict. In September 4,000 members of indigenous communities gathered in Popayan, the capital of Cauca department to protest the presence of government forces paramilitaries, and guerrilla in their territories and to meet with government authorities to initiate a dialog on better health and education services, environmental protection, and agricultural development.

A contract that Ecopetrol, the national oil company, awarded to Occidental Petroleum caused a direct conflict with the W'wa indigenous community. Despite a provision of the 1991 Constitution obliging the Government to consult indigenous populations before allowing any development or change on indigenous territory, the contract called for Occidental Petroleum to conduct a geological survey for petroleum sources. In response to a formal request by the Ombudsman, a Bogota tribunal issued an injunction ordering the Government to respect the w'wa community's rights in this matter. The Supreme Court subsequently granted an appeal filed by Ecopetrol and Occidental. That decision in turn threw the case to the Constitutional Court for a final ruling which was still pending at year's end.

Despite official government policy to protect indigenous populations, members of indigenous communities were frequently the victims of violence throughout the year. By August 12 members of the Senu community of the San Andres de Sotavento indigenous reserve, including the community's mayor, had been killed. In zones where the guerrillas were active, such as the Sierra Nevada and Valle de Cauca, the security forces often suspected the indigenous population of complicity with narcotics traffickers and guerrillas. However, most of the incidents in which people attacked or threatened Indians stemmed from land ownership disputes concerning the designated Indian reserves. The National Land Reform Institute estimated that some 40 indigenous communities had lost legal title to land that they claimed as their own and that roughly 100 other groups had title claims that were not recognized or reconciled.

#### National/Racial/Ethnic Minorities

Approximately 2 million citizens of African heritage live primarily in the Pacific departments of Choco, Valle del Cauca, and Narino, and along the Caribbean coast. They represent roughly 4 percent of the total population, although representatives of the African-Colombian community believe their population is much larger. Blacks are entitled to all constitutional rights and protections but have traditionally suffered from economic discrimination.

Despite the passage of the African-Colombian Law in 1993, little concrete progress was made in expanding public services and private investment in the Choco or other predominantly black regions. In September the Government established a special fund to provide scholarships and credits to expand African-Colombians' access to higher education. Allegations of discrimination and hazing by the military against African-Colombians continued. The navy makes little effort to recruit African-Colombians, despite their traditional ties to the sea and maritime commerce. Like other communities on the margins of society, Afro-Colombians suffered disproportionately from political violence, particularly in the struggle between paramilitary and guerrilla forces for control of Uraba. Unemployment among African-Colombians is as high as 76 percent in some communities.

## Section 6 Worker Rights

### a. The Right of Association

The law recognizes the rights of workers to organize unions and strike. The Labor Code provides for automatic recognition of unions that obtain at least 25 signatures from the potential members and comply with a simple registration process at the Labor Ministry. The law penalizes interference with freedom of association. It allows unions to determine freely internal rules, elect officials, and manage activities, and forbids the dissolution of trade unions by administrative fiat. According to Labor Ministry estimates, approximately 7 percent of the work force is organized in 2,235 unions.

The 1991 Constitution provides for the right to strike by nonessential public employees and authorizes Congress to pass enabling legislation that would define "essential," but legislation that prohibits public employees from striking is still in force. Before staging a legal strike, unions must negotiate directly with management and--if no agreement results--accept mediation. By law, public employees must accept binding arbitration if mediation fails; in practice, public service unions decide by membership vote whether or not to seek arbitration.

In 1993 the International Labor Organization (ILO) criticized 10 provisions of the law, including: The supervision of the internal management and meetings of unions by government officials; the presence of officials at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their trades once 6 months have passed following a strike or dispute; the requirement that contenders for trade union office must belong to the occupation their union represents; the prohibition of strikes in a wide range of public services that are not necessarily essential; various restrictions on the right to strike; the power of the Minister of Labor and the President 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.

On October 14 truck drivers staged a major strike that paralyzed cargo transport in many regions of the country. The Minister of Transportation declared the strike illegal and ordered the truckers back to work. When they refused, the Government declared that it would consider taking legal action against 105 trucking companies, arrested 60 drivers, and investigated 216 cargo vehicle owners. The strike ended after 11 days, when government and trucking representatives reached an accord raising the allowable cost of cargo transport.

A collective work convention signed in 1995 between Ecopetrol and the Union of Syndicated Labor (USO) remained in effect. That accord was the result of the Government's restructuring, rather than privatizing, Ecopetrol to avoid massive layoffs. The USO leadership remained in open conflict with the Government on many issues. USO leaders reported further that its members continued to receive death threats from presumed paramilitary groups active in the oil-producing Magdalena Medio region.

Labor leaders throughout the country continued to be the target of attacks by the military, police, paramilitary groups, guerrillas, narcotics traffickers, and their own union rivals. In April the Latin American Central of Workers reported that at least 2,000 Colombian union members and leaders had been killed since 1991. According to figures published by Justice and Peace, during the first 6 months of 1996, 14 labor activists were murdered in connection with their labor activities. The report listed 2 presumed murdered because of their labor activities, 2 forcible disappearances, and 12 illegal detentions. In the banana-producing region of Uraba, organized workers historically belonged to the extreme left wing of the labor movement but refused to cooperate with the FARC. Paramilitary and guerrilla organizations carried out a rash of massacres in Uraba throughout the year. Approximately half the

victims of the FARC massacres were former EPL members, targeted for their participation in or sympathy with the National Syndicate of Agro-Industry Workers, a labor union closely associated with the Hope, Peace, and Freedom Movement of demobilized EPL guerrillas.

The list of killings, intimidations, and arbitrary arrests of labor union leaders included the murder of Norte de Santander Workers Union president Elba Hernandez de Aguilera in August and the forced disappearance and murder of Unified Workers' Central member Hector Posada, found in a mass grave in March in Uraba. The Justice and Peace data bank reported 61 threats against other labor leaders were reported from January through June.

Unions are free to join international confederations without government restrictions.

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

The Constitution protects the right of workers to organize and engage in collective bargaining. Workers in larger firms and public services have been most successful in organizing, but these unionized workers represent only a small portion of the economically active population. High unemployment (about 12 percent), traditional antiunion attitudes, and weak union organization and leadership limit workers' bargaining power in all sectors.

The law forbids antiunion discrimination and the obstruction of free association. Government labor inspectors theoretically enforce these provisions, but because of the small number of inspectors and workers' fears of losing their jobs, the inspection apparatus is weak. The Labor Code calls for fines to be levied for restricting freedom of association and prohibits the use of strike breakers.

Collective pacts--agreements between individual workers and their employers--are not subject to collective bargaining and are typically used by employers to obstruct labor organization. Although employers must register collective pacts with the Ministry of Labor, the Ministry does not exercise any oversight or control over them.

The Labor Code also eliminates mandatory mediation in private labor-management disputes and extends the grace period before the Government can intervene in a conflict. Federations and confederations may assist affiliate unions in collective bargaining.

Labor law applies to the country's seven free trade zones (FTZ's), but its standards are difficult to enforce. Public employee unions have won collective bargaining agreements in the FTZ's of Barranquilla, Buenaventura, Cartagena, and Santa Marta, but the garment manufacturing enterprises in Medellin and Risaralda, which have the largest number of employees, are not organized. National labor leaders claim that in these FTZ's the provisions of the Labor Code dealing with wages, hours, health, and safety are not honored.

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

The Constitution forbids slavery and any form of forced or compulsory labor, and this prohibition is respected in practice.

#### d. Minimum Age for Employment of Children

The Constitution bans the employment of children under the age of 14 in most jobs, and the Labor Code prohibits the granting of work permits to youths under the age of 18. This provision is respected in

larger enterprises and in major cities. Nevertheless, the extensive informal economy remains effectively outside government control. Some 800,000 children between the ages of 12 and 17 work, according to Labor Ministry studies. These children work--often under substandard conditions--in agriculture or in the informal sector, as street vendors, in leather tanning, and in small family-operated mines. Working children are exposed to the same risks that affect adult workers, including exposure to toxic substances and accidental injuries, all of which contribute to impaired physical development. The ICBF continued its outreach campaign to inform child laborers of their rights and where to turn for help. No figures were available to measure the impact of this effort.

#### e. Acceptable Conditions of Work

The Government sets a uniform minimum wage for workers every January to serve as a benchmark for wage bargaining. The minimum wage was approximately \$140 (col\$ 140,000) per month. The minimum wage does not provide a decent standard of living for a worker and family. Because the minimum wage is based on the Government's target inflation rate, the minimum wage has not kept up with inflation in recent years. By government estimates, the price of the family shopping basket is 2.4 times the minimum wage. However, 60 percent of all workers earn no more than, and often much less than, twice the minimum wage.

The law provides for a standard workday of 8 hours and a 48-hour workweek, but it does not specifically require a weekly rest period of at least 24 hours, a failing criticized by the ILO. Legislation provides comprehensive protection for workers' occupational safety and health, but these standards are difficult to enforce, in part due to the small number of Labor Ministry inspectors. In addition, unorganized workers in the informal sector fear that they will lose their jobs if they exercise their right to denounce abuses, particularly in the agricultural sector. According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment. In general, a lack of public safety awareness, inadequate attention by unions, and lax enforcement by the Labor Ministry result in an alarmingly high level of industrial accidents and unhealthy working conditions. Over 80 percent of industries lack industrial security plans. The Social Security Institute reported 115,000 work-related accidents for 1995, 17,000 of which resulted in deaths. Informed observers reported that the level of work-related accidents was expected to remain at comparably high levels in 1996.

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