



## 1999 Country Reports on Human Rights Practices

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### COLOMBIA

Colombia is a constitutional, multiparty democracy, in which the Liberal and Conservative parties have long dominated politics. Citizens elected President Andres Pastrana of the Conservative Party and a bicameral legislature controlled by the Liberal Party in generally free, fair, and transparent elections in 1998, despite attempts at intimidation and fraud by paramilitary groups, guerrillas, and narcotics traffickers. The civilian judiciary is largely independent of government influence, although the suborning or intimidation of judges, witnesses, and prosecutors by those indicted is common.

The Government continued to face a serious challenge to its control over the national territory, as longstanding and widespread internal armed conflict and rampant violence--both political and criminal--persisted. The principal participants were government security forces, paramilitary groups, guerrillas, and narcotics traffickers. In some areas government forces were engaged in combat with guerrillas or narcotics traffickers, while in others paramilitary groups fought guerrillas, and in still others guerrillas attacked demobilized members of rival guerrilla factions. Paramilitary groups and guerrillas attacked at increasing levels unarmed civilians suspected of loyalty to an opposing party in the conflict. The two major guerrilla groups, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), consist of an estimated 11,000 to 17,000 full-time combatants organized into more than 100 semiautonomous groups. The FARC and the ELN, along with other smaller groups, exercised a significant degree of influence and initiated armed action in nearly 1,000 of the country's 1,085 municipalities during the year, compared with 700 municipalities in 1998. The major guerrilla organizations received a significant part of their revenues (in the hundreds of millions of dollars) from fees levied on narcotics production and trafficking. Guerrillas and paramilitary groups supplanted absent state institutions in many sparsely populated areas of the national territory. In July 1998, then-President-elect Pastrana met with the FARC's leader, "Manuel Marulanda Velez," and agreed to a demilitarized zone ("despeje") in which the two sides could pursue direct peace talks. In November 1998, the despeje was initiated in 5 southern municipalities, with a total population of approximately 100,000 persons. Security forces completed their withdrawal from the area the following month. In January Marulanda failed to appear for the scheduled formal inauguration of peace talks in the despeje. President Pastrana and Marulanda met again in May and agreed on an agenda for formal negotiations and on procedures for the creation of an international verification commission to monitor both sides' compliance with the terms of the despeje. However, the FARC refused to proceed with the establishment of the commission. Formal Government-FARC peace negotiations began in earnest in October and were underway at year's end, following the Government's concession to the FARC that, at least initially, there be no international verification commission. The Government also held a series of informal discussions with the ELN during the year, but insisted on the ELN's release of the victims of specific mass kidnappings as a condition for undertaking formal negotiations and for demilitarizing a zone in which the ELN could hold its national convention. At year's end, the ELN had not complied with the Government's request and still held captive several dozen of the specified kidnap victims.

The civilian-led Ministry of Defense is responsible for internal security and oversees both the armed forces and the National Police, although civilian management of the armed forces is limited. The security forces include armed state law enforcement, investigative, and military authorities, including the National Police, army, air force, navy, marines, coast guard, the Administrative Department of Security (DAS), and the Prosecutor General's Technical Corps of Investigators (CTI). The army, air force, navy, marines, coast guard, and National Police fall under the direction of the Minister of Defense. The DAS, which has broad intelligence gathering, law enforcement, and investigative authority, reports directly to the President, but is directed by a law enforcement professional. The police are charged formally with maintaining internal order and security, but in practice law enforcement responsibilities often were shared with the army, especially in rural areas. The security forces regularly failed to confront paramilitary groups, and members of the security forces sometimes illegally collaborated with paramilitary forces. The armed forces and the police committed numerous, serious violations of human rights throughout the year.

Despite years of drug- and politically related violence, the economy is diverse and developed. However, the economy has suffered a recession, and there was negative growth of 5 percent in 1999 for the first time in the country's modern history. The Government has privatized many public-sector entities and liberalized trade and financial activity since 1991, and it plans further privatizations. Crude oil, coal, coffee, and cut flowers are the principal legal exports. Narcotics traffickers continued to control large tracts of land and other assets and exerted influence throughout society, the economy, and political life. The official unemployment rate peaked at 20 percent, a record high, although it had declined to 18.1 percent by year's end. Inflation at year's end was 9.2 percent. The Government passed an austere budget to address the fiscal gap, which was at 6 percent of gross domestic product (GDP), and has prepared reform proposals in areas such as pensions and regional finance. The balance of payments deficit was 4.5 percent of GDP. Income distribution is highly skewed; much of the population lives in poverty. Per capita GDP was approximately \$2,100.

The Government's human rights record remained poor; there was some improvement in several areas, and the Pastrana administration took measures to initiate structural reform, but serious problems remain. Government forces continued to commit numerous, serious abuses, including extrajudicial killings, at a level that was roughly similar to that of 1998. Despite some prosecutions and convictions, the authorities rarely brought officers of the security forces and the police charged with human rights offenses to justice, and impunity remains a problem. At times the security forces collaborated with paramilitary groups that committed abuses; in some instances, individual members of the security forces actively collaborated with members of paramilitary groups by passing them through roadblocks, sharing intelligence, and providing them with ammunition. Paramilitary forces find a ready support base within the military and police, as well as local civilian elites in many areas.

On August 12, President Pastrana signed into law a revised Military Penal Code, which includes provisions that unit commanders no longer may judge their subordinates; that an independent judge advocate general corps is to be created; and that troops are to be protected legally if they refuse to carry out illegal orders to commit human rights abuses. However, necessary implementing legislation had not been passed at year's end. Also on August 12, the Government made public the Government's national human rights plan,

which includes a provision that permits the armed forces commander to remove from service summarily any military member whose performance in combating paramilitary forces he deemed "unsatisfactory or insufficient." The State demonstrated an increased willingness to remove from duty security force officers who failed to respect human rights, or ignored or were complicit in the abuses committed by paramilitary groups. The Government removed four army general officers from service during the year; the generals were under investigation for collaborating with or failing to combat paramilitary groups. A few other state security officers were removed from service or suspended during the year. The military judiciary demonstrated an increased willingness to turn cases involving security force officers accused of serious human rights violations over to the civilian judiciary, as required by a 1997 Constitutional Court ruling; however, concerns about impunity within the military judiciary remained.

Police, prison guards, and military forces continued to torture and mistreat detainees. Conditions in the overcrowded prisons are generally harsh; however, some inmates use bribes or intimidation to obtain more favorable treatment. Arbitrary arrest and detention, as well as prolonged pretrial detention, are fundamental problems. The civilian judiciary is inefficient, severely overburdened by a large case backlog, and undermined by intimidation and the prevailing climate of impunity. This situation remains at the core of the country's human rights problems. The Superior Judicial Council (CSJ) reported in August that 63 percent of crimes go unreported, and that 40 percent of all reported crimes go unpunished. The use of "faceless" prosecutors, judges, and witnesses, under cover of anonymity for security reasons, continued until June 30, in cases involving kidnaping, extortion, narcotics trafficking, terrorism, and in several hundred high-profile cases involving human rights violations. Human rights groups accused these courts of violating fundamental rights of due process, including the right to a public trial. On June 30, a "specialized jurisdiction" replaced the anonymous regional court system. The specialized jurisdiction prosecuted and tried cases of extortion, narcotics trafficking, money laundering, terrorism, and serious human rights violations, including massacres, some homicides, torture, and kidnaping. It permitted the use of anonymous witnesses and prosecutors in exceptional cases that potentially placed their lives in danger.

The authorities sometimes infringed on citizens' privacy rights. Journalists practiced self-censorship. There were some restrictions on freedom of movement. There were unconfirmed reports of security forces harassing or threatening human rights groups. Violence and extensive societal discrimination against women, abuse of children, and child prostitution are serious problems. Extensive societal discrimination against the indigenous and minorities continued. Child labor is a widespread problem. Trafficking in women and girls for the purpose of forced prostitution is a problem. "Social cleansing" killings of street children, prostitutes, homosexuals, and others deemed socially undesirable by paramilitary groups, guerrillas, and vigilante groups continued to be a serious problem.

Paramilitary groups and guerrillas were responsible for the vast majority of political and extrajudicial killings during the year. Throughout the country, paramilitary groups killed, tortured, and threatened civilians suspected of sympathizing with guerrillas in an orchestrated campaign to terrorize them into fleeing their homes, thereby depriving guerrillas of civilian support. Paramilitary forces were responsible for an increasing number of massacres and other politically motivated killings. They also fought guerrillas for control of some lucrative coca-growing regions and engaged directly in narcotics

production and trafficking. The AUC paramilitary umbrella organization, whose membership totaled approximately 5,000 to 7,000 armed combatants, exercised increasing influence during the year, extending its presence through violence and intimidation into areas previously under guerrilla control. Although some paramilitary groups reflect rural residents' desire to organize solely for self-defense, others are vigilante organizations, and still others are actually the paid private armies of narcotics traffickers or large landowners. Popular support for these organizations grew during the year, as guerrilla violence increased in the face of a slowly evolving peace process. The army's record in dealing with paramilitary groups remained mixed. In some locations the army on rare occasions attacked and captured members of such groups; in others it tolerated or even collaborated with paramilitary groups.

The FARC and the ELN regularly attacked civilian populations, committed massacres and summary executions, and killed medical and religious personnel. Guerrillas were responsible for the majority of cases of forcible recruitment of indigenous people and of hundreds of children; they also were responsible for the majority of kidnappings. Guerrillas held more than 1,000 kidnaped civilians, with ransom payments serving as an important source of revenue. Other kidnap victims were killed. In some places, guerrillas collected "war taxes," forced members of the citizenry into their ranks, forced small farmers to sow illicit crops, and regulated travel, commerce, and other activities. The FARC routinely committed abuses against citizens who resided in the despeje zone. Numerous credible sources reported cases of murder, rape, extortion, kidnaping, robbery, threats, detention, and forced recruitment, as well as impediments to free speech and fair trial and interference with religious practices.

Violence and instability in rural areas displaced approximately 288,000 civilians from their homes during the year. The total number of internally displaced citizens during 1995-99 probably exceeded 1 million.

## **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 killings continued to be a serious problem. An estimated 2,000 to 3,000 citizens died in such acts, committed principally by nonstate agents. Members of the security forces continued to commit extrajudicial killings, and the number of such killings was at a level similar to the previous year. For the first 9 months of the year, the Center for Investigations and Popular Research (CINEP), a nongovernmental organization (NGO), reported that security forces were responsible for 24 extrajudicial killings in which the perpetrators could be identified, compared with 21 during the same period in 1998. These included deaths resulting from police abuse of authority. Most of the accused were called before military or, increasingly, civilian courts. There were some reports that police and former security force members committed social cleansing killings.

According to the human rights Ombudsman's office, there were 399 massacres (defined as the simultaneous or nearly simultaneous killing of 3 or more persons outside of combat at a single location or at several nearby locations) during the year. An estimated 1,845 persons were killed in these massacres. The office recorded 235 massacres in 1998, but

changed the criteria for describing an attack as a massacre during 1999. The human rights Ombudsman's office attributed culpability for 20 killings to the state security forces.

The human rights delegate of the Attorney General's office received 586 complaints and cases during the year and concluded 285 disciplinary investigations. Among the complaints were 136 of alleged forced disappearances; 103 of torture; and 46 of massacres. The office concluded investigations for alleged infractions committed in previous years by 80 members of the security forces (including 42 members of the National Police, 17 members of the army, and 20 members of the DAS). The office exonerated the accused person in 32 cases and imposed administrative sanctions (e.g. fines, suspensions, dismissals) in 38 cases, including that of 1 army captain for his role in the 1998 Barrancabermeja massacre. The office dropped 10 cases for lack of merit in the latter phases of investigations. Additionally, the office "archived" 191 cases for lack of sufficient evidence. Among those sanctioned were 8 security force officers, including 1 National Police colonel; 11 of the 38 were sanctioned for torture, and 2 were sanctioned for forced disappearance. The office subsequently referred few of those who were sanctioned to the Prosecutor General for criminal prosecution. In November the Attorney General personally ordered Brigadier General Jaime Uscategui removed from service.

During the year, the human rights unit of the Prosecutor General's office pursued 303 criminal processes against members of the security forces, 465 processes against members of paramilitary groups, 149 processes against guerrillas, and 86 processes against civilians. The unit arrested 248 persons during the year, and other state entities arrested a further 87 persons against whom the unit had cases. Another 435 arrest warrants (393 of which were issued by the unit) for persons against whom the unit had cases remained outstanding. The office took action against at least 12 officers for alleged serious human rights abuses.

The National Institute for Forensic Medicine stated in a preliminary report that 22,957 murders occurred during the year, compared with 19,665 during 1998. This represented a marked increase, at 55 deaths per 100,000 inhabitants, from the 1998 figure of 52.8 deaths per 100,000 inhabitants. The press reported that on average, 68 persons were murdered per day. The police and the Prosecutor General's office have insufficient resources to investigate most killings adequately. In August the Superior Judicial Council (CSJ) reported that 63 percent of crimes go unreported, and that 40 percent of reported crimes go unpunished.

During the year, the military judiciary convicted and sentenced 130 members of the National Police, army, and navy for possible human rights violations. (Many of those sanctioned committed crimes that were not human rights abuses.) Among those convicted and sentenced by military courts were 68 members of the army, 56 of the National Police, and 6 of the navy/marines. The military judiciary reported neither the nature of the sentences in the 130 cases nor the circumstances of the crimes. The Civilian Criminal Procedure Code authorizes restriction to base as an acceptable substitute for imprisonment when military jails or prisons are unavailable. In August 1997, the Constitutional Court more narrowly defined the constitutional provision that crimes by state agents unrelated to "acts of service" must be tried in civilian courts (see Section 1.e.). Since then, the military judiciary has turned 526 cases of possible human rights violations over to the civilian judiciary for investigation and possible prosecution. Among the cases transferred during the year were those of three full colonels--the first time that the military judiciary turned

over cases concerning several high-ranking officers.

On March 14, members of the 4th Counter guerrilla Battalion (4th Brigade) killed Antioquia peace commissioner (and former Vice Minister for Youth) Alex Lopera and two other persons as they attempted to deliver an approximately \$75,000 (150 million pesos) ransom for a kidnaping victim to the FARC's 47th front near Sonson, Antioquia. Aware that the three were carrying a large amount of money, army Major David Hernandez, Captain Diego Fino Rodriguez, Sergeant Edgardo Varon, and Privates Carlos Escudero, Ferney Cardona, and Raul Gallego set up a military roadblock, detained them, killed them, stole the ransom money, and then pushed the victims and the vehicle into a deep crevice. Determining that the soldiers' actions were in no way related to acts of service, the military judiciary passed the case to the civilian judiciary. Prosecution of all six was underway at year's end, although Major Hernandez escaped from military detention and remained a fugitive from justice.

On April 18, police found the body of Jewish industrialist Benjamin Khoudari. He had been kidnaped in Bogota on October 30, 1998, and later killed despite his family's payment of ransom. The authorities arrested Fabio Ramiro Cassallas Gonzalez and Alvaro Guerrero Cardenas, former guerrillas who had become army informants; they remained in detention and under investigation at year's end. Also in April, the army arrested Colonel Jorge Plazas Acevedo, the chief of intelligence for the army's 13th Brigade, for allegedly heading a kidnaping gang believed responsible for the kidnaping and killing of several Jewish industrialists, including Khoudari. The authorities arrested a lieutenant and a sergeant under Plazas's command, and placed all three in preventive detention in April. The military judiciary determined that the alleged actions of the three bore no relation to acts of military service, and therefore they should be tried in civilian courts. (As of August, Plazas and the lieutenant remained in military detention, but the sergeant had escaped.) In July the army retired Plazas, and an Attorney General's disciplinary investigation of him was underway at year's end.

Government authorities made arrests of or progressed in prosecuting accused perpetrators of some past killings. The authorities arrested former policemen Rafael Cespedes and Edgar Armando Daza Diaz for the October 1998 killing of Jorge Ortega, vice president of the country's largest labor confederation, the United Workers' Central (CUT), during a major labor strike. One of the two men later escaped detention. An investigation was underway at year's end (see Section 6.a.).

The Attorney General's human rights delegate exonerated soldiers of the army's Boca Battalion, 3rd Brigade, for the July 1998 killings of five civilians at a roadblock about 14 miles outside of Pasto, Narino department. It concluded that the deceased, all of whom reportedly had criminal records, had opened fire on the soldiers, wounding one sergeant. The Third Brigade commander found, in a first-instance military judicial decision, that there were no grounds to open an official investigation of the soldiers, and the case was archived.

On June 30, the National Tribunal (the appellate court for the anonymous regional civilian courts system) overturned a lower court's March decision and sentenced army Captain Rodrigo Canas Forero to 50 years' imprisonment for his role in the April 1996 Segovia massacre. Canas was a member of the army's 14th Brigade (at Puerto Berrio, Antioquia) at the time of the massacre, which resulted in the deaths of 15 persons and the injury of 12

others.

On April 21, detectives from the Prosecutor General's office captured fugitive retired Colonel Bernardo Ruiz Silva, former commander of the army's 20th Brigade (military intelligence). Ruiz was under investigation for allegedly organizing the November 1995 Bogota killing of Conservative Party opposition leader Alvaro Gomez Hurtado and his assistant. In May 1998, the army formally disbanded the 20th Brigade, which had an egregious human rights record, including the targeted killing of civilians. In an effort to ensure that the brigade's successor organization, the Army Military Intelligence Center (CIME), would not commit human rights abuses, the army prohibited it from directly undertaking armed operations. In May 1997, the Prosecutor General's office had detained retired army warrant officers Omar Berrio Loaiza and Franklin Gaona Ovalle, as well as army intelligence agents Henry Berrio Loaiza and Carlos Gaona Ovalle; they later were indicted for the killing of Gomez Hurtado. A trial of civilian killers Hector Paul Florez Martinez, Manuel Mariano Montero Perez, Gustavo Adolfo Jaramillo Giraldo, and Hermes Ortiz Duran was underway at year's end.

The Superior Military Tribunal confirmed a first-instance military court's September 1998 exoneration of five policemen for the 1995 death of Italian tourist Giacomo Turra in a Cartagena police station. Although the policemen claimed that Turra had died of a drug and alcohol overdose, an autopsy by the National Institute of Forensic Medicine determined that he was beaten to death.

The human rights unit of the Prosecutor General's office formally indicted marine Colonel Jose Ancizar Molano Padilla, then-commander of the 2nd Marine Infantry Battalion, as well as marine Corporals Javier Fernando Guerra, Eduardo Aristides Alvarez, and Jose Milton Caicedo for the 1995 social cleansing killings of two alleged thieves, Sifredy and Freddy Arboleda. All of the accused had been arrested in June 1998. A disciplinary investigation by the Attorney General was underway at year's end.

On November 29, the military judiciary ceased all proceedings against the 2 army majors implicated in the investigation of the April 1991 massacre by the army of 15 bus passengers and 2 passersby at Los Uvos. An appeal of this decision was pending at year's end. In July 1998, an anonymous regional court had sentenced three civilians to 30-year prison terms and fined an army corporal and two civilian informants for their roles in the massacre.

On April 14, the National Tribunal confirmed an anonymous civil court judge's March 1998 conviction and sentencing to 18 years' imprisonment of 1 police officer and 4 army officers for their roles in the November 1988 Segovia massacre, in which over 100 persons were killed or wounded. In September military proceedings against these and various other army and police officers were dropped due to lack of evidence. The appeals of Lieutenant Colonel Alejandro Londono Tamayo and Lieutenant Colonel Marco Baez Garzon, on charges relating to the November 1988 Segovia massacre, still were pending in civilian court at year's end. Londono remained in detention, but was still on active duty, although he has been deprived of command responsibilities. Baez Garzon also was deprived of command responsibility, and was in military custody in Bogota at year's end.

On April 12, the Prosecutor General's office placed retired army Lieutenant Colonel Jose Vincente Perez Berrocal under preventive detention to await trial for the 1987 killing of a

former Liberal Party mayor of Sabana de Torres. At the time of the killing, Perez Berrocal was serving as commander of the 5th Brigade's Ricuarte Battalion.

Credible allegations of cooperation with paramilitary groups, including instances of both silent support and direct collaboration by members of the armed forces, in particular the army, continued. Evidence suggests that there were tacit arrangements between local military commanders and paramilitary groups in some regions, and paramilitary forces operated freely in some areas that were under military control or despite a significant military presence. In some instances, individual members of the security forces actively collaborated with members of paramilitary groups--passing them through roadblocks, sharing intelligence, and providing them with ammunition.

On February 14, an unidentified assailant shot and killed army Lieutenant Colonel Luis Felipe Becerra Bohorquez while he dined in a restaurant in Cali. In October 1998, a military court had sentenced Becerra to 12 months' imprisonment for covering up the October 1993 Rio Frio massacre. In May 1998, the Attorney General's office had ordered the army to separate Becerra from service, but later reduced the punishment to issuance of a severe reprimand, because complicity in a massacre had not yet been codified as a crime at the time of the massacre. Becerra had remained a fugitive until his death.

There was no progress in the investigation of the September 1998 killing of congressman Jorge Humberto Gonzalez in Medellin.

The military high command, under the leadership of Defense Minister Ramirez and General Fernando Tapias, stated repeatedly that it would not tolerate collaboration between military personnel and paramilitary groups, and that the army would combat paramilitary groups; however, security force actions in the field were not always consistent with the leadership's positions, and at least one senior army leader suggested that the police should lead the fight against paramilitary groups. In general, impunity for military personnel who collaborated with members of paramilitary groups was common.

However, on April 9, President Pastrana formally retired from service Brigadier Generals Fernando Millan Perez and Rito Alejo del Rio; both had links to paramilitary groups. The Government stated only that it "was no longer convenient" for them to continue their military service. The military judiciary announced no new developments during the year in its ongoing investigation of General Millan regarding allegations that he armed and equipped a paramilitary group in Lebrija, Santander department, in 1997. The group was believed responsible for at least 11 killings. In October 1998, the Superior Judicial Council had determined that Millan's alleged actions constituted an act of service and turned the case over to the military judiciary for prosecution, effectively cutting off the prosecutor's investigation. Millan had denied the charges. In June the Attorney General's office opened a disciplinary investigation of Millan.

General Del Rio, former commander of the 13th Brigade, remained under investigation in August by the human rights unit of the Prosecutor General's office for allegedly establishing illegal paramilitary groups in Medellin in 1987, and in Uraba in 1996.

In May detectives of the Prosecutor General's office arrested at the officers' club in Pereira retired army Colonel Jose Ancizar Hincapie Betancurt for collaboration in 1993-94 with a paramilitary group that killed 10 persons. In December 1997, the military judiciary

assigned the cases of Hincapie, 1 other army officer, and 12 others to the civilian judiciary for processing.

According to a Human Rights Watch report released in December, government investigators detailed direct collaboration between the Medellin-based 4th Brigade and paramilitary forces commanded by Carlos Castano. Repeatedly, paramilitary groups killed those suspected of supporting guerrillas, then delivered the corpses to the army. In a process known as "legalization," the army then claimed the dead as guerrillas killed in combat, while members of the paramilitary groups received their pay in army weapons.

On April 9, the Attorney General suspended Brigadier General Jaime Uscategui from his post for 90 days in connection with the July 1997 AUC paramilitary massacre of dozens of persons at Mapiripan, Meta department. On May 20, the Prosecutor General's office ordered the arrest of Uscategui, who presented himself to an army school, where he was held while awaiting trial on civilian charges of multiple aggravated homicide by omission, aggravated kidnaping by omission, and falsification of a public document. Also in May, Uscategui submitted his resignation letter, effective in January 2000, which was accepted by President Pastrana in August. On August 10, the Superior Judicial Council sent the criminal case against Brigadier General Jaime Uscategui for dereliction of duty and falsification of public documents to the military judiciary. The CSJ found that the charges were related directly to acts of service, and that the alleged crimes could have been committed only by a public servant. In November Uscategui was released after 180 days in detention because military prosecutors had yet to complete prosecution; the investigation continued at year's end. Also in November, the Attorney General ordered Uscategui removed from service for dereliction of duty in the October 1997 judicial convoy massacre in San Juan de Arama, Meta, thereby nullifying his resignation.

The CSJ also sent charges regarding the 1997 Mapiripan massacre against Lieutenant Colonel Hernan Orozco (who had testified against Uscategui in a civilian court) to the military judiciary. However, the CSJ sent the cases against Lieutenant Colonel Lino Sanchez and Sergeants Miller Uruena Diaz and Juan Carlos Gamarra Polo to the civilian judiciary, on grounds that they facilitated the massacre, which was determined not to be an act of service. On November 16, the Prosecutor General's human rights unit formally indicted Lieutenant Colonel Sanchez on charges of terrorism, aggravated homicide, organization of paramilitary groups, and dereliction of duty. In a September 1997 interview in El Tiempo newspaper, AUC paramilitary leader Carlos Castano admitted responsibility for the Mapiripan massacre. In June 1998, the National Police arrested suspected Meta department paramilitary leader Rene Cardenas Galeano for his part in organizing the attack. A specialized jurisdiction court trial of Galeano was underway at year's end. Sanchez, Gamarra, and Uruena remained in military detention at year's end. The two private pilots arrested in 1998 remained in civilian detention at year's end, as did two paramilitary members. The Prosecutor General's investigation continued; and at year's end, a total nine military, paramilitary, and civilian alleged participants in the Mapiripan massacre were in detention pending trial.

On August 12, the Attorney General's office, which can impose only administrative sanctions to state agents, formally accused five officers and three noncommissioned officers of possible complicity or participation in the July 1997 Mapiripan massacre. Those accused are: army officers Brigadier General Jaime Uscategui, Lieutenant Colonel Carlos Eduardo Avila Beltran, Lieutenant Colonel Lino Sanchez Prada, and Major Arbey

Garcia Narvaez; National Police Captain Juan Carlos Lopez Pavon; army Sergeants Miller Uruena Diaz and Juan Carlos Gamarra Polo; and army Corporal Leonardo Montoya Rubiano. The Attorney General's office also formally accused five local Mapiripan civilian officials, including then-mayor Jaime Calderon Moreno, of complicity in the massacre. No arrests were made for a similar paramilitary incursion into Miraflores, Guaviare, on October 18-20, 1997, which left at least five persons dead.

The human rights unit of the Prosecutor General's office issued an arrest warrant for former army Captain Ciro Alfonso Vargas Lancheros for his alleged role in the April 1996 paramilitary murder of three men in Ciudad Bolivar, Medellin. Vargas was still at large at year's end.

On June 18, the Attorney General's office severely reprimanded army First Sergeant Justo Gil Zuniga Labrador and Vice First Sergeant Hernando Medina Camacho, then members of the army's 20th Brigade, for the July 1994 killing of Senator Manuel Cepeda Vargas, leader of the Patriotic Union (UP) party. On November 15, the army announced that it had discharged both men from service. In testimony before the Senate, the Attorney General stated that the Senator had been killed as the result of a joint operation between some senior army officers and members of paramilitary groups; the sergeants had received orders to trail and then kill Cepeda from Brigadier General Rodolfo Herrera Luna, the then-commander of the army's 9th Brigade, who died in 1997. Herrera had planned the killing in conjunction with paramilitary leaders Carlos and Fidel Castano. On December 20, a Bogota specialized jurisdiction court sentenced former army Sergeants Zuniga and Medina to 43 years' imprisonment each for their roles in Cepeda's murder. Both were incarcerated at a military detention center at year's end. The court also dropped related charges against paramilitary leader Carlos Castano for lack of evidence.

There was no progress in the complaint against retired General Yanine Diaz pending before the Inter-American Human Rights Commission (IACHR). Despite the Government's attempts to bring him to justice in the civilian court system, in June 1998, the appellate court of the military judicial system confirmed the June 1997 decision by then-commanding general of the army General Manuel Jose Bonett to exonerate Yanine Diaz of all charges related to formation and activities of paramilitary groups in the Magdalena Medio region in the 1980's.

There continued to be incidents of social cleansing--including attacks and killings--directed against individuals deemed socially undesirable, such as drug addicts, prostitutes, transvestites, homosexuals, beggars, and street children. According to the National Institute for Forensic Medicine, 279 such killings occurred during the first 6 months of the year. The Institute did not attempt to identify the perpetrators. CINEP reported 182 social cleansing killings during the first 9 months of the year. It attributed 10 to the ELN, 20 to the FARC, and 147 to social cleansing groups, some of which reportedly often were composed of active or former security force members. The national human rights Ombudsman attributed five massacres to social cleansing groups during the first half of the year.

The Bogota press reported that between March and August, at least 22 prostitutes were murdered in Bogota. The human rights Ombudsman's office implicated Bogota police in what it characterized as possible social cleansing killings. However, the human rights unit of the Prosecutor General's office reported at year's end that in fact only three Bogota

prostitutes were killed during that time period, in separate, isolated incidents. Its investigations were ongoing at year's end.

In December a court convicted Luis Alfredo Garavito Cubillos of the killing of one boy and the attempted rape of another; Garavito had confessed to killing more than 190 children at year's end, including the killings of 25 children in Pereira which had previously been attributed to Pablo Ramirez Garcia.

On November 11, a car bomb exploded in northern Bogota, killing 7 passersby and wounding 42 others. The bombing came one day after the extradition of a narcotics trafficker to a foreign country for prosecution; press reports speculated that the bombing was an attempt by narcotics traffickers to pressure the Government into ceasing the extradition of citizens for prosecution abroad. A state investigation had reached no formal conclusions at year's end.

Paramilitary groups committed numerous extrajudicial killings, primarily in areas where they competed with guerrilla forces for control, and often in the absence of a strong government security force presence. The frequency of paramilitary massacres continued to increase. Two major paramilitary campaigns during the year involved a series of orchestrated massacres (see Section 1.g.). The human rights Ombudsman, who changed his statistical methodology in 1999, attributed 153 massacres to paramilitary forces during the year, which claimed 889 victims. In 1998 (the most recent year for which such data were available) the office received 1,221 complaints against members of paramilitary groups for homicide. CINEP reported that paramilitary groups were responsible for 814 extrajudicial killings during the 9 months of the year, compared with 573 in all of 1998. The Vice President's office attributed 252 killings of civilians to paramilitary groups during the first 4 months of the year, while the Ministry of Defense attributed 743 such killings to paramilitary groups during the year.

Between February 28 and March 1, approximately 20 members of a paramilitary group massacred 9 persons in Barrancabermeja, Santander department. When leaving the town, they reportedly passed unmolested through a roadblock maintained by the army's 45th Battalion. On March 18, police arrested paramilitary leader Mario James Mejia ("El Panadero") for killing a taxi driver; he then was charged in Bogota with leading the February 28-March 1 Barrancabermeja massacre and was still under investigation and in detention at year's end, along with fellow paramilitary Pedro Mateo Hurtado Moreno. Politically motivated killings and related unrest continued in Barrancabermeja at a very high rate throughout the year.

On April 4, a group of men claiming to be from the ACCU paramilitary group entered San Jose de Apartado and killed Anibal Jimenez, a member of the local peace council, a 16-year-old youth, and another man; they wounded two other persons. In March 1997, the town had declared itself to be a "community of peace"--a designation that declares all citizens of the town to be neutral and outside the conflict--and thus no security forces were present during the attack.

Judicial authorities made progress in the May 16, 1998, Barrancabermeja massacre case, in which paramilitary forces killed 11 persons and kidnaped and then killed 25 others. The human rights unit of the Prosecutor General's office ordered the arrest of Guillermo Cristancho Acosta ("Camilo") and Alvaro Noriega ("Chamuco") for the crime. On

November 12, Cristancho's body was found. AUC paramilitary leader Carlos Castano ordered Cristancho's murder, reportedly after learning that Cristancho had been extorting money from local peasants and engaging in other common criminal activity. Cristancho Acosta publicly had admitted ordering the killings. At year's end, the authorities had not detained Noriega. Although still under criminal investigation for allegedly having participated directly in the massacre, army Corporal Rodrigo Perez Perez (of the army's Nuevo Granada battalion) was freed from detention for lack of evidence. However, in August the Attorney General's office administratively punished nine security force members and ordered the suspension of six National Police officers. In August the Attorney General ordered dishonorable discharges for three military officers and suspensions for five policemen for failing to halt the massacre.

The human rights unit of the Prosecutor General's office opened formal investigations of ACCU paramilitary leader Carlos Castano and 6 other AUC members for the May 1998 massacre of between 12 and 22 persons at Puerto Alvira, Meta department. Castano publicly had declared Puerto Alvira a military objective in September 1997, and the AUC had accepted responsibility publicly for the killings.

On August 19, the new specialized jurisdiction of the civilian judiciary (see Section 1.e.) convicted and sentenced to 10 and 19 years' imprisonment respectively Nancy Lozano Rodriguez and Jose Edgar Tellez for intentionally having distracted the attention of police during the August 1989 killing of Liberal presidential candidate Luis Carlos Galan by Medellin drug cartel-financed paramilitary groups. It also ordered the investigation of former Congressman Alberto Santofimio Botero for complicity in the crime. Santofimio previously had been imprisoned for financing his 1994 Senate campaign with funds from the Medellin drug cartel. The judge's sentence also indicated that some police present on the occasion of Galan's murder had accepted bribes to facilitate the crime.

During the year, a judge exonerated billionaire emerald magnate Victor Carranza of charges of paramilitarism; he had been arrested in February 1998 on charges of sponsoring the Eastern Plains paramilitary self-defense group. The Prosecutor General then detained the judge on a charge of "corrupt practice", and she was sentenced to 46 months' imprisonment. Carranza remained in prison due to his prior convictions for homicide and kidnaping. While an estimated 400 members of paramilitary groups were believed to be in jail at year's end, known paramilitary leaders largely remained beyond the reach of the law. At the end of the year, the army reported that it had killed 26 members of paramilitary groups and captured 102 during the year.

Paramilitary forces killed members of indigenous groups (see Section 5).

As of August, the Prosecutor General's office was investigating and had issued arrest warrants for Carlos Castano, Juan Carlos Gonzalez Jaramillo ("El Colorado"), and others for the February 1998 murder of Jesus Maria Valle, president of the Antioquia Permanent Committee for the Defense of Human Rights, in his Medellin office. Castano was indicted in September 1998 for the killing.

As of August, the Prosecutor General's human rights unit had detained and indicted eight persons associated with the AUC paramilitary group for the May 1997 murders of two CINEP workers, Mario Calderon and Elsa Alvarado, as well as Alvarado's father. The unit also finished its investigations of Carlos Castano and four other paramilitary leaders,

issued warrants for their arrest, and summoned them to trial. However, Castano remained at large. Medellin narcotics trafficker Gustavo Adolfo Upegui Lopez, suspected by many of having been the intellectual author of the crime, remained under arrest for a separate case.

On April 12, the Prosecutor General's Technical Corps of Investigators (CTI) captured paramilitary leader Reynel Gomez Correa in connection with the September 1994 "Trujillo II" massacre in Valle department. On April 23, the human rights unit of the Prosecutor General's office also issued an arrest warrant for paramilitary member Norberto Morales Ledesma in connection with the case.

On August 13, unidentified gunmen killed renowned journalist, political comedian, and peace and human rights activist Jaime Garzon in Bogota. On August 5, police in Bogota arrested four hired killers from Medellin for allegedly plotting to murder Garzon. An investigation continued at year's end. More than 85,000 persons attended his funeral, protesting his murder and the prevailing violence in the country.

On September 15, unknown assailants killed National University professor and former government peace negotiator Jesus Bejarano as he was walking to class. Police announced a joint investigation with the Prosecutor General's office, but no new developments had been announced by year's end.

There were no new developments in the case of the May 1998 killing of former Defense Minister General Fernando Landazabal Reyes near his Bogota home.

The police determined that the 1998 death of Betty Camacho, a former member of Congress, was a common crime.

The guerrillas of the FARC, the ELN, and the People's Liberation Army (EPL) continued to commit extrajudicial killings, often targeting noncombatants in a manner similar to that of paramilitary groups. According to CINEP, guerrillas committed 269 killings outside of combat during the first 9 months of the year, while the Ministry of Defense attributed 908 killings to guerrillas during the year. The human rights Ombudsman attributed 22 massacres to the FARC during the first 6 months of the year and 6 to the ELN. The Ombudsman also attributed 215 killings to the FARC, and 41 to the ELN. Local elected officials or candidates for public office, teachers, civic leaders, business owners, and peasants opposed to their political or military activities were common targets. The Federation of Colombian Municipalities reported that guerrillas killed at least 10 mayors during the year, including 1 who had fled the demilitarized zone. Guerrillas were also the principal suspects in at least five other mayoral murders. Police and military personnel were targeted for killings (see Section 1.g.). Guerrilla groups also killed members of indigenous groups (see Section 5), labor leaders (see Section 6.b.), and religious leaders (see Section 2.c.). Some communities controlled by guerrillas also experienced social cleansing killings of criminal or other "undesirable" elements.

On February 25, the FARC's eastern bloc, commanded by German Briceno Suarez ("Grannobles"), kidnaped American citizen indigenous activists Terence Freitas, Lahe'ena'e Gay, and Ingrid Washinawatok near Saravena, Arauca department. The three had been working with the indigenous U'wa tribe at the tribe's invitation. Briceno Suarez ordered their killings; the three were shot, and their bodies were found in Venezuela. On

July 20, the Prosecutor General's office ordered the arrest of Briceno Suarez; army efforts to apprehend him and other FARC members accused of the crime had not been successful at year's end. On December 20, the human rights unit of the Prosecutor General's office formally indicted Briceno Suarez and U'wa tribe member Gustavo Bocota for the crimes; Bocota also remained at large at year's end. In May the FARC announced that its members involved in the killings, whom it did not name, would be "punished" by having to learn to read and write and work on road construction projects. While there were press reports in September that two of the FARC perpetrators were killed during an army offensive, there was no evidence to substantiate this claim. The Prosecutor General repeatedly complained publicly that elements of the FARC were impeding the investigation by intimidating witnesses. The suspects remained at large at year's end.

According to the human rights Ombudsman's office, in mid-May the Teofilo Forero column of the FARC killed 11 civilians suspected of paramilitary collaboration at Vereda Perlas Altas, Puerto Rico, Caqueta department (just outside the despeje zone). The Government protested, and on August 25, the human rights unit of the Prosecutor General's office opened investigations of the FARC's Teofilo Forero column as well as of FARC demilitarized zone security commander Pedro Nel Daza Narvaez, also known as "Jairo."

Fourteen members of the Prosecutor General's Technical Corps of Investigators (CTI) were killed during the year in various parts of the country. On January 7, the human rights unit of the Prosecutor General's office issued an arrest warrant for Wilson Eusebio Garcia Ramirez, commander of the ELN's "Carlos Alirio Buitrago" front, for the September 1998 murders of CTI members Edilbrando Roa Lopez and John Morales Patino at Mesopotania, Antioquia. The two had been investigating a 1998 massacre of nine persons at the nearby town of Sonson.

On July 30, the Prosecutor General's human rights unit indicted "Arley Leal," commander of the FARC's 32nd Front, for the September 1998 killing of Catholic priest Alcides Jimenez Chicangana. Jimenez was shot 18 times as he gave a sermon in a Catholic Church hours after he led a public rally for peace. Charges against narcotics trafficker Luis Angel Canas, who was detained in 1998 for the crime, were dropped.

In July the Prosecutor General's office indicted Nicolas Antonio Gomez Zapata for participation in the January 1994 "La Chinita" massacre, which resulted in the deaths of 35 persons. In September 1998, the National Tribunal sentenced 30 members of the FARC to a total of 2,005 years' imprisonment for the massacre. Among those sentenced were former Apartado (Antioquia) mayor Nelson Campo Nunez and former Patriotic Union leaders Naun de Jesus Orrego Ossa and Maria Mercedes Usuga.

Approximately 80 cases regarding Colombia were before the Inter- American Commission on Human Rights at year's end. The great majority involved violations of the right to life. One case, the 1991 "Las Palmeras" massacre, was before the Inter-American Court of Human Rights at year's end.

The IACHR did not forward to the Inter-American Court the Patriotic Union's 1996 complaint charging the Government with "action or omission" in what the UP termed "political genocide" against the UP and the Communist Party. The Government and the UP continued without success in their efforts to reach an amicable settlement under the

auspices of the IACHR. In its October 1997 submission to the IACHR, the Reinsertion Foundation human rights organization charged that 13 regional UP political leaders had been killed and 3 tortured during the first 9 months of that year. The Manuel Cepeda Vargas foundation claimed that killings of UP members continued throughout 1999.

In December Spain complied with a government request and extradited Lubin de Jesus Morales Orozco, who was arrested in Madrid in June on unrelated charges, for the April 1998 killing of Eduardo Umana Mendoza, perhaps the country's best-known and most controversial human rights lawyer. Seven others remained in detention and were undergoing civilian judicial processing for the crime at year's end. The authorities also undertook a preliminary investigation of Joaquin Emilio Gomez Munera for allegedly having participated in the crime.

There were no new developments in the investigation of paramilitary leader Gerardo Antonio Palacio for his role in the August 1995 massacre in Chigorodo, Antioquia.

#### b. Disappearance

"Forced disappearance," while explicitly prohibited by the 1991 Constitution, remained an act not explicitly outlawed under the Penal Code--although the law codifies kidnaping for extortion and "simple kidnaping" as crimes--and continued to be a problem. After supporting its passage, President Pastrana objected to specifics of legislation codifying forced disappearance as a crime in December and returned it to Congress for modification (see Section 1.e.). More than 3,000 cases of forced disappearance have been reported formally to the authorities since 1977; very few have ever been resolved.

The human rights Ombudsman's office reported receipt during 1998 of 12 complaints against the army for forced disappearance, 6 against the National Police, and 399 against paramilitary forces. CINEP reported 309 cases of forced disappearance during the first 9 months of the year, and attributed 112 of the cases to paramilitary groups and the rest to unidentified actors. The great majority of victims of forced disappearance were never seen or heard from again.

The Superior Military Tribunal designated the commander of the air force as the special, first-instance judge in the case of retired army General Alvaro Velandia Hurtado, the former commander of the army's 20th Brigade, who was accused of the 1987 forced disappearance, torture, and murder of M-19 member Nydia Erika Bautista. A military investigation was underway at year's end.

The authorities suspended police Major Manuel de Jesus Lozada Plazas, the former deputy commander of the Government's elite antikidnaping squads known as the GAULA, from duty and placed him on half-pay following his arrest in March 1997. There were no reported results from his trial in a civilian court at year's end. There also have been no results reported in the investigation into cooperation between these squads and illegal paramilitary groups.

Paramilitary groups were also responsible for kidnapings. The NGO Pais Libre attributed 103 kidnapings during the year to paramilitary groups. On May 21, AUC paramilitary forces kidnaped Liberal Senator Piedad Cordoba, a renowned human rights advocate, from a doctor's office in Medellin. She was released unharmed on June 4. AUC leader

Carlos Castano personally claimed responsibility for the kidnaping in a telephone call to a national radio network, and on September 17, the human rights unit of the Prosecutor General's office formally implicated him in its investigation. According to Human Rights Watch, in February the ACCU paramilitary group briefly held seven agents of the CTI; it also threatened the investigators with death.

Kidnaping was an unambiguous, standing policy and major source of revenue for both the FARC and ELN. Pais Libre reported that there were 2,945 cases of kidnaping during the year, although 136 cases of soldiers and police captured by guerrillas in combat were included in these figures. This represented a substantial increase compared with a 1998 total of 2,216 kidnapings. Pais Libre said that 1,985 cases were financially motivated, and 372 cases were politically motivated. It attributed 728 cases to the FARC, 695 to the ELN, 167 to the EPL, 55 to other, smaller guerrilla groups, 300 to common criminals, 6 to family members of the victim, and 891 to unidentified perpetrators. It attributed none to state security forces. According to Pais Libre, politicians, cattlemen, children, and businessmen were guerrillas' preferred victims. According to the antikidnaping "czar" (a government official), 121 kidnap victims were killed during the year, and 48 escaped their captors. 1,251 persons were freed after a ransom payment was made on their behalf. The kidnap victims included 189 children. GAULA antikidnaping squad members and other units of the security forces freed 454 persons during the year. Arrests or prosecutions in any of these cases were rare.

According to a July 14 report by the human rights Ombudsman's office, the FARC was responsible for the forced disappearance of 34 residents of the despeje zone whom it suspected of collaborating with paramilitary groups. On May 30, the ELN kidnaped more than 170 persons from the La Maria Catholic Church in southern Cali during Mass. The kidnapers ordered the parishioners to leave the church because of an alleged bomb threat, then put them onto trucks and drove them away. The ELN released 84 persons, including some children and some elderly persons, immediately. Among the first 84 freed was a group of 20 children who were released into a minefield, with admonishments to "be careful of the mines;" the army rescued them with no casualties. On June 15, the ELN freed a further 33 kidnap victims but reneged on its promise to release the remainder by June 19. Instead, it demanded ransom from their families. All victims had been released by year's end, typically after a ransom was paid on their behalf.

On April 12, the ELN hijacked a commercial airliner and kidnaped its 41 occupants. According to the antikidnaping czar, 15 persons remained in captivity at the end of the year. One, Carlos Gonzalez, died in captivity due to a lack of needed medications. On June 6, the ELN kidnaped nine recreational fishermen south of Barranquilla. Seven remained in captivity at year's end.

Guerrillas continued to kidnap political leaders. The Federation of Colombian Municipalities reported that at least 50 mayors were kidnaped during the year, nearly all by guerrilla groups. In response to this situation, some rural mayors fled to major cities, where they continued to conduct municipal business via telephone and facsimile.

Despite continued pressure by the Government on the FARC to account for three American missionaries kidnaped by FARC guerrillas in January 1993, their whereabouts and condition remained unknown.

The FARC, the ELN, and other guerrilla groups regularly kidnaped foreign citizens throughout the year; some were released after weeks or months of captivity, while others still were held at year's end.

On July 30, the FARC hijacked an Avior private commercial aircraft in Venezuela, forcing it to land in eastern Colombia. Claiming opponents of Venezuelan President Hugo Chavez had hijacked the aircraft, the FARC announced on August 8 that it had "found" the missing aircraft and released its eight passengers at Saravena, Arauca department. The FARC also allowed two crew members to return the aircraft to Venezuela.

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

The Constitution and criminal law explicitly prohibit torture, as well as cruel, inhuman, or degrading treatment or punishment; however, police and military torture and mistreatment of detainees continued. Of the 38 security force members sanctioned by the human rights delegate of the Attorney General's office during the year, 11 were punished for torture committed in previous years. However, the Attorney General's office only can sanction administratively or refer to the Prosecutor General's office those it finds guilty. Reports of torture by the army declined; however, reports of torture by police and INPEC prison guards increased. Torture and abuse occurred in connection with illegal detentions in the context of counterinsurgency operations.

The Attorney General's human rights delegate received 35 complaints of torture by state agents, including the police, the DAS, army, and prison officials, during the year; the office received 119 complaints of torture in 1998. CINEP deemed the army responsible for 4 cases of torture during the first 9 months of the year, the police for 10, and the INPEC prison guards for 35. In the same period in 1998, CINEP deemed the army responsible for eight reported torture cases and the police for none. The Superior Military Tribunal reported convicting one member of the National Police for torture during the year. It convicted no members of the military of torture. The National Institute of Forensic Medicine reported during the year that the bodies of 318 of 22,957 homicide victims showed signs of torture. The Ministry of Defense reported receiving 40 complaints of human rights abuses as of August.

The reformed Military Penal Code codifies torture as a crime and directs that cases of torture committed by security force members be tried in the civilian judiciary, on the grounds that torture could never be related to acts of service (see Section 1.e.). At year's end, the Prosecutor General's human rights office was investigating nine members of the marine corps for torturing five fellow marines, who reportedly claimed that they had lost their assault rifles, in December 1995. Determining that the alleged actions of Colonel Jose Ancizar Molano (then-commander of the 2nd Marine Infantry Battalion) and eight of his subordinates (all of whom were in detention) were in no way related to acts of service, the military judiciary turned the case over to the civilian judiciary for investigation and prosecution. Molano and one of his subordinates were also under investigation for May 1995 social cleansing murders (see Section 1.a.).

On July 23, the Venezuelan Ambassador to Colombia alleged that the 3rd Army Special Forces Battalion tortured and inflicted other cruel, inhuman, and degrading punishment against four Venezuelan citizens, following their May 26 capture. The four were charged with trafficking arms for the FARC, and were detained at year's end. The Venezuelan

Government also asked for an investigation in relation to five other persons who were with these four men at the time of their capture. The bodies of two of these five subsequently were found in a river; the other three allegedly disappeared following the operation.

CINEP attributed 51 of the 115 cases of torture that it reported during the first 9 months of the year to paramilitary groups. Paramilitary groups increasingly made use of threats both to intimidate opponents and to raise money. Letters demanding payment of a war tax and a threat to mark victims as a military target if they failed to pay were typical. The NGO reported that nearly half were public school teachers, and that approximately half of all threat recipients were residents of Antioquia department.

Guerrilla groups also tortured and abused persons. The bodies of many persons detained and subsequently killed by guerrillas showed signs of torture and disfigurement. For example, on April 8, FARC members killed First Corporal Luis Felipe Benavides Pascuasa with a machete and killed volunteer soldier Fernando Antonio Vergara Ceballos by burning his face with acid and emasculating him; both soldiers had surrendered to the FARC. CINEP reported four cases of torture by the FARC and one by the Popular Revolutionary Army (ERP), a small guerrilla movement, during the first 9 months of the year. CINEP reported that guerrillas also made use of threats, both to intimidate opponents and to raise money, and--like the paramilitary groups--sent letters demanding payments of a war tax, along with threats to make persons military targets. Guerrillas were the principal suspects in death threats against more than 100 mayors between January and August.

On November 9, a shrapnel bomb was detonated remotely in southwestern Bogota, near the Prosecutor General's office. Eight persons were wounded, including Efrain Romero, a senior investigator at the Prosecutor General's office, at whose car the device apparently was targeted.

Prison conditions are generally harsh, especially for those prisoners without significant outside support. Severe overcrowding and dangerous sanitary and health conditions remained serious problems. In December 1997, a visiting IACHR mission declared that the living conditions in Bogota's La Picota prison constituted "cruel, inhuman, and degrading treatment of the inmates," and these problems continue. Guards and prison staff frequently are untrained or corrupt. Prison guards from the National Prison Institute (INPEC) report to the Ministry of Justice. According to the Committee for Solidarity with Political Prisoners, a majority of prisoners' food was provided by outside, private sources. INPEC reported that the daily food allowance for each prisoner was \$1.44 (2,700 pesos). According to INPEC, the country's prisons and jails held 45,064 inmates at year's end, 37 percent more than their planned capacity of 32,939. Additionally, National Police jail cells held approximately 4,200 inmates who could not be accommodated in prisons due to overcrowding. In a number of the largest prisons, overcrowding was severe. Medellin's Bellavista prison, the country's largest, was built to house 1,700 inmates; in August it housed 6,033 inmates. Bogota's La Modelo prison and the Palmira prison outside Cali each held more than 155 percent of their designed capacity.

In February the Justice Ministry announced plans to build 40 new prisons to house 20,000 persons over the next 4 years; however, by year's end, Congress had not passed legislation that would have provided some of the necessary funds. Only 8,000 prisoner

accommodations met international standards. No new prisons have been constructed in the past 30 years; 17.8 percent of the country's prisons were between 40 and 80 years old; 3.5 percent were between 80 and 201 years old; and 2.4 percent were more than 201 years old. On June 17, President Pastrana issued a decree transferring the responsibility for prison infrastructure to the Ministry of Justice; INPEC retained responsibility for prisoner rehabilitation and security.

Forty-two percent of all prison inmates are pretrial detainees. The remaining 58 percent are split roughly between those appealing their convictions and those who have exhausted their appeals and are serving out their terms.

There are separate prison facilities for women, and in some parts of the country, separate women's prisons exist. Women are not held with men. Conditions at women's prisons are similar to those at men's prisons, but are far less violent. In March 44 female prison guards at Bogota's Buen Pastor prison for women protested, refusing to allow First Lady Nohra Pullana de Pastrana to visit the prison. The guards were protesting a judicial order allowing women's prison cell doors to remain open at night. According to the Criminal Procedures Code, no one under the age of 18 may be held in a prison. Juveniles are held in separate facilities operated by the Colombian Institute for Family Welfare (ICBF).

On March 12, prison conditions and the lack of action by the Congress on proposed prison, judicial procedure, and penal code reforms prompted the start of a nationwide civil disobedience campaign by prisoners who physically prevented the entry of more prisoners into their cells. On March 16, family members of prisoners also staged sit-ins at six prisons around the country. In August inmates at La Picota prison protested prison conditions by detaining 198 women and 101 children, all visiting family members, for 4 days. At year's end, prisoners' representatives and the Government were engaged in talks that centered on prison conditions, judicial reform and relevant pending legislation, and maximum prison sentences. On May 5, prisoners at the Picalena facility in Ibague rioted when prison officials tried to initiate operations of "restoration of control," sweeping the prison for weapons, drugs, and other prohibited items. Prisoners attacked guards with sticks and firearms and exploded a grenade that injured two guards. Prison violence was common: According to INPEC, 199 inmates were killed in prison during the year, including 32 in La Picota prison. Instances of abuse by and corruption among prison staff, as well as ongoing criminal activities by inmates, were common. INPEC estimated that 363 prisoners escaped during the first 8 months of the year. The authorities recaptured 47 escapees during the first half of the year.

The FARC launched several attacks against prisons holding guerrilla prisoners, facilitating numerous escapes, including from La Rivera prison on May 17, and from the prison at Palmira, Valle, on June 29. On May 5, Wilson Pena Mage, deputy commander of the FARC's 14th Front, escaped from the prison in Florencia, where he was being held on charges of kidnaping a judge and of rebellion. On October 25, the superintendent of La Modelo prison was fired after a television report showed FARC prisoners staging a military parade in the exercise yard.

There are no separate facilities for pretrial detainees and convicted prisoners. However, key narcotics traffickers and some guerrilla leaders get special cells with many comforts, some of which--such as access to two-way radios, cellular telephones, and computers--allowed them to continue their illegal activities from inside jail. Local or regional military

and jail commanders did not always prepare mandatory detention registers or follow notification procedures; as a result, precise accounting for every detainee was not always possible.

The International Committee of the Red Cross (ICRC) continued to have routine access to most prisons and police and military detention centers. In April the Government ordered the departure of the ICRC's chief delegate. ICRC operations were not affected.

The ICRC obtained more frequent access, although still on an ad hoc basis, to prisoners held by paramilitary groups and guerrilla forces.

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

The Constitution includes several provisions designed to prevent illegal detention; however, there continued to be instances in which the authorities arrested or detained citizens arbitrarily.

The law prohibits incommunicado detention. Anyone held in preventive detention must be brought before a prosecutor within 36 hours to determine the legality of the detention. The prosecutor must then act upon that petition within 36 hours of its submission. Despite these legal protections, instances of arbitrary detention continued.

Conditional pretrial release is available under certain circumstances; for example, in connection with minor offenses or after unduly lengthy amounts of time in preventive detention. It is not available in cases of serious crimes, such as homicide or terrorism.

Guerrilla groups captured and held prisoner members of the army and police and called for passage of a prisoner exchange law. On January 11, in a radio interview, Jorge Briceno, the FARC's second-in-command, threatened to kidnap politicians until a prisoner exchange law was approved. Guerrillas, particularly the FARC, pressed the Government and Congress to adopt a permanent prisoner exchange law. Initiating regular prisoner exchanges was a top guerrilla priority during the year, and featured prominently in the FARC's negotiating points at the peace talks (see Section 1.g.). However, neither the Congress nor the Government attempted to pass such legislation, and there was minimal popular support for it. According to the Ministry of Defense, as of August, the FARC and the ELN held 259 police and 225 army personnel captive. During the year, guerrillas captured 235 members of the army, 94 members of the police, and 1 member of the navy.

The Constitution prohibits exile, and forced exile is not practiced formally. However, there were repeated instances of individuals pressured into self-exile for their personal safety. Such cases included persons from all walks of life, including politicians, human rights workers, slum-dwellers, business executives, farmers, and others. The threats came from various quarters: some individual members of the security forces, paramilitary groups, guerrilla groups, narcotics traffickers, other criminal elements, or combinations of the above.

#### e. Denial of Fair Public Trial

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

suborning or intimidation of judges, witnesses, and prosecutors by those indicted or involved is common. The human rights Ombudsman's office reported receipt of 1,353 complaints of denial of the right to due legal process during 1998, the most recent year for which statistics were available.

The judiciary includes the Constitutional Court, Supreme Court of Justice, the Council of State, the Superior Judicial Council, and lower courts. The Prosecutor General's office is an independent prosecutorial body that brings criminal cases before the courts. On June 30, the National Tribunal, which had served as the first appellate court for the regional (anonymous) courts, was replaced by a new chamber, the specialized jurisdiction. The Supreme Court of Justice serves as the appellate court for decisions by the new chamber and lower appellate courts, and is also the court in which elected officials, full generals and admirals, diplomats, and judges are tried. The Council of State is the appellate court for civil cases. The Constitutional Court is to adjudicate cases of constitutionality and reviews all decisions regarding motions for cessation of judicial processes. The CSJ is the administrative arm of the judicial branch and also has the responsibility of determining whether individual cases involving members of the security forces are to be tried in civilian or military courts. Jurisdictional clashes among the Constitutional Court, Supreme Court of Justice, the Council of State, and the Superior Judicial Council were common, due to the lack of a single supreme judicial authority capable of deciding issues of competence or constitutional interpretation.

On June 30, the regional court system was dismantled formally and replaced with a new specialized jurisdiction for a period of 8 years (with performance to be reviewed by the Congress after 4 years). On July 1, the new system came into effect with a mandate to try certain crimes that have the potential to impede severely normal judicial functioning; including crimes of kidnaping, hijacking, paramilitarism, narcotics trafficking, money laundering, and human rights abuses. However, in a concession to the FARC, the Government removed rebellion, the criminal charge on which most guerrillas are tried, from the list of crimes to be tried by the specialized jurisdiction.

The specialized jurisdiction affords the protection of anonymity to prosecutors (during the preliminary and investigative stages of a case) and witnesses, conditioned upon the concurrence of the Prosecutor General. Some judges, who lost the protection of anonymity under the new system, resigned. As was the case in the regional (anonymous) courts, specialized jurisdiction prosecutors are permitted 12 months to investigate and develop cases, rather than the 6 months afforded to regular civilian judiciary prosecutors.

Congress included in the legislation creating the specialized jurisdiction two articles that state that under no circumstance are the reports of the agencies with judicial police powers--including the DAS, the investigative unit of the Prosecutor General's office, and the judicial police element of the National Police--or information provided by confidential informants to be used as evidence in the new courts.

As part of the Ministry of Defense, the military judiciary falls under the executive branch, rather than under the judicial branch. The armed forces commander is also the president of the military judiciary, which has no dedicated corps of military lawyers. The Military Penal Code predates the 1991 Constitution and does not contemplate some contemporary crimes. The workings of the military judiciary lack transparency and accountability, contributing to a generalized lack of confidence in the system's ability to bring human

rights abusers to justice.

On June 17, the Congress passed a revised Military Penal Code, which President Pastrana signed into law on August 12. However, the Constitution provides that any judicial reforms, including reforms of the military judiciary, require implementing legislation to take effect. In addition, one clause of the new law stipulates that it would take effect no earlier than August 2000, to permit creation of an independent corps of military lawyers and other required bureaucratic structures. Among the provisions of the new code are that unit commanders no longer may judge their subordinates; that an independent judge advocate general corps is to be created; and that troops are to be protected legally if they refuse to carry out illegal orders to commit human rights abuses. In addition, the civilian judiciary is granted the right to be present at military trials of military personnel. According to the Vice President's office, in December the Government presented Congress with draft implementing legislation for the new code.

The reformed code directs that torture, forced disappearance, genocide, and crimes against humanity, as codified in international conventions to which the country is a signatory, be tried by the civilian judiciary. However, according to the Vice President's office, forced disappearance is not codified in any convention to which the country is a party, so it still could not be prosecuted. On December 15, the Congress passed a reformed civilian penal code bill during the year, but in late December, President Pastrana returned the bill to Congress for modifications. The bill codified torture, forced disappearance, forced displacement, and genocide as crimes, but had not been signed into law by the President at year's end. Therefore, neither genocide nor forced disappearance were codified as crimes in the civilian Penal Code at year's end, and thus could not be prosecuted as such in civilian courts. However, similar crimes such as kidnaping, murder, and mass murder are codified in the civilian code.

A 1997 Constitutional Court decision directed the military judicial system to relinquish to the civilian judiciary the investigation and prosecution of grave human rights violations and other alleged crimes not directly related to acts of service--the 1991 constitutional standard for determining whether a case should be tried by the military or civilian judiciary. The military judiciary demonstrated an increased willingness during the year to turn cases of military officers, generally of lower rank, accused of human rights violations or criminal activities over to the civilian judiciary. The military also sent the cases of three colonels to the civilian judiciary--the first time cases concerning officers of that rank have been transferred to the civilian judiciary. However, CSJ rulings indicated that it did not always consider itself bound by the Constitutional Court's 1997 directive when determining whether cases involving security force personnel belonged in the military or civilian judiciaries.

The CSJ assigned most cases involving high-level military personnel to the military courts, where convictions in human rights-related cases were the rare exception. According to the 1991 Constitution, general-rank officers are to be tried by the Supreme Court, but that provision was ignored in practice. No definitive court ruling has resolved various judicial interpretations of the provision; however, a majority of decisions seem to suggest that this provision applies only to full generals. In determining which alleged crimes were to be tried by military tribunals, the CSJ also regularly employed an extremely broad definition of acts of service, thus ensuring that uniformed defendants of any rank, particularly the most senior, were tried in military tribunals.

In October 1998, the CSJ determined that Brigadier General Fernando Millan Perez's alleged organization of a paramilitary group constituted an act of service and therefore turned General Millan's case over to the military judiciary for prosecution (see Section 1.a.). In reaching its decision, the CSJ determined that it was not bound by the Constitutional Court's narrow 1997 interpretation of the 1991 constitutional standard of relation to acts of service. The CSJ's decision effectively ended the Prosecutor General's investigation into whether General Millan had provided weapons and intelligence to paramilitary groups in Santander department.

In cases in which military officers were tried, convicted, and sentenced for human rights violations, they generally did not serve prison terms, but were confined to their bases or military police detention centers, as permitted by law. Military prisoners remain on active duty (and reduced pay) while in detention, but are relieved from command responsibilities. Some perform administrative functions while in detention. On August 3, Prosecutor General Alfonso Gomez Mendez publicly asked military forces commander General Fernando Tapias to explain how five military detainees, all charged with gross human rights violations, escaped their military captors at different moments during the year. On July 23, army Lieutenant Alberto Acosta Tarazona, who was sentenced in November 1997 to 58 years in prison for the torture and killing of 2 police detectives and their informant after they sought to arrest a regional paramilitary leader, walked away from the base where he was being held through its front gate. He remained at large at year's end.

Judges have long been subject to threats and intimidation, particularly when dealing with cases involving members of the armed forces or of paramilitary, narcotics, and guerrilla organizations. The number of instances of violent attacks against prosecutors and judges declined in recent years; however, prosecutors, judges, and defense attorneys continued to be subjected to threats and acts of violence. Several faceless judges were kidnaped during the year; none were killed. One faceless prosecutor was killed during the year, and the FARC was responsible for the forced disappearance of a regular civilian judge in Cartagena del Chaira after she sentenced one of its leaders to prison. Moreover, prosecutors reported that potential witnesses in major cases often lacked faith in the Government's ability to protect their anonymity and were thus unwilling to testify, ruining chances for successful prosecutions. These concerns led in 1984 to the creation of a regional or public order jurisdiction to prosecute cases involving the crimes of narcotics trafficking, terrorism, kidnaping, subversion, extortion, and some cases of human rights violations; these regional courts were in effect until June 30, when they were replaced by the specialized jurisdiction. In the regional courts, prosecutors, judges, witnesses, and attorneys acted under cover of anonymity for security reasons. Given security concerns, and since testimony and evidence typically was provided to the judge in written form, regional court trials were not public. While a 1993 reform of the Criminal Procedures Code addressed certain procedural shortcomings within the system, significant problems remained. It still was difficult for defense attorneys to impeach or cross-examine anonymous witnesses, and often the defense attorneys 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. Nonetheless, national and international human rights groups continue to accuse these courts of violating fundamental rights of due process, including the right to a public trial. Some of the most vocal congressional critics of these courts continued to be implicated in corruption or narcotics trafficking investigations.

The Attorney General's office investigates misconduct by public officials, including members of the military and police. Its constitutional mandate only provides for the imposition of administrative sanctions; it has no authority to bring criminal prosecutions. Although the Attorney General's office may refer cases to the Prosecutor General's office for investigation and prosecution, it regularly fails to do so. The Attorney General's office can draw upon a nationwide network of hundreds of government human rights investigators covering the country's 1,085 municipalities. However, since it cannot impose criminal sanctions, it is incapable of adequately punishing human rights abusers.

The Supreme Court elects the Prosecutor General for a 4-year term, which does not coincide with that of the President, from a list of three candidates chosen by the President. The Prosecutor General is tasked with investigating criminal offenses and presenting evidence against the accused before the various judges and tribunals. However, this office retains significant judicial functions and, like other elements of the civilian judiciary, it is struggling to make the transition from a Napoleonic legal system to a mixed one that incorporates an adversarial aspect.

In an attempt to deal with impunity, the Prosecutor General in 1995 created a special human rights unit as part of the regional courts system. The unit achieved significant results; its group of 25 anonymous prosecutors handled several hundred cases involving massacres, extrajudicial killings, kidnappings, and terrorism. These prosecutors issued arrest warrants against members of the public security forces, paramilitary, drug trafficking, and guerrilla organizations. The unit arrested 248 suspects during the year, and other state entities arrested 87 suspects against whom the human rights unit had open cases. In July the unit's director was replaced due to threats against his life.

The human rights unit of the Prosecutor General's office investigated, indicted, or prosecuted 303 security force members during the year, including at least 12 officers, on a variety of charges including homicide, torture, kidnaping, and sponsorship of paramilitary groups. The Attorney General's office and the security forces demonstrated a greater willingness to follow up with instructions that those ordered arrested be removed from their duties, denied the right to wear a uniform, or turned over to civilian judicial authorities. However, impunity continued to be very widespread.

The Constitution specifically provides for the right to due process. Judges determine the outcome of all trials; there are no jury trials. The accused is presumed innocent until proven guilty and has the right to representation by counsel, although representation for the indigenous and the indigent historically has been inadequate. In August the CSJ's administrative chamber reported that the civilian judiciary suffered from a backlog of 3,068,739 cases (including 604,506 penal cases), and that the number of outstanding arrest warrants was 338,000. As of August, 223,000 motions for cessation of judicial actions ("tutelas") were before the Constitutional Court for its legally mandated review.

Defendants in trials conducted by the regular courts have the right to be present and the right to timely consultation with an attorney. Regular court defendants and their attorneys have the right to question, contradict, and confront witnesses against them, to present witnesses on their own behalf, and to have access to government evidence relevant to the case. The country's judiciaries, including regular civilian, specialized jurisdiction, and military, continue to be overwhelmingly Napoleonic in character; everything is processed in writing. Direct confrontations and cross-examinations of witnesses occurred only

rarely. Defendants also have the right to appeal a conviction to a higher court.

The Chamber of Deputies elects the Public Ministry's National Ombudsman for Human Rights for a 4-year term, which does not coincide with that of the President. The office has the constitutional duty to ensure the promotion and exercise of human rights. In addition to providing public defense attorneys in criminal cases, the Ombudsman's 34 departmental and regional offices throughout the country provide a legal channel for thousands of complaints and allegations of human rights violations. However, in practice, the Ombudsman's operations are underfunded and understaffed, slowing its development of a credible public defender system.

Within the FARC-controlled despeje zone, local FARC leaders effectively supplanted judicial authorities. Residents of the zone regularly were denied the right to a fair trial. The public prosecutor at San Vicente del Caguan fled the area after receiving threats from the FARC; the judge at Mesetas fled after his office was sacked; and guerrillas kidnapped the judge at Cartagena del Chaira, just outside the despeje zone, after she rendered a decision against a guerrilla. Prosecutor General Alfonso Gomez Mendez said in July that elements of the civilian justice system would return to the despeje zone only when the police and army did.

The Government states that it does not hold political prisoners. The ICRC reported that it monitored approximately 3,000 cases of imprisoned citizens accused of terrorism, rebellion, or aiding and abetting the insurgency, which are crimes punishable under law.

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

The law provides for the protection of these rights; however, at times the authorities infringed upon them. The law generally requires a judicial order signed by a prosecutor for the authorities to enter a private home, except in cases of hot pursuit. The Ministry of Defense continued training public security forces in legal search procedures that comply with constitutional and human rights. Due to intimidation, corruption, or the absence of evidentiary proof collected directly by prosecutors, guerrilla suspects captured by the security forces in or out of combat and turned over to the judicial authorities routinely were set free.

A judicial order or the approval of a prosecuting attorney is required to authorize the interception of mail or the monitoring of either landline or cellular telephones. This protection extends to prisoners held in jails. However, various state authorities sometimes monitored telephones without obtaining prior authorization. No officials have ever been disciplined for illegal wiretapping. There were unconfirmed reports by some human rights groups that they were subjected to surveillance, harassment, or threats by members of the security forces.

Guerrillas regularly forcibly recruited children and indigenous people to serve as soldiers (see Sections 1.g and 5). There are some child soldiers among the paramilitary groups.

#### 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. Government security forces at times violated

international humanitarian law, and continued to commit serious human rights abuses, although the great majority of serious abuses were committed by paramilitary groups and guerrillas.

The ICRC reported that the Government, including military authorities, followed an open-door policy toward the ICRC and readily incorporated Red Cross curriculums on international humanitarian law in standard military training. The military has reduced its emphasis on body counts as a means of assessing field performance. However, impunity remains a problem. According to military sources, local commanders typically preferred to transfer or discharge soldiers accused of serious human rights violations, rather than initiate court martial proceedings.

A preliminary investigation by the Prosecutor General of the December 1998 confrontation between the Government and the FARC at Santo Domingo, Arauca, was underway at year's end. Human rights monitors charged that military aircraft had attacked the jungle village, killing 18 civilians and wounding 25 others, while engaging the FARC. The military strongly denied these accounts, stating that a battle took place about 4 miles outside the town, and that deaths in Santo Domingo were the result of a FARC truck bomb that exploded prematurely. FARC defectors confirmed this version, according to the Ministry of Defense.

According to the independent Advisory Committee for Human Rights and Displacements (CODHES), some 288,000 persons were displaced forcibly from their homes by violence during the year; approximately 308,000 persons were displaced during 1998. However, Human Rights Watch reported that forced displacement intensified in some regions during the year. Expectations that the Government's peace initiative might eventually stabilize local conditions encouraged some citizens to remain in their communities, according to CODHES. Internally displaced citizens during 1995-99 probably exceeded 1,000,000, but the total number--and the number of those who were displaced permanently--was difficult to quantify. Human Rights Watch quoted the Displaced Persons Support Group, an alliance of human rights, religious, and aid organizations, as stating that an estimated 1.5 million persons had been displaced by political violence since 1985. CODHES states that some persons have been displaced for as long as 10 years, but is unable to identify a typical timeframe for displacement. Some persons return to their homes within days or weeks, others within months, and some never return. Some displaced persons move several times after fleeing their original home, making tracking difficult. The Government does not consider persons to be displaced after 2 years. CODHES estimated that perhaps 65 percent of displacements became permanent. Many displaced persons lost access to health care, employment, and education (see Section 5).

The Government's response to the needs of the displaced population was inadequate. The Government has no systematic program to make provisions for humanitarian assistance to the displaced, although it is required by law to do so. The Solidarity Network was neither designed nor prepared for emergency humanitarian assistance work, and it usually provided such assistance only to refugees returning to the country. The Government provides assistance through the Solidarity Network, the Institute for Family Welfare (ICBF), the Health Ministry, and other state entities. The Government's ability to provide assistance was further constrained in January, when an earthquake killed approximately 900 persons and left another 100,000 homeless. In March the Government estimated that 70 percent of humanitarian assistance received by displaced persons had been provided by

the ICRC. Private estimates were higher. Most displaced citizens receiving ICRC emergency humanitarian assistance received it for only 90 days. The Government also tries to limit assistance to 90 days; however, some displaced persons in the camps at Turbo and Pavarando, and in a stadium in Cucuta, received aid for a longer period. The ICRC continued to expand its assistance to the displaced. It assisted an estimated 37,000 displaced families during the first 6 months of the year, compared with approximately 24,000 families during the second 6 months of 1998.

Many of the displaced fled to cities, which have had difficulty integrating large numbers of persons into their infrastructure. Conditions at the Government's two camps for displaced persons, at Pavarando and Turbo, were poor and unhygienic; health care remained poor and there were few educational or employment opportunities. One NGO worker with Medecins du Monde estimated in a press report that about 85 percent of the children under age 6 have some form of malnutrition. The Government sometimes encouraged civilian populations to move back to their homes before security situations had normalized.

Thousands of displaced persons also fled to Panama, Ecuador, and Venezuela, where they often were denied refugee status, treated as illegal immigrants, denied protection or assistance, and often returned to Colombia. The U.N. High Commissioner for Refugees (UNHCR) has an office in Bogota to address the problem and opened a field office in Barrancabermeja in December.

A group of 83 internally displaced persons occupied the Bogota UNHCR offices from August 2 to August 25. Two of the demonstrators crucified themselves outside the office. The protest was intended ostensibly to draw attention to the conditions of the country's displaced. On December 14, approximately 60 internally displaced persons broke into the ICRC's Bogota office and occupied the premises; government negotiations were underway at year's end.

According to army and United Nations estimates, there were between 50,000 and 70,000 antipersonnel landmines located in 15 departments. According to an army estimate, there have been 515 civilian and military victims of landmines since 1996. Of these, 116 died and 399 were mangled. During the year, 15 members of the army were killed by antipersonnel landmines, and 7 were wounded. The armed forces maintained approximately 20,000 landmines during the year, most of which were used to defend static positions, and were appropriately mapped and marked. Due to the ongoing conflict, no generalized mine clearance program was underway at year's end; however, the army deactivated 35 minefields during the year. Thousands of displaced persons were unable to return to their homes due to the presence of antipersonnel mines. There were no known civilian mine awareness campaigns or assistance programs for civilian victims of landmines.

The human rights Ombudsman's office reported an increase in violence against women during 1997, especially in war zones. It noted that most female victims in zones of conflict chose not to report the abuses they had suffered, in part due to a lack of confidence in the efficacy of governmental institutions to address their problems. The Ombudsman noted that female leaders of political and peasant organizations in the Uraba-Antioquia region were increasingly the targets of persecution, threats, torture, and executions. According to the Ombudsman's 1997 report, there was a substantial increase

in sexual assault and murder of women that year, particularly in Meta, Arauca, Cesar, and Sucre departments.

The Government sometimes militarized public hospitals in conflict areas such as Uraba, Putumayo department, and southern Bolivar department, which increased the risk that the hospitals would become targets of guerrilla attack. Police established their headquarters at Mongua, Boyaca, in the town's public clinic; the ELN attacked it on four separate occasions. On rare occasions, the State discouraged medical treatment of guerrillas. In Arauca the judiciary prosecuted, sentenced, and imprisoned a doctor and a nurse for providing medical treatment to guerrillas. In July after combat at Campamento, Antioquia, the army transported two wounded policemen to a hospital, but refused to transport also two wounded FARC members, one of whom later died.

The many paramilitary groups are diverse in their motivations, structure, leadership, and ideology. The 1997 establishment of the United Self-Defense Groups of Colombia (AUC) as a national umbrella organization was designed both to provide a national structure and to develop a more coherent political culture for the nation's local and regional paramilitary groups. The AUC paramilitary umbrella group comprises between 5,000 and 7,000 combatants, who are members of 7 major organizations. The largest of these organizations is the ACCU, which is based in Cordoba department and the Uraba region of Antioquia department. The AUC also has as many as 4,000 of its own dedicated combatants. Carlos Castano heads both the AUC and the ACCU. Although illegal, some paramilitary groups reflected rural citizens' legitimate desire to defend themselves from the guerrilla threat. Other groups were actually the paid, private armies of drug traffickers or large landowners. Many members of paramilitary groups are former security force members or former guerrillas.

The victims of paramilitary killings were often unarmed civilians whom the paramilitary groups believed to be guerrillas or guerrilla collaborators. Paramilitary groups sought the death or displacement of civilians as punishment for perceived ties to the guerrillas. In addition to isolated and indiscriminate massacres, paramilitary groups launched several campaigns characterized by a series of massacres linked by time or location. Their activities also included selective killings, kidnaping, intimidation, and the forced displacement of persons not directly involved in the hostilities. Paramilitary groups targeted teachers (see Section 2.a.), human rights activists (see Section 4), labor leaders (see Section 6.a.), community activists, national and local politicians (including President Pastrana), peasants, and other persons whom they accused of supporting or failing to confront guerrillas. Paramilitary forces killed members of indigenous groups (see Section 5). Paramilitary groups continued their efforts to deprive guerrillas of civilian support by displacing civilian populations believed to be sympathetic to the guerrillas.

A major paramilitary offensive during January 7-10, following the beginning of peace talks between the Government and the FARC, and consisting of 19 separate massacres in 6 departments, left at least 143 persons dead and hundreds of others displaced. The massacres reportedly were in response to the FARC's December 1998 attempt to take an AUC stronghold in Nudo del Paramillo, in which 30 persons were killed. Many of those killed by the AUC were not involved directly with guerrillas. Although security forces had ample warning of the attacks and enough time, during the course of 4 days, to respond, they failed to intervene in any of the 19 massacres, and arrested only 2 suspects following the massacres. The Government did not investigate subsequently local

commanding officers for omission, negligence, or collaboration with the paramilitary perpetrators of the crimes.

Among these massacres was the January 9-10 massacre at El Tigre, Putumayo, in which paramilitary forces killed at least 22, and possibly as many as 33, persons. Approximately 80 percent of the town's surviving population subsequently fled, after the attackers threatened to kill anyone who stayed in the town. An initial Prosecutor General's investigation was aborted due to death threats against the investigators and the local police's reported inability to protect them. On October 22, the Prosecutor General's human rights office formally indicted paramilitary leader Luis Guillermo Millan Cordona for the crime, as well as for establishing paramilitary groups; he remained at large at year's end.

Also among the series of January 7-10 AUC massacres was a January 9 massacre at Playon de Orozco, Magdalena department, in which at least 27 persons were killed. Gunmen, carrying lists with the names of their intended victims, dragged them outside a church during a Mass, and shot them while the priests and other villagers watched.

A 300-person paramilitary group based at Vetas, Norte de Santander, committed 15 massacres in and around the towns of La Gabarra and Tibu between May 29 and September 1. More than 145 persons whom the attackers claimed were guerrillas or guerrilla supporters were killed. (There is a heavy guerrilla presence in the area.) Nearby elements of the army's 46th Counter guerrilla Battalion (Tibu) and 5th Mechanized Group (Cucuta), as well as police, did not intervene. On August 30, the Government relieved from command three top regional security force commanders--Brigadier General Alberto Bravo Silva (commander of the army's 5th Brigade), the departmental police chief, and the head of the regional DAS--for failure to act to prevent the August 21-22 massacre. On September 2, Brigadier General Bravo Silva was separated from service on orders from President Pastrana. The Attorney General's office opened an investigation for possible dereliction of duty by security force officers in the area, including those who were relieved. A police captain who allegedly provided logistical support to the paramilitary forces is also under investigation. The Prosecutor General's human rights unit issued an arrest warrant for paramilitarism for Ulises Castellanos, who allegedly participated in the Tibu massacre. In late August, the Minister of Defense ordered an additional army battalion to the area (to be headquartered in La Gabarra), accompanied by 69 additional police. In response to the massacres, the Prosecutor General's human rights unit opened a new investigative subdivision, which had implicated 14 persons in formal investigations by year's end.

The last of the original 400-plus "Convivir" rural self-defense cooperatives was dismantled during the year. The cooperatives were formed in 1994 to provide counterinsurgency intelligence to local police and military commanders. There had been credible charges that some Convivir cooperative members had committed serious human rights abuses while fighting alongside, or as members of, illegal paramilitary units. Twenty of the original Convivir cooperatives were reconfigured as "special service cooperatives," and the Government legally recognized these groups. In November 1997 the Constitutional Court had ruled that while the groups were a constitutional means to combat guerrillas, they must relinquish rifles, machine guns, and other restricted weaponry in their possession. (Although the authorities originally intended these groups to be unarmed, they subsequently authorized an undetermined number to carry small arms in self-defense.) Other Convivir groups clearly were operating outside the terms of the

law, as they were armed with rifles, shotguns, machine guns, and other weaponry, much of it authorized, sold, or otherwise provided to them by the military. In July 1998, the Government began disbanding the cooperatives.

On April 12, the Prosecutor General's office placed police Captain Johnny Estrada under preventive detention while he awaited trial for participation in forming paramilitary groups, related to the "Convivir El Corral," centered in Arauca.

Some local army and police commanders tacitly tolerated--and sometimes aided and abetted--the activities of paramilitary groups, despite the public pronouncements of the Government and the armed forces high command that they intended to combat paramilitary violence. At times, individual commanders and troops at local levels armed, coordinated actions with, or shared intelligence with paramilitary groups. Some military commanders effectively afforded paramilitary groups protection by allowing them to establish their base camps in areas generally under military control. Paramilitary groups that received such shelter often were able to attack guerrillas with minimal fear of reprisals. In October 1998, Vice President Gustavo Bell admitted that despite official policy, "some members of the armed forces have maintained some degree of links to paramilitary groups;" he stated that there was no evidence of an "institutional decision" by the armed forces to cooperate with paramilitary groups. However, paramilitary forces find a ready support base within the local military and the police, as well as civilian elites in many areas.

Despite the continuing significant rise in paramilitary activity since 1992, security forces failed to give priority to confronting these illegal groups. According to the Ministry of Defense, the military, National Police, and CTI captured a total of 556 members of paramilitary groups and killed more than 26 during the year. According to the Vice President's office, state security forces captured 188 members of paramilitary groups between January and September, and killed 37 during the same period.

The Government took some action during the year to investigate allegations of collaboration or complicity with paramilitary groups by members of the security forces, and to punish those responsible (see Section 1.a.). The Prosecutor General's office and the Attorney General's office in some instances took action in response to collaboration with paramilitary groups by members of the security forces.

On July 23, 1998, the Prosecutor General's human rights unit arrested four members of the army's 17th Brigade and charged them with sponsorship and formation of illegal paramilitary groups. The four men were arrested on the basis of testimony from several of the members of a paramilitary group who had surrendered to that brigade in February 1998. There was no reported progress in the case at year's end.

Paramilitary groups on occasion used landmines and sometimes forced underage combatants into their ranks. Paramilitary groups' respect for the protected status of hospitals, medical personnel, and the emblem of the Red Cross improved during the year, due in large part to educational efforts by the ICRC. However, in July the AUC temporarily closed the hospital at Santafe de Antioquia to all but paramilitary patients.

Guerrilla organizations continued to pursue strategies that routinely led them to commit abuses against citizens. Their tactics consistently included extrajudicial killings,

kidnaping, torture, targeting of civilian populations and installations, including medical facilities, and the forced recruitment of children as young as 10 years old. In response to President Pastrana's August 12 call to all armed actors to obey international humanitarian law (the rules of war), the FARC responded that it would not abide by, and was not bound by, international humanitarian law.

Two main guerrilla armies, the FARC and the ELN, as well as the much smaller EPL and other groups, commanded an estimated total of between 11,000 and 17,000 full-time guerrillas operating in more than 100 semiautonomous groups in 30 of the nation's 32 departments. These groups undertook armed actions in nearly 1,000 of the 1,085 municipalities. Both the FARC and the ELN systematically attacked noncombatants and violated citizens' rights through the use of tactics such as killings, forced disappearances, the mutilation of bodies, attacks on ambulances, and executions of patients in hospitals. Guerrillas also killed indigenous people (see Section 5) and religious leaders (see Section 2.a.).

Guerrillas used landmines both to defend static positions (such as base camps, cocaine laboratories, and sites at which kidnap victims were held) and as indiscriminate weapons of terror. Landmines planted by guerrillas or disguised as everyday items such as soccer balls or paint cans often resulted in the killing or maiming of civilian noncombatants; thousands of displaced persons were unable to return to their homes due to the presence of antipersonnel mines. The FARC used sulfuric acid in the gas canisters that it employed as artillery. Scores of soldiers, police, and civilians were burned indiscriminately as a result. Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, both it and the larger FARC regularly forced children into their ranks (see Section 5). Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of young girls is a particular problem.

On March 15, the press reported that FARC members entered the town of Vereda Mata de Platano, Caparrapi municipality, Cundinamarca department. The attackers forced approximately 100 residents from their homes, forced them to lie down in the street, and shot anyone whose name appeared on their list of alleged paramilitary collaborators. Nine men were killed.

Between July 8 and 12, the FARC conducted a generally unsuccessful offensive in 15 departments, which was characterized by numerous abuses. Many of the FARC units involved undertook their attacks from the despeje zone. According to army estimates, 289 members of the FARC were killed during the offensive (including approximately 70 children between the ages of 9 and 15).

On July 30-31, the FARC destroyed approximately 80 percent of the town of Narino, Antioquia, during a massive attack. The guerrillas killed eight civilians (including four children) and nine police officers during or after the attack. The FARC summarily executed several of the police officers after having captured them and also wounded 7 police and 11 civilians. A hospital, a school, and approximately 40 homes were among the buildings destroyed. The FARC then declared family and girlfriends of surviving policemen to be military targets, causing many to flee.

On September 27, the FARC killed seven persons in Barrancabermeja. The victims were

reportedly members or sympathizers of the ELN and were among a group of squatters that had occupied a new public housing project. Local police and army units reportedly did not intervene.

In July the FARC admitted to having killed 11 persons in the despeje, who had disappeared at various times beginning in November 1998. The FARC accused the victims of being members of paramilitary groups.

Between November 16 and 23, the FARC attacked 15 cities in 5 different regions across the country, causing widespread devastation. The attack centered on the Guainia departmental capital of Puerto Inirida. The attacks were viewed publicly as a rejection of President Pastrana's call for a Christmas cease-fire. The attacks included the use of a hand grenade attached to a dog's collar and the destruction of a 150-year-old church.

Government forensic experts determined that, of 38 soldiers killed during the FARC's July 8 attack on Gutierrez, Cundinamarca department, 17 were killed by "coup de grace" shots to the head after the soldiers were captured.

According to the Federation of Colombian Municipalities, guerrilla attacks damaged or destroyed the installations of 66 municipal governments between January and July and kidnaped at least 50 mayors during the year (see Section 1.b.)

On October 20, the human rights unit of the Prosecutor General's office issued an arrest warrant on charges of terrorism, rebellion, and homicide for ELN front commander Luis Guillermo Roldan Posada. Roldan was wanted for masterminding the ELN's October 1998 attack on the oil and gas pipeline at Machuca, Antioquia. The resulting explosion killed 84 persons (including more than 38 children) and injured another 40 persons. In December two other ELN members also were indicted for the attack.

ELN and FARC attacks on the Cano Limon-Covenas and other pipelines caused oil spills that resulted in massive environmental damage.

Guerrilla groups also were responsible for multiple abuses of religious and medical personnel with protected status and of the wounded. During the July offensive, some FARC combatants wrongfully employed the emblem of the Red Cross or disguised themselves as medical personnel to either achieve surprise or flee combat. FARC combatants at Campamento, Antioquia, sought refuge in a home for the elderly and directed their offensive from the town hospital. In August the FARC killed one civilian and kidnaped another while looting the hospital in Dabeiba, Antioquia of medicines. The FARC previously attacked the same hospital in May. The ELN killed several wounded members of paramilitary groups during the first half of the year in the hospital at Saravena. On a number of occasions, FARC guerrillas took over municipal clinics and used them as headquarters for their attacks on civilian and military targets.

In July 1998, then-President-elect Pastrana met with the FARC's leader, Manuel Marulanda Velez. In order to facilitate future negotiations, the two agreed to a demilitarized zone, in which the two sides could pursue peace talks. The despeje zone was initiated in November 1998 in five southern municipalities, with a total population of approximately 100,000. By the end of December 1998, security forces had completed their withdrawal from the area, effectively turning it over to FARC control.

Representatives of the Government and the FARC met in January; however, the FARC suspended the negotiations after less than 2 weeks, claiming that the Government should produce "satisfactory results against paramilitary groups" before talks could resume. In May President Pastrana and Marulanda met again and agreed on a 12-point agenda for formal negotiations and on procedures for the creation of an international verification commission to monitor both sides' compliance with the terms of the *despeje*. However, a subsequent dispute over the issue of whether to immediately establish such a commission deadlocked both sides, and formal talks did not begin in earnest until October. The Government also broached peace talks with the ELN, but refused to continue the talks until the ELN released each of the more than 200 civilian noncombatants kidnaped in three mass kidnappings between May and July. By year's end, most of the kidnap victims had been freed, typically after paying ransom to the ELN; however, the ELN was still holding a score of these kidnap victims at year's end.

The FARC committed numerous abuses against civilians in the *despeje* zone. The FARC was responsible for killings, rape, alleged cases of forced disappearance, arbitrary detention, infringement of the rights to free speech and fair trial (see Section 1.e.), forced political indoctrination, and the forced recruitment of hundreds of children. According to press reports, the FARC has stated publicly that all persons between the ages of 13 and 60 in the *despeje* zone are liable for military service with the guerrillas. The FARC also has pressured at least one priest to leave the *despeje* zone and expelled another (see Section 2.c.).

## Section 2 Respect for Civil Liberties, including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of the press; however, while the Government generally respected this right in practice, there were some significant exceptions. Journalists regularly practiced self-censorship to avoid retaliation and harassment. However, the privately owned print media published a wide spectrum of political viewpoints and often voiced harsh antigovernment opinions without fear of administrative reprisals. In 1997 the Constitutional Court declared unconstitutional the Government's ban on publication of guerrilla communiqués by the media. A ban on the publication of evidence pertaining to criminal investigations, based on the secrecy provisions of the Penal Code and an anticorruption statute, remained in effect.

In August 1998, the dean of the Los Andes University law school and the leading daily newspaper *El Tiempo* filed a legal challenge to the 1997 Constitutional Court decision upholding a 1996 law that gave the Government unprecedented authority over the content of television programming. The plaintiffs asserted that the law was aimed at limiting journalistic freedom of expression. At the very end of 1998, the court ruled that the actions of the administration of then-President Ernesto Samper were unconstitutional and that all future licensing agreements would be respected.

All citizens have the right to seek a judicial injunction or motion ("*tutela*") in cases involving violations of constitutional rights. This provides all persons and organizations, including the media, with a mechanism to criticize both governmental and private violations of fundamental rights. In May a decision by the Supreme Court determined that the media are obligated not only to rectify misinformation, but also to compensate the

victim for damages caused.

Journalists typically work in an atmosphere of threats and intimidation. Fearing for their safety, journalists often refrain from publishing or airing stories counter to the interest of paramilitary groups, guerrillas, or narcotics traffickers. Unknown assailants killed nine journalists during the year, although not all the murders could be attributed directly to the journalists' work. (At least 13 journalists were killed in 1998.) On April 11, radio announcer Hernando Rangel Moreno was killed at a friend's home. Although he was not working for any specific media at the time of his murder, he occasionally had written reports critical of the paramilitary groups for the El Plato, Magdalena local newspaper Sur Trienta Dias. A former mayor of El Plato was charged with the killing and was in prison at year's end. On August 13, well-known radio and television political satirist Jaime Garzon was killed while on his way to work (see Section 1.a.). On September 16, an unidentified individual killed German Quintero Torres, the editor-in-chief of the local newspaper El Pilon in Valledupar, Cesar. He was also a correspondent for a regional television newscast, and vice president of the Valledupar Journalists' Association. On October 22, unknown assailants abducted and killed Roberto Julio Torres, a journalist for the Sincelejo, Sucre newspaper El Meridiano, in San Onofre, Sucre. On November 29, independent cameramen Alberto Sanchez and Luis Alberto Rincon were killed in El Playon, Santander; they had been covering a local fair. On December 5, Pablo Emilio Medina, cameraman for a local television newscast, was killed in Garzon, Huila while covering a FARC attack on the town.

In October the Organization of American States (OAS) Special Rapporteur for Freedom of Expression stated that the "press freedom situation in Colombia is a serious source of concern" and that in addition to the killings of journalists, "Colombian journalists endure constant threats and intimidation."

According to the local NGO, Prensa Libre, 76 journalists were kidnaped during the year. Guerrillas abducted many of them to bear witness to crimes committed by paramilitary forces or to deliver messages to local authorities. Prensa Libre reported that on October 16, the EPL held 60 journalists captive for 26 hours in Santander department, where they were covering the release of kidnaped singer Jorge Velosa. Henry Romero, a photographer for Reuters news agency, was kidnaped by ELN guerrillas on October 30 and held for a week. On October 30, seven journalists were abducted in Barrancabermeja, Santander department, and released 3 days later; they were held to record paramilitary crimes. On November 9, Jorge Utria, press officer for Congressman Carlos Romero, was kidnaped in Curumani, Cesar department, and released 3 days later. On November 11, the FARC kidnaped seven journalists in Ataquez, Cesar department; again to witness paramilitary crimes.

According to Prensa Libre, seven journalists received credible death threats; five of them fled the country. Most of these threats apparently were related to the journalists' work and aimed at intimidation.

Due to the continued high number of journalists killed in past years, in May the Prosecutor General's office created a new subdivision to handle investigations of crimes of this type. Progress in these investigations included the arrest in Valledupar of the alleged killers of German Quintero.

Media ownership remains highly concentrated. Wealthy families or groups associated with one or the other of the two dominant political parties continued to expand their holdings of news media, and regional firms continued to purchase local news media outlets. As a result of the general economic downturn, large press conglomerates closed radio stations and newspaper offices in certain provinces and implemented staff reductions. Although the press remained generally free, economic problems and the concentration of media ownership limited the media's resources, causing the media to rely heavily on a smaller pool of advertisers, including the Government, which the media often chose not to criticize.

Despite an attempt in 1998 by some members of Congress to abolish it, the National Television Commission continued to oversee television programming throughout the year. Detractors charged that it was susceptible to political influence.

The FARC restricted the movement of journalists in the despeje through blockades and random identity checks.

The Government generally respected academic freedom, and there was a wide spectrum of political activity throughout the country's universities. However, paramilitary groups and guerrillas maintain a presence on many university campuses, aimed at generating political support for their respective campaigns. They use both violent and nonviolent means towards political ends. Both paramilitary groups and guerrillas also regularly targeted public school teachers at the elementary and secondary levels for politically motivated killings. In 1998 the CPDH reported that slightly more than 10 percent of all victims of politically motivated homicides during the year were public school teachers.

The University of Antioquia temporarily closed its doors after the August 7 killing of student leader Gustavo Marulanda by AUC members. He was among six students threatened by members of paramilitary groups for allegedly supporting guerrilla groups. On May 4, unidentified attackers killed University of Antioquia professor Hernan Henao Delgado on the campus and also killed the University's cafeteria administrator. Members of paramilitary groups were widely suspected in both cases. However, the authorities had announced no leads in either case as of August, nor had they announced any leads in the May 6 attempted murder of Professor Argiro Giraldo Quintero. Approximately 20 students and professors at the University of Antioquia received death threats, and the university was bombed twice during the year.

Three prominent university professors were killed during the year, and one survived a failed attempt on his life. On September 15, Jesus Antonio Bejarano, a former government peace commissioner, was killed on the National University campus. Dr. Dario Betancur, head of the social sciences faculty of Bogota's Universidad Pedagogica, disappeared on April 30, and his body was found on September 3. On May 4, Dr. Hernando Henao, an anthropologist who published on the subject of displaced persons, was killed. On December 22, Professor Eduardo Pizarro Leongomez, director of the political studies and international affairs institute at the National University, was shot twice by unknown attackers, but survived. The police and the Prosecutor General's office were investigating this case. Many faculty members at the National University said there was great hesitation among professors to express views on the country's internal conflict for fear of retribution.

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

The Constitution provides for freedom of peaceful assembly, and the Government respects this right in practice. The authorities normally do not interfere with public meetings and demonstrations and usually grant the required permission except when they determine that there is imminent danger to public order.

There were large demonstrations on several occasions by citizens in favor of peace. For example, on June 6, between 70,000 and 250,000 persons demonstrated in Cali to protest the ELN kidnaping of more than 170 persons from a church (see Section 1.b.). On October 24, as many as 6 million persons marched in antiwar protests held in 15 cities around the country.

The Constitution provides for freedom of association, and the Government respects this right in practice. Any legal organization is free to associate with international groups in its field. Membership in proscribed organizations, such as the FARC, the ELN, the EPL, and the AUC, is a crime.

### c. Freedom of Religion

The Constitution provides for religious freedom, and the Government respects this right in practice. Roman Catholic religious instruction is no longer mandatory in public schools, and a 1994 Constitutional Court decision declared unconstitutional any official government reference to religious characterizations of the country. Although the Catholic Church was separated from the State by the 1991 Constitution, it retains a de facto privileged status. The law on the freedom of religion provides a mechanism for religions to obtain the status of recognized legal entities. Special public recognition is required for any religion that wishes to minister to its adherents via any public institution. 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. There is little religious discrimination.

The FARC has placed religious restrictions on persons within the despeje zone.

The United Pentecostal Church of Colombia reported that on August 2, the FARC killed two of its preachers, Jose Honorio Trivino and Miguel Antonio Ospina. Two other preachers and 25 evangelical church members also were killed between January and August, mostly in areas greatly affected by the conflict. FARC members were believed responsible for a majority of the killings, as well as regular threats, which forced the closure of 300 churches nationwide.

On April 30, the FARC forced Roman Catholic priest Rufino Perez to leave the despeje zone permanently after Perez called FARC members "murderers and thieves." In April the FARC attempted to expel Catholic priest Miguel Angel Serna, who had criticized publicly the FARC's management of the zone. The FARC allowed him to remain following strong public criticism and intervention by both the National Bishops' Conference and the presidency. In September a Polish priest was given 15 days to leave the despeje zone.

On May 30, the ELN kidnaped more than 170 persons, including a Catholic priest, from the La Maria Catholic church in southern Cali during Mass (see Section 1.b.).

On August 16, members of the EPL, a small guerrilla movement, kidnaped Bishop of

Tibu Jose de Jesus Quintero between El Tarra and Tibu, Norte de Santander department, and freed him on September 19. Quintero had spoken out against a rash of paramilitary and guerrilla massacres in the area. He had been kidnaped previously by the ELN in 1997. On May 18, EPL members killed Catholic priest Pedro Leon Camacho in nearby Cachira, Norte de Santander, after he had denounced publicly the guerrilla group's abuses of the civilian population.

The Prosecutor General's human rights unit was investigating FARC commander "Arley Leal" for the September 1998 killing of Catholic priest Alcides Jimenez Chicangana (see Section 1.a.).

Jewish community leaders estimated that as many as 20 percent of the country's Jewish community had fled the country as of July. Among the principal causes was a string of kidnappings, assaults, and murders affecting Jewish business leaders.

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

The Constitution provides citizens with the right to travel domestically and abroad, and the Government generally respects this right in practice, with some exceptions. Outsiders who wish to enter Indian tribes' reserves must be invited. In areas where counterinsurgency operations were underway, police or military officials occasionally required civilians to obtain safe-conduct passes; paramilitary forces and guerrillas often used similar means to restrict travel in areas under their control. On July 10, following numerous guerrilla attacks, the Government imposed a temporary dusk-to-dawn curfew, prohibiting road and river travel, in 10 departments, including 10 towns just outside of Bogota. Military counterinsurgency operations, forced conscription by paramilitary and guerrilla organizations, and guerrilla incursions often forced peasants to flee their homes and farms, and there was a very large population of internally displaced persons (see Section 1.g.).

According to the DAS, 65,000 citizens emigrated during the first 6 months of the year, due principally to the deteriorating security situation and economic recession. According to the Ministry of Foreign Affairs, requests for passports during the first 6 months of the year nearly tripled in comparison with the first 6 months of 1998.

The Constitution provides for the right to asylum, under terms established by law in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The country has had a tradition of providing asylum since the 1920's. Since the 1970's, Colombia has granted asylum to Argentine, Chilean, Uruguayan, and Paraguayan citizens seeking refuge from dictatorial regimes.

The Government cooperates with the offices of the UNHCR and other humanitarian organizations in assisting refugees and internally displaced persons. The Government reserves the right to determine eligibility for asylum, based upon its own assessment of the nature of the persecution an applicant may have suffered. The issue of the provision of first asylum did not arise during the year. 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

The Constitution provides for the right of citizens to change their government, and citizens exercise this right in regularly scheduled elections by secret ballot. In 1998 voters elected Conservative Party candidate Andres Pastrana President in elections that were free, fair, and transparent, despite some threats by paramilitary groups, narcotics traffickers, and guerrillas to the electoral process. The Liberal Party controls the legislature.

Presidential elections are held every 4 years, with the incumbent barred for life from reelection. The Liberal and Conservative parties have long dominated the formal political process with one or the other winning the presidency. Public employees are not permitted to participate in partisan campaigns. Officially, all political parties operate freely without government interference. Those that fail to garner 50,000 votes in a general election 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. Voting is voluntary and universal for citizens age 18 and older, except for active-duty members of the police and armed forces, who may not vote.

There are no legal restrictions, and few practical ones, on the participation of women or minorities in the political process; however, both are underrepresented in official and party positions. Voters elected 14 women to the 102-seat Senate and 19 women to the 161-seat Chamber of Representatives in March 1998. There are 3 women in the 16-member Cabinet, serving as Ministers of Labor, Communications, and Foreign Trade.

Indigenous people are underrepresented in government and politics. Two Senate seats are reserved for indigenous representatives. Blacks also are underrepresented in government and politics. In September 1996, the Constitutional Court declared unconstitutional a 1993 law that set aside two House seats for citizens of African heritage, although the ruling nonetheless allowed the incumbents to complete their terms in office. There is one black Senator, but there are no black members of the Chamber of Representatives.

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

A large and varied nongovernmental human rights community is active, providing a wide range of views. Among the many groups are: the Colombian Catholic Bishops Conference, the Colombian Commission of Jurists; the Intercongregational Commission for Justice and Peace; the Permanent Committee for the Defense of Human Rights; the Center for Investigations and Popular Research; the Advisory Committee for Human Rights and Displacements; the Latin American Institute for Alternative Legal Services; the Committee in Solidarity with Political Prisoners (dedicated to defending accused guerrillas); the Association of Families of Detained and Disappeared Persons; the Reinsertion Foundation (focused on demobilized guerrillas); the Pais Libre Foundation (focused on the rights of kidnap victims); and the Vida Foundation (focused on the rights of victims of guerrilla violence). Other international human rights organizations in the country that were active include the ICRC (with 17 offices across the country) and Peace Brigades International.

Although the Government generally did not interfere directly with the work of human rights NGO's, many prominent human rights monitors worked under constant fear for their physical safety. There were unconfirmed reports of security forces harassing or

threatening human rights groups. Human rights groups were subjected to surveillance, harassing phone calls, graffiti campaigns, and threats by paramilitary, guerrilla, and other unidentified groups.

NGO's investigated and reported on human rights abuses committed by government forces, various paramilitary groups, and the guerrilla armies. Many NGO's expressed serious concern over the growing paramilitary and guerrilla violence--and the Government's increasingly apparent inability to stop either group. In particular, a number of NGO, as well as governmental, human rights officials were alarmed by the rapid growth and increasing political and military power of paramilitary groups.

The human rights community remained under intense pressure during the year. Human rights monitors were subject to a systematic campaign of intimidation, harassment, and violence. At least seven human rights advocates were killed during the year. In addition, approximately 20 human rights workers sought political asylum abroad, attempting to flee the country for their own safety. Many were frightened by a February threat against human rights activists by paramilitary leader Carlos Castano following a paramilitary kidnaping of four human rights workers. In March a group of Uraba merchants, cattle ranchers, community action boards, and other entities criticized area human rights NGO's as being sympathetic to guerrillas and opposed to the State and its armed institutions.

The Government, through the Ministry of the Interior and DAS, allocated approximately \$4.3 million (8 billion pesos) to protecting human rights advocates and labor activists associated with 88 different human rights NGO's and unions. The funds were dedicated to security measures for individuals as well as for the headquarters of the NGO's, an emergency radio network, and funding for travel abroad for particularly threatened individuals. However, human rights groups accused the Government of disbursing the funds too slowly.

On September 17, unidentified gunmen killed Carlos Arturo Pareja, the human rights Ombudsman's representative for San Juan Nepomuceno, as he gave a radio interview. His assistant, Janes Rua Garcia, also was killed. An investigation was underway at year's end.

On January 30, unidentified individuals pulled Everardo de Jesus Puerta and Julio Ernesto Gonzalez, both members of the Committee for Solidarity with Political Prisoners (CSPP), from a Medellin-Bogota bus and killed them. The CSPP assumed that AUC members had killed the two persons, but the authorities believed that they were killed because they resisted robbery. The Interior Ministry announced a reward of approximately \$26,681 (50 million pesos) for information leading to the capture of the three assailants.

On January 28, AUC members kidnaped human rights workers Jairo Bedoya, Jorge Salazar, Olga Rodas, and Claudia Tamayo, of the Popular Training Institute (IPC), whom they had accused of guerrilla links. Following the kidnaping, AUC leader Carlos Castano stated that he would begin an offensive against human rights NGO's. He declared as military targets alleged guerrilla sympathizers who had "infiltrated" human rights NGO's; he stated that legitimate human rights workers were "valued" and would not be targeted. He released Rodas and Tamayo February 8, but held Bedoya and Salazar until February 18, proclaiming them "prisoners of war." On August 29, a bomb badly damaged the IPC's Medellin headquarters. Police announced no leads in the case of the IPC bombing nor in attacks on labor union headquarters that occurred the same day (see Section 6.a.).

On November 28, AUC members abducted Southern Bolivar Department peasant leaders Edgar Quiroga and Gildardo Fuentes. The paramilitary group accused the two men of guerrilla activities, but according to state law enforcement agencies, both men were legitimate local activists engaged in trying to secure humanitarian assistance for the region's internally displaced persons. A later paramilitary statement indicated that the men had been killed. Neither had been seen or heard from again at year's end.

The human rights unit of the Prosecutor General's office indicted seven persons for the 1997 murders of two CINEP workers, and issued arrest warrants for Carlos Castano and four other members of paramilitary groups (see Section 1.a.).

On April 16, the human rights unit of the Prosecutor General's office formally indicted suspected paramilitary leader Libardo Humberto Prada Bayona for the August 1998 killing in Valledupar of Amparo Leonor Jiminez. Jiminez was a local coordinator for the NGO "Redepaz" (Peace Network) and was a journalist. She had been critical of security force-paramilitary links.

The Ministry of Defense reported that approximately 63,000 security force members received human rights training during the year. General Fernando Tapias, armed forces commander, reported to the press in August that about 90 percent of the military has gone through human rights training. Such training is provided by the ICRC, the Colombian Red Cross, the Roman Catholic Church, elements of the Government and security forces, and foreign governments. Many observers credited these programs with having done much to foster a climate of increased respect for human rights and international humanitarian law within the military forces in recent years.

The Government has an extensive human rights apparatus, which includes the office of the President's Adviser for Human Rights (currently Vice President Gustavo Bell), the Ministry of Defense human rights office, and dependent offices for each of the armed forces. The national human rights Ombudsman, its regional representatives and corps of public defenders, the Attorney General's office and its delegate for human rights and regional representatives, and the Prosecutor General's office and its human rights unit are all independent institutions, not subject to executive branch direction.

On August 12, President Pastrana and Vice President Bell made public the Government's national human rights plan. The plan called for the respect, promotion, and assurance of human rights. It promised increased government attention to the consequences of human rights abuses and called on all armed factions to respect international humanitarian law. The plan asserted that security forces would combat both guerrilla and paramilitary forces. One of the plan's most important provisions permitted the armed forces commander to remove from service summarily any military member whose performance in combating paramilitary forces he deemed "unsatisfactory or insufficient."

The human rights Ombudsman's office received 18,479 human rights complaints during 1998 (a slight decrease from 1997) and concluded investigations of 11,821 complaints that year. It also provided 37,262 free legal consultations through its corps of more than 1,000 public defenders, many of whom work only part time.

The U.N. High Commissioner for Human Rights (UNHCHR) and the UNHCR have offices in Bogota. In 1997 the UNHCHR opened a field office in Bogota to observe

human rights practices and advise the Government. Originally scheduled to end after 1 year, the Government again renewed the office's mandate, until April 2000. The office is tasked with monitoring and analyzing the human rights situation throughout the country and with the provision of assistance to the Government, civil society, and NGO's in the field of human rights protection. It submitted reports to the Government and to the United Nations.

#### 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; however, in practice, many of these provisions are not enforced. The killing of homosexuals as part of the practice of social cleansing continued.

#### Women

Rape and other acts of violence against women are pervasive in society, and like other crimes, seldom are prosecuted successfully. The quasi-governmental Institute for Family Welfare 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 spousal abuse, but the level and amount of these services were dwarfed by the magnitude of the problem.

The National Institute for Forensic Medicine reported 40,469 instances of domestic abuse during the year, as well as 12,350 reported sexual crimes. The Institute estimated that 95 percent of all abuse cases are never reported to the authorities. Among the reported sexual crimes were 2,049 cases of rape.

The 1996 Law on Family Violence criminalizes violent acts committed within families, including spousal rape. The law 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. It 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 and denies probation or bail to offenders who disobey restraining orders issued by the courts. A 1997 law also made additional, substantial modifications to the Penal Code and introduced sentences of between 4 and 40 years for crimes against sexual freedom or human dignity, including rape, sex with a minor, sexual abuse, induction into prostitution, and child pornography. The law also repealed an old law that fully exonerated a rapist if he subsequently offered to marry the victim and she accepted. However, there was little evidence that this legislation was enforced systematically. The National Institute for Forensic Medicine reported 19,859 cases of spousal abuse during the first half of the year. The overwhelming majority of victims were women. The First Lady Nohra Pullana de Pastrana is on the board of directors of the ICBF, and works with the "Make Peace" program, which provides support to women and children who were victims of domestic violence.

Trafficking in women is a problem (see Section 6.f.).

Women also faced an increased threat of torture and sexual assault due to the internal conflict (see Section 1.g.).

The Constitution prohibits any form of discrimination against women and specifically requires the authorities to ensure "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. However, despite these constitutional provisions, discrimination against women persisted. 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 experience a higher rate of unemployment than men and a higher percentage of women were employed in minimum wage jobs. According to the National Statistics Institute, 17.2 percent of men were unemployed as of September; during the same period, 23.3 percent of women were unemployed. Of those working in September, 25.6 percent of men earned the minimum wage, as did 35.1 percent of working women.

Despite an explicit constitutional provision promising additional resources for single mothers and government efforts to provide them with training in parenting skills, women's groups reported that the social and economic problems of single mothers remained great. The Constitutional Court ruled in September 1997 that pregnant women and mothers of newborn children under 3 months of age could not be fired from their jobs without "just cause." Bearing children, the Court ruled, was not just cause.

### Children

The Constitution formally provides for free public education, which is compulsory between the ages of 6 and 15. Nevertheless, an estimated 25 percent of children in this age group do not attend school, due to lax enforcement of truancy laws, inadequate classroom space, and economic pressures to provide income for the family.

Despite significant constitutional and legislative commitments for the protection of children's rights, these were implemented only to a minimal degree. 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 1996 and 1997 laws on family violence, which had been drafted particularly to increase legal protection for women and children.

The National Institute for Forensic Medicine reported 9,713 cases of child abuse during the year; 1,161 of these cases involved sexual abuse. An estimated 25,000 boys and girls under age 18 work in the sex trade. In 1996 legislators passed a law prohibiting sex with minors or the employment of minors for prostitution, and they amended that law in 1997 to provide that conviction for nonviolent sexual abuse of a child under age 14 carries a prison sentence of 4 to 10 years. Conviction for rape of anyone under the age of 12 carries

a mandatory sentence of 20 to 40 years in prison. Although enforcement of such laws is lax, crimes against children are being dealt with more severely than in the past. The ICBF oversees all government child protection and welfare programs and funds nongovernmental and church programs for children.

Trafficking in girls is a problem (see Section 6.f.).

Child labor is a significant problem (see Section 6.d.).

In conflict zones, children often were caught in the crossfire between the public security forces, paramilitary groups, and guerrilla organizations. Children suffered disproportionately from the internal conflict, often forfeiting opportunities to study as they were displaced by conflict and suffered psychological traumas. The human rights Ombudsman's office estimated that only 15 percent of displaced children attend school. In July the Government announced that no one under the age of 18 could enter military service, even with the consent of a parent; previously, individuals over 16 years of age but below age 18 could volunteer to join the military with parental permission, but were barred from serving in combat.

The use of child soldiers by guerrillas was common, and paramilitary groups sometimes impressed children into their ranks. In May the FARC promised visiting Special Representative of the U.N. Secretary General on Children in Armed Conflict Olara Otunnu that it would stop forcing children into its ranks; however, it continued the practice. The Roman Catholic Church reported that the FARC lured or forced hundreds of children from the despeje zone into its ranks. It engaged in similar practices in other areas under its control. Once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem. Although the ELN agreed to halt recruitment of children under the terms of the June 1998 Mainz "Heaven's Gate" agreement, it also regularly impressed children into its ranks. A 1996-98 human rights Ombudsman's study estimated that 6,000 children were "linked to or members of" guerrilla groups and reported that approximately 2,000 children were killed during 1998. There were 15 children among the 39 FARC guerrillas killed in combat at Puerto Lleras in July. The army killed approximately 70 children among the 289 FARC members killed during the FARC's July 8-12 offensive. Children were also among the preferred kidnaping targets of guerrillas (see Section 1.b.).

#### People with Disabilities

The Constitution enumerates the fundamental social, economic, and cultural rights of the physically disabled, but serious practical impediments exist that prevent the full participation of disabled persons in society. There is no legislation that specifically mandates access for the disabled. According to the Constitutional Court, physically disabled individuals must have access to, or if they so request, receive assistance at, voting stations. The court also has ruled that 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 80 distinct ethnic groups among the 800,000-plus indigenous

inhabitants. These groups are concentrated in the Andes mountains, Pacific coast lowlands, the Guajira peninsula, and Amazonas department. The Constitution gives special recognition to the fundamental rights of indigenous people. 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 rights organizations, as well as with NGO human rights groups 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 traditionally have been relegated to the margins of society. Few opportunities exist for those who might wish to participate more fully in modern life. In addition, indigenous communities suffer disproportionately from the internal armed conflict (see Section 1.g.).

According to the National Agrarian Reform Institute (INCORA), 64,377 indigenous families live on designated Indian reserves. Indigenous rights to their ancestral lands are by law permanent. INCORA reports that approximately 80 percent of these lands have been demarcated. However, armed groups often violently contested indigenous land ownership. Traditional Indian authority boards operate some 519 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 1998 INCORA estimated that some 40 indigenous communities had no legal title to land that they claimed as their own, and reported that an estimated 400 requests by indigenous communities to establish new reserves remained outstanding at the end of that year. In 1999 INCORA reported that some 350 requests by indigenous communities to establish new reserves remained outstanding at year's end. According to INCORA, more than 75 million acres have been recognized legally as Indian lands. It is buying back much of this land, which has been settled by mestizo peasants, and returning it to indigenous groups.

The Constitution provides for a special criminal and civil jurisdiction within Indian territories based upon traditional community laws. However, some observers charged that these special jurisdictions were subject to manipulation, and that punishments rendered by such community courts were often much more lenient than those imposed by regular civilian courts.

Members of indigenous communities continued to be victims of all sides in the internal conflict, and a number of them were killed. CINEP reported the killings of 40 indigenous people, and the forced disappearance of 19 during the first 9 months of the year; the perpetrators were not identified. CINEP also reported nine unidentified death threats made to entire indigenous communities during the first 9 months of the year. In August the national human rights Ombudsman stated in his annual report that the indigenous communities most affected by extrajudicial killings during 1998 (the most recent year for which information was available) were the Zenu, the Etnia Zenu, the Embera-Katio, the

Korewaje, the Embera-Chami, and the Paez. The report also stated that two indigenous persons from unidentified communities also were killed. The report cited the State as being responsible for two of the killings, paramilitary groups for eight, and unidentified armed groups for the remaining two.

On January 31, unidentified attackers detained six members of the Embera-Katio tribe in Cordoba department, and killed one. Subsequently, they burned 14 boats belonging to the tribe. During May and June, a further four Embera-Katio leaders were killed as guerrillas and paramilitary forces struggled for control of southern Cordoba.

Paramilitary and guerrilla groups have been known to force indigenous people, including children, into their ranks. Some guerrilla groups reportedly favored indigenous people as guides and communicators, due to their knowledge of the geography of their historical lands and knowledge of generally unfamiliar languages.

Occidental Petroleum had returned all of its exploration concessions to the Government by 1990, after attempts to negotiate with the U'wa tribe broke down. The tribe had protested a 1995 award to Occidental and Ecopetrol allowing them to explore lands claimed by the U'wa. The U'wa had filed a complaint before the IACHR. A 1997 OAS joint study with a university recommended the immediate and unconditional suspension of oil exploration or exploitation activities; clarification of the status of U'wa territories and protected reserves; and the development of a formal process of consultation under auspices of the Government. The U'wa also had threatened to commit collective suicide if their wishes were not respected. In August the Government increased the U'wa reserve, from 100,000 acres to 1.25 million acres. The area has estimated oil reserves of up to 1 billion barrels.

In April U'wa leader Roberto Jose Cobarria Afanador fled the country, after receiving death threats from the FARC as part of a campaign to intimidate U'wa who might have cooperated in the investigation of the March killings of the three American indigenous activists (see Section 1.a.).

#### National/Racial/Ethnic Minorities

According to the Ministry of the Interior, citizens of African heritage live primarily in the Pacific departments of Choco (370,000), Valle del Cauca (1,720,257), Cauca (462,638), and Narino (261,180), as well as along the Caribbean coast. Although estimates vary widely, blacks represent around 10 percent of the total population.

Blacks are entitled to all constitutional rights and protections but traditionally have suffered from discrimination. Blacks are underrepresented in the executive branch, judicial branch, and civil service positions, and in military hierarchies. Despite the passage of the African-Colombian law in 1993, little concrete progress was made in expanding public services and private investment in Choco department or other predominantly black regions. The same law also authorized black communities to receive collective titles to some Pacific coast lands. However, black leaders complained that the Government was slow to issue titles, and that their access to such lands often was inhibited by the presence of armed groups or individuals. Unemployment among African-Colombians ran as high as 76 percent in some communities. Choco remains the department with the lowest per capita level of social investment and is last in terms of

education, health, and infrastructure. It also has been the scene of some of the nation's most enduring political violence, as paramilitary forces and guerrillas struggled for control of the Uraba region.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution recognizes the rights of workers to organize unions and to strike, except for members of the armed forces, police, and those "essential public services" as defined by law. However, legislation that prohibits all public employees from striking is still in effect, even if often overlooked.

Unions, indigenous groups, debtors, students, and others brought the country to a partial halt on August 31 with a general strike, which ended on September 1. The Government and labor representatives began negotiations afterward. Strikers protested the Government's inability to confront the country's economic downturn, soaring unemployment, and a Labor Code reform bill that would have eliminated several popular worker benefits. Indigenous people reportedly blocked the Pan-American highway near the Ecuadoran border, protesting an alleged lack of Government attention to their problems. The FARC, youth gangs, and common criminals encouraged isolated acts of violence in some parts of the country; in the south of Bogota, the army's 13th Brigade moved in to restore order after common criminals and youth gangs looted shops and attacked police and other vehicles with stones. However, both unions and the Government renounced violence.

The 1948 Labor Code (which has been amended repeatedly) provides for automatic recognition of unions that obtain at least 25 signatures from 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 estimates by the Ministry of Labor and various unions, 6 to 7 percent of the work force is organized. According to the Colombian Commission of Jurists, 89 percent of those organized are public sector workers. There are approximately 2,500 registered unions, 87 to 95 percent of which are organized in one of three confederations: The center-left United Workers' Central, with which 45 to 50 percent of unions are affiliated; the Maoist/Social Christian Colombian Democratic Workers' Confederation, with which approximately 30 percent of unions are affiliated; and the Liberal Party-affiliated Confederation of Colombian Workers (CTC), with which 12 to 15 percent of unions are affiliated. The number of unions fell significantly during 1998 (from a 1997 total of approximately 4,900), reflecting the effect of new legislation that encouraged the consolidation of individual companies' unions into broader, industry-based unions.

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 May 1998, the International Labor Organization (ILO) expressed serious concern at

allegations of murders, forced disappearances, death threats, and other acts of violence against trade union officials and members. The ILO documented more than 300 murders of trade union members during 1995-98. The ILO harshly criticized the Government for failing, since November 1996, to provide it with information on a single case of detention, trial, and conviction of anyone responsible for the murder of union officials and members.

During the ILO governing body's November meeting, the Government reached an amicable solution with the workers to accept an ILO direct contact mission to investigate workers' charges of government infringements of the right to free association, as well as the continued killing of unionists and impunity for the killers. The mission is scheduled to arrive in Bogota in February 2000 and to deliver its findings to the ILO in March 2000.

The Government still has not addressed a number of ILO criticisms of the Labor Code. In 1993 the ILO had complained about the following provisions of the law: The requirement that government officials be present at assemblies convened to vote on a strike call; the legality of firing union organizers from jobs in their 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.

Labor leaders throughout the country continued to be targets of attacks by paramilitary groups, guerrillas, narcotics traffickers, and their own union rivals. Killings of union members continued during the year. According to the National Labor School, more than 2,000 union members have been murdered since 1986, and labor leaders report widespread societal hostility toward unions. Some of those killed were targeted by the FARC for their membership in, or sympathy with, the National Syndicate of Agricultural Industry Workers (Sintrainagro), a union largely composed of demobilized EPL members. Many of the murdered Sintrainagro members had worked in the banana industry in Uraba region.

On February 17, an unknown assailant shot and killed 72-year-old Julio Alfonso Poveda, a founder of the United Workers' Central (CUT), prominent member of the Colombian Communist Party, and head of the National Federation of Agricultural Cooperatives, while he waited in Bogota traffic. The authorities did not report any leads in the case by year's end.

The authorities arrested former policemen Rafael Cespedes and Edgar Armando Daza Diaz for the October 1998 killing of CUT vice president Jorge Ortega in Bogota. One of the two men later escaped from detention. An investigation was underway at year's end (see Section 1.a.).

On August 29, the Sincelejo, Sucre department offices of the Association of Rural Land Users, a farm workers' union, were destroyed by a bomb. Police defused a bomb at the Medellin office of Union of Syndicated Labor (USO) the same day. The authorities had reported no leads in either case at year's end.

The expired 1995 collective work convention between Ecopetrol and the USO was

replaced by a new agreement in May. The USO leadership remained in open conflict with the Government on many issues. USO leaders reported that its members in the oil-producing Magdalena Medio region continued to receive death threats from presumed paramilitary groups, who have accused USO officials of working with the ELN guerrillas waging a sabotage campaign against the nation's oil pipelines.

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, traditional antiunion attitudes, a large informal economic sector, and weak union organization and leadership limit workers' bargaining power in all sectors.

The law forbids antiunion discrimination and the obstruction of free association; however, according to union leaders, both discrimination and obstruction of free association occurred frequently. Government labor inspectors theoretically enforce these provisions, but because there are 271 labor inspectors to cover 1,085 municipalities and more than 300,000 companies, the inspection apparatus is weak. Furthermore, labor inspectors often lacked basic equipment, such as vehicles. Guerrillas sometimes deterred labor inspectors from performing their duties by declaring them military targets. On July 9, according to the Ministry of Labor, unidentified attackers attempted to bomb the Antioquia department labor inspection office.

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 typically are 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 15 free trade zones (FTZ's), but its standards often were not enforced in the zones. 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. Labor unions do not exist in any of the zones.

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

The Constitution forbids slavery and any form of forced or compulsory labor, and this prohibition generally is respected in practice in the formal sector; however, women were trafficked for the purpose of forced prostitution (see Section 6.f.). Paramilitary forces and

guerrilla groups forcibly conscripted indigenous people (see Section 5). The law prohibits forced or bonded labor by children; however, the Government does not have the resources to enforce this prohibition effectively (see Section 6.d.). Although there were no known instances of forced child labor in the formal economy, several thousand children were forced to serve as paramilitary or guerrilla combatants (see Section 1.g.), to work as prostitutes (see Section 5), or in some instances as coca pickers.

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

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; however, child labor is a significant problem. A 1989 decree establishing the Minors' Code prohibits the employment of children under age 12 and stipulates exceptional conditions and the express authorization of Labor Ministry inspectors for the employment of children between the ages of 12 and 17 (inclusive). Children under 14 are prohibited from working, with the exception that those between the ages of 12 and 14 may perform very light work with the permission of their parents and appropriate labor authorities. All child workers (anyone under the age of 18) must receive the national minimum wage for the hours they work. Children between the ages of 12 and 14 can work a maximum of 4 hours a day; children between the ages of 14 and 16 can work a maximum of 6 hours a day; and children between the ages of 16 and 18 can work a maximum of 8 hours a day. All child workers are prohibited from working at night, or performing work in which there is a risk of bodily harm or exposure to excessive heat, cold, or noise. A number of specific occupations are prohibited for children as well, such as mining and construction. However, these requirements largely are ignored in practice, and only 5 percent of those children that work have filed for the required work permits. By allowing children of ages 12 and 13 to work, even under restricted conditions, the law contravenes international standards on child labor, which set the minimum legal age for employment in developing countries at 14 years.

In the formal sector, child labor laws are enforced through periodic review by the Ministry of Labor and by the military, which ensures compliance with mandatory service requirements. However, in the informal labor sector and in rural areas, child labor continues to be a problem, particularly in agriculture and mining. Children as young as 11 years of age work full time in almost every aspect of the cut flower industry as a way to supplement family income. Even children enrolled in school or, in some cases, those too young for school, accompany their parents to work at flower plantations at night and on weekends. In the mining sector, coal mining presents the most difficult child labor problem. Many marginal, usually family-run, operations employ their young children as a way to boost production and income; it is estimated that between 1,200 and 2,000 children are involved. The work is dangerous and the hours are long. Younger children carry water and package coal, while those age 14 and up engage in more physically demanding labor such as carrying bags of coal. These informal mining operations are illegal. The Ministry of Labor reported that, by the end of the year, an interagency governmental committee had removed approximately 80 percent of child laborers from the informal mines and returned them to school.

A Catholic Church study conducted in May stated that approximately 2.7 million children work, including approximately 700,000 who worked as coca pickers. This represented a sharp increase from 1992, when according to a 1997 study by Los Andes University,

approximately 1.6 million children (between the ages of 12 and 17) worked. One observer noted that the recent economic downturn might increase the number of children working, especially in rural areas. Child participation in agricultural work soared at harvest times. According to the Ministry of Labor, working children between the ages of 7 and 15 earned on average between 13 and 47 percent of the minimum wage. An estimated 26 percent of working children had regular access to health care; approximately 25 percent were employed in potentially dangerous activities. According to army estimates, at least 3,000 children were employed by paramilitary groups and guerrillas as combatants (see Section 5). School attendance by working children was significantly lower than for nonworking children, especially in rural areas. The health services of the social security system cover only 10 percent of child laborers. A 1996 study by the national human rights Ombudsman of child labor in Putumayo department found that 22 percent of the children between the ages of 5 and 18 were full-time coca pickers. In the municipality of Orito, the figure reached 70 percent.

The Labor Ministry has an inspector in each of the 33 departments responsible for certifying and conducting repeat inspections of workplaces that employ children; however, this system has few resources and covered only the 20 percent of the child work force employed in the formal sector of the economy. In 1995 the Government established a National Committee for the Eradication of Child Labor, made up of representatives from the Ministries of Labor, Health, Education, and Communications, as well as officials from various other government offices, unions, employer associations, and NGO's. In December 1995, the committee produced an action plan, under which various efforts to eliminate child labor have been made. These include efforts to eradicate child prostitution in Bogota, child agricultural labor in the town of Cerritos in the Santander department, and child labor in the markets of Bucaramanga and Cucuta, primarily through providing economic incentives for parents to return their children to school.

The Government prohibits forced and bonded labor by children; however, it is unable to enforce this prohibition effectively (see Section 6.c.).

#### 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 monthly minimum wage, set by tripartite negotiation among representatives of business, organized labor, and the Government was about \$125 (236,460 pesos) throughout the year. 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 real inflation in recent years. 70 percent of all workers earn wages that are insufficient to cover the costs of the Government's estimated low-income family shopping basket. However, 77 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 require specifically 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 the loss of their jobs if they exercise their right to criticize abuses, particularly in the agricultural sector.

In general, a lack of public safety awareness, inadequate attention by unions, and lax enforcement by the Labor Ministry result in a high level of industrial accidents and unhealthy working conditions. Over 80 percent of industrial companies lack safety plans. According to the Social Security Institute, 17 percent of industrial companies lack safety plans. The Institute reported 50,178 work-related accidents during the year, 491 of which resulted in deaths. The industries most prone to worker accidents were mining, construction, and transportation.

According to the Labor Code, workers have the right to withdraw from a hazardous work situation without jeopardizing continued employment.

#### f. Trafficking in Persons

There are no laws that specifically address trafficking in persons.

A bill was pending before the House of Representatives in October that would provide a prison term of 4 to 8 years and a fine up to the equivalent of 100 times the minimum legal monthly salary for any person who "promotes, induces, compels, facilitates, collaborates, or in any other way participates in the entry or exit of people into or from the country without complying with all legal requisites." While intended to combat alien smuggling in general, the law could be used to prosecute traffickers as well. A government committee composed of representatives of the Ministry of Foreign Affairs, Interpol, DAS, the Ministry of Justice, the Attorney General's office, the Prosecutor General's office, and the Presidency meets once every 2 months to discuss trafficking in persons (and arms). The country is a source for trafficking in women.

The Organization for Security and Cooperation in Europe (OSCE) issued a report on trafficking in persons in September, and stated that women and girls from Colombia are trafficked to North America and western Europe. There also were reports that women have been trafficked to Japan in increasing numbers in recent years. The women enter Japan on a tourist visa or an "entertainer" visa; they then are forced to work as prostitutes. There were also reports that women were trafficked to Spain for purposes of prostitution.

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