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## 2010 Human Rights Reports: Colombia

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

Colombia is a constitutional, multiparty democracy with a population of approximately 45 million. On June 20, Unity Party presidential candidate Juan Manuel Santos was elected in elections that were considered generally free and fair. On August 7, President Santos assumed office from President Alvaro Uribe. The 46-year internal armed conflict continued between the government and terrorist organizations, particularly the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). Security forces reported to civilian authorities. There were instances in which elements of the security forces acted independently of civilian control.

The following societal problems and governmental human rights abuses were reported during the year: unlawful and extrajudicial killings; insubordinate military collaboration with new illegal armed groups and paramilitary members who refused to demobilize; forced disappearances; torture and mistreatment of detainees; overcrowded and insecure prisons; arbitrary detentions; impunity and an inefficient judiciary subject to intimidation; illegal surveillance of civilian groups, political opponents, and government agencies; occasional harassment and intimidation of journalists; unhygienic conditions at settlements for displaced persons, with limited access to health care, education, or employment; corruption; harassment of human rights groups and activists, including unfounded prosecutions; violence against women, including rape; violence against Lesbian, Gay, Bisexual and Transgender (LGBT) persons based on sexual orientation; child abuse and child prostitution; trafficking in women and children for the purpose of sexual exploitation; some societal discrimination against women, indigenous persons, and Afro-Colombians; and illegal child labor.

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

New illegal armed groups, which included some former paramilitary members, also committed numerous human rights abuses. The last United Self Defense Forces of Colombia (AUC) bloc demobilized in 2006, but AUC members who refused to demobilize, AUC members who demobilized but later abandoned the peace process, and other new illegal armed groups remained targets of arrest and criminal prosecution. These new groups lacked the political agenda, organization, reach, and military capacity of the former AUC and focused primarily on narcotics trafficking and extortion. The AUC demobilization led to a reduction in killings and other human rights abuses, but paramilitary members who refused to demobilize and new illegal armed groups continued to commit numerous unlawful acts and related abuses, including: political killings and kidnappings; physical violence; forced displacement; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; recruitment and use of child soldiers; violence against women, including rape; and harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists.

The government made demonstrable advances in improving the human rights environment. The Santos administration strengthened the government's relationship with the human rights community by publicly expressing support for human rights defenders and engaging them in dialogue. In addition, the Santos administration implemented new policies to accelerate the return of land to displaced families and advanced a Land and Victims Law to provide for land restitution and victims' reparations. Extrajudicial executions continued to decline, and several senior military officers were convicted of human rights abuses.

## **RESPECT FOR HUMAN RIGHTS**

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

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

Political and unlawful killings remained an extremely serious problem, and there were some reports that members of the security forces committed extrajudicial killings during the internal armed conflict (see section 1.g.). There were significantly fewer reports of military officials presenting murdered civilians as killed in combat than in 2008 or 2009.

The Jesuit-founded Center for Popular Research and Education (CINEP), a local human rights nongovernmental organization (NGO), reported excessive police violence against civilians. For example, on April 23, in Chiquinquirá, Boyacá, police officers allegedly beat 67-year-old Jaime Elias Rozo Salinas after arresting him for public drunkenness. The following day he was found seriously injured on a park bench. Rozo Salinas remained in a coma until he died from his injuries on June 29. The Prosecutor General's Office was investigating the case at year's end.

CINEP reported that there were at least 155 political and unlawful killings, committed by all actors, during the first six months of the year, 37 fewer than those reported in the same period in 2009. Some NGOs, such as CINEP, considered the new illegal armed groups to be a continuation of the paramilitary groups and attributed reports of human rights violations committed by these groups directly to the government. Those NGOs also included killings by these groups in their definition of "unlawful killings" (see section 1.g.).

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

For example, CINEP reported:

- On January 27, army troops in Miraflores, Guaviare, allegedly committed the extrajudicial killing of two civilians, Jose Heli Gamboa Benilla and Henry Lopez Romero, who were farmers and representatives of their community. Men presumed to be soldiers arrived at Lopez Romero's farm and forced him, his family, and 12 others to the floor and killed the two men. Soldiers took their bodies to San Jose de Guaviare and presented them as having been killed in combat. The case was pending at year's end.
- On March 31, near Oripaya, North Santander, police officers allegedly committed the extrajudicial killing of Pedro Gustavo Ladino Sierra. Ladino Sierra, a publicist, was traveling on motorcycle between Cucuta and Puerto Santander when he was stopped at a police roadblock. His body was found on April 2. The case was pending at year's end.
- In certain areas, such as Medellin, Antioquia; Tierralta, Cordoba; Tumaco, Narino; Buenaventura, Valle del Cauca; the Uraba region of Antioquia and Choco; and Meta, corrupt dealings reportedly continued between local military and police forces and new illegal armed groups, which included some former paramilitary members. Although impunity for these military personnel remained a problem, the Ministry of Defense carried out investigations and handed over culpable parties to civilian authorities in a number of high-profile cases during the year. On December 30, Commander of the Army General Alejandro Navas said the army was investigating more than 100 soldiers for possible ties to an illegal armed group in Meta and Guaviare. Authorities continued to investigate the 2009 case of 11 members of the police accused of collaborating with the illegal group Oficina de Envigado.

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In conformity with the law, military or civilian authorities investigated killings committed by security forces. In December the Supreme Court elected a new prosecutor general after a 16-month vacancy. Investigations of past killings proceeded, albeit slowly. Some high-profile cases against military personnel resulted in convictions or were reopened in large part due to testimony in the Justice and Peace process.

According to the NGO Landmine Monitor, nongovernmental actors, particularly the FARC and ELN, planted new landmines (see section 1.g.).

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

New illegal armed groups, which included some former paramilitary members, committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or without a strong government presence (see section 1.g.).

The Presidential Program for Human Rights reported that through the end of August, illegal armed groups killed 127 persons in 26 massacres (defined by the government as killings of four or more persons), a 65 percent increase in the number of massacre victims from the same period in 2009 (see section 1.g.).

#### b. Disappearance

Forced disappearances, many of them politically motivated, continued to occur. A joint report by NGOs Latin America Working Group and U.S. Office on Colombia in December reported that the government's National Search Commission had documented a total of 51,000 forced disappearances registered in Colombia as of November 2010, with 7,197 found alive, 1,366 found dead, and 460 listed as "annulled." The report said more than 42,000 either remained disappeared or may have been victims of forced disappearance. The Prosecutor General's Office charged three members of the armed forces in cases of forced disappearance during the year. According to the Presidential Program and the Disappeared Persons registry, coordinated by the National Institute of Legal Medicine and Forensic Science, 2,900 persons were reported as forcibly disappeared during the first eight months of year. In 2009 the government presented a new interagency plan to improve efforts to identify remains of victims of forced disappearances. The government returned 1,295 remains to family members.

On July 7, retired colonel Alfonso Plazas Vega was sentenced to 30 years in prison for his role in the forced disappearance of 11 persons during the 1985 Palace of Justice siege. Plazas Vega was not convicted for violence that occurred during the siege, but rather for the forced disappearance of 11 survivors, who went missing after they left the Palace in military custody. At year's end Plazas Vega remained in custody in a military base and had not been transferred to prison while his case was pending appeal.

In June 2009 the Prosecutor General's Office reopened the 1989 case of the Rochela massacre, in which paramilitary forces, working in collaboration with elements of the military, killed 12 judicial officials investigating the forced disappearances of 19 merchants. Retired generals Juan Salcedo Lora and Alfonso Vaca Perilla were implicated in the massacre and were under investigation. The case was pending at year's end.

Kidnapping, both for ransom and for political reasons, remained a serious problem. The government's National Fund for the Defense of Personal Liberty (Fondelibertad) estimated 282 people were kidnapped during the year (64 by the FARC, 35 by the ELN, and the rest by other illegal groups). Fondelibertad reported that 188 of the kidnappings were for extortion, an increase of more than 17 percent from 2009. Fondelibertad reported that 79 people were held in captivity as of April and more than 600 cases were under review. Some human rights groups questioned the government statistics, arguing that many cases went unreported and that several hundred kidnapping victims were held at year's end.

The Unified Action Groups for Personal Liberty, military, and police entities formed to combat kidnapping and extortion, and other elements of the security forces freed more than 60 hostages during the year; Fondelibertad reported that at least six kidnapping victims died in captivity through August, compared with two in 2009. The FARC and ELN, as well as new illegal armed groups, which included some former paramilitary members, and bands of common criminals continued the practice of kidnapping. All illegal groups, including guerrillas, sometimes killed kidnapping victims (see section 1.g.). The FARC voluntarily released 26 individuals through August.

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

Although the law prohibits such practices, there were reports that the police, military, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture generally were tried in civilian rather than military courts. CINEP asserted that during the first six months of the year, government security forces were involved in 16 incidents of torture, the same as in the first six months of 2009. The Human Rights Unit of the Prosecutor General's Office charged three members of the armed forces with torture during the year. On December 31, a court in Antioquia sentenced one army officer and four professional soldiers to 40 years in prison for the May 2005 torture and death of Maria Graciela Santamaria Galeano.

CINEP reported, for example, that:

- On April 7, members of the 19th Mobile Brigade arbitrarily detained and beat three individuals at a roadblock. Soldiers allegedly pushed the men to the ground and beat and kicked them while the men held their hands on their heads.
- On April 20, a prison guard at the Doña Juana Penitentiary allegedly grabbed inmate Rigoberto Garcia Gutierrez by the neck, dragged him to the dining room and beat and kicked him before sending him to the prison infirmary.

There were no developments in the following cases from 2009: the alleged detainment and torture of Gerardo Barona Avirama and James Barona Avirama; the alleged torture of 16-year-old Neftali Blanco; and the alleged detainment and torture of Oscar Gomez Zapata.

CINEP reported that demobilized paramilitary members were responsible for at least seven cases of torture through June, compared with 24 in the same period of 2009.

On October 14, three children were found dead in a shallow grave in Arauca; the eldest, a 14-year-old girl, had been raped. On November 2, Commander of the Army, General Navas, announced that he was suspending seven soldiers from the army's Fifth Mobile Brigade for failing to control their troops: Lt. Col. German Belalcazar Arciniegas, Lt. Col. James Edison Pineda Parra, Maj. James Alberto Granada, Lt. Raul Munoz Linares, Sgt. Luis Giovanni Torrijos Medina, Cpl. Juan Estevan Sanchez Bonilla, and Cpl. Robinson Javier Castro. On November 3, the Prosecutor General's Office charged Lieutenant Raul Munoz Linares with raping the girl and killing her and her brothers and with raping another adolescent girl on October 2. The case remained under investigation by the civilian justice system at year's end.

#### Prison and Detention Center Conditions

With the exception of new facilities, prison conditions were poor, particularly for prisoners without significant outside support. The National Prison Institute (INPEC) runs the country's 142 national prisons and is responsible for inspecting municipal jails. A 2009 Committee in Solidarity with Political Prisoners (CSPP) report on prison conditions noted overcrowding contributed to poor ventilation, overtaxed sanitary and medical facilities, and inadequate food in some detention centers. Prisoners in some high-altitude facilities complained of inadequate blankets and warm clothing, while prisoners in more tropical facilities complained that overcrowding and inadequate ventilation caused high temperatures in prison cells.

Overcrowding, lack of security, and an insufficient budget remained serious problems in the prison system. More than 84,000 prisoners were held in facilities designed to hold fewer than 64,000; overcrowding rates exceeded 29 percent. Many of INPEC's prison guards were poorly trained, but the NGO CSPP noted that improved training, increased supervision, and more accountability for prison guards helped. INPEC spent 5,300 pesos (\$2.95) per day on each inmate for food. Private sources continued to supplement food rations of many prisoners.

INPEC reported that through August there were 16 violent deaths among inmates related to fighting and the 26 riots that occurred at various penal institutions. The Prosecutor General's Office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally. According to INPEC, 23 prison guards were convicted of extortion and conspiracy during the year.

The law prohibits holding pretrial detainees with convicted prisoners, although this sometimes occurred. Minors were not held with adults; however, minor children of some of the 5,684 female prisoners could stay with their mothers in some cases.

The government permitted independent monitoring of prison conditions by local and international human rights groups, and such monitoring occurred during the year. Prisoners had reasonable access to visitors and were allowed to continue their religious practices. Prisoners were allowed access to legal representatives and the ability to submit complaints to judicial authorities and request investigations of inhumane conditions. While authorities investigated such claims, some prisoners complained that the investigations were slow and not accessible to the public. The government continued a pilot program with local universities and other organizations to identify and attend to human rights issues within prisons. Prisoners could seek out third parties from local NGOs or government entities such as the Ombudsman's Office to represent them in legal matters and in seeking investigations of prison conditions.

The FARC and ELN continued to deny the International Committee of the Red Cross (ICRC) access to police and military hostages.

#### d. Arbitrary Arrest or Detention

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

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

The National Police are responsible for internal law enforcement and are under the jurisdiction of the Ministry of Defense. Law enforcement duties are shared with the Administrative Department of Security (DAS) and the Prosecutor General's Corps of Technical Investigators (CTI). The army also shared limited responsibility for law enforcement and maintenance of order within the country. For example, military units sometimes provided logistical support and security for criminal investigators to collect evidence in high-conflict or hard-to-reach areas. The government continued to expand education and training for the armed forces in human rights and international humanitarian law (IHL). The government's comprehensive human rights and IHL policy for the public security forces emphasized designing better instruction processes and practical training in human rights. During the year the Prosecutor General's Human Rights Unit issued 28 arrest orders for armed forces personnel involved in extrajudicial killings, the majority of which occurred before 2010. However, claims of impunity continued to be widespread, due in some cases to obstruction of justice, a lack of resources for investigations and protection for witnesses and investigators, delay tactics by defense attorneys, and inadequate coordination among government entities that sometimes caused terms of incarceration to end, thereby resulting in a defendant's release from jail before trial. Many human rights groups criticized the Prosecutor General's Office for indicting low-ranking military personnel while avoiding investigations of high-ranking intellectual authors. The Ministry of Defense relieved from duty four officers and 10 noncommissioned officers and soldiers of the armed forces for inefficiency, unethical conduct, corruption, and other reasons through the end of August. Since 2000, 496 officers and 1,245 noncommissioned officers and soldiers have been retired from the army for these reasons.

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

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

Under the accusatorial system that took effect nationwide in January 2008, persons detained must be brought before a judge within 36 hours to determine the validity of the detention. Formal charges must then be brought within 30 days, and a trial must start within 90 days of the initial detention.

Bail is available for all but serious crimes such as murder, rebellion, or narcotics trafficking. Nearly 1,600 public defenders from the Office of the Human Rights Ombudsman assisted indigent defendants. Detainees were granted prompt access to legal counsel and family as provided for under the law.

Prominent human rights NGOs complained that the government arbitrarily detained hundreds of persons, particularly social leaders, labor activists, and human rights defenders. CINEP reported that security forces arbitrarily detained 30 persons during the first six months of the year, compared with 113 in the same period of 2009. Many of these detentions took place in high-conflict areas (notably in the departments of Caqueta, Antioquia, and Putumayo) where the military was engaged in fighting insurgents.

The government and prominent local NGOs frequently disagreed on what constituted "arbitrary detention." While the government characterized detentions based on compliance with legal requirements, NGOs applied other criteria in defining "arbitrary detention," such as arrests based on tips from informants about persons linked to guerrilla activities,

detentions by members of the security forces without a judicial order, detentions based on administrative authority, detentions during military operations, large-scale detentions, and detentions of persons while they were "exercising their fundamental rights."

Failure on the part of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult.

e. Denial of Fair Public Trial

While the law provides for an independent judiciary, much of the judicial system was overburdened, inefficient, and hindered by subornation and intimidation of judges, prosecutors, and witnesses. In these circumstances impunity remained a serious problem, although the government took action to address these issues. The Superior Judicial Council (CSJ) reported that the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees. Implementation of the oral accusatory system, which was enacted throughout the criminal justice system in 2008, significantly increased conviction rates on newer cases while also lessening the delays and getting rid of the secrecy that encumbered the old system. However, a large backlog of old-system cases remained.

Judicial authorities were subjected to threats and acts of violence. According to the protection program in the Prosecutor General's Office, from January through August 119 judicial employees sought varying forms of protection from the CSJ for reasons including threats. Although the Prosecutor General's Office ran a witness protection program for witnesses in criminal cases, witnesses who did not enter the program remained vulnerable to intimidation, and many refused to testify.

There was little change in situation reported in 2009 by the UN special rapporteur on the independence of judges and lawyers that the existence of a high level of threats and attacks against judicial personnel contributed to a high rate of impunity.

The military justice system may investigate and prosecute active duty military and police personnel for crimes "related to acts of military service." The military penal code specifically defines torture, genocide, massacre, and forced disappearance as crimes unrelated to military service. All human rights violations are considered unrelated to military service and must be handled by the civilian justice system, although this did not always happen in practice. More than 231 homicide cases were transferred during the year from the military to the civilian justice system. Of these, 140 were sent directly by the military system. In 91 cases the Superior Judicial Council decided jurisdiction in favor of the civilian courts. The military penal code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, although military courts are responsible for service-related acts committed prior to their retirement.

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

The Prosecutor General's Office is responsible for investigations and prosecutions of criminal offenses. Its Human Rights Unit, which includes 13 satellite offices, specializes in investigating human rights crimes, and its 100 specialized prosecutors were handling a total of 5,728 active cases at the end of November.

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

During the year the Inspector General's Office opened disciplinary processes against 34 members of the armed forces for human rights offenses. In addition, the Prosecutor General's Office achieved convictions of 95 military personnel during the year.

#### Trial Procedures

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

In the military justice system, military judges preside over courts-martial without juries. Counsel may represent the accused and call witnesses, but the majority of fact-finding takes place during the investigative stage. Military trial judges issue rulings within eight days of a court-martial hearing. Representatives of the civilian Inspector General's Office are required to be present at courts-martial.

Criminal procedure within the military justice system includes elements of the inquisitorial and accusatorial systems. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A Constitutional Court ruling forbids military attorneys from undertaking defense counsel duties. Defendants must retain counsel at their own expense or rely on defenders paid by a private fund.

On August 17, Congress passed law 1407, which creates the legal mechanism for the military justice system to transition to an oral accusatory system and allows for government-appointed defense attorneys for military personnel accused of crimes. The roll-out of the new system occurred regionally and was scheduled to be completed in 2012.

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

- On January 14, a judge from the San Juan del Cesar circuit court in La Guajira sentenced three officers and four professional soldiers to 24 years for the homicides of four job seekers who were presented as combat deaths in 2006.
- On May 5, the Superior Court of Medellin sentenced four officers and six professional soldiers to 30 years in prison for the homicides of two street vendors presented as combat kills in 2005.
- On July 21, the Third Circuit Court of Antioquia sentenced seven soldiers from the Pedro Nel Ospina Battalion to 31 years in prison for the 2005 death of an 18-year-old student who was presented as killed in combat.

#### Political Prisoners and Detainees

The government stated that it did not hold political prisoners. Some human rights advocacy groups characterized as political detainees were held on charges of rebellion or terrorism in what the groups reported were harassment tactics by the government against human rights advocates (see section 5). According to INPEC, there were 1,829 detainees accused or convicted of rebellion or aiding and abetting insurgency. The government provided the ICRC access to these prisoners.

#### Civil Judicial Procedures and Remedies

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

On April 21, the Supreme Court declared inadmissible tutelas, writs of protection of fundamental rights, which can be filed before any judge of any court at any stage of the judicial process to seek compensation from the government. The court announced that those wishing to file such a protection may still appear before competent judicial and administrative authorities to seek redress.

#### Property Restitution

The Santos administration proposed a new Land and Victims Law that would provide a means for some victims of violence, including internally displaced persons and victims of state violence, to recuperate land and receive compensation. The legislation was approved by the House of Representatives in December and was awaiting Senate approval at year's end. In addition, the Santos administration began implementing a land restitution "shock plan" to return land to displaced families in high-priority areas. Through December the government had delivered titles for more than 300,000 acres--including approximately 65,000 acres to indigenous communities and 223,000 acres to Afro-Colombian communities--to 38,167 families. For many small landowners, formal land titling remained inaccessible. Government agencies and human rights groups estimated that illegal groups, including guerrillas, have seized between 1.1 and 2.7 million acres of land from small landowners during the decades-long conflict. Paramilitary groups had stolen the majority, only a fraction of which was reclaimed by the government after the demobilization of the AUC in 2006.

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

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

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

Surveillance by the DAS of high court magistrates, journalists, human rights organizations and activists, opposition leaders, and the Vice Presidency prompted an investigation by the CTI in 2009 that continued at year's end. Press reports indicated DAS surveillance included physical monitoring of individuals and their families, telephone and e-mail intercepts, and collection of personal and financial data. A CTI report described a two-fold strategy to mount prosecutions against the victims of the surveillance and to disrupt human rights groups' activities through "offensive intelligence." A 2009 report by the National and International Campaign for the Right to Defend Human Rights cited examples of DAS harassment, including operations involving diverse attacks, setups, and death threats. Reporters Without Borders published a report in May, *Chuzadas: Colombian Media Targeted by Intelligence Services*, that described DAS activities against journalists. In December local NGO Foundation for Press Freedom (FLIP) published a report, *Espionage Against Journalists: The Word of Justice*, in which FLIP describes DAS activities against journalists and progress in the administrative and criminal investigations. During the year the Prosecutor General's Office investigated numerous DAS employees and had achieved four convictions by year's end.

- On October 20, the Bogota Superior Court sentenced Jorge Alberto Lagos, who served as the DAS's counterintelligence subdirector between 2005 and 2009, to eight years in prison for his role in directing and coordinating illegal activities against Supreme Court judges and former senators Piedad Cordoba and Gustavo Petro.

- On December 16, the Bogota Superior Court sentenced DAS's former intelligence director Fernando Tabares to eight years in prison for illegal wiretapping of magistrates, journalists, opposition leaders, and human rights defenders.

Lagos and Tabares both received reduced sentences in exchange for providing information on the illegal wiretaps.

On October 4, the Inspector General's Office suspended several former DAS employees from future government service for their role in the scandal, including Jorge Noguera, ex-director of the DAS and Jose Miguel Narvaez, ex-subdirector, both suspended for 20 years. The office suspended for 18 years Bernardo Moreno, former secretary to former president Uribe; Maria del Pilar Hurtado, former director of the DAS; and Mario Aranguren, former director of the Treasury Ministry's Information and Financial Analysis Unit. On October 12, an investigative commission in the House of Representatives opened an investigation into former president Uribe's role in the illegal wiretapping scandal. On November 19, Maria del Pilar Hurtado was granted asylum in Panama, days before the Prosecutor General's Office reportedly was set to file criminal charges against her. DAS Director Felipe Munoz told the press on December 28 that disciplinary processes had been opened against more than 900 employees, more than 160 employees had been fired, and more than 45 legal complaints had been filed against employees. Criminal and administrative investigations into the surveillance continued at year's end.

The government continued to use voluntary civilian informants to identify terrorists, report terrorist activities, and gather information on criminal gangs. Some national and international human rights groups criticized this practice as subject to abuse and a threat to privacy and other civil liberties.

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

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

The country's 46-year-long internal armed conflict, involving government forces, two terrorist guerrilla groups (FARC and ELN), and new illegal armed groups, which included some former paramilitary members, continued. The conflict and narcotics trafficking, which both fueled and prospered from the conflict, were the central causes of multiple violations of human rights.

After the conclusion of a process in which approximately 34,000 paramilitary personnel demobilized between 2003 and 2006, the government confronted militarily any groups that did not demobilize, as well as new illegal armed groups. The Organization of American States (OAS) continued to verify all stages of demobilization and reincorporation of former combatants into society.

#### Killings

Security forces were responsible for alleged unlawful killings. CINEP reported that there were 37 such killings during the first six months of the year, compared with 45 in the same period of 2009. The Human Rights Unit in the Prosecutor General's Office was assigned 1,488 cases, involving 2,491 victims (2,262 men, 111 women, and 118 minors) of extrajudicial killings by the armed forces that occurred between 1985 and 2010. The majority of the killings under investigation by the unit occurred in the departments of Antioquia (413), Meta (115), Caqueta (81), and Norte de Santander (80). A large number of the reported cases involved army members. During the year the Prosecutor General's Office achieved convictions of 95 members of the armed forces for extrajudicial killings in 44 cases; complete information

was unavailable on those convicted during the year. At year's end the Prosecutor General's Office was investigating 19 colonels, 14 lieutenant colonels, 51 majors, and 93 captains and hundreds of lower-ranked military personnel.

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

- On March 17, in Cali, police Lieutenant Nelson Rodrigo Gomez Gamez allegedly killed 18-year-old Nelson Rodrigo Lozano Zapata and later claimed that Lozano had threatened police with a weapon. Gomez Gamez was arrested on May 14, on charges of aggravated homicide, fraud, and threatening witnesses. His case was pending at year's end.
- On March 25, near Aipe, Huila, soldiers from the army's Ninth Brigade allegedly executed Didier Alexander Clavijo Jimenez and Jorge Eliecer Soto Mahecha and presented them as killed in combat. An investigation by the Prosecutor General's Office continued at year's end.

According to CINEP, unlike in 2009, there were no cases of "social cleansing" killings of vagrants, gay men, lesbians, and other "undesirables" attributed to the government. Three cases reported in 2009 remained under investigation.

On January 7, a judge released from pretrial detention 17 defendants in the 2008 Soacha killings because they had been detained for 209 days. The judge restricted the defendants to the 13th Artillery Battalion's base. Human rights organizations and former president Uribe criticized the decision. The court cases were pending at year's end.

Among cases involving killings that took place before 2008:

- A Superior Tribunal court of Cali upheld a lower court's denial of a request to release seven soldiers implicated in the trial of former sergeant Luis Eduardo Mahecha Hernandez of the Third Brigade's High Mountain Battalion for the 2006 killing of Jose Orlando Giraldo. The court case was pending at year's end.
- On March 16, retired army Captain Guillermo Armando Gordillo Sanchez was sentenced to 20 years in prison for his role in the massacre of eight people from the peace community in San Jose de Apartado, Antioquia, in 2005. Gordillo served as a cooperating witness and formally accepted the charges against him of criminal conspiracy, homicide of a protected person, and barbaric acts for his participation in the massacre. On August 4, a judge in Antioquia found seven of Gordillo's subordinate soldiers from the 47th Infantry Battalion of the 17th Brigade innocent in the same case. Appeals by the inspector general, prosecutor general, and the citizens' representative were pending before the Superior Court of Antioquia at year's end.

The government continued reforms to improve the human rights performance of the security forces. The Ministry of Defense began implementing an agreement with the UNHCHR to monitor seven of the Ministry's 15 measures to improve adherence to human rights. The reforms included strengthening the new human rights school established in 2009, training more than 3,500 soldiers in human rights issues regarding minority populations (e.g. indigenous, Afro-Colombians), conducting human rights trainings in conjunction with international organizations, establishing a new human rights department under the command of a brigadier general, providing additional training for "operational legal advisors" who provide legal advice on planning, follow-up, and control of military operations and ensuring all soldiers are trained in the new rules of engagement. The Ministry also created four offices of indigenous affairs in each of the military commands and named 41 officials to liaise with indigenous communities.

New illegal armed groups, which included some former paramilitary members, killed journalists, local politicians, human rights activists, indigenous leaders, labor leaders, and others who threatened to interfere with their criminal activities, showed leftist sympathies, or were suspected of collaboration with the FARC. They also reportedly committed massacres

or "social cleansing" killings of prostitutes, gay men and lesbians, drug users, vagrants, and gang members in city neighborhoods they controlled. New illegal armed groups, which included some former paramilitary members, according to CINEP, were responsible for the deaths of 174 civilians through June, a 62 percent decrease from the 279 deaths reported during the same period in 2009.

Guerrilla group members continued to demobilize. According to the Ministry of Defense, during the year 2,446 members of guerrilla groups demobilized, compared with an estimated 2,638 demobilized in 2009, an 8 percent reduction in demobilizations.

FARC and ELN guerrillas killed alleged paramilitary collaborators and members of government security forces. The FARC used civilians to carry out attacks on government security forces. For example:

- On March 25, in El Charco, Narino, the FARC convinced an unsuspecting 12-year-old child to carry an explosive device to the local police station. Once he was inside, the FARC detonated the bomb, killing the child and wounding five, including two police officers.
- On November 30, FARC members in Vegalarga, Huila, deceived a bus driver into carrying a powerful bomb hidden in a crate of oranges. The FARC detonated the explosive while the bus was parked in front of a police station, killing the driver and wounding 10 police officers and a civilian.

In many areas of the country, the 8,000- to 9,000-member FARC and the 2,000-member ELN worked together to attack government forces or demobilized paramilitary members; in other areas, especially in Arauca, Valle del Cauca, Cauca, and Narino departments, they fought each other. Various courts convicted members of the FARC Secretariat in absentia on charges including aggravated homicide.

The FARC killed persons it suspected of collaborating with government authorities or alleged paramilitary groups. The Presidential Program for Human Rights reported that through August, the FARC killed at least 129 civilians, while another 110 persons were killed in massacres in which the perpetrators remained unidentified. For example:

- On May 25, the FARC murdered bus driver Diego Enrique Soto by setting fire to his bus near Miranda, Cauca.
- On May 31, the FARC murdered three civilians in Puerto Asis, Putumayo, and threw their bodies into the Putumayo River.
- On November 17, the FARC murdered a man and his 8-year-old granddaughter with a bomb intended for a police patrol passing by in La Llanada, Nariño.

#### Abductions

New illegal armed groups, which included some former paramilitary members, FARC and ELN guerrillas, and common criminals continued to take hostages for ransom. According to Fondelibertad, of the 282 individuals kidnapped during the year, 188 were kidnapped for extortion and 162 were attributed to common crime.

Fondelibertad reported that new illegal group members continued to be responsible for kidnappings. During the year government statistics tracked kidnappings by new illegal armed groups as organized crime, which accounted for 21 kidnappings.

The FARC and ELN continued to commit numerous kidnappings, which remained a major source of revenue. The FARC also held politicians, prominent citizens, and members of the security forces to use as pawns in prisoner exchanges. Fondelibertad reported that guerrillas kidnapped 99 persons (the FARC 64 individuals, and the ELN 35).

- On March 19, in Tame, Arauca, the FARC kidnapped five oil company workers, who were freed several days later in a military operation.

- On December 28, near San Antonio, Tolima, the FARC kidnapped a police officer serving as the bodyguard of the mayor of the municipality of San Antonio.
- In the afternoon of December 28, near Santo Domingo, Arauca, the FARC kidnapped a family of five, including a three-year-old child, while they were traveling towards Tame. On the morning of December 29, the Colombian military rescued the family; no one was injured in the rescue.

Military action freed 60 kidnap victims through the end of August, including the June 13 rescue of four high-profile military and police hostages.

FARC members were convicted for kidnappings. On December 28, a court in Villavicencio, Meta, sentenced Eli Mejia Mendoza alias "Martin Sombra" to 24 years in prison for the kidnapping of 61 police officers in Mitu, Vaupes, in 1998.

In a December report summarizing 12 years of kidnapping data and policy, Foundation Free Country criticized Fondelibertad's numbers and said that simple kidnappings were not comprehensively documented. It estimated that over 600 cases of kidnap victims from the previous 12 years were not included in Fondelibertad's database. As a result, families of kidnap victims who were not officially declared as "kidnapped" were unable to obtain government benefits.

#### Physical Abuse, Punishment, and Torture

According to preliminary reporting from the Presidential Program of Integrated Action Against Anti-personnel Mines, landmines, used primarily by the FARC and ELN, caused 28 deaths and 260 injuries through August, a 43 percent decrease in such incidents from the same period in 2009. Approximately 67 percent of landmine victims during the year were military personnel. The International Campaign to Ban Landmines stated that the FARC continued to be the largest individual user of land mines and that the ELN also continued to use land mines. Government Humanitarian De-mining (HD) brigades cleared more than 155,000 square yards and destroyed 96 improvised explosive devices and unexploded munitions. Military de-mining personnel cleared more than 34,000 square yards and destroyed 388 landmines and 27 unexploded munitions. The government has signed the Cartagena Action Plan, which commits the government to ensuring landmine victims receive timely and affordable assistance.

#### Child Soldiers

Guerrillas and other illegal armed groups used children as soldiers. The recruitment and use of children by illegal armed groups was widespread. The UN Children's Fund (UNICEF) estimated the number of children participating in all illegal armed groups ranged from 10,000 to 13,000. The Colombian Family Welfare Institute (ICBF) reported that it was impossible to know how many children were serving as child soldiers for the FARC. During the year 338 children who were former members of illegal armed groups surrendered to state security forces and were transferred to the ICBF, which operated a reintegration program for former child soldiers. This represents a 21 percent decrease from 415 child soldiers in 2008. The UN reported that FARC used children to fight, recruit other children to act as spies, gather intelligence, serve as sex slaves, and provide logistics support. The penalty for leaders of armed groups who use child soldiers was life imprisonment. The government agreed to the International Criminal Court's penalty for child recruitment when it ratified the Rome Statute in 2002 but delayed application of the law to provide an incentive to all illegal groups, especially the FARC, to free recruited children. The Office for the UN High Commissioner for Refugees (UNHCR) linked the phenomenon of forced displacement of families to that of forced recruitment of children. The FARC continued to issue letters to indigenous communities outlining a policy to conduct child recruitment and warning recipients not to challenge it.

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

#### Other Conflict-related Abuses

There were no updates to 2009 cases involving the following: the January 12 FARC burning of six cars, the February 28 Tomas Vernaza kidnapping, and the May 18 FARC killing of Jesus Duran Aseanio.

Guerrilla groups and new illegal armed groups, which included some former paramilitary members, prevented or limited the delivery of food and medicines to towns and regions in contested drug trafficking corridors, straining local economies and increasing forced displacement.

Guerrillas forcibly displaced peasants to clear key drug and weapons transit routes in strategic zones and to remove individuals who collaborated with the government or new illegal armed groups, which included paramilitary members who refused to demobilize. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, international organizations reported many incidents in which illegal armed groups forcibly recruited indigenous people or obligated them to collaborate, restricted their freedom of movement, and blockaded their communities. After a July visit to Colombia, the United Nations Permanent Forum on Indigenous Issues noted its concern about the situation of extreme vulnerability and abuses committed against indigenous women and children. The Forum received reports of acts of rape, forced recruitment, and use of minors as informants, among other abuses in the context of conflict.

New illegal armed groups and former paramilitary members continued to displace civilians residing along key drug and weapons transit corridors (see section 2.d.).

International organizations reported there was a pattern of systemic sexual violence against women and girls by some armed actors in the conflict. Organizations including Sisma Mujer reported sexual violence remained one of the main causes of forced displacement.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

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

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

Government security forces and corrupt officials occasionally subjected journalists to harassment, intimidation, or violence (see section 1.f.). A May Reporters Without Borders' report, *Chuzadas: Colombian Media Targeted by Intelligence Services*, described how the DAS allegedly followed, harassed, and intimidated journalists.

Members of illegal armed groups intimidated, threatened, kidnapped, and killed journalists. National and international NGOs reported that local media representatives regularly practiced self-censorship because of threats of violence. During the year 175 journalists received protection from the Ministry of the Interior and Justice's protection program. The ministry also supported an alert network organized for journalists by providing a small number of radios and an emergency telephone hotline. The Prosecutor General's Human Rights Unit was investigating 43 cases of crimes against journalists involving 65 victims. The Unit achieved 23 convictions, and 52 additional defendants were standing trial at year's end.

According to the NGO Foundation for Press Freedom, during the year two journalists were killed for reasons related to their work, compared with one in 2009.

- On March 19, Clodomiro Castilla Ospino, editor and owner of the magazine El Pulso del Tiempo, was killed outside his house in Monteria, Cordoba. Castilla had participated in a government-run protection program from August 2006 to February 2009, but he later refused continued government protection. After his death, the government offered a 50 million peso reward (approximately \$25,000) for information about his death.
- On October 14 in Cauca Department, two armed men entered the home of indigenous leader and journalist Rodolfo Maya Aricape and shot and killed him in front of his wife and two daughters. Maya was the secretary of the Lopez Adentro Indigenous Council and a correspondent for a community radio station. The Inter-American Commission on Human Rights' (IACHR) special rapporteur for freedom of expression called on the government to investigate the crime, identify and punish the perpetrators, and provide redress to the victims. The case was under investigation at year's end.

There was progress in cases from previous years. For example:

- On October 20, a court in Florencia sentenced the former mayor of Curillo, Caqueta, Esneider Mayorga Corrales, and the convicted murderer, Elber Parra Cuellar, to 42 years in prison for the May 2009 murder of journalist Hernando Salas Rojas. Mayorga Corrales hired Parra Cuellar to kill Salas Rojas after he had launched a movement to remove the mayor from office.
- On December 31, the Prosecutor General's Office charged former paramilitary Orlando Villa Zapata, alias "Ruben," with the 2003 killing of journalist Luis Eduardo Alfonso Parada.

According to the Foundation for Press Freedom, a total of 56 journalists received death threats, compared with 65 in 2009. Two journalists went into voluntary exile as a result of threats, compared with four in 2009.

#### Internet Freedom

There were no government restrictions on access to the Internet. Individuals could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that in 2009 there were 45 users of the Internet per 100 inhabitants.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. However, guerrillas maintained a presence on many university campuses to generate political support for their respective causes and undermine support for their enemies through both violent and nonviolent means. New illegal armed groups, which included some former paramilitary members, and FARC and ELN guerrillas threatened, displaced, and killed educators and their families for political and financial reasons, often because teachers represented the only government presence in the remote areas where the murders occurred. According to the Presidential Program for Human Rights, various assailants killed 29 educators, an increase of 35 percent from the same period in 2009. The teachers union, Colombian Federation of Educators, reported 27 educators were killed during the year. Threats and harassment caused many educators and students to adopt lower profiles and avoid discussing controversial topics.

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

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

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

c. Freedom of Religion

For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

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

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

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

New illegal armed groups, which included some former paramilitary members, and FARC and ELN guerrillas continued to establish illegal checkpoints on rural highways and rivers, but an enhanced government security presence along major highways suppressed kidnappings. The Ministry of Defense reported only one kidnapping at an illegal roadblock in the department of Narino during the year (see section 1.b.). International organizations also reported that illegal armed groups confined rural communities, hindered return, and prevented the free movement of people, especially in areas where narcotics cultivation and trafficking persist.

The law prohibits forced exile, and the government did not employ it. However, many persons went into self-imposed exile because of threats from new illegal armed groups, which included some former paramilitary members, and FARC and ELN guerrillas.

Internally Displaced Persons

The internal armed conflict, especially in remote areas, was the major cause of internal displacement. The government, international organizations, and civil society identified various factors driving displacement including threats and violence by illegal armed groups against civilian populations; competition among illegal armed groups for resources and territorial control; confrontations between security forces, guerrillas, and new illegal armed groups; and forced recruitment of children. Some NGOs complained that counternarcotics efforts and large-scale economic projects in rural areas also contributed to displacement. On September 27, the Santos administration introduced a bill to Congress that would provide for the restitution of land stolen by illegal armed groups from IDPs and other victims. On December 13, the House of Representatives approved the bill. The bill was pending consideration by the Senate at year's end. Many international organizations and NGOs expressed support for the land restitution bill as a means to provide reparations to IDPs and to guarantee their rights.

Estimates of the numbers of IDPs varied. Accion Social, the government's internal displacement welfare and international assistance coordination agency, registered 95,043 new displacements during the year, a 15 percent decline from the same period in 2009 and the third consecutive year of decline in new displacements.

Accion Social cited continued improvement in security and territorial control and enhanced verification of IDP claims as contributing factors in the decline in new displacements. The government and international organizations also pointed out that the conflict and displacement took place in remote, less populated areas. Accion Social noted that new displacements primarily occur in areas where narcotics cultivation and trafficking persist, especially where guerrilla groups and new illegal armed groups are present, such as the Bajo Cauca area of the department of Antioquia, as well as in the departments of Cauca, Choco, Narino, and Meta. According to Accion Social, during the year, the department of Antioquia registered the

highest number of IDPs (18,262), followed by Narino (15,242), Caqueta (8,232), Cauca (7,568), and Tolima (5,948). The NGO Consultancy for Human Rights and Displacement (CODHES) estimated that 280,041 persons were displaced during the year, a 2 percent reduction from CODHES' estimate for 2009. This follows a 25 percent decline in CODHES' estimate between 2008 (380,863 IDPs) and 2009 (286,389 IDPs).

The government has registered an accumulated total of 3.6 million persons displaced since 1997 (including those displaced in years before the registration system was established), while CODHES estimated that more than five million persons have been displaced as a result of the conflict since 1985. Accion Social attributed a large part of the growth in cumulative IDP registrations in recent years to a 2008 Administrative Court (Consejo de Estado) order requiring the government to include displacements from all previous years in the national IDP registry. Under the previous system, an IDP only had one calendar year from displacement to register. This order also prohibited the government from removing an individual from the IDP registry regardless of how many years had passed since displacement. During the year 67 percent of the 288,087 IDP registrations included in the national registry were from displacements occurring in 2009 and previous years.

The government's national registry includes registered IDPs whose applications for recognition had been accepted under defined criteria, while CODHES estimates new displacements based on information from the media, civil society, and fieldwork. CODHES also included as IDPs an undetermined number of coca and opium poppy producers who migrated in response to government drug eradication efforts, as well as those who migrated due to poor economic conditions and food insecurity resulting from the armed conflict.

Despite improvements in the government registration system, international organizations and NGOs remained concerned about under-registration of IDPs. CODHES cited the government's denial of many registrations, lack of access to the registration system in some areas, and fear of retaliation from illegal armed groups as obstacles to full registration. On July 1, Accion Social reported to the Constitutional Court that under-registration had been significantly reduced in recent years as a result of improvements in the registration system as demonstrated by the large number of IDPs registered from previous years. The Monitoring Commission for Public Policy on Forced Displacement, a civil society body that evaluates and reports on internal displacement, noted important advances in the inclusion of IDPs in the national system, but expressed concern with a rising rate of refusals. During the year Accion Social refused approximately 47 percent of IDP registrations as ineligible, compared with a 40 percent refusal rate in 2009. Accion Social reported that the increased refusal rate was a result of improved verification of IDPs. The government does provide for an appeals process.

FARC and ELN guerrillas and new illegal armed groups, which included some former paramilitary members, continued to use forced displacement to gain control over strategic or economically valuable territory, weaken their opponents' base of support, and undermine government control and authority. Illegal armed groups also used landmines and roadblocks to confine entire villages in order to protect illicit crops and prevent pursuit by state security forces. The FARC, ELN, and new illegal armed groups continued to use force, intimidation, and disinformation to discourage IDPs from registering with the government; guerrilla agents often forced local leaders and community members to demonstrate against illicit crop eradication efforts, including causing mass displacements. International organizations and civil society expressed concern with the increase in urban displacement caused by violence. During the year the government registered 4,766 persons as intra-urban IDPs.

During the year the government registered 4,128 new IDPs who identified themselves as indigenous and 17,118 new IDPs who identified themselves as Afro-Colombian. The indigenous made up 4 percent of new IDPs registered by the government and Afro-Colombians 18 percent. The government reported that indigenous people made up 2.5 percent and Afro-Colombians 8.8 percent of the total IDP population. The ICRC and UNHCR reported, however, that indigenous and Afro-Colombian groups were disproportionately affected by displacement in some departments. The National Indigenous

Organization of Colombia (ONIC) estimated the number of displaced indigenous people to be much higher than the government reports, since many indigenous people did not have adequate access to registration locations, due to geographic remoteness, language barriers, or unfamiliarity with the national registration system. In October ONIC Director Javier Sanchez told the IACHR that at least 64 indigenous communities risked extinction as a result of the conflict, the primary cause for the displacement of indigenous peoples. CODHES estimated that 7,925 indigenous people were displaced during the year, a 27 percent increase from 2009. The departments with the highest level of displacement of indigenous included Putumayo, Cordoba, Choco, Cauca, Narino, Caqueta, Meta, and Guaviare. The local NGO Association of Internally Displaced Afro-Colombians (AFRODES) reported that 76 percent of displaced who register do not answer the question about ethnicity; therefore official statistics underrepresent the impact of displacement on Afro-Colombian communities. AFRODES estimates Afro-Colombians could make up as much as 25 percent of the total displaced population. CODHES estimated that 70,010 Afro-Colombians were displaced during the year.

In a July report to the Constitutional Court, Accion Social stated that the government had improved the participation of ethnic minority groups in the planning process for relevant policies and programs, including strengthening the prior consultation process with Afro-Colombian and indigenous communities. The report also mentioned that during the year the government launched and supported programs for ethnic minority groups as previously ordered by the Constitutional Court, providing for the protection of IDP women (including a specific program for indigenous IDP women), and the implementation of law 1381, passed in 2010 to improve the quality and access of education for Afro-Colombian children.

International organizations identified recruitment of indigenous youth by illegal armed groups as a serious concern. In a May report, UN Special Rapporteur on Indigenous People S. James Anaya urged illegal armed groups to cease recruiting indigenous youth into hostile activities, calling the practice a grave violation of human rights and international humanitarian rights. Anaya also acknowledged the government's disposition toward recognizing the rights of indigenous peoples, as shown in the development of plans and budgets to address indigenous issues. However, the Special Rapporteur expressed concern with indications that the situation of the indigenous peoples in the country had not been confronted with the urgency that the "grave situation merited." On August 6, as part of its recognition of the International Day of the World's Indigenous People, UNHCR warned that many of Colombia's indigenous groups are in danger of extinction due to murder, threats of violence, and forced displacement. In 2009 the Constitutional Court ordered the government to provide specific protection mechanisms for 34 indigenous groups at risk for physical and cultural extinction. CODHES reported that 14 mass displacement events during the year affected approximately 4,000 people belonging to Nasa, Embera, Eperara Siapidara, and Jiw indigenous groups.

The local NGO AFRODES stated that threats and violence against Afro-Colombian leaders and communities continued to cause high levels of forced displacement, especially in the Pacific Coast region. AFRODES and other local NGOs also repeatedly expressed concern about large-scale economic projects, such as agriculture, mining, and cattle, contributing to displacement in their communities.

On February 15, UN Independent Expert on Minority Issues Gay McDougall urged the government to improve the situation for Afro-Colombians, especially in terms of issues related to displacement, land dispossession, poverty, and violence against communities and individuals. McDougall acknowledged that the government had instituted an "impressive and commendable legislative framework that recognizes the rights of Afro-Colombians;" however, she also found the government's implementation of the legislation supporting Afro-Colombian rights "inadequate, limited, and sporadic."

The government, international humanitarian assistance organizations, and civil society observed that mass displacements continued, representing 6 percent of the total 95,043 persons displaced during the year. Accion Social reported 58 mass displacement events affecting 13,752 persons during the year, of which 46 mass displacement events affecting 5,848 persons were included in the national registry. This is compared with 42 mass displacement events affecting 10,443

persons in 2009. According to Accion Social, the departments with the highest numbers of IDPs from mass displacements in the year were Antioquia (2,577), Narino (1,820), and Cordoba (559). During the year, ICRC assisted 9,769 persons, including 5,504 women and 4,824 children, affected by 34 mass displacement events. The UNHCR and the UN Office of the Commissioner for Humanitarian Affairs (OCHA) reported that:

- From the last week of January through February, rumors of the presence of 200 members of an unknown illegal armed group and direct threats against community leaders displaced more than 1,000 persons from an indigenous reservation along the Purricha River in the Bajo Baudo area of Caqueta Department.
- On February 20, confrontations between the army and the FARC displaced more than 500 indigenous families from rural areas of Caldone and Jambalo in Cauca Department.
- From March 13 to 16, more than 770 indigenous persons from four different rural communities around the town of Caloto, Cauca, fled their homes to avoid clashes between state security forces and the FARC. Indigenous authorities reported one killed and one injured.
- During the last week of September, threats by the new illegal group Black Eagles displaced 52 Afro-Colombian families from rural villages in Olaya Herrera, Narino.

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

- On April 3, 900 persons fled the area of Ituango, Antioquia, as a result of threats against community leaders and the growing use of landmines in the area by illegal armed groups.
- On August 2, confrontations between the FARC and security forces in the rural area of El Charco, Narino, displaced more than 300 persons. El Charco recorded more than 18,000 IDPs in the last three years.
- On October 1, 183 persons from El Charco, Narino, fled to the municipality of Santa Barbara de Iscuande after members of an illegal armed group killed five persons of the community.
- On November 7, unknown assailants killed four members of the Awa indigenous community (including a pregnant woman) in the rural area of Barbacoas, Narino. In a separate incident on November 15, two Colombian soldiers and two civilians were killed and two civilians wounded in an armed engagement between FARC and Colombian military units. Awa authorities warned that an escalation of hostilities in Awa indigenous territories in recent years has contributed to an ongoing high risk of mass displacement in the area.

CODHES also reported that at least eight IDP community and land rights leaders were killed during the year, bringing the number of such leaders killed since 2002 to 41. On May 18, unknown assailants killed Rogelio Martinez of the National Movement of Victims of State Crimes (MOVICE) in San Onofre, Sucre. On June 22, Accion Social issued a statement condemning threats against Afro-Colombian community leaders. On July 17, unknown assailants killed Jair Murillo, an Afro-Colombian IDP leader, in Buenaventura, Valle de Cauca. On September 19, unknown assailants killed Hernando Perez, leader of the Association of Victims for the Restitution of Land and Assets, hours after he participated in a ceremony where the government delivered land titles to 35 displaced families in Turbo, Antioquia. Authorities were still investigating the cases at year's end. International organizations and NGOs condemned the attacks and continuing threats against human rights and IDP leaders and groups.

There were no updates on the 2009 killings of IDP activists Ana Isabel Gomez Perez (April) and Guillermo Ramos Rosso (July).

The government budgeted 1.5 trillion pesos (approximately \$800 million) to provide assistance to IDPs during the year. Assistance to registered IDPs was delivered through Accion Social, the ICBF, the Ministry of Social Protection (MSP), and other governmental ministries and agencies. During the year Accion Social provided emergency food assistance to 600,000 persons, primarily IDPs. Accion Social also coordinated the return of approximately 150,000 IDPs during the year.

International organizations and NGOs acknowledged the government's significant progress in improving programs and budgets for IDP assistance, but maintained that the quality of programs providing emergency assistance, housing, income generation, and land restitution needed more improvement. On July 21, the Superior Court of Bogota overturned a decision that ordered Accion Social to pay 30 billion pesos (approximately \$15 million) in retroactive humanitarian assistance to more than 1,500 victims of forced displacement. The decision asserted that humanitarian assistance is temporary and immediate. On November 3, Accion Social, the Prosecutor General's Office, and the Colombian National Police (CNP) established a specialized unit to investigate and prosecute cases of forced displacement and disappearances. The unit included 22 prosecutors from the Prosecutor General's Office, 44 prosecutor and judicial assistants, and 85 investigators from the National Judicial Police. At year's end, the displacement unit was working to transfer approximately 50,000 pending complaints from other units in the Prosecutor General's Office for possible investigation.

Assistance organizations pointed out that emergency response to mass displacements was more difficult and costly to mount, since most displacements took place in more remote locations; however, the speed and effectiveness of the response has improved in recent years. Accion Social and other government agencies could start the response to most mass displacement events immediately. International organizations and civil society reported that a lack of local capacity to accept registrations in high-displacement areas often delayed by several weeks or months assistance to persons displaced individually or in smaller groups. Intense fighting and insecurity in conflict zones, including areas in the departments of Antioquia, Cauca, and Narino, sometimes delayed national and international aid organizations from accessing newly displaced populations. The government took steps with international organizations and NGOs to improve the registration system and reduce the wait time, including prioritizing the vulnerable cases, holding registration fairs in high-displacement areas and deploying more resources and equipment.

Despite several government initiatives to enhance IDP access to services and knowledge of their rights and notable improvements in meeting their social and economic needs, many IDPs continued to live in poverty with unhygienic conditions and limited access to health care, education, or employment. In 2004 the Constitutional Court initially found the government's response to displacement an "unconstitutional state of affairs" and ordered the government to reformulate its IDP programs and policies, including improving the IDP registration system. In following years, the court also ordered the government to implement specific protection and assistance programs for displaced indigenous people, Afro-Colombians, women and children, disabled persons, and IDP community leaders. In its July 1 report to the Constitutional Court, Accion Social cited improvements in institutional and territorial coordination, enhanced registration systems, involvement of IDP and community authorities and associations, increased IDP policy and program budget, and improved monitoring and evaluation of assistance and rights. The Monitoring Commission for Public Policy on Forced Displacement acknowledged some of the improvements cited in the government response but asserted that significant gaps remained. On December 10, the Constitutional Court issued four new orders pertaining to internal displacement, including provisions requiring the government to implement special protection measures for the Hitnu indigenous community in the department of Arauca and Afro-Colombian communities in Jiguamiando and Curvarado in the department of Choco, as well as to establish timeframes for improving coordination between national and local government entities in providing assistance to IDPs. In order 385, referring to Accion Social's July report, the Constitutional Court acknowledged advances in the government's response for IDPs, but found that the "unconstitutional state of affairs" persisted, stating that the government had not yet achieved "a systematic and integrated advance" in guaranteeing minimum protection and effective enjoyment of rights. Several international organizations and domestic nonprofit groups, such as the International Organization for Migration (IOM), World Food Program (WFP), ICRC, and Colombian Red Cross, coordinated with the government to provide emergency relief and long-term assistance to displaced populations.

Displaced persons also sought protection across international borders as a result of the internal armed conflict in the country. UNHCR reported in the 2009 Global Trends Report released in June that Colombia was the country of origin for 104,388 refugees and 64,335 asylum seekers. The majority of these refugees and asylum-seekers lived in Ecuador, Venezuela, Costa Rica, and Panama. During the year, the governments of Colombia and Ecuador formed a bilateral refugee commission to discuss the situation of Colombian refugees in Ecuador, including plans for voluntary returns. The bilateral refugee commission met three times during the year.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government reserved the right to determine eligibility for asylum, based upon its own assessment of the nature of an applicant's claim. According to the government, 101 recognized refugees resided in the country. During the year the government received 131 applications for refugee status, including from persons from Cuba, Eritrea, Ethiopia, and Afghanistan. Of these cases, two persons were approved for refugee status, 112 were rejected, and 17 were pending at year's end. The government also reported an increase in the smuggling of migrants from outside the region, primarily from Asia and East Africa, en route to the United States and Canada. The government regularly provided access to the asylum process for such persons who requested international protection; however, nearly all abandoned their applications and continued on the migration route before a refugee status determination was completed.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair elections held on the basis of nearly universal suffrage. Active duty members of the armed forces and police may not vote or participate in the political process. Civilian public employees are eligible to vote, although they may participate in partisan politics only during the four months immediately preceding a national election.

#### Elections and Political Participation

In June Unity Party candidate Juan Manuel Santos won a four-year term as president in elections considered generally free and fair. The OAS electoral observation mission stated that the "electoral process was conducted successfully, and this should be understood as an achievement for the Colombian government and people." The OAS mission also noted that the 2010 elections experienced the lowest levels of violence in 30 years.

Political parties could operate without restrictions or outside interference. The Liberal and Conservative parties previously dominated politics. The election of President Santos and the second-place showing of Antanas Mockus of the newly established Green Party reflected a continued widening of the political arena. More than a dozen political parties from across the political spectrum were represented in Congress.

New illegal armed groups, which included some former paramilitary members, and the FARC threatened and killed government officials (see section 1.g.). According to the Presidential Program for Human Rights, five municipal council members were killed through August, the same number as were killed in the same period in 2009.

Some local officials resigned because of threats from the FARC. A program by the Ministry of Interior and Justice provided protection to 353 mayors, 120 members of Congress, and 3,705 council members at year's end.

The law requires that women be placed in at least 30 percent of appointed government posts and that the government report to Congress each year the percentage of women in high-level government positions. There were 16 women in the 102-member Senate and 31 in the 166-member House of Representatives. There were four women in the 13-member cabinet and four on the 23-member Supreme Court. In December the Supreme Court elected the country's first ever woman Prosecutor General.

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

Eleven Afro-Colombians served in Congress. There were eight self-identified Afro-Colombian members of the House of Representatives; six were elected and two occupied seats reserved for Afro-Colombians. The representative from San Andres, which has a large Afro-Colombian population, was not Afro-Colombian but was a member of the Afro-Colombian caucus. Although there were no seats reserved for Afro-Colombians in the Senate, there were three Afro-Colombian Senators. There were two Afro-Colombians serving as deputy magistrates on the Constitutional Court. There were no Afro-Colombian cabinet ministers.

#### Section 4 Official Corruption and Government Transparency

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

On March 17, the Inspector General's Office suspended the governor of Casanare for irregularities in contracting procedures and expenses in 2008 and 2009. Other officials from the Casanare government were suspended in late 2009 on similar charges. The suspensions without pay, initially issued for three months, continued at year's end while the Inspector General's Office continued to investigate.

On October 25, the Prosecutor General's Office summoned the mayor of Bogota and 17 other local government employees to testify about irregularities in contracting processes in the city. On November 11, the Office of the Inspector General also ordered an investigation of the mayor and a senator, the mayor's brother, who was also allegedly involved. The investigations followed the Democratic Pole party's own internal investigation that found the mayor had benefitted from contracting processes that were not transparent. The investigations by the prosecutor general and inspector general were pending at year's end.

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

Investigations into a 2009 corruption scandal involving inappropriate use of the Agriculture Ministry's irrigation and drainage loan program continued during the year. On September 7, a prosecutor from the Anti-Corruption Unit called on a former agriculture minister to testify. In October the inspector general also announced an investigation into the former agriculture minister as well as the former vice minister and seven other government officials. Investigations continued at the end of the year.

In November investigations began into a possible corruption scandal at the government agency Fondelibertad, which manages anti-kidnapping efforts and assistance for the families of kidnapping victims. Preliminary investigations by the

controller general in November found irregularities in contracting procedures and documentation. On December 28, the Prosecutor General's Anti-Corruption Unit began formally questioning the former director of Fondelibertad about contracting procedures. Investigations continued at year's end.

The Justice and Peace Law (JPL) process continued to expose corruption and paramilitary ties within the government and security forces. The president continued funding for the Supreme Court's investigative unit, which investigated members of Congress and senior government officials. By year's end a total of 15 sitting or previous congressmen had been convicted, 25 were in jail pending the Supreme Court's ruling in their cases, 20 had been acquitted, and eight senators were being investigated. For the Congress that ended in June 2010, 93 members were subjects of criminal investigation.

- On September 14, the Supreme Court ordered the incarceration of former senator Javier Caceres after former paramilitary leaders including Salvatore Mancuso and Rodrigo Tovar alias "Jorge 40" said that Caceres participated in multiple meetings with them.
- In March a group of 25 politicians were arrested for ties to paramilitaries in Uraba. The group included the then presiding mayor of Arboletes, and several former mayors of other nearby towns.

The primary government body to investigate corruption is the Presidential Program for the Fight Against Corruption.

By law public officials must file annual financial disclosure forms.

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

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government and local human rights groups often differed in their evaluations and analyses of the human rights situation. NGOs reported that criticism from high-level officials, including former president Uribe, linking them to guerrilla groups put them at risk of retaliation by new illegal armed groups, which included some former paramilitary members. Many NGOs, however, noted a more positive, conciliatory tone by the Santos government. Many domestic NGOs also said that the government arbitrarily arrested and detained human rights activists, particularly in high-conflict areas. NGOs claimed that the Prosecutor General's Office had pursued numerous unfounded judicial cases against legitimate human rights defenders with the purpose of discrediting their work. The government charged that some human rights activists engaged in activities that supported terrorism (see section 1.e.).

On December 28, the Prosecutor General's Office charged a former vice president and former presidential advisor with criminal slander for statements made in 2007 suggesting that three unions were associated with terrorist organizations. The trial was ongoing at year's end.

President Santos and Vice President Garzon made numerous public statements in support of human rights defenders during the year. On October 22, after the U.S.-based NGO Washington Office on Latin America and AFRODES received threats, President Santos issued a press release that reiterated the government's concern about the threats, asked authorities to investigate the threats, and expressed the government's commitment to strengthen protection for human rights defenders. For example, on September 22 the government announced it was adding 20 billion pesos (\$11 million) to the Ministry of Interior and Justice's protection program. Santos also indicated his support for a bill that would increase the penalty for threatening or killing human rights defenders; the bill passed Congress on December 14 and was awaiting

Santos' signature at year's end. On October 20, President Santos met with representatives from Human Rights Watch to discuss how to improve human rights. The Ministry of Interior and Justice's protection program covered 685 human rights defenders.

According to the NGO We are Defenders (Somos Defensores), seven human rights activists were killed and 51 threatened during the first half of the year. Two were female IDP leaders and two were LGBT activists. CODHES reported a rising trend of attacks against women leaders of the IDP population and activists seeking land restitution.

Several NGOs reported receiving threats in the form of e-mail, mail, telephone calls, obituaries, objects, or directly from unknown individuals. According to the UNHCHR, reports of threats continued to increase during the year. The government condemned the threats and called on the Prosecutor General's Office to investigate them. The Prosecutor General's Office investigated 291 cases of threats against human rights defenders during the year. None of the investigations had resulted in a prosecution at year's end.

A Ministry of Interior and Justice program provided protection to more than 685 human rights activists (see section 2.a.) and enhanced or provided new security at more than 49 NGO offices.

The government continued to meet with the UNHCHR, local NGOs, and members of the diplomatic corps to discuss steps it had taken to comply with UNHCHR recommendations on improving human rights practices. While acknowledging progress on several recommendations, the UNHCHR and local NGOs reported that the government had not fully implemented all of them by year's end. In October the government extended UNHCHR's mandate for three years. On November 22, the government signed a joint declaration with civil society organizations, the UN, the OAS, and the G24 (a group of 24 diplomatic missions including the United States), to jointly monitor human rights and to work together towards a unified national human rights conference in December 2011 that would establish a government-wide policy on human rights.

The human rights ombudsman is independent, submits an annual report to the House of Representatives, and has responsibility for ensuring the promotion and exercise of human rights. The ombudsman's Bogota office was the headquarters of a national Early Warning System designed to alert public security forces and the national and regional governments of impending massive human rights violations. The Ombudsman's Office was underfunded, which limited its ability to monitor human rights violations effectively. Some human rights groups complained that the government lacked the political will to publish Early Warning System reports and that a significant number of regional reports were never published. Members of the ombudsman's regional offices were under constant threat from illegal armed groups via pamphlets, e-mails, and violent actions.

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

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

Implementation of the 2005 JPL continued. The Justice and Peace Unit in the Prosecutor General's Office is responsible for the required investigation and prosecution of demobilized persons under the law, and an interinstitutional commission on Justice and Peace was created to coordinate its implementation. At year's end, 4,072 persons had been presented as eligible for the JPL; 3,633 of these were former paramilitary members, including 29 commanders, and 439 were former

guerrilla members. More than 2,433 testimonies or versiones libres had been taken, in which the Prosecutor General's Office identified 52,263 crimes, more than 46,000 of them homicides. There were 66,773 victims involved in the 52,263 identified crimes. At year's end a total of 323,765 victims had registered with the Prosecutor General's Office, and 3,079 graves had been exhumed involving the remains of 3,763 persons; remains of 1,384 victims had been identified, and 1,295 had been returned to their families. Testimony from the voluntary confessions also triggered investigations of politicians, military members, major agricultural producers, and government officials' ties to paramilitary forces.

The application of the law continued to face many challenges, including thousands of former paramilitary members who remained in legal limbo, and there was little land or money confiscated from paramilitary leaders. There were three convictions of paramilitary leaders since the law's implementation in 2005. NGOs and victims criticized the process' slow pace, while the Prosecutor General's Office said pressure to reveal all truths behind paramilitary crimes delayed prosecutions. Victims remained susceptible to killings, threats, and intimidation.

The government's Program of Administrative Reparations paid 300 billion pesos (\$150 million) in reparations to victims of illegal armed groups. The Victim Protection Program under the Ministry of Interior and Justice protected 88 victims involved in the Justice and Peace process, and during the year the government spent 121 billion pesos (approximately \$65 million) on the program. The National Commission for Reparation and Reconciliation maintained offices in twelve cities, including Sincelejo, Pasto, Quibdo, and Medellin. The offices contained one-stop informational centers for victims and assisted victims with enrollment and receipt of legal and psychological support.

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

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

##### Women

Although prohibited by law, rape, including spousal rape, remained a serious problem. The law provides for sentences ranging from eight to 30 years of imprisonment for violent sexual assault. For acts of spousal sexual violence, the law mandates sentences of six months to two years and denies probation or bail to offenders who disobey restraining orders. The National Institute for Legal Medicine and Forensic Science reported 18,038 cases of suspected sex crimes, including rape, but indicated that many cases went unreported. New illegal group members, former paramilitary members, and guerrillas raped, sexually abused, and sometimes sexually mutilated women and children for fraternizing with the enemy, working as prostitutes, having sexual relations outside of marriage, or violating imposed codes of conduct or restrictions on dress (see section 1.g.). The ICBF provided psychosocial, medical, and legal support to victims of sexual violence.

Although prohibited by law, domestic violence, including spousal abuse, remained a serious problem. Judicial authorities may remove an abuser from the household and require therapy or reeducation. The law provides prison time if the abuser causes grave harm or the abuse is recurrent; however, provisions for fines were not applied. The National Institute for Legal Medicine and Forensic Science reported approximately 45,000 cases of domestic violence against women, but it noted that only a small percentage of cases were brought to its attention for investigation and follow-up. The law requires the government to provide victims of domestic violence with immediate protection from further physical or psychological abuse. The ICBF provided safe houses and counseling for victims, but its services could not meet the magnitude of the problem. In addition to fulfilling traditional family counseling functions, ICBF family ombudsmen handled domestic violence cases. The Human Rights Ombudsman's Office conducted regional training workshops to promote the application of domestic violence statutes. The law provides measures to discourage and punish harassment at the workplace, such as sexual harassment, verbal abuse or derision, aggression, and discrimination. Nonetheless, sexual harassment remained a pervasive problem.

Couples and individuals had the right to decide on the number, spacing, and timing of children and had the information and means to do so free from discrimination. Women and men had access to contraception. The Population Reference Bureau reported 78 percent use of contraception among married women between ages 15 and 49, and the UN Population Fund estimated the maternal mortality ratio in 2008 to be 85 deaths per 100,000 live births. Women have equal access to health care and diagnosis for sexually transmitted diseases.

Although women enjoy the same legal rights as men, discrimination against women persisted. Women faced hiring discrimination, were disproportionately affected by unemployment, and had salaries that generally were incompatible with their education and experience. According to the 2010 World Economic Forum's Global Gender Gap Report, women earned 41 percent less than men for comparable work. Female workers in rural areas were affected most by wage discrimination and unemployment.

The president's advisor for equality of women has primary responsibility for combating discrimination against women. The advisor managed a program to help women who were microbusiness entrepreneurs and heads of families to get favorable lines of credit for their companies. The previous advisor ended her tenure when President Santos was inaugurated, and at year's end a new advisor had not been named. Through the end of August, the government provided 3,933 microcredit loans to women, in the amount of 4.5 billion pesos (approximately \$2.4 million). During the year 12,490 women attended 21 government-sponsored seminars on establishing microbusinesses. On January 25, the president created an interagency commission dedicated to the eradication of gender-based violence through Decree 164. The government demonstrated its support of the OAS' declaration of 2010 as the Inter-American Year of Women by hosting a Summit of Women Entrepreneurs in Cali from June 23 to 27. On November 2, the government launched an outreach campaign to eradicate gender-based violence as required by Law 1257 of 2008 and a 2008 Constitutional Court decision. The interagency government-sponsored program *Mujer Tienes Derechos, Estamos Contigo* (Women: You Have Rights, We are With You) intends to increase public education about violence against women and provide resources for victims. On November 3, the Minister of Defense launched a new compulsory program of gender equality and sexual rights training for all members of the armed forces. The program includes training that was developed jointly with the United Nations Population Fund.

#### Children

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

Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported more than 11,000 cases of child abuse. The ICBF reported 7,625 cases of sexual abuse against children. The institute also estimated that approximately 86 percent of reported sex crimes involved sexual abuse of children, most of whom were under age 14.

The 20,000-person Embera Chami indigenous community in Risaralda continued its two-year suspension of female genital mutilation.

According to the ICBF, through November there were 441 reports of minors engaging in independent or forced prostitution; many other cases went unreported. According to the ICBF, through November there were 42 cases reported of children engaged in child pornography. In 2009 the president approved a law that increased the penalties for sexual tourism involving minors, and ICBF identified 29 children through November engaged in these activities. The law authorizes the government to confiscate profits from hotels and other establishments where sex with minors is performed.

Guerrillas forcibly recruited and used children as soldiers, including indigenous children (see section 1.g.). Children were caught in clashes between illegal armed groups and national security forces. According to the UN, illegal armed groups killed or threatened children with death on suspicion of being informants for the Colombian military.

According to government registrations, 52 percent of IDPs during the year were women and 36 percent were children. Displaced children were particularly vulnerable to physical abuse, sexual exploitation, and recruitment by criminals.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on the convention at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html) as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

#### Anti-Semitism

There were reports of societal abuses or discrimination, including anti-Semitism, based on religious affiliation, belief, or practice. Anti-Semitic acts included graffiti painted on the exterior walls of synagogues and anti-Semitic statements in pamphlets published by small anti-Semitic organizations. The Jewish community had an estimated 5,000 members.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

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

#### National/Racial/Ethnic Minorities

According to the 2005 national census, approximately 4.5 million persons, or 10 percent of the population, described themselves of African descent. However, human rights groups and Afro-Colombian organizations estimated that Afro-Colombians comprised up to 20 to 25 percent of the population. While Afro-Colombians are entitled to all constitutional rights and protections, they faced significant economic and social discrimination. Choco, the department with the highest percentage of Afro-Colombian residents, had the lowest per capita level of social investment and ranked last in terms of education, health, and infrastructure. It also continued to experience some of the country's worst political violence, as new illegal armed groups, which included some former paramilitary members, and FARC and ELN guerrillas struggled for control of the department's drug- and weapons-smuggling corridor (see section 1.g.).

On January 12, Colombia and the United States signed the Joint Action Plan on Racial and Ethnic Equality. The plan called on the public and private sectors in both countries to implement programs to share best practices to combat racial inequality and discrimination.

In May the government approved a policy to promote equal opportunity for black, Afro-Colombian, Palenquera, and Raizal populations in Colombia. Palenquera populations along some parts of the country's Caribbean coast, Raizal populations in the San Andres archipelago, and blacks and Afro-Colombians are all Afrodescendants who self-identify slightly differently based on their unique linguistic and cultural heritages. The plan, developed by over 20 different government agencies, described actions for the government to take to improve access and quality of education, training, development, and diversity in government. Among the plan's recommendations was the proposal that the Ministry of Interior and Justice present a law criminalizing racial discrimination.

In October President Santos created the Presidential Program for Afro-Colombian Affairs, housed in the Office of the Vice Presidency, to address Afro-Colombian needs at the presidential level.

#### Indigenous People

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

The law accords indigenous groups perpetual rights to their ancestral lands. Traditional indigenous authorities operated 778 reservations, accounting for 30 percent of the country's territory, with officials selected according to indigenous traditions. However, many indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership.

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

Indigenous leaders complained about the occasional presence of government security forces on indigenous reservations and asked that the government consult with indigenous authorities prior to taking military action against illegal armed groups operating in or around such areas. On March 26, former president Uribe signed a presidential directive which establishes national ethnic groups' fundamental right to prior consultation and reiterates the legal requirement to consult with those communities before any activity with cultural, social, economic, or environmental impact. Some indigenous groups came out against this directive arguing that it was not constitutional, not prepared in consultation with indigenous groups, and that it still did not solve the problem of unclear mechanisms for previous consultation.

The government stated that for security reasons it could not provide advance notice of most military operations and that it consulted with indigenous leaders when possible before accessing land held by the communities. The law permits the presence of government security forces on indigenous lands; however, Ministry of Defense directives instructed security forces to respect the integrity of indigenous communities, particularly during military and police operations. The Ministry of Defense's Integrated Policy on Human Rights stresses the importance of protecting indigenous communities.

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

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

The Presidential Program for Human Rights reported that through August 31 there were 40 homicides of indigenous people, a decrease of 50 percent from the same period in 2009. Unlike in 2009, there were no reported massacres of indigenous people.

- On August 13, unknown assailants entered the home of U'wa leader Carmen Elisa Mora Uncacia and attacked and killed her. Mora, who was pregnant, worked as coordinator of the Office of Indigenous Affairs in the mayor's office in Saravena, Arauca.
- On August 26, unknown assailants kidnapped and killed Ramiro Inampues and his wife Taita Ramiro. Their bodies were found two days later in El Corso in the Guachucal indigenous reserve in Narino Department. Inampues served as governor of the Guachucal reserve and as a council member in the municipality of Guachucal.
- On December 17, unknown assailants shot and killed Medardo Mera Sandoval as he was leaving church in Caldono, Cauca Department. The following day, President Santos condemned the killing of Mera Sandoval, an indigenous leader and community council member, and called on police to investigate the crime. The investigation continued at year's end.

The IACHR condemned these deaths and called on the government to fully investigate and prosecute those responsible.

There were developments in killings of indigenous people in 2009. On October 7, three men were sentenced to 52 years in prison for the August 2009 massacre of 12 Awa.

In October President Santos created the Presidential Program for Indigenous Affairs, housed in the Office of the Vice Presidency, to address indigenous needs at the presidential level.

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

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

Colombia Diversa, an NGO focused on violence and discrimination due to sexual orientation, reported at least 50 killings during the year due to prejudice regarding sexual orientation. On October 2, two unknown male assailants shot and killed transgender Raiza Valencia Cuero in the "El Rodeo" neighborhood of Cali. LGBT activists were the subjects of "social cleansing" threats and attacks (see section 1.g.). The Constitutional Court recognized the right of same-sex couples to a pension; nevertheless, Colombia Diversa reported the law was frequently not applied due to lack of knowledge by government employees. In a 5-to-4 vote on November 11, the Constitutional Court upheld Colombia's ban on same-sex marriage. The Court decided that the case before them did not contain a sufficient legal argument and additional information was needed. At year's end the Constitutional Court was reviewing a case regarding adoptions by same-sex couples but had not released a decision. The city of Bogota implemented an outreach campaign regarding LGBT issues, and every administrative department in the municipal government has a specialist on LGBT issues. The mayor of Cartagena also called for increased outreach on LGBT issues. There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. The city of Bogota's Department of Sexual Diversity released a study which reported 98 percent of the LGBT community faced discrimination, particularly in schools and workplaces. The report showed that 53 percent of the LGBT community has been physically attacked for their sexual orientation or gender identity identity, and in 61 percent of cases the attacker is closely related to the victim.

Transgender individuals were victimized the most (64 percent of the community), followed by lesbians (57 percent of the community). This data aligned with reports from Colombia Diversa about societal discrimination. Colombia Diversa reported cases of police abuse against persons due to their sexual orientation, with the majority of complaints coming from transgender individuals. On May 17, in Bucaramanga police beat and pepper sprayed three LGBT youths while insulting them for their sexual orientation. According to LGBT NGOs these attacks frequently occurred, but victims did not pursue cases for fear of retaliation.

On February 24, the CNP issued Permanent Directive 004 to continue procedures within the CNP to ensure the LGBT community receives respect and protection of its rights. Colombia Diversa and Cali-based NGO Santamaria Foundation claimed that the directives were insufficient to measure the CNP's progress and that violations had not decreased.

Due to increased pressure not only from Colombian LGBT activists, but also the international community, the state government of Valle del Cauca included sexual diversity in its Human Rights Action and Development Plan. The state government worked with ten municipalities and developed an awareness and training program for government employees, along with victim assistance and health-related programs. The city of Cali created a consultative group regarding sexual diversity that includes representatives from NGOs like Santamaria. A report by the mayor's office cited high levels of discrimination, exclusion, and human rights violations in the transgender community. Programs about sexual diversity were included in schools, with the inclusion of transgender women, in an effort to shift cultural norms; in August the program was suspended. The city of Cali's Secretary of Education received complaints from parents and other community members that the program would promote homosexuality or transgender activities by students and decided to halt the program.

In recognition of World AIDS Day on December 1, the Ministry of Social Protection in collaboration with the United Nations Population Fund (UNFPA) launched a communications campaign to combat the stigmatization and discrimination of those living with HIV/AIDS. The campaign, "We Are Different, But Equal," featured transgender activist Valentina from the Santamaria Foundation. UNFPA explained the campaign intended to highlight the diverse population affected by the disease including some members of the transgender community.

The Office of the Inspector General launched a program, "Strengthening the Preventive Role of the Inspector General on LGBT Population Rights," to provide monitoring of public policies, ensure compliance with judicial decisions, and recommend international tribunals regarding LGBT cases. In addition, it implemented a civil servant training program that involved over 300 public employees on respecting the rights of LGBT individuals including updates to case law, providing differentiated services, and the development, and dissemination of a preventive action plan.

Despite these efforts, Colombia Diversa asserted that members of the Inspector General's Office continued to publicly oppose same sex marriage to the Constitutional Court. NGOs claimed that violence in prisons against persons due to their sexual orientation remained a problem, and they reported confinement and isolation of incarcerated lesbians resulted in the suicide of Dayana Perez on October 25, in the Jamundi Prison. In addition, there have been instances where medical services for transgender men have been denied.

Colombia Diversa reported several cases of threats against human rights defenders working on LGBT issues. Colombia Diversa cited a high level of impunity for crimes against members of the LGBT community. Government-authorized gay pride marches took place in several cities on June 26; there were no reports of insufficient security for the participants.

#### Other Societal Violence or Discrimination

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

## Section 7 Worker Rights

### a. The Right of Association

The law allows some workers to form and join unions and the government generally respected this right in practice; however, there exist a number of legal restrictions to forming and joining a union, particularly in indirect contracting situations, but unions have been formed despite these legal restrictions. The law does not extend this right to members of the armed forces or police. Approximately 820,000 workers (4.4 percent of the workforce of 18.4 million) were union members. Almost 60 percent of the workforce was employed in the informal sector.

The labor code provides for automatic recognition of unions that obtain 25 signatures from potential members and comply with a registration process. While barriers to registration have been overcome, unions cited multiple companies that fired employees that formed new unions. The Ministry of Social Protection continued to investigate a number of claims at year's end.

Threats and harassment of trade unionists continued to affect the exercise of the right to freedom of association, as violence and discrimination against union members discouraged some workers from joining and engaging in union activities. The Presidential Program for Human Rights reported that 34 trade unionists were killed during the year, compared with 28 in 2009, while the National Union School (ENS), a labor rights NGO and think tank, reported that 51 trade unionists were killed during the year, compared with 47 in 2009. ENS and government figures differed because of different methodological definitions of trade union membership; however, due to increased dialogue between ENS and the Presidential Program for Human Rights, multiple cases of murdered unionists were identified which were previously not categorized as such because the government selects only one category, which causes exclusion of unionists from final numbers.

On February 10, in Montecristo, Bolivar, an armed group shot and killed José de Jesús Restrepo and Omar Alonso Restrepo Ospina, leaders of the mining union FEDEAGROMISBOL. Local residents claimed the murders were carried out by paramilitaries. On June 5, in Calle, Valle de Cauca, unknown assailants on a motorcycle shot and killed Hernan Abdiel Ordonez Dorado, leader of the prison workers union ASEINPEC. Both cases were under investigation at year's end.

On August 12, in Medellín, Antioquia, an unknown assailant shot and killed Luis German Restrepo Maldonado, leader of the packaging union Sintraempaques. On December 12, the police arrested John Bayron Cardona Sepúlveda, alias "Jimmy," Alejandro Pérez Pérez, alias "Alejo," Alexander Correa Rodríguez, alias "Alex," and Hernán Molina Saldarriaga, alias "Pacheco," for Restrepo's murder. Correa, Molina, and Perez accepted charges of aggravated homicide and possession of illegal firearms. All four were in prison awaiting sentencing at year's end. Molina previously served six years of a 32-year sentence for illegal gun possession, but was conditionally released prior to Restrepo's murder. The Prosecutor General's Office believed that the four individuals murdered Restrepo in a joint FARC-ELN operation.

The ENS and other labor groups acknowledged the continued decline in the murder rate but asserted focusing on murders alone masked the true nature and scope of the antiunion violence. About 25 percent of the 11,579 "violations of life, liberty, and integrity" of unionists tallied by ENS since 1986 were murders; the rest ranged from death threats and disappearances to harassment and illegal searches. Labor groups noted that in some regions nonlethal violations were on the rise. ENS reported 443 total violations for the year--in addition to the 51 reported homicides, there were 306 death threats, 20 nonlethal attacks, six disappearances, three arbitrary detentions, three illegal searches, 33 cases of forced displacement, 16 cases of harassment, and five kidnappings.

Teachers made up the largest percentage of union members and were the largest percentage of victims of violence by illegal armed groups, both because they constituted 27 percent of all registered unionists and because of their presence in

rural, conflict-ridden parts of the country. The Presidential Program for Human Rights reported that 18 of the 34 unionists killed during the year were teachers, while ENS reported 29 of 51 unionists killed were teachers. The teachers union Colombian Federation of Educators (FECODE) reported one nonunion educator was killed during the year, for a total of 27.

The Ministry of Interior and Justice provided protection to 10,806 at-risk individuals of whom 1,454 were trade union leaders (others protected included journalists, human rights advocates, and social leaders); the protection program received annual funding of 144 billion pesos (\$72 million). In September the Minister of Interior and Justice, citing the continued risks posed to human rights defenders and labor leaders, announced that the government would increase the protection program's budget by 20 billion pesos (\$11 million). The Ministry of Education managed a separate protection (transfer) program for educators, the majority of whom are unionized. On November 24, Vice President Garzon announced a plan to better protect unionized teachers, based on a proposal from FECODE. At year's end details of the plan had not been released.

Since 2000 the Prosecutor General's Office obtained 353 convictions for violent acts against trade unionists, including 76 during the year. A special Labor Sub-Unit set up in 2006 was assigned 1,387 cases to investigate and process. The majority of the 1,387 cases remained under investigation or in the preliminary stages of the prosecutorial process. Labor groups recognized important advances made by the Labor Sub-Unit of the Prosecutor General's Office, but said more needed to be done to end impunity for perpetrators of violence against trade unionists. They also claimed prosecutors charged with carrying out investigations into historic impunity cases failed to look for evidence of anti union biases as a motive for abuses.

Steps within the legal system have been taken to prosecute and punish criminals associated with labor-related cases. Since 2008 the Colombian judiciary, per a tripartite International Labor Organization (ILO) agreement, has assigned three specialized judges to exclusively hear cases involving violence against unionists. A 2009 law increased prison sentences and the statute of limitations for homicides of union members. During the year the Prosecutor General's Office reported convictions in several high-profile cases:

- On June 8, the 11th Criminal Circuit Court of Bogota, responsible for priority cases as designated by a tripartite agreement at the ILO, sentenced a former AUC member to 39 years in jail for the 2003 murders of a union-affiliated teacher and a photographer in Palmira, Valle del Cauca.
- On July 23, the 11th Criminal Circuit Court of Bogota responsible for priority cases as designated by a tripartite agreement at the ILO cases sentenced a former paramilitary member to 15 years in prison for the 2001 murders of Drummond union leaders Valmore Locarno Rodriguez and Victor Hugo Orcasita Amaya in Cesar.

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

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

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

The law provides workers the right to organize and bargain collectively, and the government respected this right in the private sector; however, collective bargaining was not implemented fully in the public sector. Labor unions assessed that

high unemployment, a large informal economy, antiunion attitudes, and violence against trade union leaders contributed to making organizing difficult, limiting workers' bargaining power across sectors. Some economists also suggested that mandatory high nonwage benefits to provide a source of funds for vocational training and family welfare programs such as day care centers, nutrition programs for low-income families, and counseling in the formal sector depressed formal employment and thus union membership, and increased informal employment. According to the ENS, in 2009, 1.36 percent of the workforce was covered by a collective bargaining agreement. No new data for 2010 was available at year's end.

There were no examples of public sector collective bargaining agreements since the law prohibits them. Public sector employees can negotiate "concentrated agreements," but by definition these are not collective bargaining agreements. Employers continued to hire workers through temporary contracts, service agencies, and associated workers' cooperatives (CTAs). This practice limited worker rights and undermined worker protections by preventing unionization and collective bargaining among seasonal, temporary, and contract workers. The continued growth and prevalence of CTAs diminished collective bargaining and other worker rights because CTA workers were not covered by the labor code and hence could not bargain collectively. Law 1233 of 2008 requires CTAs to register with the government and provide compensation at least equivalent to the minimum wage and the same health and retirement benefits normally offered to directly hired employees, however, it did not extend collective bargaining rights to CTA workers.

Decree 4588 prohibits the use of CTAs as subcontractors when they do not own the means of production, when they are used to perform core functions for a company, and when a company itself directly disciplines CTA workers. Evidence suggests many cooperatives nonetheless engaged in illegal forms of subcontracting, and in some cases private-sector employers forced workers to join CTAs they themselves managed. The government has the authority to fine labor rights violators but seldom shuts down repeat offenders. During the year the government investigated 907 cooperatives and pre-cooperatives and sanctioned 102. The total amount of the fines levied against these 102 cooperatives and pre-cooperatives was approximately 395 million pesos (\$219,000). In practice nominal fines assessed by the government did little to dissuade violators.

While Law 1233 of 2008 and Decree 4588 were designed to better regulate CTAs, unions continued to voice reservations about the strength of the law and decree, and the government's ability to adequately regulate due to labor inspector shortages. Congress passed legislation on December 16 on labor cooperatives, and it was signed into law by President Santos on December 29; the provision was folded into President Santos' larger employment formalization bill. This change to CTAs would provide a mechanism for dissolution of CTAs that violate labor rights and do not adhere to labor law. Further, it would levy heavy fines for those in noncompliance starting in July 2013.

Collective pacts between individual workers and their employers were also used as an alternative, often weakening or replacing the benefits of a collective bargaining agreement. Collective pacts give employers the right to negotiate accords on pay and labor conditions with groups of workers at any time in workplaces where no union is present or where a union represents less than one-third of employees. Labor groups noted that when a minority union presented a collective bargaining proposal, employers offered some workers better conditions and pay in exchange for their leaving the union and joining the pact, which undermined organized labor's ability to bargain collectively.

Roughly 75 percent of the workforce in Colombia's ports is employed under flexible non-labor contracts and consequently not allowed to join unions or bargain collectively. Sugar and ethanol refineries also utilized CTAs as a means of subcontracting labor to third parties, and many sugarcane cutters, predominantly Afro-descendent and indigenous men, were required to belong to a CTA in order to gain employment. In the example of sugarcane cutters, the workers formed unions in order to enhance collaboration. The law does not clearly define if this is legally permissible, but the unions were respected throughout the sugarcane sector.

Unionists continued to advocate for revision to the labor code, which currently defines a "worker" as a direct hire with an employment contract, to cover a greater percentage of the workforce.

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

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

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

The law prohibits forced or compulsory labor, including by children, but there were some reports that such practices occurred (see section 7.d.). Also see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

New illegal armed groups, which included some former paramilitary members, and FARC and ELN guerrillas practiced forced conscription. These groups also retaliated against deserters by threatening them and their families. Some deserters were killed. There were some reports that FARC and ELN guerrillas and new illegal armed groups, which included some former paramilitary members, used forced labor, including forced child labor in coca cultivation, in areas outside government control (see section 1.g.). Forced labor, including organized begging, and forced commercial sexual exploitation, often of internally trafficked women and children, remained a serious problem.

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

While there are laws to protect children from exploitation in the workplace, child labor remained a problem in the informal and illicit sectors. Significant incidences occurred in the production of clay bricks, coal, emeralds, gold, coca, and pornography. The ICBF reported 1,149 complaints of labor exploitation and 562 child victims of commercial sexual exploitation (481 in prostitution, 44 in child pornography, and 37 in sex tourism). The ICBF assisted 1,240 children victimized by commercial sexual exploitation throughout the country.

The minimum age of employment is 18. Children aged 15 to 18 may work no more than 15 hours per week with signed documentation filed by their parents and approved by the MSP. Children under the age of 15 may work as apprentices in a family-owned enterprise if it is located on the same property as the family's residence, with MSP's permission. Labor law strictly states that children under the age of 15 cannot work outside of family enterprises. While labor law (Resolution 1677 of 2008) includes agricultural work as a "worst form of child labor," exceptions exist. For example, the government has approved some agricultural apprenticeship programs for children from 14 to 17 through the National Service Learning Agency (SENA).

According to the last National Administrative Department of Statistics (DANE) study, conducted in 2007, there were 11.3 million children between the ages of five and 17, of whom approximately 787,000 worked. Member organizations of the National Inter-Agency Committee to reduce the worst forms of child labor and to protect minor workers reported that up to two million children worked, the majority illegally. NGOs reported that 37.6 percent of children who worked did not receive payment.

The legal minimum age for work was consistent with completing basic education. Child workers are prohibited from

working at night or performing work where there is a risk of bodily harm or exposure to excessive heat, cold, or noise. Although children were prohibited from working in a number of specific occupations, including mining and construction, in practice these prohibitions were largely ignored. Children worked in artisanal mining of coal, clay, emeralds, and gold under dangerous conditions and in many instances with the approval and/or insistence of their parents.

While children are prohibited from working in most agricultural activities in accordance with Resolution 1677 of 2008, some educational institutions modify schedules during harvest seasons so that children may help on the family farm.

The ICBF identified and assisted 3,413 children working in illegal mining operations during the year. Most children were found working in the departments of Tolima (1,200), Nariño (587), and Antioquia (585). Estimates of the total number of children who worked in illegal mining operations varied from 10,000 to 200,000. The government reported that approximately 8,500 children were working in illegal mining. The labor code provides for fines of up to 40 times the minimum monthly wage for violations of child labor laws. A violation deemed to endanger a child's life or threaten moral values may be punished by temporary or permanent closure of the responsible establishment.

There were instances of forced child labor in mines, quarries, and private homes. According to the DANE, children also worked, sometimes forcibly, in the illegal drug trade and other illicit activities. Several thousand children were forced to serve as combatants, prostitutes, or coca pickers for the FARC, ELN, and new illegal armed groups, which included some former paramilitaries (see section 1.g). Also see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

The MSP's 423 labor inspectors nationwide were responsible for enforcing child labor laws; in the formal sector (which covered approximately 20 percent of the child labor force), they did so through periodic inspections. However, resources remained inadequate for effective enforcement. With assistance from the ILO, the government worked to improve cooperation among national, regional, and municipal governments through its national plan to eradicate child labor and protect working youth. The government also sought to reduce demand for child labor through public awareness and training efforts, often working with international organizations. The Colombian Sugar Cane Producers Association (ASOCANA) continued to support a child labor awareness project at approximately 3.6 billion pesos (\$2 million). The program educates parents and children about the importance of education, and provides additional opportunities for parents to earn income for their household rather than having their children work. ASOCANA's program promotes and consolidates coordination with public and private sectors; this outreach has facilitated the participation of 22 municipal governments. In addition, the association continues to support the ILO's project in Colombia to eradicate child labor.

The Colombian National Emerald Federation (Fedesmeraldas) signed an agreement with the IOM, ICBF, and USAID to support mining community families to improve living conditions, to prevent child labor in emerald mines, and prevent recruitment of children by illegal armed groups.

The MSP, with ILO assistance, developed a "virtual" training program for labor inspectors in the departments of Cundinamarca, Boyaca, Tolima, and Meta. The 40-hour training program was sufficient to provide inspectors with details on how to approach situations where the worst forms of child labor were discovered.

In November the government announced an increase in government support to eradicate child labor to complement the government's 2008 national strategy to prevent and eradicate child labor. The plan utilizes inter-agency coordination to promote the overall welfare of children--including access to education and health services. The government, in conjunction with the IOM and UNICEF, provided services to former child soldiers and carried out awareness-raising campaigns to prevent the recruitment of children by armed groups.

#### e. Acceptable Conditions of Work

The law requires an annual meeting of a tripartite "Commission of Salary and Labor Policies" comprising organized labor, business, and government representatives to negotiate the minimum wage. When the commission cannot reach an agreement--as seen again in 2010--the government can establish the minimum wage. The government establishes a uniform minimum wage every January, which serves as a benchmark for wage bargaining. The monthly minimum wage was approximately 515,000 pesos (\$285), a 3.6 percent increase from the previous year. The national minimum wage did not provide a decent standard of living for a worker and family. Furthermore, the government remained unable to enforce the minimum wage in the informal sector.

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

Security forces and other officials closed 56 illegal mines as part of a comprehensive inter-agency initiative that began after President Santos took office. At year's end the Ministry of Mining and Energy continued to review the legality of 3,000 mines. In addition, reports indicate that the CNP in conjunction with the Ministry of Mining and Energy investigated possible illegal mines in the department of Bolivar, in particular those connected to the FARC. Investigators reported that the FARC's Magdalena Medio Bloc controlled approximately 15 gold mines in Bolivar Department and was actively involved in the extortion of heavy-equipment operators. According to the investigation, the FARC could be receiving approximately 1.6 billion pesos (approximately \$850 million) per year from these activities.

The law provides protection for workers' occupational safety and health in the formal sector, which the MSP enforced through periodic inspections. However, a scarcity of government inspectors, poor public safety awareness, and inadequate attention by unions resulted in a high level of industrial accidents and unhealthy working conditions in the formal sector. Similar conditions were even more common in the informal sector, where workers sometimes suffered physical or sexual abuse. The law provides workers with the right to leave a hazardous work situation without jeopardizing continued employment, and the government enforced this right. Nonunion workers, particularly those in the agricultural and port sectors, reportedly worked under hazardous conditions because they feared losing their jobs if they criticized abuses. The Colombian Flower Industry Association (ASOCOLFLORES) continued to implement voluntary principles on environmental and worker safety practices and reduced the use of pesticides. Nevertheless, problems remained, particularly among producers who remained unaffiliated to ASOCOLFLORES.

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