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**ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND REPORTS OF THE OFFICE OF THE HIGH
COMMISSIONER AND OF THE SECRETARY-GENERAL**

**Report of the United Nations High Commissioner
for Human Rights on the situation of human rights in Colombia ***

[Draft: 31 DECEMBER 2008]

Summary

The report analyzes the most important developments related to human rights and international humanitarian law in Colombia during 2008, in accordance with the mandate set forth in the agreement between the Government of Colombia and the Office of the High Commissioner for Human Rights (OHCHR) signed in Bogotá on 29 November 1996. On 9 September 2007 the parties agreed to extend the mandate, in its entirety, until 30 October 2010.

The report covers the period between January and December 2008 and focuses on a number of issues that have been considered priorities. OHCHR Colombia continues to work on other matters of interest and concern, which will be the subject of regular follow-up.

Violations of human rights and international humanitarian law by the guerrilla groups and the Colombian Armed Forces, as well as the activities of illegal armed groups

* The present document is submitted late in order to reflect the most recent information.

and drug traffickers, coupled with underlying structural problems such as inequitable distribution of wealth, discrimination and stigmatization of vulnerable groups, impunity, and difficulties in accessing justice continue to limit full enjoyment of human rights. In this respect, the Government has made great efforts to strengthen the rule of law, mainly through increasing regional State presence in locations previously under the control of illegal armed groups. However, serious violations of human rights continued to take place.

Stigmatization of human rights defenders, opposition leaders and social activists by some Government officials continued, putting at risk their life, security and valuable work.

Regarding extrajudicial executions, the Government demonstrated goodwill and made significant efforts, which should continue in order to guarantee the effectiveness of and strict compliance with institutional policies. As of October 2008, the number of complaints and the number of registered victims show that institutional policies adopted by the Ministry of Defence and the Army High Command to combat such practices have not had a significant impact in reducing the occurrence of these acts. The report concludes that the extraordinary measures recently taken, including separating from service some of the most senior military commanders, have reinforced the “zero tolerance” policy for human rights violations. It is suggested that these measures be accompanied by greater operational control over military units, followed by rigorous and rapid investigations of allegations of extrajudicial execution.

All parties to the conflict continue to breach international humanitarian law. Moreover, as in the past, the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP) and the National Liberation Army (ELN) refused to be bound by international humanitarian law. Besides continuing to recruit children and commit crimes of sexual violence against women and girls, guerrilla groups have continued planting anti-personnel mines, taking hostages and maintaining kidnapped persons for prolonged periods deprived of their liberty under inhuman conditions.

The report further states that the complexity, variety, evolving nature and unpredictability of the illegal armed groups which have emerged after the paramilitary demobilization continue to be a major challenge to the rule of law. These groups continue to pose serious risks to the civilian population and a comprehensive response from the competent authorities is required to address the situation.

It is acknowledged that the rights to truth, justice and reparations have been given more prominence in the political and public agendas in 2008. However, to date, few have effectively enjoyed these rights with victims of actions or omissions of State agents being particularly marginalized in the process.

The economic growth of previous years has not resulted in sufficient progress in the achievement of the Millennium Development Goals. In addition, the gap between those who have opportunities to generate income and those who do not has not been reduced.

Finally, the report summarizes some of the main activities undertaken by OHCHR Colombia during 2008 and proposes nine recommendations to different actors that are

expected to contribute to improving the situation of the human rights and implementing provisions of international humanitarian law in the country.

The High Commissioner acknowledges the spirit of cooperation existing between the Government and her office in the country. The High Commissioner also notes the openness of the Government to addressing human rights challenges, as demonstrated during the UPR process.

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Introduction

1. The report covers the period between January and December 2008 and focuses on a number of issues that have been considered priorities. OHCHR Colombia continues to work on other matters of interest and concern, which will be the subject of regular follow-up.

2. As reported in 2007, the Government of Colombia and the Office of the High Commissioner agreed to extend the mandate of the Office in Colombia, in its entirety, until 30 October 2010. In compliance with this mandate, OHCHR Colombia continues to assist the authorities in developing policies and programmes to promote and protect human rights, to advise civil society on human rights issues, to observe and report on the respect for the human rights and international humanitarian law in the context of the internal armed conflict, and to submit reports and analyses to the High Commissioner.

3. The High Commissioner visited Colombia from 27 October to 1 November 2008. She met with the President, Ministers, and senior public officials in charge of protecting and promoting human rights. She also met with representatives of civil society organizations, including human rights and womens' non-governmental organizations, victims' associations and trade unions. The High Commissioner travelled to Arauca, where she learnt about the regional challenges, meeting with community leaders and civilian and military authorities. The High Commissioner expressed to all her interlocutors her gratitude for the support that OHCHR Colombia has been receiving. She moreover highlighted the Government's efforts to promote accountability and respect for human rights within the armed forces and to demobilize para-military groups. While the High Commissioner noted the increased attention given to the right of victims to truth, justice and reparation, she also expressed concern at the persistence of entrenched human rights challenges.

4. The Special Representative of the Secretary-General for Children in Armed Conflict visited Colombia from 12 to 14 May 2008. The Working Group on Arbitrary Detention also visited the country from 1 to 10 October 2008.¹

5. On 10 December, Colombia was reviewed by the United Nations Human Rights Council, in the context of the Universal Periodic Review (UPR).²

I. Context

6. Colombia continues to be involved in a complex and multifaceted internal armed conflict, which represents a persistent human rights challenge for the State and for its population. Violations of human rights and international humanitarian law by the guerrilla

¹ Other Special Procedures made non-official or follow up visits to the country in 2008.

² Colombia voluntarily proposed itself to be reviewed and in its submission, dated 1 September 2008, it made 69 voluntary commitments to improve the situation of human rights. At the date of the finalization of this report, recommendations from the Human Rights Council have not been formally issued.

groups and the Colombian Armed Forces as well as the activities of illegal armed groups and drug traffickers, coupled with underlying structural problems such as inequitable distribution of wealth, discrimination and the stigmatization of vulnerable groups, impunity, and difficulties in effectively accessing justice continue to limit the full enjoyment of human rights. In this context, the Government's efforts to strengthen the rule of law, mainly through increasing regional State presence in locations previously under the control of illegal armed groups, have placed it in a better position to ensure full respect for human rights.

7. In 2008, the most relevant political and security-related developments affecting the human rights situation were: a) extrajudicial executions, and the measures taken by the Government to address them; b) the tension between the Government and the Supreme Court of Justice as a result of the latter's investigations into alleged links between members of Congress and paramilitary groups (known as "*parapolitica*"); c) the extradition to the United States in May 2008 of 13 of the most prominent paramilitary leaders³ investigated in cases under Law 975 (Justice and Peace Law)⁴; d) military successes against the FARC-EP, the death of its leader and founder; and the release, rescue or escape of individuals kidnapped by this guerrilla group; e) the increased civic awareness demonstrated through mass mobilizations against illegal armed groups and in favour of respect for human rights; and f) the economic slowdown in the context of the world financial crisis and the significant impact felt in the last quarter of the year from the crackdown of illegal investment schemes that lured thousands of people with promises of high payouts.

8. Progress in the achievement of the Millennium Development Goals remains slow. This is of particular concern with respect to closing the gap between those who have more opportunities, settled particularly in the major urban centres, and those excluded from development and marginalized with respect to goods and services provided by the State, living mainly in rural areas and depressed urban areas.⁵

II. Human rights and international humanitarian law

Extrajudicial executions

9. In 2008, OHCHR Colombia continued to work with the Ministry of Defence to directly bring alleged cases of extrajudicial executions to the attention of senior military commanders. In January 2008, the Ministry of Defence issued a Comprehensive Human Rights and International Humanitarian Law Policy for the security forces, which included, among other initiatives, the establishment of operational legal advisers within the Ministry to ensure that military operations comply with international humanitarian law standards. In addition, senior civilian and military officials have repeatedly and publicly stated that they

³ The total number of paramilitary leaders extradited to the United States in 2008 is 15.

⁴ This Law regulates the procedures to be followed with demobilized members of illegal armed groups and provides for judicial benefits based on their contribution to the discovery of truth, justice and reparation of victims of their crimes.

⁵ While Bogotá has 28% of its population below the poverty line, Chocó has 78.5%. Cundinamarca, excluding Bogotá, has 1.1% illiteracy, compared to 6% in La Guajira. (UNDP 2007 MDG Report).

were willing to adopt measures to protect and respect human rights, including eradicating extrajudicial executions.

10. In October 2008, the President separated three Generals from service, as well as over 24 more officers including four Colonels, and took other disciplinary measures for an "inexcusable lack of diligence on the part of officers in the rigorous investigation of alleged cases of irregularities in their jurisdiction".⁶ This was an important signal to reinforce the announced "zero tolerance" policy for human rights violations. In November 2008, the Chief of Army resigned, the Ministry of Defence announced a number of measures⁷ and the President initiated discussions with senior military commanders to address complaints of extrajudicial executions.

11. The number of complaints about extrajudicial executions and the number of registered victims⁸ showed that institutional policies adopted by the Ministry of Defence and the Army High Command to combat this practice have not, as of October 2008, led to a significant decrease in these acts. This indicates the need for renewed efforts to guarantee the effectiveness and strict compliance with institutional policies established to prevent and sanction extrajudicial executions.

12. As of November 2008, the Attorney General's Office has initiated investigations on 112 cases of alleged extrajudicial executions which occurred in 2008.⁹ In addition, about 473 additional cases, most of which occurred in 2006 and 2007, were referred to the Attorney General's national Unit of Human Rights and International Humanitarian Law in 2008. This Unit is currently investigating 716 cases related to over 1,100 victims. These figures confirm that extrajudicial executions are not isolated events, but an extensive practice committed by a large number of military units throughout the country. During 2008, according to information obtained by OHCHR Colombia, in some locations such as Antioquia, reports of cases have increased.

13. In addition to the trends described in previous reports of the High Commissioner,¹⁰ the emergence of new modalities of extrajudicial executions suggests greater complexity and sophistication in the planning and execution of this crime. OHCHR Colombia was able to confirm the existence of networks pretending to offer employment to victims in places far away from their home towns, facilitating their transport to such places, where they were executed and presented as "death in combat". According to a number of investigations, these networks (possibly including members of the army) allegedly reported the victims as

⁶ Additional measures seemed to have been also taken, including other officers separated from service, but remain unpublished.

⁷ These measures include regular field visits to improve accountability, a review of doctrine and intelligence procedures, operations and logistics; the creation of a commission to review cases from an operational point of view; the reinforcement of command responsibility; the refinement of evaluation systems and the redefinition of rules of engagement.

⁸ Women are often reportedly targeted for being partners of alleged members of illegal armed groups.

⁹ It should be noted that complaints about alleged extrajudicial executions are often reported several months after their occurrence. Cases of extrajudicial executions that took place in 2008 are likely to be reported in 2009. The Unit of Human Rights and International Humanitarian Law of the Attorney General's Office has initiated 41 of these investigations, while sectional units have initiated 71.

¹⁰ See, A/HCR/7/39 of 2008 and A/HCR/4/48 of 2007.

members of guerrilla groups or other illegal armed groups which emerged after the paramilitary demobilization, and prepared intelligence reports to corroborate such affiliations. At the same time, victims have repeatedly been reported as “unidentified persons”, even if they carried identity documents, or their identity was known. This practice seems to aim at avoiding the identification of persons reported missing and hampering investigations.

14. The absence of effective control by army commanders might have created fertile ground for this very serious violation of human rights. Economic incentives, additional days of leave and recognition given without proper control of those who presented these "deaths in combat", might have also encouraged the establishment and continuation of this disturbing practice. At the same time, the lack of a clear message rejecting such a practice inside the army could have allowed the perpetuation of such violations.

15. Additional actions and greater collaboration between the Ministry of Defence and the Attorney General’s Office are needed to eradicate and sanction extrajudicial executions. The Procurator General and the Attorney General should intensify efforts to investigate cases in the shortest possible time.

Illegal and arbitrary detention

16. In some locations, such as Arauca and Norte de Santander, the Attorney General’s Office continued to issue arrest warrants without sound legal grounds, for rebellion and related crimes, which led to arbitrary detentions. These orders were often based on information provided by former members of guerrilla groups. Since they have incentives and benefits from State to cooperate, the information provided is not always credible. The Attorney General’s Office Support Structure based within the Army Brigade 18 in Arauca ordered at least four mass arrests under such circumstances.

17. Victims of these violations, including human rights defenders and community leaders, are usually held without proper legal justification, sometimes for periods up to two years. In addition, in Antioquia and Chocó, several cases of illegal detention carried out by the army have been reported. Moreover, OHCHR Colombia received reports of actions by the National Police, particularly detentions, without appropriate legal justification, of individuals belonging to vulnerable sectors of society, especially from poor neighbourhoods in Medellín.

Torture, cruel, inhuman and degrading treatment or punishment

18. OHCHR Colombia was informed of cases of cruel, inhuman and degrading treatment attributed to members of the security forces in Antioquia, Cauca and Chocó. Indigenous and Afro-Colombian communities, as well as the poorest sectors of society, were frequently victims in such cases.

19. In Chocó and Cauca, OHCHR Colombia received reports of cruel and degrading treatment against several women and girls by members of the army, who in some occasions resorted to sexual violence.

20. In the prison of Valledupar (Cesar), OHCHR Colombia recorded, at the beginning of 2008, cases of serious inhuman and degrading treatment of inmates, as well as excessive use of force by prison guards.

21. The Government has taken important steps to train public officials and military officers on international standards with a view to preventing torture. However, as acknowledged by the Government, challenges remain.¹¹ The Government would take a significant step forward by acceding to the Optional Protocol to the Convention Against Torture (OPCAT).

Enforced disappearance

22. OHCHR Colombia continued to monitor cases of enforced disappearance, particularly in certain municipalities, such as Buenaventura (Valle del Cauca), where, according to the Ombudsman's Office, 132 cases were reported between 2006 and 2008. In other places, particularly urban centres in Antioquia and Chocó, this practice allegedly has been used to intimidate opponents in the context of disputes between gangs and illegal armed groups which emerged after the paramilitary demobilization.

23. Victims of disappearances are usually young unemployed men from poor families and/or inhabitants of poor neighbourhoods or isolated rural areas. Human rights defenders and trade union members are also among the victims of disappearances.

24. The Attorney General's Office has investigated 111 cases of enforced disappearance in 2008. Most of these cases were referred to its national Unit of Human Rights and International Humanitarian Law, after preliminary investigations by Special Impact Commissions.¹² This Unit also conducted a total of 39 exhumations, but the remains recovered are still in the process of identification. Other exhumations during the reported period, as referred to below, have been conducted in the framework of the Justice and Peace Law.

25. A pilot phase of the National Plan for the Search for Disappeared Persons, which focused on the situation in Casanare, was largely limited to collecting information for referring to the Attorney General's Office and training public officials. As acknowledged by the Government, this and other positive institutional developments, such as the establishment of the National Search Commission and the Rapid Search Mechanism, would require further efforts to be effective. Victims' organizations and judicial authorities agree that there has been limited effectiveness in the matching of information and, overall, a degree of negligence in the functioning of the above-mentioned institutions.¹³ These organizations have further criticized the requirement that a "declaration of presumed death"

¹¹ Government's submission to the UPR of the United Nations Human Rights Council dated 1 September 2008.

¹² These Commissions are dispatched to places where evidentiary material or information that could assist in clarifying facts related to a crime is located. These Commissions could focus on clarifying the circumstances of a single case or seek to expedite a number of interrelated cases.

¹³ Final Report of the Special Impact Commission for Casanare and Magdalena (January 2008).

be made, in order to, among other things, receive humanitarian assistance from the Government. In their view, this requirement inflicts additional emotional damage on the families and "re-victimizes" them.

26. The ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, as the Government voluntarily committed itself to during the UPR examination in December 2008, would be a step toward guaranteeing a more comprehensive and effective response to the claims of victims.

International humanitarian law

27. OHCHR Colombia continued to record serious breaches of international humanitarian law committed by all parties to the conflict. Moreover, as in the past, the FARC-EP and the ELN continued to refuse to be bound by international humanitarian law.

(i) Guerrilla groups

28. Among other cases, selective killings and the massacre of four coca leaf eradicators in Puerto Libertador (Córdoba) in February 2008 have been attributed to members of the FARC-EP. The ELN is believed to have committed, among others, the murder, also in February, of a member of the community of Micoahumado (Bolívar) accused of being an army informer.

29. The FARC-EP continued undertaking indiscriminate attacks, seriously affecting the civilian population, such as the launching of explosives which killed three individuals in Corinto (Cauca) in May 2008; acts of terrorism, such as the attacks on the Cali Palace of Justice (Valle del Cauca), which resulted in the death of four persons and wounded 26, in September 2008, and the one on the village of Ituango (Antioquia) in August 2008, in which 55 persons were injured and seven, including one child, died.¹⁴

30. Increased planting of anti-personnel mines by guerrilla groups has caused a high number of civilian and military casualties, among them children.¹⁵ These were the cases, for instance, in the death in Palmira (Valle del Cauca) of a pregnant woman and her nine-month-old daughter in January 2008; the three children who died in the Awá indigenous reservation of Planadas de Telembi (Nariño) in June 2008; and the case of a 6-month old child and her 17-year old mother wounded in Valdivia (Antioquia) in October 2008. Moreover, in December 2008, two persons inside a Colombian Institute of Family Welfare (ICBF) vehicle travelling to San Vicente del Caguan (Caquetá), died as a result of a roadside explosive allegedly triggered by the FARC-EP.

31. The FARC-EP and ELN continued to recruit children for intelligence, logistical

¹⁴ An OHCHR Colombia statement of 15 August 2008 condemned this attack.

¹⁵ The Presidential Programme for Integral Action against Mines has recorded, as of November 2008, over 170 civilians, including 38 children, and more than 430 members of the security forces, as victims of mines in 2008. Colombia is among the countries where the number of victims of mines is the highest (7,290 victims from 1990 to November 2008).

support and direct involvement in hostilities. For example, in San Isidro (Norte de Santander), as a result of an armed confrontation between the ELN and the army in April 2008, seven guerrilla members were killed, among them four children aged 14-17. In Valle del Guamuez (Putumayo), two boys aged 13 and 15 were killed when resisting recruitment by the FARC-EP in January 2008.

32. There were reports of forced displacement caused by threats and acts of violence attributed to the FARC-EP and the ELN. Other situations of forced displacement were the result of armed confrontation between these guerrilla groups, as was the case in Arauca in January 2008, where more than 2,500 people, including the indigenous communities of Iguanitos and Caño Claro, were uprooted.

33. Several cases of sexual violence against women and girls were attributed to the FARC-EP, such as the assault against a 14-year old girl, who had been recruited in Palmira (Valle del Cauca).

34. Ambulances and medical missions continued to be threatened and attacked by the FARC-EP. For example, two wounded soldiers were taken out of an ambulance and killed in Yarumal (Antioquia) in April 2008 by members of this guerrilla group.

(ii) The security forces

35. OHCHR Colombia recorded indiscriminate attacks, allegedly carried out by members of the security forces, which affected the civilian population.

36. In several communities of Chocó, such as Quibdó and Carmen de Atrato, OHCHR Colombia recorded situations in which members of the security forces gave children gifts and military propaganda to persuade them to provide information on the whereabouts and identity of members of guerrilla groups. These acts have seriously endangered the lives and safety of those children.

37. OHCHR Colombia also observed that members of the army occupied civilian properties, particularly houses, schools and places of recreation. This was reported, for instance, in relation to the school belonging to the indigenous communities of the reservation Nasa Kwe'sx Kiwe (Valle del Cauca).

(iii) Kidnapping

38. According to the Ministry of Defence, through FONDELIBERTAD,¹⁶ the number of kidnapped persons in Colombia as of June 2008 amounted to 2,820.

39. Guerrilla groups continued taking hostages. In Nuqui (Chocó), in January 2008, the FARC-EP kidnapped six tourists; in Puerto Asis (Putumayo), in September 2008, they

¹⁶ This is a unit within the Ministry of Defence, established in 1995 to replace a Presidential Programme with similar functions, which is mainly responsible for making available additional resources to special police units to fight kidnappings (GAULA) and assist victims.

kidnapped four investigators of the Attorney General's Office. In Samaniego (Nariño), there were seven incidents of hostage-taking attributed to the ELN in January and February 2008.

40. Also in January and February, the FARC-EP unilaterally released five former congressmen and one former vice-presidential candidate. Subsequently, in a bloodless military operation in July 2008, a former presidential candidate, three American citizens and 12 members of the security forces were rescued.¹⁷ Finally, in October 2008, another former congressman managed to escape. However, the FARC-EP still holds many other persons, some of whom are portrayed by this guerrilla group as being "exchangeable" against imprisoned FARC-EP members, as part of so-called "humanitarian exchanges".

41. Under the circumstances, consideration may be given to understanding systematic, protracted and widespread taking of hostages, who are kept under the most inhuman conditions, as a crime against humanity. As repeatedly expressed by the High Commissioner, the release, rescue and escape of the above-mentioned individuals should not allow other kidnapped persons to be forgotten.

Illegal armed groups which emerged after demobilization of paramilitary organizations

42. OHCHR Colombia continued to monitor the operations of several illegal armed groups, which have emerged throughout the country after the paramilitary demobilization, particularly in Antioquia, Cauca, Chocó, Córdoba, Nariño and Valle del Cauca. While their structures, interests and *modus operandi* are not homogeneous, many are engaged in common criminal activities, and mainly in drug trafficking and other activities related to organized crime. They also engaged in lawful activities, such as selling lotteries and providing security services.

43. The ranks of these groups include many demobilized and non-demobilized former members of paramilitary organizations who were recruited voluntarily or forcibly. Reports indicate that those who resist engagement are killed, or are forced to flee in order to preserve their life. Middle-ranking members of the former United Self-Defence Groups of Colombia (AUC)¹⁸ are said to play commanding roles within these groups.

44. Even if these groups may function under some form of hierarchy, they are far from being structured as military-type organizations and they do not appear to exercise exclusive territorial control. Furthermore, in many areas, they do not seem to act in a coordinated, sustained or concerted manner.

45. A significant number of murders, death threats and other crimes for which these groups are responsible seem to bear the characteristics of "social cleansing". However, in

¹⁷ In the context of this operation, the President recognised that an army officer wore a vest with the ICRC logo and the Red Cross emblem, allegedly out of fear, which constituted an abuse of these symbols and, as such, a breach of International Humanitarian Law.

¹⁸ Demobilization of the United Self-Defence Groups of Colombia (AUC) started in 2003.

general, their actions appear to correspond to the settling of personal disputes relating to drug-trafficking activities. Likewise, and unlike other types of criminal groups, they appear to be, in some instances, enforcing "social control". In addition, some of them profit from the economic and political structures that the former paramilitary organizations left behind.

46. In different locations, the names of some of these groups, such as the "Black Eagles" (*Aguilas Negras*), and others related to the former AUC or suggesting paramilitary re-arming similar to the former AUC, have been indiscriminately used by criminal organizations and unknown individuals in order to instil fear and generate confusion.

47. In places such as Antioquia, Chocó, Guaviare and Meta, OHCHR Colombia observed that some members of the security forces allow and tolerate the actions of groups which emerged after the paramilitary demobilization, principally as a result of acts of corruption, but also due to intimidation and threats against members of the security forces.

48. Despite the above, OHCHR Colombia continues to receive information confirming that some of these groups do indeed operate as the former paramilitary organizations did. Such groups do have military structures and responsible hierarchy, as well as the capacity to exercise territorial control. In addition to being able to plan, carry out and sustain military-type operations, they do act with a political and ideological orientation, similar, if not equal, to the former AUC. These groups have been located particularly in Guaviare, Meta and Vichada, as the self-styled "Anti-terrorist revolutionary army of Colombia" (ERPAC), and in Nariño, with the so-called "New Generation Peasant Self-Defence Forces" (AC-NG).

49. Regardless of their characterization, the violence generated by all illegal armed groups which emerged after the paramilitary demobilization cannot be considered as a mere common crime issue. Their crimes, committed in the context of the armed conflict, produce an alarming level of violence against the civilian population. Their complexity, variety, evolving nature and unpredictability continue to be a major challenge to the rule of law. They continue to pose serious risks to the civilian population and a comprehensive, effective and timely response is required from the competent authorities to address this phenomenon. This response should, among other things, recognize the dimensions of the problem, adopt adequate operational changes, including in rules of engagement, to fight them, as well as take preventive actions to protect the civilian population.

Justice

(i) The Justice and Peace Law

50. Proceedings under the Justice and Peace Law, which confers the benefit of a maximum of eight years of imprisonment to demobilized persons who truly contribute to the discovery of truth, justice and reparation of victims, continued to progress very slowly.¹⁹ As of 31 October 2008, out of 3,637 individuals facing charges under the Law,²⁰

¹⁹ The national Unit for Justice and Peace of the Attorney General's Office, despite registering an increase of 350% of its staff during 2008, has not been able to satisfactorily advance cases under the Law.

only 1,626 have been subject to the first procedural step, known as “voluntary depositions” (*versiones libres*).²¹ The Supreme Court of Justice decided in 2008 that it would not be necessary to wait for the completion of the “voluntary depositions” in order to bring partial indictments. However, at the date of the finalization this report, only 20 persons have been partially indicted, and no one has yet been convicted.

51. This makes it evident that there will be fewer individuals tried under this Law than originally foreseen. Further, not all those facing charges are accused of serious crimes, over which the Law has competence, and above all, there is no certainty that all demobilized individuals who have committed serious crimes have been charged. Unfortunately, more than three years after this law was adopted, the expectations for it are yet to be fulfilled.²²

52. During the phase of “voluntary depositions”, a number of events have been brought to light, which have allowed the Attorney General’s Office to initiate or reopen investigations of cases, previously left unaddressed.²³ These cases include several relating to senior public officials allegedly linked with paramilitary groups as well as those in which the victims were trade unionists or members of the political party *Union Patriótica*.²⁴ Other cases, however, remain unpunished, due to the refusal of those facing charges under the Justice and Peace regime to fully collaborate with other units of the Attorney General’s Office. This demonstrates the urgent need to review the Law, in order, for instance, to compel those facing charges to provide in a comprehensive and timely manner all information that they may possess to enable the Attorney General’s Office to bring other individuals to justice. OHCHR Colombia urges the Government to consider reforms that would improve and accelerate the implementation of Justice and Peace Law.

53. One of the most concrete results of implementing the Law continues to be the exhumation of clandestine graves, and other places where victims of the paramilitaries have been disposed of, as well as the recovery of human remains. According to the Attorney General’s Office, during 2008, over 410 clandestine graves have been found and the remains of over 560 victims recovered, making an estimated total of 1,420 clandestine graves and remains of 1,750 bodies, since the initiation of the “voluntary depositions”. However, an additional effort still seems to be required to accelerate the proper

²⁰ For the first time in 2008, in addition to members of paramilitary organizations, members of guerrilla groups faced charges under the Justice and Peace Law. As of November 2008, there are 61 members of different guerrilla groups (FARC-EP, ELN, ERP and EPL) facing charges.

²¹ Of the 1,626 individuals providing “voluntary depositions”, 1,189 did not continue the process because the Attorney General’s Office was not able to charge them with any serious crime (as of 19 December 2007, 1,057 depositions had begun and 941 had discontinued for the same reason). Currently, only 7 depositions have been terminated because all crimes have been confessed. 430 individuals continue to provide such “voluntary depositions”.

²² As of March 2008, there were a total of 50,505 demobilized individuals; of them, 35,263 were collectively demobilized from paramilitary organizations (3,592 were already in prison and 31,671 free) and 15,242 were individually demobilized from all illegal armed groups (paramilitary organizations and guerrilla groups).

²³ In the framework of the Law, the national Unit of Justice and Peace has deferred 2,098 cases to other units within the Attorney General’s Office.

²⁴ The political party *Union Patriótica* was established by the FARC-EP in 1985 as part of peace negotiations with the Government.

identification and handover of the remains to the families, in accordance with acceptable international standards. The international community should also increase its support to the Colombian authorities to resolve this particular issue. At the date of the finalization of this report, only the remains of 249 victims have been delivered to the families.

54. The extradition in May 2008 of 13 of the most prominent demobilized paramilitary leaders to the United States on drug trafficking charges caused concern among victims, who feared that those extradited would not have incentives to continue contributing to the discovery of truth and providing reparations. So far, only two of them have been sentenced to more than 20 years in prison in the United States. In this respect, it is imperative that mechanisms for judicial co-operation be implemented effectively, so that cases under the Justice and Peace Law can progress satisfactorily. Moreover, it is important that extradited paramilitary leaders continue contributing to the disclosure of the truth and comply with the obligation to provide reparations to their victims.

(ii) Investigation into alleged links between members of Congress and paramilitary groups

55. The Constitution states that members of Congress should be investigated and tried only by the Supreme Court of Justice without appeal. In this context, the Supreme Court continued its investigations into alleged links between members of Congress and paramilitary groups and expressed serious concerns about the Government's criticism of these investigations, portrayed as attempts to undermine judicial independence.

56. At the date of the finalization of this report, 72 Congressmen face charges as a result of the investigations before the Supreme Court, of which 11 have been convicted and four acquitted. Twenty-five of these congressmen have resigned in order not to be investigated by the Supreme Court, but by the Attorney General's Office. Furthermore, the Attorney General's Office has investigated over 250 additional cases of a similar nature against senior public officials, including ministers, governors, mayors or directors of major public institutions. This confirms the extent of infiltration by paramilitary groups within the State, and the need to continue combating this phenomenon.

57. These judicial processes constitute a positive step in the struggle against impunity and the strengthening of the rule of law, which needs to be preserved and shielded from any politicisation. In this respect, the Supreme Court could further solidify its decisions, by, for instance, considering rigorous arrests warrants and preventive imprisonment, as well as ensuring consistent decisions and guaranteeing the right to appeal.

(iii) Military Justice System

58. OHCHR Colombia was encouraged that the Constitutional Court, in its decision C-533 of July 2008, accepted the President's objection to restrict the scope of action of military judges, to ensure that they do not have competence over serious violations of human rights and breaches of international humanitarian law. This decision is in accordance with international human rights principles and standards. Congress implemented this judicial decision and approved a revision of the military code in

November 2008, which, at the date of the finalization of this report, remained to be reviewed by the Constitutional Court.

59. Between January and November 2008, military judges referred 148 cases to the Attorney General's Office, which is more than double the number of referrals made in 2007.²⁵ Nonetheless, military judges still accept jurisdiction in cases which should be tried in civilian courts. In some instances, they even ordered parallel investigations into cases that the Attorney General's Office was investigating. In this context, the Attorney General's Office should retain exclusive competence over serious violations of human rights and international humanitarian law and accelerate the investigation of cases it receives.

(iv) Sexual violence

60. Crimes of sexual violence in the context of the armed conflict remain characterized by a high level of impunity. For example, in the context of the "voluntary depositions" of the Justice and Peace Law, 15 cases of sexual violence have been mentioned, of which only four have been confessed.²⁶

61. In an effort to combat sexual violence, and in the context of the follow-up to its 2004 decision T-025 regarding displaced persons,²⁷ the Constitutional Court ordered the Government in April 2008 to develop plans to prevent sexual violence and to provide assistance to displaced women who are victims of sexual acts (Order 092).²⁸ Furthermore, the Court ordered, as part of Order 092, the Attorney General's Office to pursue investigations in 182 specific cases. Nonetheless, no progress concerning these investigations has been reported to date.

62. In investigating these crimes, as is the case with other crimes, the Attorney General's Office faces structural problems, including insufficient resources, weak data consolidation capacity, lack of appropriate investigative frameworks and coordination difficulties.

Victims

63. Previous reports of the High Commissioner highlighted the need to guarantee the rights of all victims and the importance of placing them at the centre of relevant public debates. In 2008, the plight of victims and their rights gained momentum within the political and public agendas. Among the victims, women have faced the most obstacles and stigmatization in the pursuit of justice, and have suffered most severely from

²⁵ The referral of cases has increased since 2005, when only 35 were sent to the Attorney General's Office. This increased to 36 in 2006 and 72 in 2007

²⁶ This is out of the total of 18,431 crimes mentioned and 4,678 confessed during such depositions.

²⁷ By judgment T-025 of 22 January 2004, the Constitutional Court ordered the National Council for Integral Assistance to the Population Displaced by Violence to determine exactly the situation of the displaced population listed in the Consolidated Registry and to adopt the necessary measures ensuring the resources for their assistance.

²⁸ This order was reiterated in September 2008 (Order 237).

displacement due to fear of reprisals and threats.²⁹

64. The adoption by the Government of Decree 1290 in April 2008, creating an administrative reparation programme for victims of illegal armed groups, was a positive step to improve compliance with the right to reparations. The Decree, however, does not apply to victims of State agents and therefore requires other mechanisms to provide benefits to all victims without discrimination.³⁰

65. A draft law known as the "Statute or Law of victims",³¹ currently under discussion in Congress, even if not perfect, may serve to fill some of the gaps and shortcomings of the Decree 1290. However, OHCHR Colombia expressed serious concerns that the draft law, after legislative discussions in the First Committee of the House of Representatives, has become discriminatory. The draft law, as it currently stands, excludes certain persons from having access to a reparations programme, for example, future victims, same sex couples and victims of breaches of international humanitarian law. In addition, the draft law does not allow victims of acts or omissions by State agents to have direct access to administrative reparations. This imposes conditions on these victims even more onerous than those currently in force to gain access to reparations through courts.³²

66. The judiciary has also paid special attention to the rights of victims. In various decisions, courts have, for example, confirmed the right of victims to participate in the "voluntary depositions" under the Justice and Peace Law; the need to take into account a gender perspective when considering protection mechanisms; the relevance of non-monetary reparations; and that providing regular social services does not amount to a form of reparation.³³

67. Public accounts about the sufferings of those kidnapped by the FARC-EP and of families of victims of extrajudicial executions have generated a feeling of rejection and solidarity across the Colombian society. The media has helped to create social awareness,

²⁹ A recent study on victims has confirmed that the majority of victims are indeed women, normally in their 40s, having from 3 to 4 children or persons under their sole responsibility, with primary or no education and limited opportunities to generate income. ("*Reparación en Colombia. ¿Qué quieren las víctimas?*" from Angelika Rettberg, November 2008).

³⁰ In a statement of 27 April 2008, OHCHR Colombia welcomed the Decree and encouraged the Government to increase its effort to continue complying with the duty to provide reparations and remedies to victims.

³¹ Draft law 044/08 (Chamber) and 157/07 (Senate) provides for measures for the protection of victims. The law was enriched by a public and participatory process in Congress, with nine hearings, preceded by workshops, attended by some 5,000 victims. Civil society, the media and the international community, including the United Nations, and specifically OHCHR Colombia, accompanied and actively supported these hearings.

³² Such a discriminatory position was included after the First Committee of the House of Representatives adopted a series of amendments to the draft law on 12 November 2008. As OHCHR Colombia stated in a statement on 18 November 2008, there are essential principles which a law of this kind cannot ignore, including the obligation to guarantee respect for human rights to all those living under a State jurisdiction, the principles of equality and non-discrimination, and the definition of a victim by the fact of having suffered unjust harm, regardless of who caused it.

³³ Examples of these decisions are: Constitutional Court decisions T-049 of January 2008 and T-496 of June 2008, Administrative Chamber of the Council of State decision of November 2008 and an unpublished Constitutional Court decision of December 2008.

and the international community has supported the initiatives aimed at protecting and promoting the rights of victims. This has allowed victims' organizations to achieve greater visibility and effectiveness in their work.

68. There has been some progress in finding out the truth about past crimes, which has helped to develop a better social understanding of the importance of enjoying the right to truth. The "voluntary depositions" under the Justice and Peace Law have confirmed the numerous human rights reports previously presented, and allowed many victims to recover their memories and mourn their dead. Nonetheless, obstacles such as the slow pace of court proceedings, failure to collaborate, and, sometimes, even failure to attend the sessions by those facing charges under the Law, or unsatisfactory participation by the victims in these sessions, must be addressed as a matter of urgency.³⁴

69. Other initiatives on this subject are also important, such as the report on the crimes committed in Trujillo (Valle del Cauca), between 1988 and 1994, which investigated crimes of homicide, torture and enforced disappearance against 342 victims, issued by the National Commission for Reparation and Reconciliation (CNRR) in September 2008. The ELN, the paramilitary organizations and members of the security forces were found to be responsible for these crimes.³⁵

70. The right to justice continues to be restricted by prevailing impunity, lack of access to justice, and structural flaws in the administration of justice. These restrictions have also been identified even in special and newly established judicial procedures, such as those under the Justice and Peace Law.

71. The protection of victims and their organizations continues to be a challenge, which must be faced by the competent authorities with decisive and effective action.

Economic, social and cultural rights

72. Poverty, extreme poverty and inequity continued to be of concern, despite the Government's programmes to reduce it, affecting particularly indigenous communities, Afro-Colombian groups, internally displaced persons, women, persons with disabilities and children. OHCHR Colombia received reports noting with concern that limited enjoyment of the right to food has led, in some communities, to acute malnutrition. Likewise, limited availability of housing and precarious employment are also of concern.

73. With the reform of the legal framework regulating strikes, important international principles have been incorporated into the national legislation. For instance, it is now for courts to decide on the legality of strikes, rather than the Government as was previously the case, and the acceptance of both parties is required before an arbitration tribunal may be called to resolve a strike situation. Additionally, Congress is currently considering adopting legislative measures to ensure the right to water. The ratification process for the

³⁴ According to the Attorney General's Office, out of the 168,090 registered victims, only 18,839 have been able or willing to attend these sessions.

³⁵ *Trujillo, una tragedia que no cesa. CNRR, Memoria Histórica.*

Convention on the Rights of Persons with Disabilities has begun, although its Optional Protocol has not been signed by the Government.

74. Several of the Millennium Development Goals indicators do not reflect sufficient progress. Despite the economic growth of recent years, for instance, poverty, measured in terms of income, has not substantially decreased. Moreover, fewer than 48% of children have access to preschool education; adolescent pregnancy continues to increase and now affects more than 20.5% of women aged 15-19; 16% of Colombian houses are in precarious and undignified conditions.³⁶

Vulnerable groups

(i) Human rights defenders and trade union members

75. OHCHR Colombia recorded a significant number of attacks in 2008 against human rights defenders and trade union members, principally in Antioquia, Arauca, Bogotá, Nariño, Putumayo and Valle del Cauca. These involved murders, as well as damage to property, break-ins, theft of information and threats. The worrying practice by some senior Government officials of publicly stigmatizing human rights defenders and trade union members, as biased and sympathetic to guerrilla groups, continued.³⁷

76. Official figures from the Ministry for Social Protection recorded 23 murders of trade unionists during the first semester of 2008, most of which occurred in Antioquia and Cauca.³⁸ A national union federation, the *Central Unitaria de Trabajadores (CUT)*, however, reported a total of 41 persons murdered from 24 different labour organizations, during the same period.

77. Although in many cases murders and threats against these vulnerable groups have been attributed to members of illegal armed groups that emerged after the paramilitary demobilization, as well as to members of the FARC-EP and the ELN, members of the security forces have also allegedly been involved.

78. In the current context of polarization and confrontation between Government officials and members of the non-governmental organization community, threats against and stigmatization of human rights defenders, opposition leaders and social activists have become more intense.³⁹ As mentioned above, some senior Government officials have frequently and publicly expressed negative comments regarding their work. During the civic mobilization against crimes committed by members of the AUC in March 2008, a breakdown in the dialogue between civil society and the Government was evident. As a

³⁶ Data provided by UNDP Colombia.

³⁷ OHCHR Colombia expressed great concern at these situations in several statements issued throughout the year.

³⁸ Ministry for Social Protection's annual report to Congress 2007-08.

³⁹ In such context, for instance, it became public in December 2008 that a year ago the Attorney General's Office acceded to a police request to intercept a number of e-mail addresses of various social organizations and individuals, including that of a member of OHCHR Colombia. Once this became known, the Attorney General's Office took action and dismissed the prosecutor responsible for that decision.

result, the concerted elaboration of a National Human Rights Action Plan remains stalled.

79. OHCHR Colombia recognizes the efforts of the Government in strengthening the Ministry of Interior protection programme, which provides for the protection of, among others, human rights defenders. However, the challenge to minimize the risks to the life and safety of human rights defenders remains, in particular due to the stigmatization of their legitimate work.

(ii) Indigenous and Afro-Colombian groups and communities

80. Indigenous and Afro-Colombian communities are particularly vulnerable, mainly because they occupy territories of strategic importance to parties to the internal armed conflict and networks of drug traffickers. These territories are also of strategic value to Colombian and international companies. The rights of these communities to life, to not be forcibly displaced, to prior, free and informed consultation on decisions affecting their communities, and to freedom of movement are violated.⁴⁰

81. Afro-Colombian populations in Nariño and Chocó, as well as the Awá, Nasa, Embera Katío, Sikuani and Makaguan indigenous peoples have been particularly affected by forced displacement in the context of the armed conflict. Likewise, certain indigenous communities among the Kogui in the Sierra Nevada of Santa Marta, the Embera in Chocó and the Awá and Eperara Siapidaara in Nariño and Cauca have reported serious restrictions to their freedom of movement.

82. Indigenous communities, such as the Kofán and the Siona in Putumayo, the Coreguage in Caqueta, Eperara Siapidaara in Cauca, the Guayabero and Makú in Guaviare are in imminent risk of disappearance. In Vaupes, 12 of the 23 indigenous peoples have fewer than 1,000 members.

83. In November 2008, there were several mobilizations of indigenous organizations seeking to claim the legitimate rights of their communities. Among the issues of concern to these communities, concerns which the Afro-Colombians share, collective rights and ownership of productive lands have been especially emphasized. During these events, OHCHR Colombia observed excessive use of force by the National Police.⁴¹ The lack of internal oversight and the use of different police forces without unified and responsible command might have encouraged these excesses. Furthermore, OHCHR Colombia is concerned at the stigmatization of the indigenous communities and their leaders by

⁴⁰ As of October 2008, the Office of the Vice-President reported 54 murders of members of indigenous communities. The National Indigenous Organization of Colombia (ONIC) reported for the same period a total of 66 victims. Of particular concern was, for instance, the army killing under unclear circumstances of the husband of a leader of the Regional Indigenous Council of Cauca (CRIC) in December 2008. The United Nations system condemned the killing in a statement. There are no official reports of murders of Afro-Colombians, but OHCHR Colombia has received information of the killing of four of their leaders in Nariño alone.

⁴¹ Confrontations between the indigenous organizations and the police resulted in the death of three persons and more than 170 wounded, among members of the police and indigenous organizations. OHCHR Colombia deplored these confrontations in a statement dated 25 October 2008.

Government officials and members of the security forces.

(iii) Internally Displaced Persons (IDPs)

84. All the figures show a continuous growth in the numbers of IDPs, with a disproportionate effect on communities located in regions where the armed conflict is most intense.⁴² Among the causes of displacement in some locations, OHCHR Colombia is especially concerned at actions of illegal armed groups which emerged after the paramilitary demobilization aiming at stripping civilian populations of their lands. Other factors which cause concern include the increased use of anti-personnel mines by the FARC-EP and the ELN; the intensification of forced recruitment by these guerrilla groups, and armed confrontations between them;⁴³ the eradication of illegal crops; and the operations of security forces against illegal armed groups.

85. OHCHR Colombia received information about the unresolved murder of nine IDPs and of threats against at least another 250, many of whom were leaders of IDP organizations. Furthermore, OHCHR Colombia observed that *Acción Social*, the Government entity in charge of assisting IDPs, sometimes agrees to register IDPs only under pressure of legal actions (*acciones de tutela*). IDPs suffering this restriction of their rights are normally those who claimed to have been forcibly displaced by illegal armed groups or the counter-insurgency actions of security forces.

86. Constitutional Court decision T-025 of 2004, and subsequent orders, indicated the persistence of an "unconstitutional state of affairs", with respect to the assistance provided to IDPs. In April and October 2008, while recognizing the financial efforts made by the Government to assist IDPs, the Court stated that the IDP public assistance policy continued to be deficient in various aspects, in particular with respect to the lack of differential attention to children and adolescents, as well as to indigenous and Afro-Colombian groups.⁴⁴

87. OHCHR Colombia continues to value the relevance of an Ombudsman Institution with a presence throughout the country. However, it was noted with concern that the established early warning system of the Ombudsman (SAT) is not fully and effectively utilized. In particular, it was noted that risk situations reported by the early warning system, which should be acted upon by the Ministry of Interior-led Inter-institutional Early Warning Committee (CIAT), produced fewer alerts.⁴⁵

(iv) Other vulnerable groups

⁴² Between January and June 2008, the NGO Consultancy on Human Rights and Displacement (CODHES) recorded 270,675 new IDPs, 41% higher than during the same period in 2007. According to *Acción Social*, 249,816 IDPs were registered between January and October 2008.

⁴³ This has been specially reported in Arauca.

⁴⁴ Constitutional Court Orders 092, issued in April 2008, on sexual violence against displaced women, and 251, issued in October 2008, on measures to protect displaced children.

⁴⁵ According to the Ombudsman, between January and September 2008, 62 early warnings produced by the SAT led to only 28 CIAT actions.

88. In 2008, there were restrictions on freedom of expression, often manifested through threats against journalists, particularly in the interior of the country, and new modes of intimidation of the media, including bringing legal actions for defamation.

89. OHCHR Colombia continues to be concerned with the situation of lesbian, gay, bisexual, transgender and transsexual persons (LGBT), whose rights to life and to non-discrimination because of their sexual orientation have been violated. The organization *Colombia Diversa* reported 67 murders of LGBT in 2006-7.

III. Main activities of OHCHR Colombia

90. As of November 2008, OHCHR Colombia received 1,262 complaints and followed-up on 1,257 of them. A total of 231 observation missions were undertaken, which represented a total of 656 days in the field. Such missions constitute the most substantive way to collect information for case analysis on the human rights violations. OHCHR Colombia participated in a large number of meetings with authorities and representatives of civil society in order to improve its access to information and analysis. Many of these meetings took place in the most remote locations where the consequences of the armed conflict are most acute.

91. OHCHR Colombia provided the Ministry of Defence with ongoing advice on human rights and international humanitarian law and supported the recent process of identifying and reviewing cases of alleged extrajudicial executions. OHCHR Colombia provided advice during the drafting process of the Decree 1290 to the Government and on the draft law of victims during legislative deliberations.

92. OHCHR Colombia is in the process of compiling and reviewing all recommendations so far made to Colombia by the different United Nations human rights mechanisms, including OHCHR, to facilitate follow-up and implementation.

93. With respect to the rights of women, OHCHR Colombia supported the follow-up process on Constitutional Court's Order 092 regarding sexual violence against women IDPs, and decision T-496 about the need for a gender perspective in the design of victim and witness protection programmes. Furthermore, OHCHR Colombia carried out activities relating to UN Security Council resolution 1612 on children in armed conflict, and to promoting ratification of the Convention on the Rights of Persons with Disabilities.

94. OHCHR Colombia continued to support the elaboration of the National Human Rights Action Plan until it became stalled, as well as the production of the National Human Rights Education Plan. As part of a project co-financed by the European Union, OHCHR Colombia organized a series of workshops, training and negotiation sessions to ensure that municipal development plans incorporate a human rights perspective. In this project, competent authorities were provided with methodological tools for developing such plans. OHCHR Colombia also provided human rights training tools to the School for Public Administration.

95. OHCHR Colombia trained 180 military judges on human rights, and produced a guide, as well as a leaflet for victims, regarding enforced disappearance. In addition, OHCHR Colombia participated in the organization of an international seminar on enforced disappearance, entitled "Without Trace" in June 2008.

96. At the request of the Ministry of Interior/Department for Ethnic Affairs, OHCHR Colombia organized seminars and produced a publication on the right of indigenous communities to prior, free and informed consultation on decisions affecting these communities. OHCHR Colombia further supported the Ministry by strengthening "reconciliation centres" (*centros de convivencia ciudadana*)⁴⁶ and training public officials in charge thereof.

97. OHCHR Colombia issued 26 statements on a variety of matters of concern and distributed 98.675 copies of 81 different human rights publications, reports and compact disks to public officials, representatives of civil society and the general public. In the context of the 60th anniversary of the Universal Declaration of Human Rights, in addition to the commemorative celebration of 10 December, OHCHR Colombia published a large number of pedagogical materials to explain the content and spirit of the Declaration.

IV. Recommendations

98. The High Commissioner reiterates all her previous recommendations that have not been implemented, or have been only partially implemented, and again urges the Government, illegal armed groups and civil society at large to give priority to full respect for human rights and international humanitarian law.

99. The High Commissioner calls for dialogue and negotiations to achieve lasting peace and encourages all actors to consider, in particular, the following recommendations:

- (a) The High Commissioner **calls on** all parties to the conflict to fully accept and abide by international humanitarian law, respecting, without exception, the life, integrity and property of the civilian population. The High Commissioner further **requests** members of illegal armed groups to immediately and unconditionally release all kidnapped persons, including those who, taking part in hostilities, are subject to prolonged periods of deprivation of liberty with total disregard for the minimum human treatment required by international humanitarian law.
- (b) Recognizing the concern expressed by the Government about the gravity of extrajudicial executions, and its willingness to address the issue, the High Commissioner **urges** the Government to implement fully and quickly the measures announced to eliminate the practice of extrajudicial executions and to intensify cooperation with the Attorney General's Office for the rapid

⁴⁶ This is a Government-led initiative aiming at promoting values such as solidarity, respect and tolerance among communities.

investigation, judgment and punishment of these crimes.

- (c) The High Commissioner **encourages** the Attorney General's Office to accelerate proceedings under the Justice and Peace Law, as well as to ensure that all demobilized members of illegal armed groups who have committed serious crimes be tried under the Law and effectively contribute to the rights to truth, justice and reparations for victims.
- (d) The High Commissioner **calls on** the judicial authorities, in particular the Attorney General's Office, and the oversight mechanisms to strengthen disciplinary investigations and control with a view to increasing protection of human rights defenders and trade union members, including in the cases of their public stigmatization for their work, and to combat impunity. In particular, the High Commissioner **encourages** the Government and the Procurator General to decisively support such investigations regarding public officials.
- (e) The High Commissioner **urges** the Government to guarantee the rights of the civilian population against the actions of illegal armed groups which emerged after the paramilitary demobilization, by implementing prompt and effective measures of prevention and protection.
- (f) The High Commissioner **encourages** the Government to take specific preventive measures in order to eliminate the disturbing trends of increased displacement, and to protect the displaced population, taking better advantage of the Ombudsman's Early Warning System.
- (g) The High Commissioner **calls upon** the Government and the judicial authorities, in particular the Attorney General's Office, to ensure that necessary material, human and financial resources are provided so that crimes of sexual violence and crimes against women are effectively prevented, investigated, judged and punished.
- (h) The High Commissioner **recommends** that the Government address the rights of all victims without discrimination, and that it intensify its efforts to reach consensus on policies consistent with international standards, with a view to placing victims at the centre of its policy agenda and ensuring that the rights to truth, justice and reparations are effectively enjoyed by all.
- (i) The High Commissioner **urges** the Government to give priority to the achievement of the Millennium Development Goals as part of its social policy, securing the provision of appropriate resources and paying particular attention to the situation of the most vulnerable.

Annex
**REPRESENTATIVE CASES OF VIOLATIONS OF HUMAN RIGHTS AND
BREACHES OF INTERNATIONAL HUMANITARIAN LAW**

In addition to the cases referred to in the body of the report, the Office in Colombia of the High Commissioner for Human Rights has received information on several other representative cases of violations of human rights and breaches of international humanitarian law during the period corresponding to this report which are described below.

A. Extrajudicial executions

1. In the department of Antioquia, the Office continued to register a high number of alleged extrajudicial executions. For example, on 4 January in Montebello, members of the Combat Engineers Battalion No. 4 “General Pedro Nel Ospina” allegedly killed one person. In Yondó, two persons were presumably killed on 30 January by members of the “Calibío” Battalion. On 1 February in Segovia, members of the “Especial Energético y Vial No.8 Battalion” allegedly killed a 16 year old youth.
2. Other departments also registered possible cases of this disturbing practice. On 7 March, in Puerto Asís (Putumayo), two persons were murdered and presented as guerilla members killed in combat by members of the Counterinsurgency Battalion No. 87 of the 13th Mobile Brigade. In Sabana de Torres (Santander), four persons were allegedly murdered on 19 February by members of the V Brigade. On 23 February in Algeciras (Huila), one person was allegedly killed by members of the Ninth Brigade.
3. Alleged extrajudicial executions were registered by the Office after the persons had been victims of enforced disappearance. In Abrego (Norte de Santander), on 15 January, a person was found dead after he had been reported missing on 13 January in Soacha (Cundinamarca). The disappearance and murder of this person was allegedly committed by members of the 15th Battalion “General Santander”. Members of this same Battalion presented a minor, that may have been mentally disabled and that had disappeared the day before in Gamarra (Cesar), as killed in combat on 31 August in Abrego (Norte de Santander). In Ocaña (Norte de Santander) on 27 January, two persons that had disappeared from Soacha (Cundinamarca), one a minor, were presented as guerrillas killed in combat by members of the 15th Mobile Brigade.
4. The Office also received complaints about possible extra-judicial killings attributed to members of the National Police. In Bogotá D.C. on 22 April, National police agents allegedly killed the president of the public services union and member of the association of civil servants of the District Comptrollership. On 26 May, a complaint was received about the possible extrajudicial execution of a person that had been previously detained by National Police agents in Pereira (Risaralda).

B. Illegal and arbitrary detentions

5. The Office received information on cases of both individual and collective illegal and arbitrary detentions in various departments in the country. Reports were received that members of the National Police and the Army conducted detentions apparently based on uncorroborated statements made by informants, with no valid *in flagranti delicto* or without the necessary judicial warrants.
6. On 23 February in Puerto Leguízamo (Putumayo), members of the Administrative Security Department (DAS) and the XXVII Jungle Brigade detained 16 persons and accused them of rebellion and drug trafficking. On 28 February, a judge in Puerto Asís (Putumayo) granted a writ of *habeas corpus* and liberated seven of the detainees due to irregularities in the detention process. In Arauca (Arauca), on 15 June, 16 peasant farmers were allegedly illegally detained by members of the Support Structure of the State Prosecutor's Office with headquarters in the XVIII Brigade in Arauca.
7. Five persons were detained by members of the "Luciano del Huyer" Battalion in the vicinity of the Triangulo in Simití (Bolívar) on 20 May. Days after, these persons were released without charge. In the village of Santa Ana en Granada (Antioquia) on 28 March, three persons were detained by members of the "Bajés" Battalion.
8. The Office was also informed of cases of illegal or arbitrary detention of human rights defenders and social leaders who had been accused of rebellion, apparently without sufficient cause. For example, on 12 January in Arauquita (Arauca) the municipal ombudsman was detained under these circumstances, together with 11 other persons. In the same village, on 4 November, the president of the Permanent Committee for the Defense of Human Rights (CPDH) and other social leaders were also detained without sufficient cause. On 15 November in San Onofre (Sucre), a leader of the Victims of State Crimes Movement, and Technical Secretary of the Sucre Chapter, was detained without apparent cause, in this case on charges of "conspiracy to commit a crime" with paramilitary organizations.

C. Torture and other cruel, inhuman or degrading treatment or sentences

9. The Office was informed of cases of public servants whose behavior constituted cruel, inhuman or degrading treatment or sentences and excessive use of force.
10. In Medellín (Antioquia), repeated complaints were received about the widespread abuse of force, cruel and inhuman treatment, and threats made by the National Police against the population, particularly in 13 of the city's communes identified with numerals 1 through 13.

11. On 21 January in Buenaventura (Valle del Cauca), National Police agents allegedly assaulted a taxi driver who was under the effects of alcohol, causing his death.
12. In Cauca (Antioquia), on 23 January, four youth were reportedly brutally kicked and beaten with fists and rifle butts inside a police station. Another case was reported on 21 April in Cimitarra (Santander), where a youth was allegedly subjected to cruel, inhuman or degrading treatment by National Police agents.
13. In Corinto (Cauca), on 9 April, members of the Army detained and allegedly assaulted three persons, who suffered multiple injuries. These same members of the Army allegedly threatened to kill these persons, accusing them of involvement with guerrilla groups.
14. The Office received information regarding sexual abuse committed by members of the Armed Forces. Members of the “Hilario López” Battalion allegedly sexually harassed girls of the Santa Cruz village (Cauca) on 14 May. Information was received that four girls from the Chanó indigenous community of Bojayá (Chocó) were sexually harassed by various soldiers on 11 February.
15. On 15 April in Medellín (Antioquia), students from the National University were reported to have been violently repressed in a disproportionate reaction by members of the Antiriot Mobile Squadron of the National Police (ESMAD) during a peaceful manifestation that had been previously authorized by the mayor’s office.

D. International Humanitarian Law

(i) *Guerrilla groups*

16. The Office was informed of various massacres allegedly committed by guerrilla groups, such as the case of three persons in Pensilvania (Caldas) whose death on 14 February was attributed by the authorities to the FARC-EP. In Santa Cruz (Nariño), the FARC-EP allegedly killed four teachers, three of them women, who had been previously abducted between 11 and 24 June for being considered informants of the Army. On 25 December, alleged ELN militiamen killed four persons from one family and a neighbor who was a minor, and injured another four persons in the village of Mata Oscura in Arauquita (Arauca).
17. The Office also received information regarding selective homicides allegedly committed by guerrilla groups. In the Arauca department, authorities attributed most of the 143 homicides of civilians committed in the first nine months of the year to the ELN and the FARC-EP.
18. On 9 February in Algeciras (Huila), the FARC-EP reportedly killed a journalist and municipal council member, as part of an alleged plan against mayors and councilpersons in the region. In Ituango (Antioquia), on 30 April, the Office registered

the death, reportedly at the hands of the FARC-EP, of a 14 year old girl that had previously been accused of having an intimate relationship with a member of the security forces. On 12 August in Yarumal (Antioquia), FARC-EP militiamen allegedly killed the director of the municipal Social Welfare office, while he was on official mission. On 17 October, the FARC-EP also allegedly killed the president of the Community Action Council of Tierra Alto (Córdoba), after accusing him of collaborating with the Army.

19. The ELN reportedly murdered the president of the Municipal Council of Saravena (Arauca) on 5 February. In Morales (Bolívar), on 1 May, members of the ELN allegedly killed a person accused of collaborating with the Army. Subsequently, this guerrilla group allegedly threatened other persons from the same village who had been similarly accused, causing the displacement of approximately 18 families. The ELN allegedly killed the leader of the Association of Displaced Persons of Arauquita (ASDENAR) on 28 November in Arauquita (Arauca).
20. The Office also registered death threats made by guerrilla groups. Various municipal ombudsmen have also received death threats from guerrilla groups, such as the case of the municipal ombudsperson of Villarica (Tolima) who was allegedly threatened by the FARC-EP on 23 January.
21. On 6 March, the FARC-EP set up a roadblock on the Samaná-Victoria (Caldas) road, where they allegedly killed the driver of a public bus, which was then incinerated. On 27 October, a municipal public transport boat on the Atrato River (Chocó) with 18 civilians aboard was shot at by alleged members of the FARC-EP, resulting in the death of one person and four injured.
22. The Office registered various cases of terrorism attributed by the authorities to the FARC-EP, such as the case that occurred in Buenaventura (Valle del Cauca) on 10 June, when an artifact located on a median strip exploded, leaving 12 persons injured.
23. The Office received information that, since January, in the village El Decio in Samaniego (Nariño), the ELN have allegedly increased the use of anti-personnel mines, causing various incidents and isolating the population. These events have also resulted in the isolation of various rural villages in the municipality and mass displacement in the area.
24. On 17 February in Yarumal (Antioquia), an anti-personnel mine allegedly planted by the FARC-EP caused the death of one person and injured three more, including a three year old. In El Tarra (Norte de Santander), on 5 August, a 16 year old died when he accidentally activated an anti-personnel mine, allegedly planted by the ELN.

25. Minefields planted by the FARC-EP are one of the principal causes of the displacement of various families from the village of Canelos in Santa Rosa (Bolívar) on 14 January.
26. On 11 June, the FARC-EP allegedly planted mines around the coca cultivations that surround the village of Santa Rosa in Puerto Asís (Putumayo), isolating the population and creating shortages of food and medicine.
27. The Office also received complaints that guerrilla groups were recruiting boys and girls in various departments, such as Antioquia, Arauca, Caquetá, Norte de Santander, Putumayo, and Valle del Cauca. In various villages in Caicedo (Putumayo), the FARC-EP had been threatening to recruit minors in the area since late February. On 27 March, in the department of Caquetá, alleged threats from the FARC-EP to recruit a minor forced the displacement of that family. In the same month, in the department of Norte de Santander, a family was forced to leave after receiving threats, reportedly from the ELN, that they were going to recruit one of their underage children. In April, the FARC-EP allegedly recruited three minors in Palmira (Valle del Cauca), one of which, a 14 year old girl, was presumably subjected to sexual violence by the recruiters.
28. The Office received complaints on the recruitment and use of boys and girls in combat, logistics, and intelligence activities by the FARC-EP, such as the case in May in Ituango (Antioquia) where a minor was apparently used to transport arms and explosives.

(ii) *Security Forces*

29. The Office has observed the practice of locating police stations and army battalions in populated areas, very close to homes and other protected infrastructure, such as schools. For example, on 10 May, members of the Ayacucho Battalion occupied a school in the village of Guayaquil in Pueblo Nuevo (Caldas). On 14 May, the Office confirmed that members of the Army established a military camp in the school of the village of Santa Cruz (Cauca).
30. On 5 October, members of the 59th Counterinsurgency Battalion of the 27th Jungle Brigade arrived at the Nasa indigenous community of San Luis Alto Picudito in Villagarzón (Putumayo) and began interrogating and taking photographs of the inhabitants. After this incident, the FARC-EP threatened the population, accusing them of being Army informants.
31. The Office was informed of arbitrary restrictions imposed by members of the Army on the transportation of persons and goods, such as food, medicine, and fuel. For example, since January, troops from the 20th Mobile Brigade have limited the passage of food to various villages in the municipality of El Dovio (Valle del Cauca), as part of a strategy to combat illegal armed groups.

32. The Office registered injuries to the civilian population, including boys and girls, caused by clashes between the Army and the FARC-EP in rural areas of the department of Arauca. This was the case, for example, of the 18-month old girl that was injured by gunfire on 15 September, resulting in the loss of one eye.

(iii) *Kidnapping*

33. The guerrilla groups continued to kidnap persons, as was the case of four students, one a minor, who were presumably kidnapped by the FARC-EP on 5 October in the village of San José de Purré in Quibdó (Chocó). On 22 March, a doctor was presumably kidnapped by the FARC-EP in Ocaña (Norte de Santander).

34. On 31 July, five workers of an Ecopetrol contractor were kidnapped in the urban center of the village of Orú in Tibú (Norte de Santander), allegedly by ELN militiamen.

E. Illegal armed groups that emerged from the demobilization process of paramilitary organizations

35. The Office observed that crimes allegedly committed by the illegal armed groups that emerged from the demobilization process of the paramilitary organizations produced high levels of violence against the civilian population.

36. While some of the killings allegedly committed by these groups have characteristics of “social cleansing”, in some municipalities and departments the increase in the murder rate may suggest disputes between these groups for the control of territory and illegal activities. For example, for the period being reported, the clashes between the group apparently led by alias “Don Mario” and the group called “*Los Paisas*” may have caused the death of at least 70 persons in the department of Córdoba alone.

37. In January, just in the cities of Barrancabermeja, Bucaramanga, and Cúcuta the Office registered over 50 selective killings.

38. The execution of nine persons in the month of May in the community of Pizarro in Bajo Baudó (Chocó) was allegedly committed by members of the group called “*Los Rastrojos*”. Members of this group allegedly killed a prostitute in Orito (Putumayo) on 26 March. On 14 October, a community leader from Curvaradó (Chocó) was killed, the same day that he was going to testify against various paramilitaries in a Medellín courtroom.

39. On 24 May, members of a group called “*Autodefensas Campesinas Nueva Generación AC-NG*” (New Generation Self-Defense Peasant Farmers) allegedly forced over 200 displaced persons that had arrived at the village of Sánchez in Policarpa (Nariño) that month, to return to their homes. The AC-NG is allegedly responsible for the death threats made against human rights organizations in the department of Nariño, such as

those made on 12 February against the *Unidad Indígena del Pueblo Awá* – UNIPA (People’s Indigenous Unit), the CPDH or the *Pastoral Social*, among others.

40. On 15 June, an estimated 100 families were displaced from the village of San José La Turbia (Nariño), reportedly by a group called “Águilas Negras” (Black Eagles).

F. Vulnerable Groups

(i) *Human Rights Defenders and Union Members*⁴⁷

41. The Office was informed of various murders of union and social leaders as well as of human rights defenders. For example, on 10 December 2008 in San Vicente de Caguán (Caquetá) the body of a renowned local human rights defender and social leader was found incinerated, decapitated and with signs of torture. On 9 February in Balboa (Cauca), a union leader was stabbed to death. On 9 March in San Vicente del Caguán (Caquetá), a union leader was disappeared and was found dead three days later with 11 knife wounds. On 16 May, a member of the Amor por Cartago Civil Committee (Valle del Cauca) was killed and other members of the committee received death threats, and on 28 October, the FARC-EP allegedly killed a community leader in Puerto Leguízamo (Putumayo).
42. The Office received information on death threats, attacks, and thefts against non-governmental organizations, and unions and their members. Since January, the Ombudsman from San Miguel (Putumayo) has been receiving death threats. In Medellín (Antioquia), between 4 February and 18 September, various unions and social and political organizations were being followed, intimidated and received anonymous death threats. On 29 February, a member of the CPDH in the department of Risaralda suffered an attempt against his life. On 20 April, information related to cases of human rights violations, victims and perpetrators was stolen from the *Red Juvenzar* organization of Valledupar (Cesar). In Saravena (Arauca), on 19 November, an explosive artifact was detonated in a building that housed the following social organizations: the *Asociación Juvenil y Estudiantil Regional – ASOJER* (Regional Youth and Student Association), the *Asociación Departamental de Usuarios Campesinos – ADUC* (Departmental Association of Peasant Farmer Users), the *Asociación Amanecer de Mujeres por Arauca – AMAR* (Dawn for Women of Arauca Association), the *Asociación de Desplazados* (Association of Displaced Persons), the *Central Unitaria de Trabajadores (CUT) Subdirectiva Arauca* (Workers Unitary Head Office, Arauca Subdirectorate), and the *Fundación Comité Regional de Derechos Humanos Joel Sierra* (Regional Human Rights Committee Foundation Joel Sierra).

⁴⁷ Representative cases of illegal and arbitrary detentions of human rights defenders and social leaders are described in section B above.

43. The Office received information regarding attacks on the honor, reputation, or dignity of human rights defenders. On 2 September, in Bogotá D.C., governmental authorities accused members of the human rights organization MINGA of having links to the FARC-EP and ELN.

(ii) *Indigenous communities and peoples and Afro-Colombian groups*

44. The Office received information on the execution of members of indigenous communities and peoples. On 22 May, three members of the Chingu Chinguza reservation in Ricaurte (Nariño) were killed. On 22 May, an indigenous ex-governor was found dead in the El Tigre River on the Sirilio indigenous reservation in the Litoral de San Juan (Chocó). On 14 October, an indigenous person participating in a manifestation near the La María reservation in the village of Piendamó (Cauca) was killed, allegedly by gunshots fired by the National Police.

45. On 22 January, after clashes between the FARC-EP and the Army, the guerrilla group allegedly made death threats against the population of the Siona Bajo Santa Helena indigenous assembly in Puerto Asís (Putumayo), accusing the inhabitants of collaborating with the security forces.

46. On 18 June, members of the FARC-EP allegedly launched explosives into a school in the Siona de Buenavista indigenous reservation in Puerto Asís (Putumayo). The attack caused such fear that it resulted in the mass displacement of the population. On 16 March, in the Tacuevo indigenous reservation in Toribio (Cauca), clashes between the security forces and the FARC-EP caused the displacement of over 600 others.

47. The Office was also informed of the killing of and threats against Afro-Colombian leaders, such as the death of a member of the Community Council Board of Bajo Mira and Frontera de Tumaco (Nariño) on 25 June. Since February, the FARC-EP have also reportedly threatened the representative of the Pacific Afro-Colombian Corporation to the Municipal Council of Guacarí (Valle del Cauca). An Afro-Colombian leader was also killed on 29 June in Buenaventura (Valle del Cauca).
