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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**

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

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

** The present report is being circulated in all official languages. The annex is circulated in English and Spanish only.

Summary

The report analyses 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 United Nations 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 nevertheless continues to work on other matters of interest and concern, and these 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 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.

In respect of extrajudicial executions, the Government demonstrated goodwill and made significant efforts, and these should continue in order to guarantee the effectiveness of and strict compliance with institutional policies. As of October 2008, the number of complaints and victims recorded 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 curbing serious violations. The report concludes that the extraordinary measures recently taken, including separating some senior military commanders from service, have reinforced the “zero tolerance” policy for human rights violations. These measures need to be accompanied by greater operational control over military units and thorough and rapid investigations of all allegations of extrajudicial execution.

All parties to the conflict continue to breach international humanitarian law. Moreover, as in the past, the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (Revolutionary Armed Forces of Colombia - People's Army) (FARC-EP) and the Ejército de Liberación Nacional (National Liberation Army) (ELN) refuse to be bound by international humanitarian law. Besides continuing to recruit children and to commit crimes of sexual violence against women and girls, guerrilla groups have continued planting anti-personnel mines, taking hostages and holding kidnapped persons for prolonged periods under inhuman conditions.

The report further states that the complexity, variety, evolving nature and unpredictability of the illegal armed groups that have emerged since the paramilitary demobilization continue to present 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 of the victims have effectively enjoyed these rights, the 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 or satisfactory progress in the achievement of the Millennium Development Goals. In addition, there has been no narrowing of the gap between those who have opportunities to generate income and those who do not.

Lastly, the report summarizes some of the main activities undertaken by OHCHR Colombia during 2008 and proposes nine recommendations that are expected to help improve the situation of human rights in Colombia and implement the provisions of international humanitarian law.

The High Commissioner acknowledges the spirit of cooperation existing between the Government and her Office in Colombia. She also notes the openness of the Government to addressing human rights challenges, as demonstrated during the universal periodic review process.

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I. INTRODUCTION

1. This report covers the period between January and December 2008 and focuses on a number of issues that have been considered priorities. OHCHR Colombia nevertheless continues to work on other matters of interest and concern, and these 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 the situation of human rights and international humanitarian law in the context of the internal armed conflict, and to submit its 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 women's NGOs, victims' associations and trade unions. The High Commissioner travelled to Arauca, where she learnt about the regional human rights 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 also highlighted the Government's efforts to promote accountability and respect for human rights within the Armed Forces and to demobilize paramilitary groups. While the High Commissioner noted the increased attention given to victims' right 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 and 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.²

¹ Other special procedures made unofficial or follow-up visits to the country.

² Colombia volunteered for the universal periodic review and in its submission of 1 September 2008 the Government made 69 commitments to improve the situation of human rights. At the time of writing the recommendations of the Human Rights Council to the State of Colombia have not been formally published.

II. CONTEXT

6. Colombia remains embroiled 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 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 against vulnerable groups and their stigmatization, 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 Colombia in a better position to ensure full respect for human rights.

7. In 2008, the most important 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) tensions between the Government and the Supreme Court arising from the latest investigations into alleged links between members of Congress and paramilitary groups (the "parapolítica" affair); (c) the extradition to the United States in May 2008 of 13 of the most prominent paramilitary leaders³ investigated in cases under Act No. 975 (the Justice and Peace Act);⁴ (d) military successes against FARC-EP, the death of its leader and founder, and the release, rescue or escape of individuals kidnapped by the group; (e) increased civic awareness demonstrated through mass mobilizations against illegal armed groups and in support 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 illegal pyramid investment schemes that lured thousands of people into bankruptcy with promises of high payouts.

8. Progress in the achievement of the Millennium Development Goals remains slow. A particular concern is with the closing of the gap between those who have more opportunities, settled mainly 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 and depressed urban areas.⁵

³ A total of 15 paramilitary leaders were extradited to the United States in 2008.

⁴ Act No. 975 regulates judicial proceedings in respect of demobilized members of illegal armed groups and provides for judicial benefits based on their contribution to the pursuit of truth, justice and reparation for the victims of their crimes.

⁵ While in Bogotá 28 per cent of the population is below the poverty line, in Chocó the figure is 78.5 per cent. In Cundinamarca, excluding Bogotá, the illiteracy rate is 1.1 per cent, compared to 6 per cent in La Guajira (United Nations Development Programme (UNDP), Millennium Development Goals Report 2007).

III. HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

A. Extrajudicial executions

9. In 2008 OHCHR Colombia continued to work directly with the Ministry of Defence to bring alleged cases of extrajudicial executions to the attention of senior military commanders for action. In January 2008 the Ministry of Defence published its 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 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 irregularities in their jurisdiction”.⁶ This was an important signal to reinforce the stated policy of zero tolerance for human rights violations. In November 2008, the Commander-in-Chief of the army resigned, the Ministry of Defence announced further measures⁷ and the President initiated discussions with senior military commanders to address complaints of extrajudicial executions.

11. However, the number of complaints about extrajudicial executions and the number of victims reported⁸ 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 such violations. Renewed efforts are needed to guarantee the effectiveness of and strict compliance with institutional policies to prevent and punish extrajudicial executions.

12. By late November 2008, the Attorney-General’s Office had initiated investigations into 112 cases of alleged extrajudicial executions which occurred in 2008.⁹ In addition, 473 additional cases, most of which occurred in 2006 and 2007, were referred to the

⁶ Additional measures seem to have been taken, including separation of other officers from service, but have not been made public.

⁷ These measures include a review of intelligence, operational and logistical doctrine and procedures; the creation of a commission to review cases from an operational standpoint; the reinforcement of command responsibility; improvements to evaluation systems; and the redefinition of rules of engagement.

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

⁹ Complaints about extrajudicial executions are usually made several months after the fact. Thus, extrajudicial executions that took place in 2008 are likely to be reported in 2009. The National Human Rights and International Humanitarian Law Unit of the Attorney-General’s Office has initiated investigations into 41 of these cases, while local prosecutors’ offices have initiated 71.

Attorney-General's National Human Rights and International Humanitarian Law Unit in 2008. This Unit is currently investigating nearly 716 cases related to over 1,100 victims. These figures confirm that extrajudicial executions are not isolated events, but a widespread practice committed by a large number of military units throughout the country. According to information obtained by OHCHR Colombia, in some locations such as Antioquia, the number of cases increased in 2008.

13. In addition to the trends described in previous reports,¹⁰ the emergence this year of new modalities of extrajudicial execution suggests greater complexity and sophistication in planning and carrying out this crime. OHCHR Colombia was able to confirm the existence of gangs pretending to offer victims employment away from their home towns, and providing transport to other towns, where they were executed and reported as "killed in action". According to a number of investigations, other gang members (possibly including members of the army) allegedly report those killed as members of guerrilla groups or of one of the illegal armed groups that have emerged since the paramilitary demobilization, and prepared intelligence reports to substantiate such affiliations. In addition, victims are frequently reported as "unidentified", even if they were carrying identity documents, or their identity was known. This practice seems intended to avoid the identification of persons reported missing and to hamper investigations.

14. The absence of effective control by army commanders might have created fertile ground for this very serious violation of human rights. Financial 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 any clear message from the army itself rejecting such a practice could have permitted such violations to persist.

15. Further action and closer collaboration between the Ministry of Defence and the Attorney-General's Office are needed to eradicate and punish extrajudicial executions. The Procurator-General and the Attorney-General should step up their efforts to investigate cases in the shortest possible time.

B. Illegal and arbitrary detention

16. In some departments, 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 offences, which led to arbitrary detentions. These orders were often based on information provided by former members of guerrilla groups. Since the State gives them incentives and benefits to cooperate, the information obtained is not always credible. The Attorney-General's Support Office with the army's 18th Brigade in Arauca ordered at least four mass arrests on this basis.

17. The victims of violations of this kind, including human rights defenders and community leaders, are usually held without proper legal justification, in some cases for up to two years. In addition, in Antioquia and Chocó departments, for example, several cases of illegal detention

¹⁰ See A/HCR/7/39 and Corr.1 of 2008 and A/HCR/4/48 of 2007.

carried out by the army have been reported. OHCHR Colombia has also received reports of actions by the National Police, particularly the detention of individuals belonging to vulnerable sectors of society, especially from poor neighbourhoods in Medellín, without appropriate legal justification

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

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

19. In Chocó, Cauca and other departments, OHCHR Colombia received reports of cruel and degrading treatment of women and girls by members of the army; on some occasions this resulted in sexual violence.

20. In early 2008 OHCHR Colombia noted cases of serious inhuman and degrading treatment of inmates at the prison of Valledupar (Cesar), as well as excessive use of force by prison guards to put down protests.

21. The Government has done much to train public officials and military officers on international standards on the prevention of torture. However, as acknowledged by the Government, challenges remain.¹¹ It would be a significant step towards meeting these challenges if the Government were to accede to the Optional Protocol to the Convention against Torture (OPCAT).

D. 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 towns in Antioquia and Chocó, this practice has apparently been used to intimidate opponents in the disputes between gangs and illegal armed groups that have emerged since the demobilization of paramilitaries.

23. Victims of disappearances are usually young unemployed men from poor families living in poor neighbourhoods or isolated rural areas. Human rights defenders and trade unionists are also among the victims of disappearances.

24. The Attorney-General's Office has investigated 111 cases of enforced disappearance in 2008. Most of them were referred to its Human Rights and International Humanitarian Law

¹¹ Government submission to the Human Rights Council's universal periodic review, 1 September 2008.

Unit after preliminary investigations by Special Investigation Task Forces.¹² This Unit also conducted a total of 39 exhumations, but the remains recovered are still being identified. Other exhumations during the reporting period, as mentioned below, have been conducted in the framework of the Peace and Justice Act.

25. A pilot phase of the National Plan for the Search for Disappeared Persons, which focused on the situation in Casanare department, was chiefly limited to collecting information for referral 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 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 operation of these institutions.¹³ These organizations have also criticized the continuing requirement for a "declaration of presumed death" to be made, in order, among other things, to receive humanitarian assistance from the Government. In their view, this requirement inflicts additional emotional damage on the families and "re-victimizes" them.

26. Ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, to which the Government committed itself during the universal periodic review in December 2008, would represent a significant step towards guaranteeing a more comprehensive and effective response to victims' claims.

E. 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, FARC-EP and ELN continue to refuse to be bound by international humanitarian law.

1. Guerrilla groups

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

29. FARC-EP continued with its indiscriminate attacks, seriously affecting the civilian population, including the launching of explosives which killed 3 individuals in Corinto (Cauca) in May 2008; acts of terrorism, such as the attacks on the Courts of Justice in Cali (Valle del

¹² These Commissions are dispatched to places where there is evidence or information that could help in the investigation of a disappearance. They may focus on establishing the facts in a single case or in a number of connected cases.

¹³ Final Report of the Special Investigation Task Force for Casanare and Magdalena, January 2008.

Cauca), which left 1 person dead and 26 injured, in September 2008, and on the village of Ituango (Antioquia) in August 2008, in which 55 people were injured and 7, including 1 child, died.¹⁴

30. The steady increase in the number of anti-personnel mines planted by guerrilla groups has caused numerous civilian and military casualties, among them children.¹⁵ Examples include the death in Palmira (Valle del Cauca) of a pregnant woman and her nine-month-old daughter in January 2008; 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 his 17-year-old mother injured in Valdivia (Antioquia) in October 2008. In December 2008, two persons travelling to San Vicente del Caguán (Caquetá) in a Colombian Family Welfare Institute (ICBF) vehicle were killed by a roadside explosive allegedly triggered by FARC-EP.

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

32. There were reports of forced displacement caused by threats and acts of violence attributed to FARC-EP and 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 FARC-EP, including sexual assault on a 14-year-old girl recruited earlier in Palmira (Valle del Cauca).

34. Ambulances and medical missions continued to be threatened and attacked by FARC-EP. For example, two soldiers who had been wounded by an anti-personnel mine and who were being carried in an ambulance were killed in Yarumal (Antioquia) in April 2008, allegedly by members of this guerrilla group.

2. Security forces

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

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

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

36. In several rural communities in Quibdó and Carmen de Atrato, in Chocó, members of the army and police gave children gifts and propaganda in return for information on the whereabouts and identity of members of guerrilla groups. These acts put the lives and safety of the children in serious danger.

37. OHCHR Colombia also observed that members of the army occupied civilian premises, notably private houses, schools and places of recreation. One example was the school belonging to the indigenous communities of the Nasa Kwe'sx Kiwe (Valle del Cauca) reservation.

3. Kidnapping

38. According to the Ministry of Defence, through the National Fund for the Defence of Personal Liberty (FONDELIBERTAD),¹⁶ the number of persons kidnapped in Colombia as of June 2008 amounted to 2,820.

39. Guerrilla groups continued taking hostages. In Nuqui (Chocó), in January 2008, FARC-EP kidnapped six tourists; in Puerto Asis (Putumayo), in September 2008, they kidnapped four investigators from the Attorney-General's Office. In Samaniego (Nariño), there were seven incidents of hostage-taking attributed to ELN in January and February 2008.

40. Also in January and February, FARC-EP unilaterally released five former members of Congress and one former vice-presidential candidate. Subsequently, in a bloodless military operation in July 2008, a former presidential candidate, 3 American citizens and 12 members of the security forces were rescued.¹⁷ Lastly, in October 2008, another former congressman managed to escape. However, FARC-EP still holds many others, some of whom it considers "exchangeable" for imprisoned FARC-EP members, as part of so-called "humanitarian exchanges".

41. Under the circumstances, the systematic, protracted and widespread taking of hostages, who are then kept in the most inhuman conditions, can be considered a crime against humanity. As the High Commissioner has repeatedly said, the release, rescue or escape of the above-mentioned individuals should not allow other kidnapped persons to be forgotten.

¹⁶ This is a unit within the Ministry of Defence, established in 1995 in place of the Presidential Programme for the Defence of Personal Liberty, and responsible for coordinating resources to combat kidnapping, including additional funds and operating resources for the Unified Action Groups for the Defence of Personal Liberty (GAULA), and for assisting victims.

¹⁷ The President admitted that an army officer had worn a vest with the International Committee of the Red Cross (ICRC) logo and the Red Cross emblem, during this operation, allegedly out of fear. This constituted an abuse of those symbols and, as such, a breach of international humanitarian law.

F. Illegal armed groups that have emerged since demobilization of paramilitary organizations

42. OHCHR Colombia continued to monitor the operations of several of the illegal armed groups that have emerged throughout the country since the paramilitary demobilization, particularly in Antioquia, Cauca, Chocó, Córdoba, Nariño and Valle del Cauca departments. While their structures, interests and modus operandi vary, many are engaged in criminal activities, chiefly drug trafficking and other activities related to organized crime. They also engage in lawful activities, such as selling lottery tickets and providing security services.

43. The ranks of these groups include many demobilized and non-demobilized former members of paramilitary organizations, some recruited voluntarily, some forcibly. Reports indicate that those who resist recruitment are killed, or are forced to flee for their lives. OHCHR Colombia has noted that middle-ranking members of the former United Self-Defence Forces of Colombia (AUC)¹⁸ hold senior positions in these groups.

44. Even where these groups have some form of hierarchy, they are by no means run on military lines and they do not seem to have exclusive control over territory. Furthermore, in many areas they do not seem to act in a coordinated or consistent manner.

45. A significant number of murders, death threats and other offences attributed to these groups seem to be a form of “social cleansing”. However, in general, their actions appear to be more a matter of settling personal scores in connection with drug trafficking. Likewise, and unlike other types of criminal groups, they appear to be, in some instances, enforcing social control. In addition, some of them take advantage of the economic and political structures left behind by the former paramilitary organizations.

46. In various places, the names of some of these groups, such as the “Black Eagles” (Aguilas Negras), and others recalling the former AUC or suggesting a resurgence of armed groups similar to the former AUC, have been indiscriminately used by criminal organizations and unknown individuals in order to instil fear and cause confusion.

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

48. That having been said, OHCHR Colombia continues to receive information confirming that some of these groups do indeed operate in a similar way to the old paramilitary organizations. They have a proper military structure and hierarchy, and are able to exercise territorial control. In addition to being able to plan, carry out and sustain military-type operations, they act with a political and ideological orientation similar if not identical to that of the former AUC. These groups have been located particularly in Guaviare, Meta and Vichada

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

(the self-styled Anti-Terrorist Revolutionary Army of Colombia (ERPAC)) and in Nariño (the so-called Autodefensas Campesinas Nueva Generación (New Generation Peasant Self-Defence Forces) (AC-NG)).

49. Regardless of the way they characterize themselves, the violence generated by the illegal armed groups that have emerged since the paramilitary demobilization cannot be considered mere criminal behaviour. Their offences, committed in the context of the armed conflict, produce an alarming level of violence against the civilian population. Their complexity, variety, constantly changing nature and unpredictability remain 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 the problem. This response should, among other things, recognize the dimensions of the problem, adopt adequate operational changes, including rules of engagement for confronting them, and introduce preventive measures to protect the civilian population.

G. Justice

1. Justice and Peace Act

50. Trials under the Justice and Peace Act, under which demobilized persons who genuinely contribute to truth, justice and reparation are granted an eight-year cap on their maximum prison term, are still moving very slowly.¹⁹ As of 31 October 2008, out of 3,637 individuals facing charges under the Act,²⁰ only 1,626 have been subject to the first procedural step, the *versión libre* statement.²¹ The Supreme Court decided in 2008 that it would not be necessary to await completion of a *versión libre* statement in order to bring a partial indictment. However, at the time of writing, only 20 persons have been partially indicted, and no one has been convicted.

¹⁹ The Justice and Peace Unit of the Attorney-General's Office, despite a staffing increase of 350 per cent during 2008, has not been able to make satisfactory progress with cases under the Act.

²⁰ In 2008, for the first time, in addition to members of paramilitary organizations, members of guerrilla groups, too, faced charges under the Justice and Peace Act. As of November 2008, 61 members of the various guerrilla groups (FARC-EP, ELN, ERP and EPL) were facing charges.

²¹ Of the 1,626 individuals who embarked on *versión libre* proceedings, 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 individuals had begun making statements and 941 had withdrawn for the same reason). As yet only seven statements have led to the confession of all crimes. Statements are ongoing in 430 cases.

51. Clearly, then, far fewer individuals will be tried under this Act than originally foreseen. Further, not all those facing charges are accused of serious crimes covered by the Act and, above all, it is by no means certain that all demobilized individuals who have committed serious crimes have been charged. Unfortunately, just over three years after the Act was adopted, the expectations it raised have yet to be met.²²

52. The *versión libre* stage has brought to light a number of events that have allowed the Attorney-General's Office to initiate or reopen investigations of cases that were previously left unaddressed.²³ These cases include several relating to senior public officials allegedly linked with paramilitary groups, and others in which the victims were trade unionists or members of the Union Patriótica party.²⁴ Other cases, however, remain unpunished, due to the refusal of those facing charges under the Justice and Peace Act to cooperate fully with other units of the Attorney-General's Office. This demonstrates the urgent need to review the Act, in order, for instance, to compel those facing charges to provide all the information they may have in a timely manner and 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 the Justice and Peace Act.

53. One concrete outcome of the implementation of the Act is the exhumation of unmarked 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 unmarked graves were found and the remains of over 560 victims recovered, making an estimated total of 1,420 graves and 1,750 remains recovered since the start of the *versión libre* proceedings. However, an additional effort is still required to accelerate the proper identification and handover of the remains to the families, in accordance with recognized international standards. The international community should also increase its support to the Colombian authorities to resolve this particular issue. At the time of writing, the remains of only 249 victims had 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 have no incentive to continue helping establish the truth and making reparations. So far, only two of them have been sentenced in the United States, to more than 20 years in prison. In this respect, it is imperative that mechanisms for judicial cooperation be

²² As of March 2008, there were a total of 50,505 demobilized individuals; of those, 35,263 had been collectively demobilized from paramilitary organizations (3,592 were in prison and 31,671 at liberty) and 15,242 had been individually demobilized from illegal armed groups (paramilitary organizations or guerrilla groups).

²³ Under the Act, the National Justice and Peace Unit has referred 2,098 cases to other units within the Attorney-General's Office.

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

implemented effectively, so that cases under the Justice and Peace Act can progress satisfactorily. Moreover, it is important that extradited paramilitary leaders continue to play their part in establishing the truth and comply with the obligation to provide reparations to their victims.

2. Investigations into alleged links between members of Congress and paramilitary groups

55. The Constitution states that members of Congress should be investigated and tried by the Supreme Court in sole instance. 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 time of writing, 72 members of Congress were facing charges; 11 of them have been convicted and 4 acquitted. Twenty-five have resigned in order to be investigated not 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 State institutions. This confirms the extent of infiltration by paramilitary groups within the State, and the need to continue combating this problem.

57. These judicial processes constitute a step forward in the struggle against impunity and the strengthening of the rule of law, which needs to be preserved and shielded from any politicization. In this respect, the Supreme Court could further solidify its decisions by, for instance, the strict implementation of arrest warrants and pretrial detention ensuring the consistency of its decisions and guaranteeing the right of appeal.

3. Military justice system

58. OHCHR Colombia was encouraged that the Constitutional Court, in its decision No. C-533 of July 2008, accepted the President's objection regarding military jurisdiction, thereby ensuring that it does not extend to serious violations of human rights and breaches of international humanitarian law. This decision is in line with international human rights principles and standards. Subsequently, in November 2008, Congress approved a new version of the relevant article of the Military Code, which, at the time of writing, had yet to be reviewed again 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 that should be tried in the ordinary courts. In some instances, they even ordered parallel investigations into cases that the

²⁵ Referrals of cases have increased since 2005, when only 35 were sent to the Attorney-General's Office. The number increased to 36 in 2006 and 72 in 2007.

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 expedite the investigation of cases it receives.

4. 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 *versión libre* statements under the Justice and Peace Act, 15 offences of sexual violence have been mentioned, but only 4 of them have been confessed.²⁶

61. Order No. 092, of April 2008, in an effort to combat sexual violence, and in the context of the follow-up to its 2004 decision No. T-025 regarding displaced persons,²⁷ the Constitutional Court ordered the Government to develop plans to prevent sexual violence and to provide assistance to displaced women who are victims of sexual offences.²⁸ Also under Order No. 092, the Court ordered the Attorney-General's Office to investigate 182 specific cases. However, no progress in these investigations has been reported to date.

62. In investigating these and 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.

H. 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 victims' rights, found their way onto political and public agendas. Women are the victims who have faced the most obstacles and the greatest stigmatization in the pursuit of justice, and they have been hardest hit by displacement for fear of reprisals and threats.²⁹

²⁶ This is out of a total of 18,431 crimes mentioned in such statements to date, and 4,678 confessed.

²⁷ By judgement No. T-025 of 22 January 2004, the Constitutional Court ordered the National Council on Comprehensive Care for the Population Displaced by Violence to make a precise assessment of the situation of the displaced population listed in the consolidated register and take the necessary steps to guarantee resources for their assistance.

²⁸ This order was reissued in September 2008 (Order No. 237).

²⁹ A recent study has confirmed that the majority of victims are indeed women, most of them in their 40s and with sole responsibility for three or four children or other persons. They have primary education or none at all and limited opportunities to generate income. (Angelika Rettberg, "Reparación en Colombia. ¿Qué quieren las víctimas?" ("Reparation in Colombia: what do victims want?"), November 2008).

64. The adoption by the Government of Decree No. 1290 in April 2008, creating an administrative reparation programme for victims of illegal armed groups, was a positive step towards realizing the right to reparation. The Decree does not apply, however, to victims of State agents and other mechanisms are therefore required to provide benefits to all victims without distinction.³⁰

65. A bill known as the Victims' Statute³¹ is currently under discussion in Congress. It is not perfect but it may serve to make good some of the gaps and shortcomings in Decree No. 1290. However, OHCHR Colombia expressed serious concerns that, in the course of legislative discussions in the First Committee of the House of Representatives, discriminatory provisions were inserted into the bill. It now excludes certain persons from the reparations programme, for example future victims, same-sex couples and victims of breaches of international humanitarian law. In addition, it does not give victims of acts or omissions by State agents direct access to administrative reparations, thereby setting stricter conditions on access to reparations through the courts for these victims than those currently in force.³²

66. The judiciary, too, has paid special attention to victims' rights. In various decisions, courts have upheld, among other things: victims' right to attend *versión libre* proceedings under the Justice and Peace Act; the need to apply the gender perspective when considering protection mechanisms; the importance of non-monetary reparation; and the view that the provision of regular social services does not constitute a form of reparation.³³

³⁰ In a statement of 27 April 2008, OHCHR Colombia welcomed the Decree and encouraged the Government to increase its efforts to meet its obligation to provide reparation and remedies to all victims.

³¹ Bill No. 044/08 (House) and No. 157/07 (Senate), providing for measures for the protection of victims. The bill benefited greatly from public, participatory proceedings in Congress, with nine hearings preceded by workshops that attracted some 5,000 victims. Civil society, the media and the international community, including the United Nations - notably OHCHR Colombia - followed and actively supported these hearings.

³² These discriminatory provisions were included when the First Committee of the House of Representatives adopted a series of amendments to the bill on 12 November 2008. As OHCHR Colombia put it 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 under the State's jurisdiction, the principles of equality and non-discrimination, and the definition of a victim as someone who has suffered unjust harm, regardless of who caused it.

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

67. Public accounts of the sufferings of those kidnapped by FARC-EP and of the families of victims of extrajudicial executions have generated a feeling of revulsion and solidarity throughout Colombian society. The media has helped to create social awareness and the international community has supported the initiatives to protect and promote victims' rights. This has allowed victims' organizations to achieve greater visibility and effectiveness in their work.

68. There has been some progress in uncovering the truth about past crimes, and this has helped to develop a better social understanding of the importance of guaranteeing the right to truth. The *versión libre* proceedings under the Justice and Peace Act have confirmed the human rights violations previously reported, and allowed many victims to recover their memories and mourn their dead. Nonetheless, problems such as the slow pace of court proceedings, the lack of cooperation by those facing charges under the Act or even their failure to attend sessions, and the inadequate involvement of victims in the sessions, must be addressed as a matter of urgency.³⁴

69. Another important initiative in this area is the report of the National Commission for Reparation and Reconciliation (CNRR), published in September 2008, on the crimes committed in Trujillo (Valle del Cauca) between 1988 and 1994, which documents offences of homicide, torture and enforced disappearance against 342 victims. The report found ELN, the paramilitary organizations and members of the security forces to be responsible for these crimes.³⁵

70. The right to justice continues to be impaired by prevailing impunity, lack of access to justice, and structural flaws in the administration of justice. These impairments are also visible in the judicial procedures established under the Justice and Peace Act.

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

I. Economic, social and cultural rights

72. Poverty, extreme poverty and inequity continue to be of concern, notwithstanding the Government's poverty-reduction programmes. Poverty affects indigenous communities particularly, along with 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 to malnutrition in some communities. 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 domestic law. 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 now required before an arbitration tribunal may be called to resolve

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

³⁵ National Commission for Reparation and Reconciliation (CNRR), "Trujillo, una tragedia que no cesa" ("Trujillo, a never-ending tragedy"), historical note.

a strike situation. Additionally, Congress is currently considering adopting legislative measures to ensure the right to water. The ratification process for the Convention on the Rights of Persons with Disabilities has begun, although its Optional Protocol has not yet 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, poverty, for instance, measured in terms of income, has not substantially decreased. Moreover, fewer than 48 per cent of children have access to preschool education; teenage pregnancy continues to increase and now affects more than 20.5 per cent of women aged 15-19; and 16 per cent of Colombian households live in precarious or undignified conditions.³⁶

J. Vulnerable groups

1. Human rights defenders and trade unionists

75. OHCHR Colombia recorded a significant number of attacks in 2008 against human rights defenders and trade unionists, principally in Antioquia, Arauca, Bogotá, Nariño, Putumayo and Valle del Cauca. These involved murder, as well as damage to property, break-ins, theft of information and threats. It is worrying to find that some senior government officials have not stopped publicly stigmatizing human rights defenders and trade unionists as sympathetic to guerrilla groups.³⁷

76. Official figures from the Ministry of Social Protection recorded 23 murders of trade unionists during the first half of 2008, most of them in Antioquia and Cauca.³⁸ A national union federation, the Confederation of Colombian Workers (CUT), however, reported a total of 41 persons murdered, from 24 unions, during the same period.

77. Although in many cases murders and threats against these vulnerable groups have been attributed to the illegal armed groups that have emerged since the paramilitary demobilization, as well as to members of FARC-EP and 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 NGO community, threats and stigmatization directed at human rights defenders, opposition leaders and social activists have intensified.³⁹ As mentioned above, some senior

³⁶ Data provided by the United Nations Development Programme (UNDP) Colombia.

³⁷ OHCHR Colombia expressed great concern at this situation in several statements issued throughout the year.

³⁸ Ministry for Social Protection, annual report to Congress 2007-2008.

³⁹ By way of illustration, it was made known in December 2008 that a year previously the Attorney-General's Office had acceded to a police request to intercept the e-mail addresses of a number of social organizations and individuals, including that of a member of OHCHR

government officials have criticized their work publicly on numerous occasions. During the mass protests in March 2008 against crimes committed by members of paramilitary groups, it was clear that there had been a breakdown in the dialogue between some parts of civil society and the Government. As a result, the joint drafting of a National Action Plan on Human Rights and International Humanitarian Law remains stalled.

79. OHCHR Colombia recognizes the Government's efforts to strengthen the protection programme of the Ministry of the Interior and Justice, which provides for the protection of human rights defenders, among others. However, the challenge of minimizing the risks to the life and safety of human rights defenders still stands, most notably owing to the stigmatization of their legitimate work.

2. Indigenous peoples and communities and Afro-Colombian groups

80. Indigenous and Afro-Colombian communities and peoples are particularly vulnerable, mainly because they occupy territories of strategic importance to parties to the internal armed conflict and drug trafficking rings. These lands are also of strategic value to Colombian and foreign companies. The rights of these communities to life, not to be forcibly displaced, to prior, free and informed consultation on decisions affecting them, 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 especially hard hit by forced displacement in the context of the armed conflict. Likewise, certain indigenous communities among the Kogui in the Sierra Nevada de Santa Marta, the Emberá 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 and the Guayabero and Makú in Guaviare are at imminent risk of extinction. In Vaupes, 12 of the 23 indigenous peoples have fewer than 1,000 members.

83. In November 2008, several indigenous organizations mobilized in pursuit of their communities' legitimate rights. Among the issues of concern to these communities, concerns which the Afro-Colombians share, particular emphasis was placed on collective rights and

Colombia. Once this became known, the Attorney-General's Office took action and dismissed the prosecutor responsible for the decision.

⁴⁰ As of October 2008, the Office of the Vice-President had reported 54 murders of members of indigenous peoples and communities. The National Indigenous Organization of Colombia (ONIC) reported a total of 66 victims for the same period. Of particular concern was the army's killing, under circumstances that are not very clear, of the husband of a leading member of the Cauca Regional Indigenous Council (CRIC) in December 2008. The United Nations system in Colombia 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.

ownership of lands. 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 with no overall high command might have encouraged these excesses. Furthermore, OHCHR Colombia is concerned at the stigmatization of the indigenous communities and their leaders by government officials and members of the security forces.

3. 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 fiercest.⁴² One of the causes of displacement in some areas is actions by illegal armed groups that have emerged since the paramilitary demobilization, to strip civilian populations of their lands. Other factors include the increased use of anti-personnel mines by FARC-EP and ELN; the intensification of forced recruitment by the guerrilla groups, and armed confrontations between them;⁴³ the eradication of illegal crops; and the security forces' operations against illegal armed groups.

85. OHCHR Colombia received information about the unresolved murder of 9 IDPs and of threats against at least another 250, many of them leaders of IDP organizations. Furthermore, OHCHR Colombia observed that Social Action, the government body in charge of assisting IDPs, sometimes agrees to register IDPs only when legal pressure is brought to bear in the form of injunctions. IDPs suffering such impairment of their rights are normally those who claim to have been forcibly displaced by illegal armed groups or by counter-insurgency actions by security forces.

86. Constitutional Court decision No. 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 a special support for children and adolescents and for indigenous peoples and communities and Afro-Colombian groups.⁴⁴

87. OHCHR Colombia continues to appreciate the importance of the Ombudsman's Office and its branches throughout the country. However, it was noted with concern that the early warning

⁴¹ Clashes between indigenous organizations and the police left 3 people dead and more than 170 injured all told. OHCHR Colombia deplored these clashes in a statement dated 25 October 2008.

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

⁴³ Incidents of this kind are reported in the department of Arauca in particular.

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

system (SAT) established by the Ombudsman is not fully and effectively utilized. In particular, it was noted that risk situations reported by the system, which are supposed to be acted upon by the Inter-Agency Early Warning Committee (CIAT) headed by the Ministry of the Interior and Justice, produced fewer alerts.⁴⁵

4. Other vulnerable groups

88. In 2008, there were restrictions on freedom of expression, which often took the form of threats against journalists, particularly in the interior of the country, and new modes of intimidation of the media, including the use of legal action for defamation.

89. OHCHR Colombia continues to be concerned at the situation of lesbian, gay, bisexual, transgender and transsexual persons, whose right to life and to not be subject to discrimination on grounds of their sexual orientation have been violated. The organization Colombia Diversa (Diverse Colombia) reported 67 murders of members of these groups in 2006-2007.

IV. MAIN ACTIVITIES OF OHCHR COLOMBIA

90. As of November 2008, OHCHR Colombia had received 1,262 complaints and had 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 are the most direct way to collect information for analysis of cases of human rights violations. OHCHR Colombia attended 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 remote locations where the consequences of the armed conflict are more serious.

91. OHCHR Colombia provided the Ministry of Defence with ongoing technical assistance 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 to the Government during the process of drafting Decree 1290 and to the concerned parties during the parliamentary debate on the victims' bill.

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

93. With respect to women's rights, OHCHR Colombia supported the follow-up process on Constitutional Court Order No. 092 regarding sexual violence against women IDPs, and decision No. T-496 about the need for the gender perspective in the design of victim and witness protection programmes. Furthermore, OHCHR Colombia carried out activities relating to Security Council resolution 1612 (2005) on children in armed conflict, and to ratification of the Convention on the Rights of Persons with Disabilities.

⁴⁵ According to the Committee's own reports, between January and September 2008, 62 early warnings from SAT led to only 28 CIAT actions.

94. OHCHR Colombia continued to support the drafting of the National Action Plan on Human Rights and International Humanitarian Law 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 the 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 of Public Administration.

95. OHCHR Colombia trained 180 military judges on human rights and produced a guide and a leaflet for victims of enforced disappearance. It also helped organize an international seminar on enforced disappearance, entitled “Without Trace”, in June 2008.

96. At the request of the Office for Ethnic Affairs of the Ministry of the Interior and Justice, OHCHR Colombia organized a seminar and produced a publication on the right of indigenous communities to prior consultation on decisions affecting these communities. OHCHR Colombia further supported the Ministry by strengthening “reconciliation centres”⁴⁶ and providing training to the officials in charge of the centres.

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, OHCHR Colombia published a large number of teaching materials to explain the content and spirit of the Declaration.

V. RECOMMENDATIONS

98. **The High Commissioner repeats 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 the life, integrity and property of the civilian population, without exception. The High Commissioner further requires that members of illegal armed groups should immediately and unconditionally release all kidnapped persons, including those who are being held as a result of the hostilities and are subject to prolonged periods of deprivation of liberty with total disregard for the minimum standards of decent and humane treatment required by international humanitarian law;

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

(b) Recognizing the Government's concern at the seriousness of the problem of extrajudicial executions and its willingness to address the issue, the High Commissioner urges the Government to implement without delay all the measures announced to eliminate the practice of extrajudicial execution and to step up its cooperation with the Attorney-General's Office for the prompt investigation, trial and punishment of these crimes;

(c) The High Commissioner encourages the Attorney-General's Office to accelerate proceedings under the Justice and Peace Act, and ensure that all demobilized members of illegal armed groups who have committed serious crimes are tried under the Act and effectively contribute to the realization of victims' rights to truth, justice and reparations;

(d) The High Commissioner calls on the judicial authorities, in particular the Attorney-General's Office, and supervisory bodies, to strengthen disciplinary investigations and oversight with a view to increasing protection of human rights defenders and trade unionists, including in cases concerning the public stigmatization of their work, and to combat impunity. In particular, the High Commissioner encourages the Government and the Procurator-General to press on with any investigations that may have been opened in respect of public officials and give them their firm support;

(e) The High Commissioner urges the Government to guarantee the rights of the civilian population in the face of actions by illegal armed groups that have emerged since 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 to halt the disturbing trends of increased displacement, and to protect the displaced population, by making better use of the Ombudsman's early warning system;

(g) The High Commissioner calls on the Government and the judicial authorities, in particular the Attorney-General's Office, to allocate the material, human and financial resources necessary to ensure that crimes of sexual violence and crimes against women are effectively prevented, investigated, tried and punished;

(h) The High Commissioner recommends that the Government should address the rights of all victims without discrimination and intensify its efforts to reach consensus on policies that are consistent with international standards, place victims at the centre of its agenda and ensure that all victims effectively enjoy the rights to truth, justice and reparations;

(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

EXAMPLES OF HUMAN RIGHTS VIOLATIONS AND BREACHES OF INTERNATIONAL HUMANITARIAN LAW

1. By way of illustration a number of cases that have come to the attention of OHCHR Colombia are described below. These are in addition to the cases mentioned in the body of the report and involve human rights violations and breaches of international humanitarian law during the reporting period.

A. Extrajudicial executions

2. OHCHR Colombia continued to note a high number of alleged extrajudicial executions in Antioquia department. In Montebello, for example, a person was murdered on 4 January, allegedly by members of the General Pedro Nel Ospina 4th Battalion of Combat Engineers. In Yondó two persons were murdered on 30 January, allegedly by the Calibío Battalion. In Segovia a youth of 16 was murdered on 1 February, allegedly by the 8th Special Energy and Highways Battalion.

3. Other cases that may have involved this troubling practice were noted in other departments. In Puerto Asís, Putumayo, two persons were murdered on 7 March, and presented as guerrillas killed in action, by the 87th Counter-Guerrilla Battalion of the 13th Mobile Brigade. In Sabana de Torres, Santander, four persons were murdered on 19 February, allegedly by the 5th Brigade. In Algeciras, Huila, one person was murdered on 23 February, allegedly by the 9th Brigade.

4. Allegations of extrajudicial execution were reported to OHCHR Colombia following the victims' disappearance. In Ábrego, Norte de Santander, a person who had been reported missing on 13 January in Soacha, Cundinamarca, was found dead on 15 January. The disappearance and murder of this person were allegedly the work of the General Santander 15th Battalion. Members of the 15th Battalion also presented a minor who appeared to suffer from mental disability and who had disappeared a day earlier in Gamarra, Cesar, as a guerrilla killed in action on 31 August in Ábrego, Norte de Santander. In Ocaña, Norte de Santander, two persons, one of them a minor, who had previously disappeared in Soacha, Cundinamarca, were presented on 27 January as guerrillas killed in action by members of the 15th Mobile Brigade.

5. OHCHR Colombia also received complaints of possible extrajudicial executions attributed to the police. In Bogotá on 22 April, police officers allegedly killed the Chairperson of the civil service union, a member of the Union of Officials of the District Accountant's Office. On 26 May the Office received another complaint, concerning the alleged extrajudicial execution of a person previously detained by police in Pereira, Risaralda.

B. Unlawful and arbitrary detention

6. OHCHR Colombia was informed of unlawful and arbitrary detention, in some cases of individuals, in others of groups, in several departments. It was reported that the police and the army appeared to have made arrests on the basis of uncorroborated statements by informers, where there were no grounds of flagrante delicto and no arrest warrant.

7. On 23 February, in Puerto Leguízamo, Putumayo, the Department of National Security and the 27th Jungle Brigade detained 16 persons on accusations of rebellion and drug trafficking. On 28 February a judge in Puerto Asís, Putumayo, ruling on a habeas corpus petition, ordered the release of seven of the detainees on grounds of irregularities in their arrest. In Arauca, Arauca, on 15 June, 16 peasants were detained, allegedly unlawfully, by the Attorney-General's Support Office with the 18th Brigade in Arauca.

8. On 20 May, in Triangulo in Simití, Bolívar, five persons were detained by the Luciano del Huyer Battalion. Some days later they were released without charge. On 28 March, in Santa Ana in Granada, Antioquia, three persons were detained by the Bajés Battalion.

9. OHCHR Colombia was also informed of unlawful and arbitrary detention of human rights defenders and social leaders accused, apparently without sufficient evidence, of the offence of rebellion. On 12 January, for example, in Arauquita, Arauca, the municipal attorney was detained on precisely those grounds with 11 other individuals. Also in Arauquita, on 4 November, the Chairperson of the Standing Committee for the Defence of Human Rights was detained, also without sufficient evidence, along with other social leaders. On 15 November in San Onofre, Sucre, a leading member of the Movement for Victims of State Crimes and Technical Secretary of the Sucre Chapter was detained with no clear justification, this time on charges of criminal association with paramilitary organizations.

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

10. OHCHR Colombia received reports of actions by public officials allegedly constituting cruel, inhuman or degrading treatment or punishment, and excessive use of force.

11. In Medellín, Antioquia, numerous complaints were received of widespread use of force, cruel and inhuman treatment and threats on the part of the police in dealing with members of the public, in 13 districts in particular (numbered 1 to 13).

12. In Buenaventura, Valle del Cauca, on 21 January, police officers allegedly beat to death a taxi driver who was under the influence of alcohol.

13. In Caucasia, Antioquia, on 23 January, four youths were allegedly brutally punched, kicked and beaten with rifle butts at the police station. Another case was reported on 21 April in Cimitarra, Santander, where a young man was allegedly subjected to cruel, inhuman or degrading treatment by police officers.

14. In Corinto, Cauca, on 9 April, army soldiers detained and allegedly assaulted three persons, causing them multiple injuries. The same soldiers were alleged to have threatened to kill the three individuals, accusing them of links with guerrilla groups.

15. OHCHR Colombia was informed of sexual abuse by members of the security forces. Soldiers from the Hilario López Battalion were alleged to have sexually harassed girls in Santa Cruz, Cauca, on 14 May. Four girls from the indigenous community of Chanó in Bojayá, Chocó, reported sexual harassment by several soldiers on 11 February.

16. On 15 April, in Medellín, Antioquia, university students taking part in a peaceful demonstration that had been approved by the municipality were allegedly dispersed with violence and disproportionate force by the police Mobile Anti-Riot Squad.

D. International humanitarian law

1. Guerrilla groups

17. OHCHR Colombia was informed of several mass killings allegedly carried out by guerrilla groups. The killing of three persons in Pensilvania, Caldas, on 14 February was attributed by the authorities to FARC-EP. In Santa Cruz, Nariño, FARC-EP allegedly murdered four teachers, three of them women, who had previously been kidnapped and held from 11 to 24 June, because FARC-EP believed them to be army informers. On 25 December alleged members of ELN murdered four members of the same family and one of their neighbours, a minor, and injured four other persons in Mata Oscura in Arauquita, Arauca.

18. OHCHR Colombia was also told of selective killings alleged to have been committed by guerrilla groups. In the department of Arauca the authorities attributed most of the 142 murders of civilians reported during the first nine months of the year to ELN and FARC-EP.

19. On 9 February, in Algeciras, Huila, FARC-EP allegedly murdered a journalist and local councillor as part of what appears to be a campaign against mayors and councillors in the region. On 30 April, in Ituango, Antioquia, the Office noted the killing, allegedly by FARC-EP, of a girl of 14 earlier accused of having a relationship with a member of the security forces. On 12 August, in Yarumal, Antioquia, FARC-EP is alleged to have murdered the municipal welfare director while he was on an official mission. On 17 October FARC-EP allegedly murdered the Chairperson of the Community Action Board of Tierra Alta, Córdoba, whom they accused of collaborating with the army.

20. ELN is alleged to have murdered the Chairperson of the Municipal Council of Saravena, Arauca, on 5 February. On 1 May, in Morales, Bolívar, ELN guerrillas allegedly murdered a person accused of collaborating with the army. They subsequently made threats against others in the same town, on the basis of the same accusations, resulting in the displacement of around 18 families. ELN allegedly killed the leader of the Arauquita Displaced Persons Association on 28 November in Arauquita, Arauca.

21. OHCHR Colombia also noted death threats from guerrilla groups. Several municipal attorneys also reported receiving death threats from guerrilla groups; on 23 January, for example, FARC-EP allegedly threatened the municipal attorney in Villarica, Tolima.

22. On 6 March FARC-EP set up a roadblock on the Samaná-Victoria (Caldas) road, where they are alleged to have killed the driver of a public transport bus and then burnt the bus. On 27 October, in the middle reaches of the Atrato River in Chocó, a municipal transport boat carrying 18 civilians was fired on, allegedly by FARC-EP, causing the death of 1 person and injuries to 4 others.

23. OHCHR Colombia recorded several terrorist incidents, which the authorities attributed to FARC-EP, including one in Buenaventura, Valle del Cauca, on 10 June, when a device placed on a central reservation on a road exploded, injuring 12 people.

24. OHCHR Colombia was informed that, in El Decio in Samaniego, Nariño, ELN has stepped up its laying of anti-personnel mines since January, giving rise to several incidents and cutting off the village. This situation resulted in turn in the cutting off of several rural areas of the municipality and mass displacement.

25. On 17 February, in Yarumal, Antioquia, an anti-personnel mine thought to have been planted by FARC-EP killed one person and injured three others, one of them a child of 3. On 5 August, in El Tarra, Norte de Santander, a 16-year-old died after accidentally detonating an anti-personnel mine thought to have been laid by ELN.

26. The planting of anti-personnel mines by FARC-EP was one of the main causes of the displacement of several families in Canelos in Santa Rosa, Bolívar, on 14 January.

27. On 11 June, anti-personnel mines thought to have been laid by FARC-EP near the coca plantations surrounding the village of Santa Rosa in Puerto Asís, Putumayo, cut the village off and resulted in shortages of food and medicine.

28. OHCHR Colombia also received complaints that guerrilla groups were still recruiting children in several departments including Antioquia, Arauca, Caquetá, Norte de Santander, Putumayo and Valle de Cauca. In some parts of Caicedo, Putumayo, FARC-EP had threatened to start recruiting children in the area at the end of February. On 27 March, in the department of Caquetá, alleged threats by FARC-EP to recruit a child forced the family to flee. Also in March, in the department of Norte de Santander, a family was forced to move following alleged threats from ELN to recruit one of their minor children. In April FARC-EP apparently recruited three children in Palmira, Valle del Cauca, and one of them, a girl of 14, was allegedly subjected to sexual violence by the recruiters.

29. OHCHR Colombia received complaints of the recruitment and use of children by FARC-EP for military, logistical and intelligence activities, including one case in May in Ituango, Antioquia, where a child was apparently used to carry weapons and explosives.

2. Security forces

30. OHCHR Colombia has noted that police stations and army battalions are often located in populated areas, very near dwellings and other protected premises such as schools. On 10 May, for example, the Ayacucho Battalion occupied a school in Guayaquil in Pueblo Nuevo, Caldas. On 14 May the Office found that the army had set up a military camp in the school in Santa Cruz, Cauca.

31. On 5 October the 59th Anti-Guerrilla Battalion of the 27th Jungle Brigade turned up at the indigenous community council of Nasa de San Luis Alto Picudito in Villagarzón, Putumayo, and started asking people questions and taking photographs. That prompted FARC-EP to threaten the villagers, whom they accused of being army informers.

32. OHCHR Colombia received information on arbitrary restrictions imposed by the army on the transport of persons and goods such as food, medicines and fuel. Since January, for example, troops of the 20th Mobile Brigade have been restricting the transport of food to several districts of the municipality of El Dovio, Valle del Cauca, as a strategy in their campaign against the illegal armed groups.

33. OHCHR Colombia has received reports of injuries to civilians, including children, caused by crossfire in clashes between the army and FARC-EP in rural areas of the department of Arauca. In one incident on 15 September, an 18-month-old girl was shot and lost an eye.

3. Kidnappings

34. The guerrilla groups continued kidnapping people. In one case four students, one of them a minor, were allegedly kidnapped by FARC-EP on 5 October in San José de Purré in Quibdó, Chocó. On 22 March a doctor was allegedly kidnapped by FARC-EP in Ocaña, Norte de Santander.

35. On 31 July five workers at a contractor for Ecopetrol were kidnapped in the town centre of Orú in Tibú, Norte de Santander, allegedly by ELN.

E. Illegal armed groups that have emerged since demobilization of paramilitary organizations

36. OHCHR Colombia has noted that offences thought to have been committed by illegal armed groups that have emerged since the paramilitary demobilization have led to high levels of violence against the civilian population.

37. Some of the killings allegedly committed by such groups could be characterized as “social cleansing”, but in some municipalities and departments the rise in the number of killings seems to be attributable to disputes between the groups themselves over control of territory and illicit trade. Thus during the reporting period at least 70 people are thought to have died in Córdoba department alone as a result of clashes between a group apparently headed by someone known as Don Mario and another group called Los Paisas.

38. In January more than 50 selective killings in the cities of Barrancabermeja, Bucaramanga and Cúcuta alone were reported to OHCHR Colombia.

39. In May, in the community of Pizarro de Bajo Baudó, Chocó, nine people were allegedly killed by a group known as Los Rastrojos. The same group allegedly murdered a prostitute in Orito, Putumayo, on 26 March. A community leader from Curvaradó, Chocó, was murdered on the day he was to testify against a number of paramilitaries in a Medellín court.

40. On 24 May, the group known as Autodefensas Campesinas Nueva Generación (New Generation Peasant Self-Defence Forces) (AC-NG) allegedly forced more than 200 displaced persons who had arrived in Sánchez in Policarpa, Nariño, at the beginning of the month, to return to their homes. AC-NG are allegedly responsible for death threats against human rights

organizations in the department of Nariño, such as those reported on 12 February against the Unidad Indígena del Pueblo Awá (Awá People's Indigenous Unit) (UNIPA), the Standing Committee for the Defence of Human Rights and Pastoral Social.

41. On 15 June some 100 families were displaced from San José La Turbia, Nariño, allegedly by a group called Águilas Negras.

F. Vulnerable groups

1. Human rights defenders and trade unionists^a

42. OHCHR Colombia received reports of several murders of trade union and social leaders and human rights defenders. On 10 December 2008, for example, the remains of a well-known local human rights defender and social leader were found in the municipality of San Vicente de Caguán, Caquetá. The body had been burnt and decapitated, and showed signs of torture. On 9 February, in Balboa, Cauca, a trade union leader was stabbed to death. On 9 March, in San Vicente de Caguán, Caquetá, a trade union leader disappeared in the town centre and was found dead three days later with 11 stab wounds. On 16 May a member of the Comité Cívico Amor por Cartago (Love of Cartago Civic Committee) in Cartago, Valle del Cauca, was murdered and other members of the committee received death threats; and on 28 October FARC-EP allegedly killed a community leader in Puerto Leguizamo, Putumayo.

43. OHCHR Colombia received reports of death threats against NGOs and trade unions and their members, as well as attacks and robberies. The municipal attorney of San Miguel, Putumayo, has been receiving death threats since January. In Medellín, Antioquia, members of several trade unions and social and political associations were followed and intimidated between 4 February and 18 September, and received anonymous death threats. On 29 February an attempt was made on the life of a member of the Standing Committee for the Defence of Human Rights in the department of Risaralda. On 20 April information on cases concerning human rights violations, and on the victims and perpetrators, was stolen from the Red Juvenzar (Juvenzar Network) in Valledupar, Cesar. In Saravena, Arauca, on 19 November, an explosive device went off in a building where several social organizations were based: the Asociación Juvenil y Estudiantil Regional (Regional Youth and Student Association) (ASOJER), the Asociación Departamental de Usuarios Campesinos (Departmental Peasants' Association) (ADUC), the Asociación Amanecer de Mujeres por Arauca (Dawn for Women of Arauca Association) (AMAR), the Asociación de Desplazados (Displaced Persons Association), the Confederation of Colombian Workers (CUT) Arauca office and the Fundación Comité Regional de Derechos Humanos Joel Sierra (Joel Sierra Regional Human Rights Committee Foundation).

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

^a Examples of unlawful arbitrary detention of human rights defenders and social leaders are given in section B above.

2. Indigenous communities and peoples and Afro-Colombian groups

45. The Office received information on the murder 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 former 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 taking part in a demonstration near the La María reservation in the village of Piendamó, Cauca, was shot and killed, allegedly by the police.

46. On 22 January, following clashes between FARC-EP and the army, FARC-EP allegedly made death threats against the members of the Siona Bajo Santa Helena indigenous assembly in Puerto Asís, Putumayo, accusing them of collaborating with the security forces.

47. On 18 June, members of FARC-EP allegedly fired 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 Tacueyo indigenous reservation in Toribio, Cauca, clashes between the security forces and FARC-EP caused the displacement of over 600 people.

48. The Office was also informed of killings of Afro-Colombian leaders, and threats against them; on 25 June, for example, a member of the Community Council of Bajo Mira and Frontera de Tumaco, Nariño, was murdered. Since February, FARC-EP have also allegedly been threatening the representative of the Corporación Afro-Colombianos del Pacífico (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.
