



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2003/13
24 February 2003

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-ninth session
Item 3 of the provisional agenda

ORGANIZATION OF THE WORK OF THE SESSION

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

* The annex to the report is being circulated in the original language and English only.

** In accordance with General Assembly resolution 53/208 B, paragraph 8, this document is submitted late so as to include the most up-to-date information possible.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Executive summary		4
I. INTRODUCTION	1 - 4	9
II. NATIONAL CONTEXT	5 - 24	9
III. INTERNAL ARMED CONFLICT	25 - 40	12
(a) Guerrilla groups	30 - 31	13
(b) Paramilitary groups	32 - 34	14
(c) Security forces	35 - 38	15
(d) Importance of a peace negotiation process	39 - 40	16
IV. HUMAN RIGHTS SITUATION	41 - 54	16
V. SITUATION WITH REGARD TO INTERNATIONAL HUMANITARIAN LAW	55 - 58	18
VI. AREAS OF SPECIAL CONCERN OR IMPORTANCE	59 - 115	19
1. The rule of law and security policy	59 - 77	19
(a) State of internal commotion	63 - 66	20
(b) Rehabilitation and consolidation zones	67 - 69	21
(c) Situation in the former demilitarized zone	70 - 73	22
(d) Paramilitarism	74 - 77	22
2. Administration of justice and impunity	78 - 87	24
(a) The prison situation	84 - 87	25
3. Enforced displacements	88 - 94	26
4. Ethnic groups	95 - 101	27
5. Human rights defenders	102 - 108	28

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
6. Fundamental freedoms	109 - 115	30
(a) Freedom of association	109 - 110	30
(b) Freedom of opinion and expression	111 - 112	30
(c) Freedom of conscience and religion	113	31
(d) Political rights	114 - 115	31
VII. FOLLOW-UP ON INTERNATIONAL RECOMMENDATIONS	116 - 130	32
VIII. ACTIVITIES OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS IN COLOMBIA	131 - 151	35
1. Advisory and technical assistance activities	135 - 151	35
(a) Cooperation in human rights and international humanitarian law training	137 - 144	36
(b) Cooperation in institution-building	145 - 151	37
IX. RECOMMENDATIONS	152 - 181	38
(a) Prevention and protection	155 - 162	38
(b) The internal armed conflict	163 - 168	39
(c) The rule of law and impunity	169 - 175	40
(d) Economic and social policy	176	41
(e) Promotion of a human rights culture	177 - 179	41
(f) Advisory and technical assistance by the Office	180 - 181	42
X. MAP OF COLOMBIA. Territorial and administrative division. Rehabilitation and Consolidation Zone. Former demilitarized zone		43
ANNEX. Situation of human rights and international humanitarian law. Main breaches and violations		48

Executive summary

This report on Colombia by the United Nations High Commissioner for Human Rights covers the period from 1 January to 31 December 2002, in response to the request made by the Commission on Human Rights at its fifty-eighth session.

National context

The report analyses the national context and reviews political, military, economic, institutional and social factors which in the course of 2002 presented Colombia with many problems, difficulties and challenges in maintaining the principles of the rule of law, respect for human rights and compliance with international humanitarian law. These factors include the breakdown of the peace process between the Government of President Pastrana and the Revolutionary Armed Forces of Colombia - People's Army (FARC-EP) on the one hand and the National Liberation Army (ELN) on the other, the impact on the deterioration of the armed conflict of acts of violence, many inspired by terrorism, perpetrated by both guerrilla and paramilitary groups, the persistence of complaints and reports of connections between public officials and paramilitary organizations, and the obstacles to the due exercise of political rights arising from the pressures brought to bear on candidates and voters by outlawed groups. The March elections for Congress and the presidential elections in May were two important vantage points on the political scene in 2002, shedding light on the human rights situation in the closing months of President Andrés Pastrana's Government and the first 100 days of President Álvaro Uribe's.

Other factors analysed are the adoption and development of a security policy by the new Government, which took office on 7 August, the measures adopted as a result of the declaration of a state of internal commotion, the preparations made for a constitutional referendum in 2003, moves undertaken to initiate a dialogue with paramilitary groups, and the difficulties the country is facing in terms of indebtedness, the fiscal deficit and the progressive development of economic, social and cultural rights.

As the year drew to a close, a series of challenges were discernible in the national context. To mention only a couple, there were the persistent deterioration of the armed conflict, and the difficulties facing any effort to seek a gradual political solution to the conflict through properly structured peace negotiations. In this respect it is clear that the good offices of the Secretary-General, through his Special Adviser, should be considered, from the point of view both of restarting the process of rapprochement between the Government and FARC-EP and of continuing the dialogue between the Government and ELN.

Another challenge is the one regarding contacts, dialogue and possible negotiations between the Government and paramilitary groups. It is worth clarifying which of the conditions put forward by the leaders of the United Self-Defence Groups of Colombia (AUC) may be accepted without jeopardizing the rule of law and without detracting from the fundamental rights of truth, justice and reparation.

Another challenge for the Government and the country's economic sectors arises from the need for both of these, taking full account of the requirements of economic, social and cultural rights, to reduce the existent inequality.

Of equal importance for the Government, for Congress and for the democratic sectors of the country is the challenge of seeking and achieving higher levels of agreement and mutual support in the task of promoting and protecting human rights. In particular, the executive and legislative branches are faced with the challenge of ensuring that all proposed legislation concerning the defence of public order, the administration of justice and the operation of supervisory bodies should comply with the instruments adopted by the international community in order to guarantee the democratic exercise of power and the effective implementation of human rights and fundamental freedoms.

Internal armed conflict

The report highlights the serious impact of the armed conflict on the situation of human rights in the country and the challenges that the conflict poses for an effective State response to the humanitarian crisis. It also points out the significant deterioration of the armed conflict and the increasing cruelty of the methods of combat used by the illegal armed groups, which aggravate the vulnerability of the civil population. In that respect, it analyses the behaviour of the guerrilla groups, of the paramilitary groups and of the security forces. The report highlights the importance of a structured peace negotiation process with appropriate parameters and criteria, offering clear prospects of success and including at an early stage commitments on human rights and international humanitarian law issues.

Human rights situation

The report recognizes that factors such as the degradation of the armed conflict, drug-trafficking and the economic crisis have had a damaging impact on the human rights situation and the capacity of the State to protect and guarantee these rights. The criminal behaviour of the illegal armed groups has made clear their lack of respect for the fundamental rights to life, personal integrity and individual freedom. Their repeated attacks on public infrastructure increase the challenges facing the State in trying to provide an effective response to the critical situation. It also reports that the new Government has announced its intention to comply with international and constitutional obligations concerning human rights. Amongst the State's achievements in this field, the report underlines such things as the ratification of various international instruments, advances in institutional coordination and the uniform system of registering the displaced population, the jurisprudence of the Constitutional Court upholding fundamental safeguards and the interest of various public institutions, for example, the Vice-Presidency, the Ombudsman, the Procurator-General's Office and the Senate, in strengthening their cooperation with the Office of the United Nations High Commissioner for Human Rights in Colombia.

The report describes the situation regarding civil and political rights as critical. It notes that in 2002 there were grave, massive and systematic violations of those rights, several of them constituting crimes against humanity. Extrajudicial executions (massacres as well as individual or selective killings), acts of torture, cruel, inhuman or degrading treatment, operations involving a disproportionate use of force, enforced disappearances, illegal or arbitrary arrests, unlawful impediments to free internal movement, enforced displacements, arbitrary or illegal interference in privacy and the home, and breaches of due process and judicial guarantees were recorded. The report points out that those responsible for these violations were public officials implicated in serious abuses of power, failure to act or open collusion with paramilitaries.

The report relates a significant increase in reports of violations attributed directly to members of the Security Forces, as compared to the year 2001. Several of these acts were committed pursuant to the new Government's security policy and in particular to enforce the norms adopted under the state of internal commotion declared in August. Some were carried out with the participation or authorization of members of the Office of the Attorney-General.

In its analysis of the situation regarding economic, social and cultural rights in Colombia, the report comments on problems such as profound economic and social exclusion, widespread poverty and deep inequality, that manifest themselves in high levels of unemployment, insufficient educational coverage, serious shortcomings in the provision of health services and social security, and a significant reduction in State-subsidized housing.

The report also identifies the specific difficulties affecting the recognition and protection of the rights of women and children. Despite some legislative advances, it highlights in particular the absence of an integral policy regarding gender issues, the persistence of sexual discrimination and marginalization and the persistence of sexual and family violence.

Situation of international humanitarian law

The report notes the substantial increase in war crimes and the frequent victimization of civilians, as compared to the year 2001. Many of these acts could constitute crimes against humanity. Among the most noteworthy breaches of international humanitarian law, many of which are recurrent and massive, the report mentions killings, death threats, attacks on the civilian population, indiscriminate attacks, acts of terrorism, assaults on personal dignity, hostage-taking, enforced displacement, attacks on medical personnel and units, attacks on civilian property and the use of anti-personnel mines. That section also considers the situation of children and women who are victims of the armed conflict. The report points out that responsibility for most of the unlawful behaviour should be attributed to members of the guerrilla and paramilitary groups. It notes, however, that during the period covered there were an increased number of complaints of breaches of humanitarian rules by members of the security forces.

The report underlines that the use of some methods or means of war prohibited under international humanitarian law and a change in strategy by the illegal armed groups, have done much to aggravate the armed conflict. Among them it highlights the attacks on civilians and the increasing use of terror by illegal armed groups, particularly FARC-EP.

Situations of special concern and importance

The report analyses various areas of special concern or importance to the Office of the High Commissioner. These include the maintenance of the rule of law and the adoption and implementation of a new security policy, measures related to the state of internal commotion, the actions of the security forces in the rehabilitation and consolidation zones, the situation in the former demilitarized zone, the rise and strengthening of paramilitary groups, the shortcomings of the judicial system and its failings in the battle against impunity, the unsatisfactory conditions in prisons, enforced displacement, the victimization of ethnic groups, the critical situation of human rights defenders and other members of vulnerable groups, and the existing problems related to the exercise of fundamental freedoms (freedom of association, freedom of opinion and expression, freedom of conscience and religion, and political rights).

The report points out that the State still does not have an effective and coherent policy on human rights and international humanitarian law. This deficiency is visible in the weakness of its preventative policies, which contributes to the worsening situation in both areas. This has significantly increased the number of displaced persons, and added to the vulnerability of human rights defenders, who suffer intimidation, threats, attacks and stigmatization, even from public servants.

Among areas of special concern, the report highlights factors and conditions that tend to weaken the rule of law, as manifested in repeated problems or crises of governability, and recurrent errors in applying the principle of the rule of law. This tendency is reflected in the interference in the exercise of public functions by members of paramilitary groups and in the persistence of links between public servants and members of these groups. The preferential adoption of certain repressive and military policies to the detriment of civil institutions is also pernicious. The report makes reference to the adoption and implementation of provisions incompatible with international norms and the National Constitution, such as several of those contained in Decree 2002, which was adopted in the context of the state of emergency. The main causes of concern in this field include the attribution to the military of functions of the judicial police and the arbitrary restriction of fundamental rights and freedoms.

Another issue of concern is the conduct of institutions that compromise judicial independence and impartiality. As an example of this, one can point to decisions by the Office of the Attorney-General to remove or transfer investigators, the position taken by the Attorney-General on the exercise by members of the armed forces of judicial functions normally belonging to the police, and his support for measures to control public order that were subsequently declared unconstitutional by the Constitutional Court.

Follow-up on international recommendations

The report follows up international recommendations on the protection of human rights, armed conflict, the rule of law and impunity, the ratification of international instruments, the conformity of domestic legislation with international principles and rules, the adoption of measures in favour of economic, social and cultural rights, the promotion of a human rights culture, and technical advice and cooperation. It finds that in many cases no significant progress

has been made towards implementing these recommendations. However, it highlights positive elements such as the ratification of the Rome Statute of the International Criminal Court (despite the Government's reservation on the competence of the Court on war crimes), the passage of legislation making it a crime to traffic in human beings, the evaluation of the protection programmes of the Interior Ministry, the adoption of legislation to comply with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction and the creation of the Anti-personnel Landmines Observatory, and the adoption of measures to widen the territorial coverage of early warning systems and to strengthen governmental participation in these systems.

Activities of the Office in Colombia

A section of the report summarizes the work carried out in 2002 by the Office of the United Nations High Commissioner for Human Rights in Colombia in the performance of the duties of observation, legal advice, promotion and dissemination, and technical cooperation referred to in its mandate. The mandate has benefited several State institutions, among them the Office of the Procurator-General, the Office of the Ombudsman and the High Council of the Judicature, which have welcomed the Office's advice and cooperation in their efforts to improve the human-rights-related activities of their institutions. Office activities have also been directed towards civil society organizations. The Office in Colombia has been able to initiate fluid and frequent communication with the new Government, in particular with the Vice-Presidency and the Ministry of Foreign Affairs. The new Director of the Office assumed his functions in October.

Recommendations

The report concludes with a series of concrete and high-priority recommendations by the Office of the High Commissioner as regards human rights and international humanitarian law for the year 2003, in the belief that their implementation could contribute sensibly to improve the situation in Colombia. The recommendations cover important matters such as prevention and protection, the internal armed conflict, the rule of law and impunity, economic and social policies, the promotion of a culture of human rights and the advisory and technical cooperation activities of the Office. The recommendations are addressed to the national authorities, all parties to the internal armed conflict and representative sectors of civil society.

I. INTRODUCTION

1. The Commission on Human Rights has been following the human rights situation in Colombia with concern for several years. This concern has been reflected in successive statements by the Commission's Chairperson. In 1996 the Commission requested the Office of the High Commissioner to establish an office in Colombia, pursuant to the invitation extended by the Government of Colombia.
2. The Office of the United Nations High Commissioner for Human Rights in Colombia was established on 26 November 1996 under an agreement signed by the Colombian Government and the then United Nations High Commissioner for Human Rights. Under the terms of the agreement, the Office is to observe the situation regarding human rights and international humanitarian law with a view to advising the Colombian authorities on the formulation and implementation of policies, programmes and measures for the promotion and protection of human rights, against the current background of violence and internal armed conflict in the country. The High Commissioner should thus be able to submit analytical reports to the Commission. The agreement has been extended, at President Alvaro Uribe's suggestion, until September 2006.
3. Addressing the Commission on Human Rights at its fifty-eighth session, the Chairperson said that the Office in Colombia "played a vital role in addressing the ongoing violations of human rights and international humanitarian law being perpetrated in Colombia" and requested the High Commissioner to submit "a detailed report containing an analysis by her Office of the human rights situation in Colombia".
4. This report deals with the period between January and December 2002. It is based on information gathered by the Office of the United Nations High Commissioner for Human Rights in Colombia, either directly or through its contacts, and subsequently analysed by that Office. Special importance attaches to the recommendations with which it concludes.

II. NATIONAL CONTEXT

5. In 2002, various political, military, economic and social factors made for a complex and difficult situation in Colombia. By the end of the year, the country was facing many formidable problems, difficulties and challenges in maintaining the principles of the rule of law, respect for human rights and compliance with international humanitarian law. Another important element to emphasize was the change of Government that occurred on 7 August when the new President, Alvaro Uribe, took office.
6. The peace initiatives which the Government of President Andrés Pastrana had launched in 1998, soon after taking office, with the two main guerrilla groups - Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo (The Revolutionary Armed Forces of Colombia - People's Army, FARC-EP) and Ejército de Liberación Nacional (The National Liberation Army, ELN) - ended abruptly in the first months of 2002 without yielding the positive results that many sectors in the country had been hoping for.

7. In particular, the way in which negotiations with FARC-EP were conducted and ended indicated a greater polarization of ideas and feelings in broad sectors of civil society regarding Columbia's present and future. At the start of the year, just as the two parties were managing, thanks to greater mediation by the international community and the Church, to overcome one of the worst crises that had occurred in the whole process and had established a firmer timetable for negotiating issues of direct concern to the civilian population, a distinct increase in violence by the guerrilla forces led the Government to break off the process and regain military control of the so-called "demilitarized zone". On the other hand, on the Government side, no clear steps had been taken in the preceding months to correct the course of a process which had lost social support and credibility owing to a complete lack of tangible results.

8. After negotiations between the Government of President Pastrana and FARC-EP were finally broken off, on 20 February, shortly after FARC-EP hijacked a plane in which Senator Jorge Gechem Turbay was travelling, violations of international humanitarian law became even more pronounced and frequent. The kidnapping of the Governor of Antioquia and his peace adviser and former Minister of Defence, in April, is a case in point. The Government of President Pastrana also failed to achieve any significant results in its dialogue with ELN. Throughout the year, this guerrilla group continued to be involved in serious breaches of international humanitarian law.

9. Meanwhile, the State continued to make ineffectual attempts to counter the violence of the so-called paramilitary groups, especially the Autodefensas Unidas de Colombia (United Self-Defence Groups of Colombia, AUC), and to attenuate the influence exerted by the latter on certain sectors of government and on local notables. Complaints continued to be received during 2002 of links between members of the paramilitary groups and State officials.

10. Drug trafficking, in its various complex dimensions, continued to be one of the negative factors bound up with the armed conflict. The production and marketing of narcotics is a substantial source of revenue for the various illegal armed groups, while generating violence in areas where the plants are grown and social confrontation between many communities. It also gives rise, directly and indirectly, to many enforced displacements and is a major factor in corruption in administrative affairs.

11. Despite many threats and repeated violence, attributable both to the guerrilla groups and the paramilitaries, the country was able to hold the two elections planned for 2002, though both took place in a climate of tension and polarization. Congressional elections were held on 10 March and presidential elections on 26 May. On both occasions the blatant weakness of the political parties adversely affected the overall functioning of the democratic system.

12. During these two elections, the antidemocratic pressures brought to bear on many sectors of the population by the illegal armed groups were manifest. Through violence and terror, the guerrilla groups and the paramilitaries succeeded in affecting the exercise by a substantial number of Colombian citizens of their political rights. In about 110 municipalities in the country (out of a total of 1,100), neither were voters allowed complete freedom to cast their votes, nor were candidates able to conduct their campaigns under conditions of full equality and security. One example of this was the kidnapping of presidential candidate Ingrid Betancourt. Voter turnout in the two elections was 43 per cent and 46 per cent respectively.

13. In the legislative elections held in March, most congressional seats were won by supporters of Alvaro Uribe. In the presidential elections held in May, the winner turned out to be the opposition liberal candidate, Alvaro Uribe, who obtained 53 per cent of the votes cast, making a second round of voting unnecessary. During his electoral campaign, Mr. Uribe, as a mainstay of his programme, had emphasized what he referred to as “a policy of democratic security”, based chiefly on confronting the insurgency with the military power of the State. However, in the statement he made on taking office, the new Head of State declared himself to be willing, under certain conditions, to seek dialogue and negotiation with the rebel groups. In the same statement, Mr. Uribe announced that his Government would initiate a process of significant constitutional reform by referendum.

14. The main points of the “policy of democratic security” included the strengthening of the armed forces, an increase in the numbers of military and police personnel, the creation of a network of informers and helpers among the civilian population and a new system for recruiting soldiers among the peasantry.

15. On 7 August, during the inaugural ceremonies, mortars were fired in the centre of Bogotá, causing the death of 21 civilians, injuring 100 others and spreading terror in the neighbourhood where the attack, attributed to FARC-EP, took place. Four days later, invoking article 213 of the Constitution, the new Government issued Decree No. 1837 of 2002, in which it declared a state of internal commotion throughout the national territory. In its Ruling No. C-802, delivered on 2 October, the Constitutional Court decided that the declaration was in conformity with the Constitution.

16. Under the terms of Decree No. 2002, issued on 11 September, the Government took stern measures to restore public order. This decree redrew the rehabilitation and consolidation zones, established a procedure for defining their boundaries and laid down rules for their operational monitoring. It also made it possible to restrict freedom of movement and residence in those areas, to limit the movement and residence of foreigners, to make use of privately owned property and to oblige citizens to supply technical or professional services.

17. In a ruling issued on 25 November, the Constitutional Court declared several of the provisions in Decree No. 2002 unconstitutional, including those allowing the security forces - including the military - to carry out arrests, conduct searches and intercept mail and telephone calls with or without a warrant.

18. Some of the legislative proposals submitted by the Government to Congress, such as the reforms of the tax, labour and pension systems, also attracted criticism. By the end of the year these reforms had been made law (see chapter VII of this report).

19. The proposed referendum put forward by the Government, which was debated in Congress for more than four months, took the form of a set of questions on a number of very different issues, on which citizens will be asked to vote in 2003.

20. The new Government gradually became aware of serious difficulties related to the country's high debt and budget deficit. It thus had to adopt vigorous austerity measures to curb public expenditure, which reduced its scope for satisfactorily implementing social policies to improve the general welfare and the quality of life for the population.

21. The new administration took some steps to renew contact, through the good offices of the Secretary-General, with FARC-EP to discuss such topics as "humanitarian exchange". The direct contacts it maintained with ELN raised the hope in many quarters that they might lead before long to the announcement of a ceasefire by this rebel group. As this report was being finalized, however, the discussions that had begun outside the country appeared to be at a standstill.

22. Towards the end of the year, Congress adopted Act No. 782 of 2002, by which it authorized the Government to begin dialogue and negotiations and sign agreements with spokespeople or representatives of outlawed armed groups without first granting them political recognition as the law had previously required.

23. The President of the Republic asked the Catholic bishops to intervene in order to open up a channel of communication with AUC. As a result of the Church's mediation efforts, the main paramilitary leaders announced the beginning of a ceasefire early in December and expressed a willingness, subject to certain conditions, to undertake discussions and negotiations with the Government, leading to the signing of a peace accord. Towards the end of December, the Government formed an exploratory commission that would study the viability of a peace process with this group. This new attitude on the part of the paramilitaries, which was welcomed by Government spokesmen and representatives of civil society, raises a number of questions, including how, from a legal point of view, to deal with the war crimes perpetrated by members of AUC, and what is to become of the rural properties which in recent years have been expropriated by force in areas under their control.

24. While opinion polls at the end of the year reflected broad public support for the new Government, analysts noted that certain events, situations or tendencies might tarnish this favourable attitude at some stage in the future. This could be the case, for instance, if there is no improvement in the economy, if the negative indicators of spreading poverty and rising unemployment persist, or if sufficient concrete action, resulting in increased security and protection for the population, and an end to kidnapping and sabotage, failed to materialize.

III. INTERNAL ARMED CONFLICT

25. The internal armed conflict, on account of both its magnitude and the deterioration of the methods of combat used, has undoubtedly had a considerable impact on the enjoyment and exercise of the fundamental rights and freedoms of the population and on the human rights situation in general. The challenges besetting the Government in terms of responding effectively to the humanitarian and human rights crises have multiplied as a result. The cost of the fighting for Colombian society reflects the crude impact of the conflict and diverts attention from other fundamental human rights issues. If the resources devoted to the conflict could be used for other purposes, substantial changes could be brought about in many key aspects of civil, economic, cultural, social and political rights in Colombia.

26. A marked deterioration occurred in the armed conflict as a result of the increased fighting and the enlargement of the area under dispute to include urban areas,¹ thus increasingly affecting the civilian population. This tendency became more marked at the beginning of 2002 with the crisis in the peace negotiations between the Government and FARC-EP, and matters worsened further when the peace talks and agreed demilitarized zone were abandoned.

27. The number of clashes between armed groups rose in 2002 compared with a year earlier, leading to an increase in the number of deaths among combatants that is hard to determine, since many casualties are not recorded as homicides and because illegal armed groups tend to take their dead away with them. According to the Office of the Vice-President,² the municipalities most affected by the fighting were those of the Pacific area, Urabá (Antioquia and Chocó), Arauca and Casanare, those of Eastern Antioquia and those of the south of Bolívar. A high homicide rate coincided with fighting in several municipalities in those departments, and in the cities of Medellín (Antioquia) and Cúcuta (Norte de Santander).

28. Events like the FARC-EP attack on civilians in the municipality of Bojayá (Chocó), in May, or the clashes between illegal armed groups and security forces in neighbourhoods of Medellín, with their high cost in human lives, show how difficult it has been for the Government to protect the civilian population and to enforce the principles of distinction and proportionality. The new Government changed its strategy on armed conflict by pursuing a security policy aimed at strengthening the military capacity of the State and at regaining control over several parts of the country, especially the road network. An important facet of the new strategy concerned the rehabilitation and consolidation zones.³ According to the Ministry of Defence, the military operations launched after peace talks ended, which were stepped up by the new Government, resulted in an increase in the number of captures (particularly of members of the guerrilla forces) and casualties among members of the outlawed armed groups (by 44 per cent and 52 per cent respectively).

29. FARC-EP, ELN and the paramilitary groups held their ground with a high concentration of military force in peripheral areas, even seeking control of strategic zones, which offered either a direct outlet to the sea or a corridor for the transit and trafficking of drugs and arms. Furthermore, moves by FARC-EP in some departments of the country, such as Cauca, were backed by ELN forces in a strategic alliance directed against the paramilitaries. Simultaneously, the conflict became increasingly urbanized, as a result partly of the strategy adopted by guerrilla groups to bring the fighting to the cities in order to put greater pressure on the Government and to enhance their negotiating power, and partly of the paramilitaries' policy of concentrating their action in urban areas in order to control operations in rural areas. Greater conflict in urban areas also reflected a strategy of achieving objectives by neutralizing, manipulating or sponsoring gangs of common criminals. In Comuna 13 of Medellín alone, the Antioquia authorities recorded 442 violent deaths among troops and civilians between 1 January and 9 October 2002. This represents an increase of over 100 per cent compared with 2001.

(a) Guerrilla groups

30. As pointed out above, the guerrilla groups stepped up their attacks. Pursuing their policy of attacking State institutions at all levels FARC-EP in particular adopted new war strategies, pulling back their forces in the countryside and avoiding excessive exposure to the security

forces. These strategies included threats and attacks against public officials, such as mayors or municipal ombudsmen, which caused serious disruptions to local democracy. The methods used to attack the civilian population, including more frequent hostage-taking and terrorist acts, combined with an intensification of their attacks on public infrastructure, threaten the country's political and economic integrity and seriously restrict public life. The indiscriminate use of inappropriate weaponry has had the effect of victimizing the civilian population. The new strategy of open war on anything to do with the State has made the country much harder to govern and badly affected regional institutions. It would appear also that kidnappings by FARC-EP were intended not only to fill its war chest but also to make the group's presence felt in defiance of the Government's policy, already challenged by acts of terrorism.

31. As for ELN, the difficulties it has encountered as a result of increased attacks by the Army and the paramilitaries have affected its offensive capacity probably more than the conciliatory strategy of some of its leaders, who opted for a low-profile approach. Nevertheless, it has maintained its ability to destabilize, particularly by destroying economic infrastructure and taking hostages.

(b) Paramilitary groups

32. Paramilitary groups have continued to expand into new regions and consolidate their presence in many of the areas they already dominated, while dealing with internal divisions and making repeated attempts to improve their public image, win greater political legitimacy and be considered as independent players in any possible peace process. In view of the fact that the new Government appeared prepared to negotiate with all the illegal armed groups, the paramilitaries developed strategies that included offers of agreements and negotiation. This shift has also been affected by external pressures on their leaders, such as requests for extradition lodged by the United States authorities.

33. In their search for legitimacy, and in order to lessen the impact of practices such as massacres, the paramilitary groups opted for selective killings and death threats, issuing specific instructions to this effect within their ranks. They extended their activities to new areas of Arauca, the former "demilitarized zone", Guaviare, Cundinamarca, Valle del Cauca, Sucre and Putumayo, among others. At the same time, they consolidated their activities in both rural and urban areas where they were already present. Such activities go beyond purely military aspects and include extortion and tighter control over the civilian population, plus control over access routes, State institutions and illegal trafficking (coca crops and contraband gasoline) and even agricultural, stockbreeding and commercial activities. In this way, paramilitarism has succeeded in permeating the social fabric by dominating its public and private sectors.

34. In their activities, the paramilitaries continued to take advantage of the lack of action, tolerance or complicity shown by public officials in several regions of the country. In many of these areas, the paramilitaries have replaced the Government in important aspects of public life, including the use of armed force.

(c) Security forces

35. Owing to the worsening armed conflict, the increased fighting, the redistribution of forces and the presence of different illegal armed parties, the security forces have been obliged to redefine their strategies and policies in response to the conflict. After the breakdown of the peace negotiations, and especially during the second half of the year, the security forces intensified their offensive against the guerrillas, causing significant losses in their ranks. The Army's mobile brigades switched from monitoring and containment to direct confrontation. On many occasions the Army directly engaged FARC-EP and ELN, and heavy fighting was reported in several departments, especially Eastern Antioquia and Urabá, Arauca, Casanare and Nariño.⁴ Alongside these new offensives, the Army increased the number of troops used to protect public infrastructure. In other departments, however, such as Chocó, Cauca and Caquetá, the Army made limited preventive efforts and was slow in its reactions. It is also reported that in some operations security forces were not properly identified.

36. According to the Ministry of Defence, operations by the security forces from January to October resulted in a notable increase in the number of captures and casualties among the subversive forces. Nevertheless, paramilitaries made up 26 per cent of the captures and 11 per cent of the casualties inflicted by the security forces. It should be borne in mind that such statistics are not easy to evaluate, since there is no means of knowing how many are really members of illegal armed groups and how many are civilians released after capture.

37. In areas where the Army applied its new offensive strategy mentioned above, there were complaints that on occasion the civilian population fell victim to a failure to distinguish between combatants and civilians. In this regard, an important factor has been the attack on alleged civilian "support networks" for the guerrillas, which was one of the announced objectives included in the measures adopted during the state of internal commotion and an integral part of the counter-insurgency strategy. The Army's strategy of cutting off the guerrilla forces' supplies wherever possible without then guaranteeing the principle of distinction, has, on several occasions, caused difficulties for the civilian population on account of blockades imposed on the transport of food, gasoline and other articles of prime necessity. That was the case in Sierra Nevada de Santa Marta and in Chalán (Sucre). On the other hand, shortcomings in military intelligence may well be to blame for inadequate warning and protection of the civilian population, for the failure to apply the principle of distinction, and for the adoption of questionable methods of combating violence, such as establishing networks of informers and conducting large-scale raids.

38. It is worth noting that several times the paramilitaries moved into and stationed troops in areas of the country where the security forces had previously conducted counter-insurgency operations. This occurred, for instance, in the municipalities of Mesetas, Vistahermosa and San Vicente del Caguán (the former demilitarized zone), in the province of Ocaña (Norte de Santander), in Curillo (Caquetá), and in Cravo Norte, Puerto Rondón and Tame (Arauca), and in Medellín.

(d) Importance of a peace negotiation process

39. The difficulty encountered with every attempt to establish peace may be explained in part by the prevalence of a unidimensional approach to solutions. The lack of any comprehensive outlook, chiefly because the military solution has been considered as the main or only answer to the problem, is a fundamental limitation. It is worth remembering that an end to the armed conflict would bring about a substantial reduction in human rights violations and halt breaches of international humanitarian law. If they incorporated fundamental human rights issues, peace negotiations could help to improve the situation. The good offices of the Secretary-General of the United Nations, through his Special Adviser, could help to establish peace negotiations between the Government, FARC-EP and ELN.

40. It is important that a negotiating process should adopt appropriate parameters and criteria so as to avoid the risk of unsuccessful negotiations, which would clearly disappoint public expectations and lead to a revival of repressive action by the security forces. What is needed is a properly structured and substantive negotiating process, which would, from the start, incorporate commitments in terms of human rights and international humanitarian law. Another key factor for guaranteeing a sustainable peace would be to give consideration to the eventual reintegration of rebel forces and to the theme of reconciliation, in a manner that would be compatible with the rejection of impunity and with respect for the rights to truth, justice and reparation.

IV. HUMAN RIGHTS SITUATION

41. Before analysing the human rights situation,⁵ it is worth detailing the conceptual parameters that apply to this subject. Actions and omissions affecting rights set forth in international human rights and international criminal law instruments,⁶ or in general international law norms, constitute violations of those instruments and norms when perpetrated by public servants or with the acquiescence of the authorities. Responsibility for these violations will be for omission when the obligation to guarantee is not complied with, provided that this lack of compliance is not deliberate and no State agents were involved in preparing for such acts or covering them up. Responsibility will be for commission when State agents are involved in the preparation or perpetration of an act, or in covering it up or protecting the culprits.

42. The human rights situation continued to be critical. Most affected were the rights to life, to physical integrity, to freedom and to due process. Serious violations involving extrajudicial executions, torture, cruel, inhuman or degrading treatment, the unnecessary or disproportionate use of force, forced disappearances, illegal or arbitrary detention, illegal impediments to free movement within the country, forced displacements, arbitrary or illegal interference in private life and the home, and violations of judicial safeguards were recorded. Given their serious, massive or systematic character, many of these violations amounted to crimes against humanity.

43. The human rights situation continued to be profoundly affected by the armed conflict. Attacks by illegal armed groups, especially FARC-EP and ELN, on public infrastructure undermined the capacity of the State to provide guarantees and protection. In the words of the new Government, "the internal armed conflict, its intensification and deterioration, the territorial

and judicial weakness of the State and the absence of any human rights culture are the basic factors on account of which these rights cannot be guaranteed". At the same time, it has recognized shortcomings in its response to the crisis, mentioning problems such as "inadequate institutional coordination, dispersed action and insufficient decentralization of human rights policy".⁷ The crisis is also shaped by the absence of effective overall policy on the matter. The new Government has indicated its intention of complying with its international and constitutional obligations on human rights issues.

44. In the context of this crisis, an increased number of complaints were received of violations of civil and political rights, including the right to life, attributed directly to the security forces, chiefly in the course of implementing security policies and emergency measures. A number of reported violations were blamed directly on public officials. In other cases, responsibility was attributed to the State as a result of inaction, tolerance, support or complicity with paramilitary groups on the part of public officials. The main victims were human rights defenders, trade union leaders, and members of indigenous, Afro-Colombian and rural communities.

45. Violations of the right to life included extrajudicial executions, both individual and collective, and death threats. The number of people dying in extrajudicial executions has declined somewhat over the past year, although it is worth noting that the national homicide rate has continued to rise. According to the Office of the Vice-President, it is hard to determine how many of the 23,354 homicides committed between January and October were human rights violations or war crimes, and how many were common crimes, since official statistics are lacking and many of these acts go unpunished. Massacres continue to be carried out, although victims of executions now appear to be more individually or selectively targeted. Reports of such violations include executions and massacres attributed directly to the security forces. The State was blamed for inaction or complicity in connection with executions and massacres attributed to paramilitary groups.

46. Some procedures undertaken as part of security policy, such as searches and arrests, led to civilian deaths. In other cases, they affected the right to individual freedom and personal security, through arbitrary deprivations of liberty and forced disappearances, and of the rights to privacy and the inviolability of the home. The latter cases included operation Orión in Medellín, in October, and others that affected social, human rights or peace organizations.

47. In some cases, actions attributed to public officials placed the lives of human rights defenders and trade unionists at risk. In others, members of the security forces were alleged to have made direct threats against the civilian population, either accusing people of sympathizing or collaborating with the guerrilla forces, or intimidating them with warnings of the impending arrival of paramilitaries.

48. The right to personal integrity was affected by the unnecessary or disproportionate use of force, and by cruel, inhuman or degrading treatment and torture, in particular in the context of prison mutinies, civil strikes, raids and searches.

49. There were violations of due process, especially the principles of legality, the presumption of innocence and other judicial guarantees, under the terms of Decree No. 2002, which authorized members of the security forces, including the military, to search and capture with written or verbal permission from the courts and without a warrant. Violations of the rights to have counsel present and to be heard by a competent, independent and impartial tribunal were also registered, and difficulties in gaining access to justice persisted.

50. With regard to economic, social and cultural rights, concerns continued to centre on the profound economic and social exclusion in the country, the high degree of poverty and the considerable inequality gap. The right to work was affected by high unemployment, underemployment and moonlighting and by flimsy pension coverage. Ensuring universal education and reducing illiteracy continued to be a problem despite the efforts that have been made in education in recent years. Health-care coverage increased, but deep differences persist between urban and rural areas. There was an increase in public housing starts, but a drastic decline in subsidized housing. The most vulnerable groups in this respect included displaced persons, children, women and ethnic minorities.

51. The situation as regards women's rights, despite some legislative advances, continued to be marked by discrimination, inequality, exclusion, family and sexual violence, and the trafficking of persons. Women make up 52 per cent of the population of Colombia.⁸ The Colombian Government has a number of legal tools for guaranteeing equal rights between men and women, eradicating violence against women, eliminating the conditions that generate discrimination and securing an adequate, effective female presence at decision-making levels.⁹ In this respect, the Office of the High Commissioner welcomes the draft legislation on equal opportunities currently before Congress. However, women continue to play a minority role in public affairs. They are underrepresented in the higher law courts and in Congress.¹⁰ It is worth noting, however, that 6 out of 13 ministries are held by women, including Foreign Relations and Defence, the latter being headed by a woman for the first time.

52. The armed conflict continued to affect women, revealing the special vulnerability of displaced women, and the need for specific State programmes to deal with this problem properly.

53. Of particular concern is the lack of comprehensive policies on women's rights. This implies a lack of budgetary, administrative and technical independence that hampers any attempt to launch programmes or projects aimed at improving the condition of women and promoting effective enjoyment of their rights. Equally, the Office in Colombia has not observed any effective move by the Government to investigate and punish violations of women's rights.¹¹

54. The rights of the child continued to be encroached upon by violence in the family, sexual abuse, child labour, discrimination and limited access to economic, social and cultural rights.

V. SITUATION WITH REGARD TO INTERNATIONAL HUMANITARIAN LAW

55. Before analysing the international humanitarian law situation,¹² it is important to establish the conceptual parameters of the subject. In the Colombian armed conflict, breaches of international humanitarian law are actions or omissions contrary to Article III common to the

Geneva Conventions of 12 August 1949 and the second Protocol additional thereto, to international criminal law and customary international law, committed for the most part by parties directly involved in the hostilities. In Colombia, international humanitarian law applies equally to the State, to the guerrillas and to the paramilitaries.

56. The worsening armed conflict has brought with it a substantial increase in breaches of international humanitarian law and more victimization of civilians. Breaches have included massacres, attacks on the civilian population and indiscriminate attacks, acts of terrorism, hostage-taking and forced displacements. Many of these breaches, perpetrated as part of a plan or policy or on a large scale are war crimes. Indeed, some of them could constitute crimes against humanity. Attacks by illegal armed groups against women and children have continued. Children in particular have been recruited and made to take part in hostilities, while women are chiefly subjected to sexual abuse and slavery.

57. Although the number of massacres is estimated to have decreased, the number of violent deaths continued to rise. In this respect, it is worth noting the increased incursions by FARC-EP, including acts of terrorism, death threats, selective killings and “social cleansing”, as well as indiscriminate attacks. The worst such attack, which occurred on 2 May 2002 in Bojayá (Chocó), caused the deaths of 119 civilians when a gas-cylinder bomb launched by FARC-EP during a clash with paramilitaries hit a church where a group of civilians had taken refuge.¹³ A number of such acts are also attributed to ELN. An increase was observed moreover in attacks on medical personnel and units, hostage-taking and the recruitment of minors by illegal armed groups. The paramilitary groups continued to perpetrate massacres, although they more often went in for selective killings and “social cleansing”. The illegal armed groups, especially FARC-EP, have adopted new pressure tactics including threats and attacks on public officials such as mayors and municipal ombudsmen, causing serious disruption to local democracy.

58. Reports of breaches of international humanitarian law by the security forces also increased, especially in connection with the principles of distinction, limitation and proportionality. The State added roadblocks, commonly used by all armed groups, to its policies for impeding support and supplies supposedly provided by civilians to the illegal armed groups: for example in Urrau (south-east Antioquia) and Bahía Solano (Chocó) in September and October, and in the river Atrato area. This approach to the problem is in fact suggested in Decree No. 2002, which says that criminal groups are blending into the civilian population. On the other hand, the State was clearly unable to prevent attacks by illegal armed groups or mount an adequate response to them. As the Government itself admits, the effectiveness of its preventive mechanisms has been limited.¹⁴

VI. AREAS OF PARTICULAR CONCERN OR IMPORTANCE

1. The rule of law and security policy

59. The critical human rights and humanitarian law situation, combined with the worsening armed conflict, has aggravated problems with governability and the rule of law. The problems are also due to indiscriminate action by illegal armed groups and the lack of a Government presence in several areas of the country. The paramilitaries have continued with their strategy of

usurping functions that properly belong to the State, taking advantage of the tolerance or passive attitude of the authorities and of some sectors of society. The expansion and consolidation of paramilitary forces in several areas under their control have enabled them to infiltrate the State system as part of their strategy, going so far in several regions as to set up a kind of parallel State, at great implicit risk to the continued enforcement of the rule of law. Perhaps the most blatant public sign of this de facto assumption of State functions, though by no means the only one, is the way they have imposed codes of conduct on the whole population. The Office in Colombia has received complaints of municipal or departmental decisions having to be approved by paramilitary chiefs, and of pressure being brought to bear on the choice of recipients of funds, with indications of where and how funds should be invested, or requiring public resources to be channelled through organizations under the paramilitaries' control.

60. The weakness of the rule of law was also clear from problems with the division of powers and the independence of each branch of Government within its own sphere of activities, the worst affected in this respect being the judiciary and legislature. Further risks come from some government policies, especially those aimed at strengthening repressive responses to the detriment of strengthening civilian institutions. In this connection, the Security and National Defence Act,¹⁵ adopted under the previous Government, was declared by the Constitutional Court to be incompatible with the Constitution and with the rule of law.

61. The new Government set out to restore the State's authority in several areas of the country. Under its "democratic security" policy, it declared a state of internal commotion (state of emergency), under which restrictions were imposed on fundamental rights and freedoms. The Office of the High Commissioner recognized the legitimate power of the State to adopt measures and policies regarding security and public order in a manner compatible with international commitments. Nonetheless, these programmes of action in the military and security fields, if they are not complemented by comprehensive policies, entail the risk of weakening civilian institutions and leading to the disappearance of institutions that are important for the protection and promotion of human rights, the impairment of their functions or the curtailment of their mandates. Besides this there is a risk that such policies will stigmatize the civilian population, particularly groups such as human rights defenders, and may be contrary to the principle of not involving civilians in conflict.¹⁶

62. The humanitarian crisis led some to overlook the measures taken to restrict their fundamental rights and freedoms, and even the activities of the paramilitaries and the links maintained by public officials with these groups. The enfeebled condition of State institutions restricted their capacity to exercise effective control or fully to follow up on security policy. Furthermore, the feebleness of the justice system and the problem of impunity reduced the prospects of applying judicial safeguards with any effectiveness or of operating an independent and impartial judicial system, one of the pillars of democracy.

(a) State of internal commotion

63. The Office in Colombia, under the terms of its mandate, gave advice regarding the compatibility of the rules and measures brought in under the state of internal commotion with the Government's international commitments. It expressed an opinion on some of the provisions of

Decree No. 2002 of 2002, which set up rehabilitation and consolidation zones (special public order zones) and imposed restrictions on the rights to freedom of movement and residence, to respect for private life and domicile, to individual freedom and to due process, in a manner incompatible with international principles. On 26 November, the Constitutional Court declared several of its provisions to be inapplicable, as described in chapters III and VIII of this report.

64. Under these provisions, the authorities launched a policy of large-scale raids and mass arrests in the last months of the year. The Office received reports of abuses by the security forces and of procedures incompatible with international principles, such as that of protection against arbitrary detention or those of lawfulness and the presumption of innocence. The reports also challenged the actions of judicial and supervisory bodies, especially the Attorney-General's Office, accusing them of a lack of independence, failure to apply the proper procedure for authorizing detentions, and the use of hooded personnel to carry out raids and captures.

65. In view of the short time during which the state of emergency has been in effect, any firm conclusions would be premature. Nevertheless, the Office of the High Commissioner wishes to mention its concern at the abusive and indiscriminate use of force and the violations of due process and other fundamental rights entailed by measures that are not founded on the principle of legality and are removed from the prior and subsequent independent supervision of the courts and the Department of Public Prosecution. The main concerns in this respect focus on the need for adequate means of ensuring effective, independent State supervision. Moreover, the danger that the civilian population may end up being disproportionately affected and increasingly vulnerable, especially in the case of groups such as human rights defenders, social leaders and displaced persons, must be examined prudently and responsibly.

66. It is worth mentioning the Procurator-General's Directive No. 011, dated 12 September, in which he gave instructions, both to his own agents and to the authorities in charge of the security forces, to keep him informed regarding compliance with national and international human rights standards in the application of Decree No. 2002, and ordered them to report immediately all arrests, inspections and searches carried out without a warrant.

(b) Rehabilitation and consolidation zones

67. The actions of the security forces in the areas set up under Decree No. 2002 were not sufficiently well or effectively supervised by the courts and the Department of Public Prosecution, which tend to be clustered in the larger towns and in certain municipalities. Although prosecutors and procurators were appointed to monitor military operations pursuant to the decree, they in fact intervened in only a few cases.

68. In many of the operations, the security forces made use of the powers they had been given under the decree (which were subsequently declared unconstitutional by the Constitutional Court), authorizing them to perform arrests, raids and searches without a warrant; this led to the detention of many individuals, of whom only a minority were ever brought before the courts. In several cases, the use of hooded informers damaged the reputations of the individuals they singled out. The arrests of some 2,000 people in Saravena (Arauca), on 12 and 13 November, led to the prosecution of 49 of them, of whom almost 20 belonged to social or trade union

organizations. Also in Saravena, at least five relatives of informers were killed by guerrilla groups. In addition, grave abuses by the Army were reported, including executions, especially in Arauquita, where similar problems had already arisen prior to the establishment of the zone.

69. At the same time as the security forces intensified their counter-insurgency operations in the rehabilitation zones, which cover areas traditionally under guerrilla control, paramilitary groups penetrated some places, as in the town of Sincelejo and other municipalities in Sucre, such as Chalán and Ovejas. In other places, such as Arauca, they maintained their presence despite the military operations.

(c) Situation in the former demilitarized zone

70. With the restoration of governmental control after the termination of the demilitarized zone, the authorities established only a limited presence. This took the form mainly of security forces, which were active in urban and occasionally in rural areas, constituting in some cases the only form of State authority present. The municipal authorities which had existed previously were weakened by the prevailing insecurity and, in some cases, mayors and municipal ombudsmen had to leave their municipalities. No permanent presence of judicial and supervisory authorities was ever re-established, and the Office of the Ombudsman, which was maintained with international support until the end of November, was unable to remain in the area after that date.

71. FARC-EP increased their pressure and violent action against the civilian population in the zone, particularly in rural areas, carrying out selective killings, restricting traffic and performing forced recruitments, and staging terrorist acts in urban areas.

72. Paramilitary groups were also observed to be present from the end of September onwards, mainly within the urban boundaries of Mesetas, San Vicente del Caguán and Vistahermosa, while serious complaints were received of collusion with members of the security forces.

73. Thus the civilian population continued to be extremely vulnerable to the activities of illegal armed groups, besides being stigmatized by the Army, and official institutions, especially the civilian authorities, were thinly represented and did little. The situation of members of the former civic police forces was particularly critical.

(d) Paramilitarism

74. Paramilitary activities continued to be a destabilizing factor as far as the rule of law was concerned, especially on account of the links maintained with paramilitary groups by public officials and of the Government's own inconsistent response to the situation. The ambiguity of the Government's commitment was reflected in discrepancies between statements by the authorities about their efforts to combat paramilitarism and the facts as observed by the Office in Colombia under its mandate. Sporadic operations, such as the one carried out in Segovia (Antioquia) on 9 August (which led to an investigation of connections between members of

the 14th Brigade and the paramilitaries), or the occasional arrests of suspected paramilitaries, are of dubious utility in the fight against paramilitarism. Paramilitary control is more marked in urban areas, where paradoxically the security forces and the authorities are also more active; this is constantly an element in complaints of collusion between public officials and the paramilitaries. Statements by civilian and military authorities denying the presence of paramilitary groups in their areas, even though that presence is common knowledge as in Cravo Norte and Tame (Arauca) and in Vigía del Fuerte (Antioquia) are worrying.

75. Concerns are partly due to the frequent failure to act in response to reiterated complaints and public awareness of the existence of permanent paramilitary bases, checkpoints and operations. The Office in Colombia has received reports of the security forces themselves announcing the impending arrival of paramilitary groups, and even of cases where local inhabitants recognized members of the military forces among paramilitary contingents. This coordination between the two is also indicated by the fact that paramilitary incursions have occurred either immediately before or after major military operations, such as in Arauca, the former “demilitarized zone”, Valle del Cauca, Guaviare and El Catatumbo. Further doubts are raised by the fact that soldiers sometimes wear no kind of identification to distinguish them from other armed groups. One reported example of failure to act concerns the events in Bojayá, which were preceded by paramilitary boats coming along the river Atrato from Turbo, thus having to pass several security force control posts. In some cases, the reports were not only of the security forces tolerating or failing to respond to paramilitary activities, but also of complicity or direct involvement by the security forces in such activities, such as the massacre in El Limón (Guajira) on 31 August, the theft of World Food Programme (WFP) food supplies in July in Cesar (blamed on paramilitaries but recovered by the Army, which said that it had confiscated the supplies from the guerrilla forces), and the meetings between commandos or members of AUC and the Armed Forces in Vigía el Fuerte (Antioquia) on 9 and 10 May.

76. Few of the emergency or security measures taken by the Government are aimed at direct confrontation with the paramilitary groups. For instance, the presence - reported by the Office since the year 2000 - of a paramilitary base in the municipality of El Guamo, in the Montes de María, which is situated within the current rehabilitation and consolidation zone, has never given rise to military operations and the paramilitaries have even been able to consolidate their presence in nearby municipalities. Similar situations have arisen in other parts of the country, as in the case of Medellín following operation Orión in October, when paramilitary groups settled in different parts of Comuna 13, committing abuses and serious violations against civilians.

77. The fact that the great majority of these cases go unpunished and public officials are never held criminally liable for their links with paramilitary groups and operations, is one of the more questionable aspects of the commitment to oppose such situations. Furthermore, the transfer of several such cases to the military courts, as mentioned in the following section, detracts from the independence of investigations and limits their effectiveness. These factors undermine the maintenance and construction of an institutional base which is both democratic and respectful of the rule of law, and confirm the impression that paramilitarism is tolerated, even accepted, among certain sectors of the population.

2. Administration of justice and impunity

78. Concerns persisted in 2002 about the independence and autonomy of the judiciary, which is closely linked to the rule of law and democracy. In the absence of any judicial career structure in the Attorney-General's Office, it is unlikely that the right conditions will be met to make such independence effective.¹⁷ The Office received complaints that prosecutors had been dismissed by arbitrary decision of the Attorney-General, including several belonging to the Human Rights and International Humanitarian Law Unit.¹⁸ The fact that several of its prosecutors have been removed or transferred appears to have impaired the Unit's accumulated experience and the effectiveness of its investigations, while raising doubts about the institution's commitment to combat the impunity enjoyed with respect to human rights violations. The efficacy of the technical cooperation provided by the Office and by the international community has also been affected.

79. In addition, the Attorney-General's Office, as the key body in terms of independent judicial control, has backed the transfer of judicial police functions to the security forces (including the military). The Attorney-General himself expressed such views when commenting on the National Security Act, which was declared unconstitutional, and on Decree No. 2002. The same position has been observed in the performance of his duty of monitoring constitutional safeguards vis-à-vis the emergency measures. It may be pointed out in this respect that a clause was added to the proposal for a constitutional reform of the Attorney-General's Office allowing the military to exercise judicial police functions. In the end this clause was not approved, but the Government reiterated its intention to reintroduce it during the next parliament.

80. The administration of justice has had to face major challenges as a result of the establishment of a state of emergency, especially as regards respect for the principles of the presumption of innocence and lawfulness, and the right to defence and due process, against a background of captures, raids and searches carried out with or without warrants. Complaints have come in of arrests made on the basis of anonymous reports or mere suspicions, raising doubts about the requirement that such restrictions of freedom must be justified by objective evidence of a link to an illegal act. The budgetary constraints to which the public defence system, among others, is subject have affected the right to legal defence. The Office of the High Commissioner is concerned at the impact the lack of this service might have on the judicial guarantees enjoyed by persons affected by ordinary or emergency measures and at the fact that judicial supervision might be impaired by these developments.

81. In October, the Government tabled a bill before Congress to reform the system of justice. The bill includes significant constitutional limitations on *amparo* proceedings (*acción de tutela*), which would exclude from the right to an effective, prompt and simple remedy, the protection of such fundamental rights as the principle of equality and non-discrimination, the protection of children, the rights of women, the right to health and other economic, social and cultural rights. The proposed cutbacks in the powers of the Constitutional Court, particularly its power to review the declaration of a state of emergency, could have the effect of weakening judicial supervision and making the principles of lawfulness and the rule of law dependent on political decisions or instruments.¹⁹

82. With regard to the fight against impunity, State policies appear to have weakened during the period covered by this report, as indicated in chapter VII below. The frequent occurrence of impunity continues to affect the administration of justice. In this respect, the Office was unable to observe any significant progress in terms of trials, whether criminal or disciplinary, of public officials responsible for serious human rights violations.²⁰ Some senior military officials, either in active service or retired, who have been accused of ties to the paramilitaries and serious human rights violations, have escaped judicial proceedings, either because a military court has intervened or on account of decisions by the Attorney-General's Office or the Office of the Procurator-General.²¹ The military courts have continued investigating cases of human rights violations and breaches of international humanitarian law committed by members of the security forces despite a restrictive constitutional interpretation of their jurisdiction and the amendment of the military and ordinary Penal Codes.²²

83. The internal armed conflict and the illegal activities of outlawed groups, which verbally and physically threaten the lives and security of judicial officials and others involved in trial proceedings, severely affect victims' access to effective and independent justice.

(a) The prison situation

84. In order to deal with the prison crisis, the Government has concentrated on building detention centres to house convicts and on redesigning other centres to hold accused persons.

85. The absence of a consolidated information system makes the supervision and monitoring of detention particularly difficult. Even though the authorities have transferred some prisoners in order to segregate convicted detainees from accused persons, as in the prison of Valledupar, according to the National Prison and Penitentiary Institute (INPEC) a number of prisons are highly overcrowded, at times up to 100 per cent over their normal capacity. The overcrowding problem has thus not been overcome.

86. The Office has received many complaints of abuse of power on the part of prison authorities, generally arising from the application of disciplinary penalties or the use of force by prison guards, which could be considered cases of torture or cruel, inhuman or degrading treatment or punishment, and even violations of the right to life. The Office was informed of cases where excessive force might have caused the victims' deaths, such as the death of Luis Preciado Osorio at the National Prison in Valledupar, in March.

87. Lacking a comprehensive policy, the prison authorities have tended to follow the Government's example in responding to current incidents of insecurity and unruliness involving a set but limited number of prisoners, to the detriment of the general obligation to ensure humane and dignified treatment for all persons held in detention. The Ministry of Justice and INPEC have announced that they will adopt measures to improve the functioning of the system. The recommendations made in the report on the situation in prisons submitted last year by the Office of the High Commissioner and the Office of the Ombudsman could provide a working tool on the basis of which, alongside other proposals, a start could be made towards introducing the necessary changes in the prison system.

3. Enforced displacements

88. Enforced displacements increased substantially, affecting much of the country,²³ the reason being that they are increasingly used as a war strategy. A disturbing characteristic of the year was the increase in intra-urban displacements. According to the Social Solidarity Network²⁴ (referred to henceforth as the Network), in the first nine months of 2002 the paramilitaries were responsible for 30 per cent of displacements and the guerrillas for 14 per cent. Only 1 per cent of cases were blamed on the Armed Forces. In 52 per cent of cases, two or more armed factions are believed to be responsible.

89. One factor to blame for this situation is the lack of any comprehensive prevention policy on the part of the Government. Another is the lack of progress in bringing those responsible for the displacements to justice. According to the Network, some 231,000 persons were displaced between 1 January and 30 September. Over the same period, the Advisory Office for Human Rights and Displacements (Consultoría para los Derechos Humanos y el Desplazamiento, CODHES (a non-governmental organization)), recorded rather more than 350,000 displaced persons. Despite the improved coverage obtained thanks to the Single Registration System (SUR) and emergency humanitarian assistance, there are still obstacles to access to State programmes and lasting solutions, and difficulties in exercising economic, social and cultural rights. Of particular concern is the situation of displaced women, children, indigenous persons and Afro-Colombians.

90. The Network has suggested improvements in coordination between institutions and in the consolidation of the National System of Comprehensive Care for the Displaced Population (SNAIPD), although the latter has been held back by a varying degree of commitment on the part of its component entities. Moreover, despite efforts by the Network,²⁵ the level of participation of some departments and municipalities in welfare programmes has remained low. According to Act No. 387 of 1997, assistance for displaced persons depends on the availability of funds in State bodies' budgets. There is a gap between the resources allocated and recipients' needs.

91. The prevention of displacements continues to be the weakest component of the displacement policy. The Government's ability to ensure the security of communities at risk is clearly inadequate in view of the geographical expansion of the phenomenon. On occasion, in response to a displacement crisis, the concern for military security and the defence of infrastructure has taken precedence over the protection of the civilian population.

92. The Office of the Ombudsman has increased its assistance and protection in some areas of the country, as in the case of the communities at risk on the Pacific coast, and has made progress with the organization of the Early Warning System. Nevertheless, budgetary limitations prevent it from maintaining an effective presence in all areas at risk, or from following up upon the authorities' response to all incoming reports of imminent danger.

93. There has been some progress²⁶ on the socio-economic re-establishment of displaced persons. It has been limited, however, by the insufficient resources allocated, slow disbursement, difficulties in securing credit, and the three-month limit on humanitarian aid.

94. Returnees in a variety of instances have not been provided with the proper conditions of security and dignity.²⁷ Inadequate assistance has been provided by the State authorities, whose commitment has often been purely formal, owing to the scarcity of information and the lack of relocation facilities or extended humanitarian aid.

4. Ethnic groups

95. Ethnic groups continue to suffer violations of civil and political rights, especially the right to life, racial discrimination, intolerance and social exclusion. Their economic, social and cultural rights are affected by the poverty and exclusion amid which they live. This situation is further aggravated by the armed conflict, which threatens the very survival of some of these groups.

96. Of particular concern is the situation of the Afro-Colombian community, which is considered to be one of the poorest in the country. According to the Office of the Ombudsman, 98 per cent of the Afro-Colombian population lack basic public services, while 80 per cent of their housing is marginal and overcrowded. In the department of Chocó, where 90 per cent of the population is Afro-Colombian, the basic needs of 82 per cent are not being met.

97. Violations of the civil and political rights of indigenous and Afro-Colombian communities are aggravated, moreover, by problems stemming from efforts by the illegal armed groups to maintain control over their territories. They are often subjected to economic blockades, controls on food and medical supplies, and restrictions on the free movement of persons, all of which merely worsens the precarious conditions in which they live.²⁸ The presence of armed groups in the territories of these communities also affects their right to independence, threatens the ability of their authorities to govern and erodes their cultural identity.

98. Against this background of violence, the indigenous and Afro-Colombian communities - and especially their leaders - continue to suffer extrajudicial executions, massacres, death threats, enforced disappearances, and enforced displacements and recruitments, threatening their very existence as ethnic groups and their cultural survival. Violations attributed to AUC include the murder of the Embera Chami leader, María Fabiola Largo Cano, in the municipality of Riosucio (Caldas) on 9 April, the massacre of four indigenous persons in Gualandany, municipality of Corinto (Cauca) in March, and the disappearance of three indigenous persons from the village of Cofán (Putumayo) in August. FARC-EP were blamed for the threats made against the Asociación de Cabildos Indígenas del Norte del Cauca (Association of Indigenous Chiefs of Northern Cauca - ACIN), in the municipality of Corinto (Cauca) in March, and FARC-EP and ELN jointly for death threats against the indigenous communities of Sierra Nevada de Santa Marta in June and August. The Office in Colombia received reports blaming the security forces for direct involvement, as in the case of the paramilitary massacre of 12 Wiwa indigenous persons in El Limón and neighbouring areas (Guajira) on 31 August.²⁹ As regards Afro-Colombians, it is worth mentioning the fate of the inhabitants of the El Tigre area, in Tumaco (Nariño), where between 6 and 10 bodies, presumed to have been executed by self-defence groups, were found daily.

99. These ethnic groups are especially hard hit by displacement owing to the close relationship between their culture and the land they live on. Particular concern is felt for the situation of displaced persons who have returned to their places of origin without proper guarantees of security, in view of persistent threats from illegal armed groups, especially in the peace communities living on the banks of the Atrato River and along the Salaqui, Truandó, Quiparadó, Domingodó, Curvaradó and Jiguamiandó rivers, which increase the risk of further displacements.³⁰

100. The right to participate in the decisions that affect them, particularly the right of prior consultation, continues to be disregarded by the Government, especially in the case of decisions on development projects with a significant socio-economic and environmental impact. The Office has received evidence that fumigations on land inhabited by indigenous and Afro-Colombian communities affect the environment and the food security of the local inhabitants by destroying crops and impoverishing the soil. This has happened in the departments of Cauca, Norte de Santander and Putumayo.

101. No progress has been made in eradicating discrimination against the *raizales* (the Creole-English-speaking inhabitants of San Andrés, Providencia and Santa Catalina, of West Indian origin) either in the labour market or in administrative aid procedures. The Roms (Gypsies) still have no specific legal status and are affected by discrimination, marginalization and social stigmatization as well as the armed conflict.

5. Human rights defenders

102. The situation of human rights defenders continues to be critical and worsened in late 2002. The worsening armed conflict has particularly affected community leaders, trade unionists, human rights defenders, members of social organizations and public officials responsible for the promotion and protection of human rights. Members of these groups have been subjected to murder, threats, attacks, harassment, forced disappearances and hostage-taking. Paramilitary groups have been blamed for most of these abuses. Guerrilla groups, on the other hand, are held chiefly responsible for attacks on municipal ombudsmen and other local authorities. In several cases, the threats against and the vulnerability of human rights defenders were blamed on public officials.

103. A matter of special concern is the situation faced by some members of human rights organizations such as the Fundación Comité de Solidaridad con los Presos Políticos (Solidarity with Political Prisoners Committee Foundation, FCSPP) and the José Alvear Restrepo Association of Lawyers, who in some cases have had to abandon their offices owing to repeated threats.³¹ The town of Barrancabermeja continued to be the scene of serious attacks and threats against human rights defenders, especially members of the Organización Femenina Popular (Women's Popular Organization - OFP) and the Corporación Regional para la Defensa de los Derechos Humanos (Regional Corporation for the Defence of Human Rights, CREDHOS). Such cases include the death of Diofanol Sierra Vargas, an active member of OFP, in April, and the disappearance of Manuel Francisco Navarro Culma, the leader of the displaced community

of Ciénaga de Opón in February, attributed to paramilitaries. Also to be noted was the disappearance, on 12 August, of Guillermo Torres Valdivieso, the president of the community action group of the Café Madrid de Bucaramanga neighbourhood and an independent community leader.

104. The municipal ombudsmen (*personeros*), being the only authorities responsible for promoting and monitoring respect for human rights in many municipalities, have come under particular pressure and have often been obliged to leave their districts after receiving death threats, mainly believed to come from FARC-EP. Deaths among mayors and councilmen, and the fact that several have had to leave departmental administrative centres because of death threats, especially in Arauca and Caquetá, have made the situation worse. In response, the Government has decided to include these local figures in the Interior Ministry's protection programme.

105. The Office received several reports of the authorities questioning the commitment and legitimacy of the work of human rights defenders and non-governmental organizations. The High Commissioner responded with a statement of her own on 24 June. Comments by public officials about human rights defenders, and the attention they draw to them, besides having a stigmatizing effect actually place their lives and physical integrity at risk.³² Despite the fact that Presidential Directive No. 07/00 promised State support for human rights organizations, nothing has been done to correct such attitudes, nor have any breaches of the Directive been punished. It is interesting to note the case of the priest Jesús Albeiro Parra, the director of the Social Pastoral of the Diocese of Quibdó, who is facing libel proceedings brought by General Mario Montoya of the 4th Army Brigade for criticising the security forces' failure to take action before and after the events in Bojayá. This device of suing complainants, used by high-ranking officers of the Armed Forces,³³ is worrying insofar as it hinders the task of reporting human rights violations and breaches of international humanitarian law, which is a basic element of human rights defenders' work.

106. The Protection Programme for Human Rights Defenders, for which the Ministry of the Interior is responsible, continues to encounter administrative, bureaucratic and operational difficulties. Of particular concern was the death on 12 January, attributed to paramilitary groups, of Enoc Samboni, the leader and board member of the Comité de Integración del Macizo Colombiano (Colombian Range Integration Committee, CIMA), in Cauca, who was covered by the protection programme.

107. The situation of human rights defenders was aggravated by unfortunate statements made by several officials of the new Government soon after it took office. Some high officials expressed disapproval of the actions of non-governmental organizations and the impact of their messages. These statements, which in some cases were accompanied by very vague and indiscriminate descriptions, could lead to the stigmatization of human rights and peace organizations and put the lives and safety of all NGO workers at risk. The non-governmental human rights organizations have requested the new Government to establish constant contacts between them and government bodies. The Office of the High Commissioner takes note of the receptive attitude expressed by the new Vice-President of the Republic, who is responsible for implementing national human rights policy.

108. The policy of large-scale raids also affects human rights defenders. The Attorney-General's Office authorized several raids on the basis of police and military intelligence reports which in some cases referred to buildings vaguely described as "NGOs". A case that gave rise to particular concern was the raid on the headquarters of the Permanent Assembly of Civil Society for Peace, in October, which turned out to be fruitless. Considering the ease of transport in a city like Bogotá, the absence of representatives of the Attorney-General's Office, which had authorized the search, and of the Department of Public Prosecution, was hard to justify.³⁴

6. Fundamental freedoms

(a) Freedom of association

109. Trade unionists have continued to fall victim to assassinations, threats, attacks and disappearances, most of which have so far gone unpunished. According to the Central Unitaria de Trabajadores (CUT Unitarian Workers' Union), between 1 January and 15 October 118 unionists were killed, 18 suffered assaults and 32 were either kidnapped or disappeared. The trade union sectors that were most affected continued to be education and health, and more specifically trade unions such as SINTRAEMCALI (Cali municipal workers), ANTHOC (Health Sector Workers), FECODE (Education Workers) and FENSUAGRO (Agricultural Workers). Most of these violations were attributed to paramilitary groups.³⁵ Individual cases include the violations perpetrated against the leaders and members of the Unión Sindical Obrera (USO United Union of Labour),³⁶ such as the murder, in Barrancabermeja (Santander) on 20 March of Jaime Torra, who was covered by the Ministry of the Interior's protection programme, and the kidnapping of Gilberto Torres, in February, by the (Autodefensas Campesinas del Sur del Casanare, the Peasant Self-Defence Groups of the South of Casanare, ACSC), who was released thanks to mediation by the authorities. There was also the murder of César Gómez, the President of the Pamplona Section of the Union of University Workers and Employees of Colombia (SINTRAUNICOL), in Norte de Santander, on 5 September, attributed to paramilitary groups. Although the protection programme had decided to take action owing to the considerable risk being run by Gómez, nothing was done owing to a lack of resources.³⁷

110. There is also the stigmatization produced by public statements that place the lives of some leaders at risk and cast doubts on the legitimacy of the trade union movement; this is conducive neither to the free exercise of union leaders' function as the defenders of trade union rights, nor to the full enjoyment of freedom of association. Unfortunate comments by public officials have also affected union members and the exercise of the freedoms of association and peaceful assembly. Deprecating statements, threats against and arrests of trade union leaders were decried during the mobilization and strike called on 16 September.³⁸

(b) Freedom of opinion and expression

111. Freedom of opinion, expression and information has been infringed by human rights violations and breaches of international humanitarian law involving journalists. According to the Office of the Vice-President, nine journalists were killed between January and August 2002. Death threats were also made by illegal armed groups, making several journalists seek political

asylum or leave the country temporarily. Such events, added to the high degree of impunity and the hostile climate generated by the circumstances, affect the people's fundamental right to receive impartial and objective information, and journalists' right to full freedom of expression, which should be guaranteed in any democratic society. These freedoms have also been impaired by the shortage of clear, accurate information from different sources, by the concentration of the mass media, self-censorship and, sometimes, the lack of broad news coverage.

112. Freedom of expression is closely linked to the freedoms of association and peaceful assembly, which have been affected by the state of internal commotion, and more particularly the provisions of Decree No. 2002. When the national strike occurred on 16 September, steps were taken to restrict mobilization. Action against demonstrators and excessive use of force were reported, while checkpoints were set up by the Army. Complaints were made about the arbitrary arrests on 20 September of members of a humanitarian commission made up of non-governmental organizations, workers' unions and the Office of the Ombudsman of Valle del Cauca, who were travelling from Cali to support a peasant march in Cauca.

(c) Freedom of conscience and religion

113. Violations of the rights of religious representatives are a matter for concern. Many members of the Catholic Church have been killed, threatened or kidnapped by outlawed groups. Most such cases have been blamed on FARC-EP, including the kidnapping of the Bishop of Zipaquirá on 11 November. The murder of the parish priest of Restrepo (Valle) on 27 September 2002 was attributed to paramilitary groups, and that of the priest José Luis Arroyave, the social and spiritual leader of Comuna 13 in Medellín, on 20 September, to an unidentified illegal armed group. According to the Attorney-General's Office, FARC-EP arranged and perpetrated the murder of Monsignor Isaías Duarte Cancino in Cali on 16 March. The followers of other religious denominations, including the Pentecostal Church and the Adventist Church, have had to face violence in the exercise of their freedom of worship, freedom to preach and the pastoral activity of their ministers. Conscientious objection to military service is not admitted under Colombian domestic law.

(d) Political rights

114. The free enjoyment of political rights, associated with freedom of opinion and expression, was restricted during the elections held in 2002. Members of indigenous communities, displaced persons and other undocumented persons were among the main groups whose voting rights were restricted. The legislative and presidential elections entailed considerable risk for the candidates, many of whom received death threats or suffered attempts on their lives by the paramilitaries and the guerrillas. The voting public was also affected by threats and harassment inflicted by these groups. Special mention may be made of the kidnapping by FARC-EP of the presidential and vice-presidential candidates, Ingrid Betancourt and Clara Rojas, on 23 February. The political persecution of members of some parties continued, especially members of the Unión Patriótica, who suffered assassinations and threats. This has gone on for so long, with its membership and its scope for political participation and representation being eroded for years, that the party was unable to field candidates in the last elections.

115. In addition, mayors and local State officials have seen their rights flouted by the guerrillas and the paramilitaries. FARC-EP have pursued a strategy of attacking local authorities and have declared them to be military targets, employing intimidation, death threats, hostage taking and assassinations.³⁹ As a result, many local officials have given up their jobs or moved to the departmental capitals.⁴⁰ This has diminished the civilian presence of the State and the exercise of local democracy, while increasing the vulnerability of the population to pressure from the armed factions.

VII. FOLLOW-UP ON INTERNATIONAL RECOMMENDATIONS

116. In accordance with the mandate of the Office in Colombia to follow up on recommendations made with respect to human rights and international humanitarian law by international bodies, including the Office of the High Commissioner, this section reviews the action taken by the State on such recommendations.

Prevention and protection

117. The Government has recognized that preventive action is one of its weak points, insofar as scattered responsibilities, uncoordinated information systems and inadequate decentralization of human rights policy have left gaps in preventive mechanisms and been unable to influence the course of the armed conflict.⁴¹ As a result, comprehensive and effective mechanisms have yet to be adopted. Even though the early warning system is barely operational and has an extremely limited impact, its territorial coverage has been extended for the preparation of risk reports and the establishment of a mechanism devised by the Office of the Vice-President and the Ministries of Defence and the Interior for the definition of alerts.

118. An assessment was made between May and July 2002 of the Government's protection programmes, on the initiative of the Ministry of the Interior and with the support and advice of the International Labour Organization and the Office of the High Commissioner for Human Rights. Nevertheless, the administrative problems and bureaucratic difficulties that have beset the programmes have still not been overcome. It may be hoped that substantial progress can be made, with some collaboration between organizations and institutions, if the recommendations contained in the assessment are put into effect. However, no progress has yet been made in response to recommendations to back up these programmes with effective preventive policies so as to diminish the risk to the populations concerned, especially those arising from actions and statements made by public officials that endanger human rights defenders and civil leaders.

With regard to the armed conflict

119. No progress has been made in following up on the recommendations concerning respect for humanitarian standards by the armed groups. On the contrary, the groups' disregard for such standards has grown worse, especially as far as FARC-EP, ELN and the paramilitary groups are concerned. Furthermore, not only have hostages not been released, but the abominable practice of hostage-taking has continued.

With regard to the rule of law and impunity

120. It must be said that no significant progress has been made in response to recommendations on strengthening the rule of law - in particular, combating paramilitarism and ties between paramilitary groups and public officials - the independence of the judicial system and the fight against impunity. Despite improved rulings by the Constitutional Court, various provisions of security policies and public order legislation have turned out to be incompatible with international recommendations and the rule of law. Reforms of the judicial system, in particular the Attorney-General's Office, are also a matter for concern.

With regard to legislation

121. Some positive steps have been taken, particularly in relation to the ratification of important international treaties, but also some steps backward, especially with regard to domestic legislation on security, public order and justice, such as the adoption of Decree No. 2002 mentioned above.

122. On the positive side, under Act No. 742 of 2002, the Rome Statute of the International Criminal Court was ratified. The Colombian Government, however, invoking article 124 of the Statute, declared that for a period of seven years it would not recognize the jurisdiction of the Court over war crimes. The Act approving the Inter-American Convention on the Forced Disappearance of Persons, No. 707 of 2001, was declared admissible by the Constitutional Court, opening the way to subsequent ratification of the Convention.

123. The Colombian Government did not ratify ILO Convention 102, the Social Security (Minimum Standards) Convention, nor the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, nor the optional protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. The Colombian Government also did not recognize the quasi-jurisdictional competence of the Committee on the Elimination of Racial Discrimination or the Committee against Torture.

124. The draft statute reforming habeas corpus which, by decision of the Constitutional Court, should be incorporated in the Code of Penal Procedure by 31 December 2002, is currently before Congress. The draft still retains limitations incompatible with international standards. The bill to reform the Penitentiary and Prison Code, prepared in 1999 by the Attorney-General's Office, has not been submitted to Congress.

125. It is worth noting the adoption of Act No. 747 of 2002, which among other provisions makes trafficking in persons a crime. With regard to the criminalization of racial discrimination, the Penal Code still ignores discriminatory conduct engaged in at any time by persons not taking a direct part in hostilities, since discriminatory practice is considered an offence only if committed "during and in the course of armed conflict".

126. Pursuant to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction, Act No. 759 of 2002 amended the Penal Code and laid down rules on the coordination and functioning of State institutions. It created the Anti-personnel Mines Observatory and made provision for humanitarian missions to verify information and formulate recommendations.

127. No provisions have been added to the Children's Code to make it compatible with the Convention on the Rights of the Child. Draft legislation has been tabled before Congress "creating the system of juvenile criminal responsibility", which does not satisfy the requirements of the Convention. Equally, the protection of children's rights by means of prompt and effective appeals might be affected by the draft constitutional reform concerning the administration of justice, submitted in October, which calls for the right of *amparo* (*acción de tutela*) to be excluded from children's rights.

With regard to economic and social policies

128. No significant measures have been taken during the year to reverse unfavourable trends in poverty and inequality, nor have any indicators or mechanisms been introduced to improve assessments of their impact and consequences. Most of the recommendations of the Committee on Economic, Social and Cultural Rights have been disregarded in policies and priorities regarding housing, work, health and education, especially where vulnerable groups and regions are concerned. A positive note, however, has been the national vaccination days conducted by the Government. Legal reforms of the Labour Code and Social Security Regime introduced in December 2002 appear to be incompatible with the international requirement that economic, social and cultural rights must be progressively advanced.

With regard to the promotion of a human rights culture

129. The previous Government, on the basis of consultations, prepared an "Outline National Plan of Action on Human Rights and International Humanitarian Law" as an input into the Plan, and requested the Office to submit its comments. The new Government has now incorporated the definition of the Plan among the preliminary objectives of the National Development Plan, although the text remains to be finalized and implemented. On the other hand, the recommendations on human rights education to promote an effective culture of peace and human rights, and on reaffirming the principle of equality and mechanisms aimed at combating discrimination, especially against women, ethnic groups, displaced persons and other vulnerable groups, remain valid. One may note the absence of any comprehensive policy on gender.

With regard to technical advice and cooperation

130. It must be mentioned that several institutions were keen to receive the Office's advice and technical cooperation through projects aimed at strengthening institutional capacity and training officials. The former Government did not take full advantage of the Office's advisory role under its mandate. The new Government, however, has expressed interest in developing further this important function performed by the Office.

VIII. ACTIVITIES OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS IN COLOMBIA

131. The Office in Colombia continued to progress in all work areas, including observation, legal advice, technical cooperation and promotion and dissemination. The new Director of the Office assumed his functions in mid-October. The complaints submitted to the Office and visits to different parts of the country continued to be useful means of collecting information and understanding what was going on in Colombia. The Office was assisted in its observations by the constant presence and efforts of the sub-offices in Cali and Medellín. Altogether 1,435 complaints were received, of which 1,106 were admitted, while 183 field visits were made, with an average duration of 2 to 4 days' activity outside Bogotá, Cali and Medellín.

132. The Office took part in advisory activities, providing legal opinions on the conformity of domestic standards and draft legislation to international standards. It also attended many working meetings of committees and other inter-institutional bodies in order to advise the authorities and press for an appropriate follow-up to recommendations.

133. The Office produced several publications. These include a book on the interpretation of international human rights standards: observations and general recommendations of United Nations international human rights treaty-monitoring bodies, the Durban Declaration and Programme of Action, and a new publication in the thematic series on the rights of indigenous peoples. The Office updated and republished its publications on human rights defenders and on women's rights. These included reports of missions to Colombia by the Special Representative of the Secretary-General on the situation of human rights defenders and by the Special Rapporteur on violence against women. A publication was also prepared on freedom of opinion and expression. A CD-ROM version of the Recommendations of international human rights bodies to the Colombian Government 1980-2002 was updated and published, and a web page on the same subject was set up. The Office produced 10,000 calendars for 2003 on workers' rights and 30,000 readers for children on the Universal Declaration of Human Rights.

134. In furtherance of its policy of promotion and dissemination, the Office took part in many activities (including seminars, forums, workshops and conferences). In its work with the mass media, it organized several workshops with journalists, and produced 37 press releases. Altogether 270 bulletins concerning the Office and its activities appeared on television, 340 on radio and 1,000 in newspapers.

1. Advisory and technical assistance activities

135. The Office has been able to establish frequent, third contacts with the new Government, in particular with the Office of the Vice-President and the Ministry of Foreign Affairs. Its technical cooperation initiatives encourage active involvement by national, governmental and non-governmental institutions in tasks related to respect for, protection of and guarantees for human rights. Training and institutional support projects have been developed on the basis of recommendations made by different bodies. With the opening of the Medellín and Cali sub-offices, technical cooperation activities and support for regional initiatives have increased.

136. The effort to coordinate international cooperation in human rights which started in 2001 is considered a priority. The diplomatic corps and cooperation agencies have been invited to update the project database designed with the help of the Spanish International Cooperation Agency, which provides a key guide to cooperation in human rights.

(a) Cooperation in human rights and international humanitarian law training

137. Demand for these activities, conducted with the following entities, continued and grew.

Attorney-General's Office (*Fiscalía General de la Nación*)

138. With the financial support of the Swedish Government, a programme was initiated to extend the human rights and international humanitarian law course for officials of the Attorney-General's Office to 18 towns in the country. The courses were attended by 382 prosecutors and 320 members of the Technical Investigation Unit (CTI). At the request of the United States Department of Justice and the Attorney-General's Office, human rights and international humanitarian law courses were given to 87 prosecutors and 93 members of CTI, the Administrative Department of Security and the National Police. In this way, training will have been provided to a new generation of prosecutors and CTI personnel, while the network of instructors in the Attorney-General's Office will have been improved. The Office in Colombia is concerned, however, at the fact that the jobs of the network staff and those attending the courses are insecure, and the School of Criminal Investigation and Criminal Studies of the Attorney-General's Office does not have the means to organize and follow up training courses for all its officials.

Municipal Ombudsmen (*personeros municipales*)

139. The European Union has agreed to co-finance the second stage of the human rights training programme for municipal ombudsmen (2002-2003). A total of 24 workshops have been held, attended by 432 participants. This programme has achieved more than expected, insofar as a concerted strategy has been developed to promote recognition of these ombudsmen as institutional human rights defenders by both the State and the public. When the Government suggested eliminating municipal ombudsmen altogether, the Office publicly defended the usefulness of the human rights promotion and protection work they did.

Office of the Ombudsman (*Defensoría del Pueblo*)

140. A workshop on human rights and international humanitarian law was held for academic coordinators of the National Department for Public Advocacy and the Regional and Sectional Defenders of the Office of the Ombudsman. This was attended by 42 officials, 21 of whom were selected to act as instructors. Training on the right to freedom was also provided for 51 management advisers in the Department. In the second stage of the project to strengthen and extend the national network of human rights defenders of the Office of the Ombudsman, the Office coordinated and ran a training course for 53 human rights lecturers from 10 public universities.

United Nations system

141. Two basic training courses in human rights and international humanitarian law were given to 55 United Nations staff, as well as a refresher workshop on the same subject that was attended by 25 United Nations officials in order to improve their knowledge of the subject.

Non-governmental organizations and civil society

142. The Office supported human rights and international humanitarian law training programmes and programmes to identify together where the institutional capacity of human rights organizations needs strengthening. Arrangements were made for permanent exchanges with these organizations. Training was laid on for human rights promoters, and the course was repeated. Support for better communication was provided with training for leaders in various sectors of society.

143. A basic human rights training course was arranged for the dioceses of Quibdó, Apartadó and Istmina, attended by 36 of their promoters, who in turn carry out a great deal of work for vulnerable communities. More effort went into regional activities, such as providing support for participants from the Pacific attending the First National Afro-Colombian Conference, the Chocó Inter-Ethnic Solidarity Meeting and the forum on “Towns between conflict and exclusion” organized by the *Hermanamiento Pueblos Hermanos Lazos Visibles* (Fraternal Peoples, Visible Bonds Brotherhood) network. A technical cooperation agreement was signed with the Radio Netherland Training Centre to arrange for broadcasting to remote and isolated communities about human rights.

144. The Office of the High Commissioner’s Assisting Communities Together (ACT) Project has been put into effect in Colombia through support for seven promotion projects among rural communities.

(b) Cooperation in institution-building

145. The Office concluded agreements in December with the National Prison and Penitentiary Institute (INPEC) and with the Senate Human Rights Committee. The Office’s diagnosis reports and recommendations served as the basis for new projects with the institutions.

Office of the Ombudsman

146. In June 2002, the Office in Colombia, in conjunction with the Office of the Ombudsman, produced a “Diagnosis of the ordinary crime programme at the Legal Aid Office. Guidelines for change”, containing an analysis of the Legal Aid Office operating procedures and quality and efficiency of service together with a series of recommendations. The findings were used to define main lines of action. The budgetary situation of the Legal Aid Office, however, and the impact this could have on the effectiveness of the right to an adequate defence, are disquieting.

147. The Office is working with the National Department for the Examination and Processing of Complaints on a handbook about behaviour that violates human rights and international humanitarian law.

148. The Delegate for Crime and Prison Policy and for Public Policies is being given advice on the design and implementation of a system to follow up on public policies relating to prisons and penitentiaries.

Office of the Procurator-General (*Procuraduría General de la Nación*)

149. The Office of the Procurator-General and the Office of the High Commissioner have extended the Memorandum of Understanding on technical assistance projects until the end of 2004.

150. The Division for Preventive Action on Human Rights and Ethnic Affairs has, with backing from the Office in Colombia, completed a diagnosis, which showed certain institutional dysfunctions. A paper on “The preventive function of the Procurator-General’s Office with respect to human rights” has been prepared, in close consultation with staff of all sections of the Procurator-General’s Office and non-governmental organizations.

151. The Disciplinary Division for Human Rights Violations has completed, together with the Office in Colombia, a diagnosis of the situation regarding disciplinary investigations into human rights violations.

IX. RECOMMENDATIONS

152. **On the basis of this detailed analysis, the High Commissioner puts forward a series of concrete priority recommendations for 2003. These recommendations, which are by no means exhaustive, are grouped under six headings: prevention and protection; internal armed conflict; the rule of law and impunity; economic and social policies; promotion of a human rights culture; and the Office’s technical cooperation and advice.**

153. **The recommendations are addressed to the national authorities in the three branches of government and the supervisory bodies responsible for protecting and promoting human rights, to all parties to the internal armed conflict, and to civil society.**

154. **Without prejudice to other concerns considered in this report, or to the follow-up that should be given to outstanding recommendations formulated by his Office and other international bodies, the High Commissioner is firmly convinced that the situation as regards human rights and international humanitarian law could improve significantly if the following recommendations were to be applied during the year 2003 by those to whom they are addressed.**

(a) Prevention and protection

155. **The High Commissioner exhorts the Government, with the active participation, cooperation and response of the Office of the Vice-President of the Republic, the Ministry of the Interior and the Ministry of Defence, to activate the Early Warning System established in the Office of the Ombudsman.**

156. The High Commissioner urges the Government to ensure that the programme for the protection of human rights defenders, for which the Human Rights Department in the Ministry of the Interior is responsible, operates effectively, providing it with sufficient funds and with clear and uniform parameters for assessing risk. The Government should always opt for mechanisms that act preventively against risk factors.

157. The High Commissioner urges the Attorney-General of the Nation to introduce into the programme for the protection of witnesses and victims whatever changes may allow the rapid identification of risks and swift action to respond to them.

158. The High Commissioner exhorts the Government to identify, in conjunction with the Office of the Ombudsman and the United Nations system, communities placed at risk by the internal armed conflict and, in consultation with those communities, to develop and put into practice, as soon as possible, preventive and protective actions and programmes. With respect to displaced populations, the Guiding Principles on Internal Displacement should be strictly applied.

159. The High Commissioner urges the Government and Congress to provide the Procurator-General's Office and the Office of the Ombudsman with the means to establish themselves in localities where they are not yet represented, especially in rehabilitation and consolidation zones and in areas with a high proportion of indigenous, Afro-Colombian and displaced inhabitants.

160. The High Commissioner calls on the Department of Public Prosecution and senior public service officials to take disciplinary action against any State employees who through their actions or omissions in any way jeopardize the work of human rights defenders.

161. The High Commissioner urges the Procurator-General to verify each quarter the accuracy and objectiveness of the data contained in military intelligence records concerning human rights defenders, and to publish the results of his enquiries.

162. The High Commissioner encourages the Ministry of Defence to include, as of the next training courses for members of the security forces, the systematic study of international law on human rights and international humanitarian law. For this purpose, it recommends that the Ministry should establish a continuous training arrangement with the Office of the Ombudsman.

(b) The internal armed conflict

163. The High Commissioner urges FARC-EP, ELN, AUC and other guerrilla and paramilitary groups to respect the right to life of all civilians. He urges them in particular to refrain at all times from attacks on the civilian population, indiscriminate attacks, the recruitment of minors, and acts of terrorism.

164. **The High Commissioner urges FARC-EP, ELN, AUC and all other illegal armed groups immediately and unconditionally to release everyone they have taken hostage and to refrain from the unacceptable practice of kidnapping.**

165. **The High Commissioner urges illegal armed groups, in particular FARC-EP, ELN and AUC, to refrain from any action that may affect the civilian population's enjoyment of human rights and diminish the ability of the Colombian State to fulfil its obligation to protect and safeguard those rights.**

166. **The High Commissioner urges the security forces fully to observe the obligations imposed upon them by international humanitarian law, especially those related to observance of the principles of limitation, distinction, proportionality and the general protection of the civilian population.**

167. **The High Commissioner calls on all parties to the armed conflict to fulfil the obligations imposed on them by international rules that prohibit the employment, storage, production and transfer of anti-personnel mines.**

168. **The High Commissioner recommends the Government, the illegal armed groups and representative sectors of civil society to spare no effort in establishing, as soon as possible, contacts for dialogue and negotiation so as to rise above internal armed conflict and achieve lasting peace. Such dialogue and negotiations should from the outset take account of human rights and international humanitarian law, and should include in their agenda the issue of the right to truth, justice and reparation.**

(c) The rule of law and impunity

169. **The High Commissioner calls upon the Government and Congress of the Republic, when adopting policies or drafting legislation, to pay due attention to the obligations assumed by Colombia as a State party to international human rights and international humanitarian law instruments. He urges them to take account of the international principles of legality, necessity, proportionality, timeliness and non-discrimination when adopting or applying policies and measures related to security and public order. He calls on them in particular not to introduce any rules in the Colombian legal system that would enable members of the military forces to exercise police or other functions incompatible with the independence of the justice system.**

170. **The High Commissioner urges the Attorney-General to submit a bill to Congress establishing a career structure for officials and employees of his Office, with a view to strengthening the independence and impartiality of that institution.**

171. **The High Commissioner calls upon the Attorney-General to ensure and to strengthen the independence of the Human Rights and International Humanitarian Law Unit in his Office, to guarantee the protection of its staff and to provide it with the means to carry out its investigations.**

172. The High Commissioner urges the Attorney-General, within his Office's Human Rights and International Humanitarian Law Unit, to establish a group specializing in the investigation of possible links between members of the security forces and paramilitary groups. He also calls on international cooperation agencies to back this initiative.

173. The High Commissioner calls on the Minister of Defence to suspend from duty with immediate effect any members of the security forces involved in serious human rights violations or war crimes, and to inform the judicial and investigative authorities accordingly.

174. The High Commissioner calls on the Special Committee on the conduct of investigations into human rights violations and breaches of international humanitarian law, chaired by the Vice-President of the Republic, to work actively on a selection of representative cases of such violations, and to submit a quarterly report to the President of the Republic, the Attorney-General, the Procurator-General and the Ombudsman on the progress of its investigations.

175. The High Commissioner calls on the President of the Republic, in his capacity as Head of State and Commander-in-Chief of the security forces, to take all necessary steps to ensure that, independently of any dialogue conducted between the Government and paramilitary groups, all links between public officials and members of such groups are severed. It also calls on him to inform the Procurator-General of the Nation and the Ombudsman about the implementation and results of such measures in half-yearly reports.

(d) Economic and social policy

176. The High Commissioner exhorts the Government to develop a consistent policy to reduce the inequality gap that prevails in the country and to ensure that all necessary steps are taken to lower illiteracy and unemployment rates and to improve access to health, education and housing.

(e) Promotion of a human rights culture

177. The High Commissioner recommends the Government, through the Standing Intersectoral Commission on Human Rights and International Humanitarian Law, to prepare a plan of action on human rights that ensures the mainstreaming of gender policy, and to submit, during the first half of 2003, a timetable for its implementation.

178. The High Commissioner recommends the Minister of Education, beginning with the next academic year, to incorporate the teaching of human rights in primary and secondary school curricula. For this purpose it recommends that the Ministry establish a continuous training arrangement with the Office of the Ombudsman.

179. The High Commissioner calls on the High Council of the Judicature, the Attorney-General's Office and the Procurator-General's Office to make similar arrangements with the Office of the Ombudsman for the continuous training of their officials and employees in human rights and international humanitarian law.

(f) Advisory and technical assistance by the Office

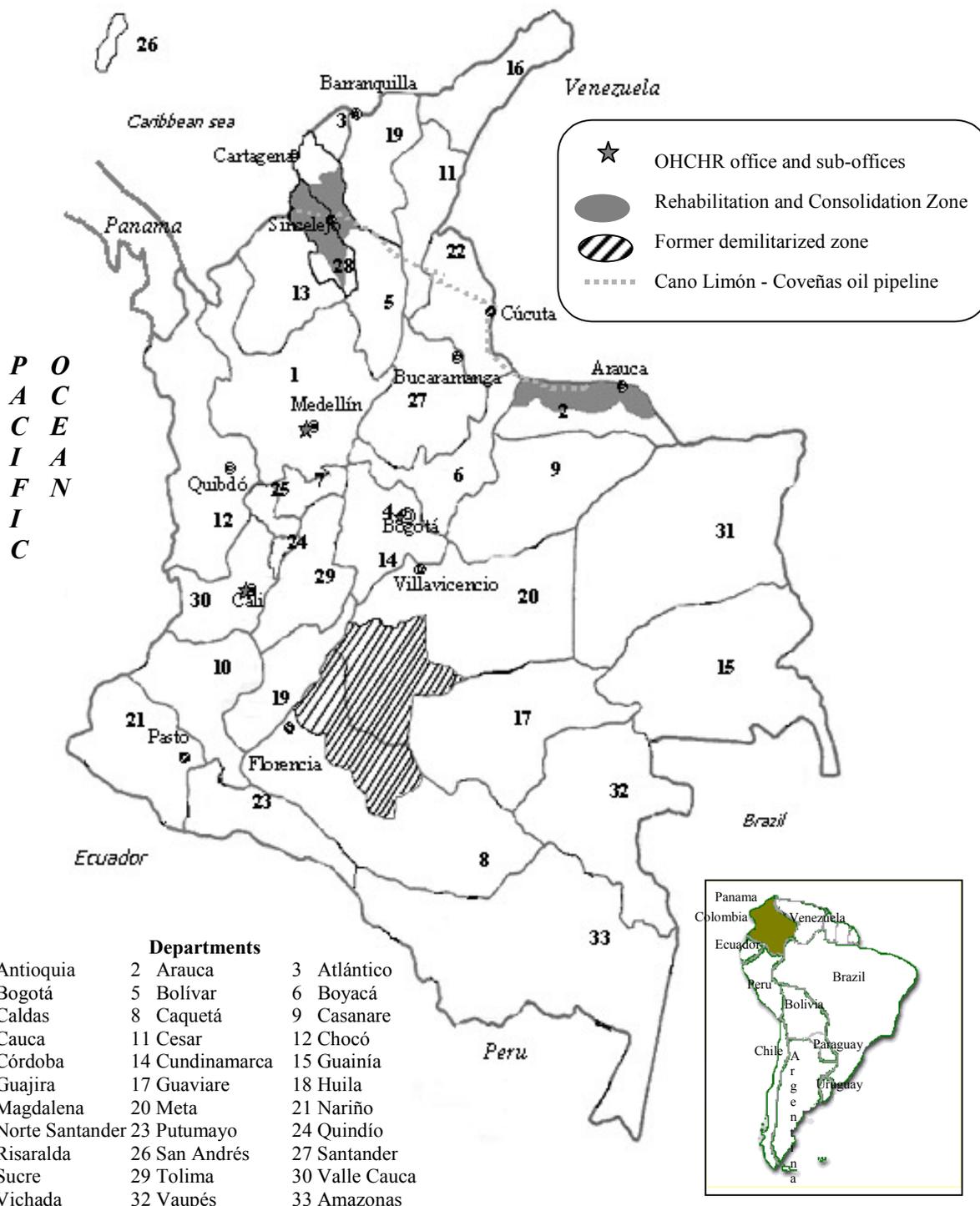
180. The High Commissioner urges the Government to act on international recommendations, including those made in this report, and calls on the Vice-President of the Republic, with the Office's assistance and advice, to coordinate the preparation of a timetable for implementing the recommendations of competent international bodies.

181. The High Commissioner invites the Government, Congress, the Attorney-General's Office, the Procurator-General's Office, and the Office of the Ombudsman to enhance their dialogue with the Office and take full advantage of its mandate of advice and technical cooperation.

X. MAP OF COLOMBIA

Territorial and administrative division Rehabilitation and Consolidation Zone Former demilitarized zone

December 2002



Notes

- ¹ See *Colombia: La situación de los derechos humanos*, Presidential Programme for Human Rights and International Humanitarian Law, Office of the Vice-President of the Republic, 11 October 2002, p. 19.
- ² The Vice-President is in charge of the Government's human rights policies. His Office is responsible for the Human Rights Observatory, in which information and pertinent statistics are registered in order to provide follow-up on this theme.
- ³ See paragraphs 67 to 69 below.
- ⁴ Ministry of National Defence, Military Operations in 2002.
- ⁵ See the annex to this report, with detailed examples and statistics of the situation.
- ⁶ As pointed out in chapter VII of this report, Colombia ratified the Rome Statute of the International Criminal Court in August 2002 with a reservation concerning war crimes.
- ⁷ See preliminary draft on human rights in the National Development Plan 2002-2006, official document circulated by the Government for comments.
- ⁸ Management Report of the Presidential Advisory Office on gender equality - March 2000-July 2002.
- ⁹ Act No. 294 of 1996 sanctioning violence in the family, amended by Act No. 575 of 2000; Act No. 581 of 2000 (Quota Act) regulating the adequate and effective participation of women in decision-making in all branches of public affairs; Act No. 731 of January 2002 on standards favouring rural women.
- ¹⁰ In the Constitutional Court, there is 1 woman out of 9 magistrates (11 per cent); in the Council of State, 6 women out of 27 (22 per cent); Supreme Court of Justice: 2 women out of 23 (9 per cent); High Council of the Judicature: 2 women out of 13 (14 per cent); Senate of the Republic: 11 women out of 102 members (11 per cent); Chamber of Representatives: 22 women out of 166 members (13 per cent).
- ¹¹ According to the Attorney-General's Office, its National Human Rights and International Humanitarian Law Unit is not undertaking any investigations into such offences.
- ¹² See the annex to this report, which gives examples of the main breaches.
- ¹³ See the Office's report dated 20 May 2002 on its mission of observation in the Medio Atrato (Bojayá, 9-12 May 2002), carried out as part of its mandate at the express request of the Colombian Government. The report also analysed the responsibilities of paramilitary groups for not respecting the principles of distinction and immunity of civilians, and the State's responsibility for preventive action and protection of the population.

¹⁴ See: “Human Rights (preliminary text), National Development Plan 2002-2006”, p. 1, and the CONPES document 3172: Lines of action to strengthen State policy regarding human rights and international humanitarian law”, 15 July 2002, p. 12.

¹⁵ This Act gave the security forces judicial powers, with the possibility of excluding independent judicial supervision, while subordinating civilian authority to the military in so-called theatres of operations or public order zones.

¹⁶ See the communication by the High Commissioner, Ms. Mary Robinson, of 26 August 2002, that mentions concerns related to the establishment by the new Government of a network of informers and the recruitment of peasants.

¹⁷ The officials of this institution may be freely appointed or removed. Despite a resolution passed by the Council of State seeking to introduce a career structure within one year (by October 2002), no action has been taken. A proposal tabled before Congress to reform the Attorney-General’s Office does not make any provision for changing matters either.

¹⁸ Several of these were conducting major investigations into serious human rights violations and some even received threats while in the performance of their duties.

¹⁹ It is worth recalling the concluding observations on Colombia made by the Human Rights Committee, CCPR/C/79/Add.76 (para. 23), dated 5 May 1997.

²⁰ The Freedom of Association Committee of the Governing Body of the International Labour Organization (ILO) reports that out of all the cases of murders, kidnappings, attacks or threats perpetrated against trade unionists which it had examined, in only one had potential culprits been identified. See report GB.285/9, para. 376.

²¹ Examples include General Rito Alejo de Río, General Fernando Millán and Admiral Rodrigo Quiñones.

²² The aerial attack by the Colombian Air Force which killed dozens of civilians in Santo Domingo (Arauca) in December 1998 is still under military jurisdiction, while military courts have taken cases such as the reported collusion between members of the 14th Army Brigade in Segovia and members of AUC in August 2002.

²³ According to the Compared Sources Estimation System (SEFC), enforced displacements increased by 100 per cent in the first half of 2002 compared with the same period in 2001. The main cause was generalized threats (46 per cent), followed by fighting (22 per cent) and massacres (8 per cent). The Social Solidarity Network reported that 887 out of the total of 1,098 municipalities are affected by enforced displacements.

²⁴ The State institution that coordinates the national system of care for displaced people.

²⁵ For example the training of local committees with the support of the Joint Technical Unit of the United Nations High Commissioner for Refugees and the International Organization for Migration (IMO).

²⁶ According to the Network, some 11,000 households received housing assistance in 2002; 3,000 families were helped with income-generating projects, and 195 young people and 675 persons received job training.

²⁷ For instance, in El Salado (Bolívar) in February 2002, and in the region of the Medio Atrato in November 2002.

²⁸ In July, paramilitary groups are said to have commandeered some 200 World Food Programme consignments which the Social Solidarity Network was to distribute among the Arhuaca community of Wirwa in the Sierra Nevada de Santa Marta.

²⁹ Other reports indicated that, in March, the Army had threatened to send in paramilitary troops if the Embera Katio transported members of FARC-EP in their boats.

³⁰ According to the Network, slightly more than 4 per cent of the displaced population is indigenous, and 19 per cent is Afro-Colombian (January-September 2002). See information on returnees in UNHCR, results of the policy of care for enforced internal displacements in Colombia, 1999-2002.

³¹ For example, the threats (attributed to paramilitaries) against the President of FCSP and the delegate for Atlántico, which led to the latter's transfer to Bogotá for reasons of security in September.

³² These include comments by Colonel Andrés Leonardo Rodríguez, in command of the 7th Battalion "Special Energy and Highways Plan", published in the daily *Vanguardia Liberal* of 5 June, criticising non-governmental organizations of the Magdalena Medio, and by the head of the Metropolitan Police, stating that those who organized the terrorist attacks of 7 August (the day President Alvaro Uribe took office) against the house in Nariño "are linked to two recently established NGOs". Such vague comments expose all non-governmental organizations to military attacks by other illegal armed groups.

³³ The same happened to those who complained at the indiscriminate aerial attack in Santo Domingo (Arauca) in December 1998, who were sued by the Chief of the Colombian Air Force.

³⁴ Police officers also arrested three women of the Asociación de Mujeres de las Independencias (Las Independencias neighbourhood Women's Association, AMI) in November without a warrant. On 9 October the Valle Cimitarra Peasant Association was raided in Barrancabermeja.

³⁵ See the report of the ILO Freedom of Association Committee (see note 20 above), paragraphs 375 and 382, and the report of the ILO Governing Board, *Special Technical Cooperation Programme for Colombia*, (GB.285/5, November 2002).

³⁶ In December 2001, the Inter-American Commission on Human Rights requested the Colombian Government to adopt protective measures for the members of this union. The same protection was recommended by the ILO Freedom of Association Committee.

³⁷ See also paragraphs 102 to 108 and chapter VIII of this report.

³⁸ See report of the ILO Freedom of Association Committee (footnotes 20 and 35), paragraph 383.

³⁹ FARC-EP were blamed for intimidating the Mayor of Colón (Department of Putumayo) by kidnapping his three-year-old daughter on 17 July. According to the Presidential Programme for Human Rights and International Humanitarian Law, the Ministry of the Interior and the Colombian Federation of Municipalities, 554 of the country's 1,096 mayors were threatened. For instance, threats were made by FARC-EP in 554 municipalities, and by the paramilitary groups against the municipal authorities of San Pablo (Nariño). It is also worth mentioning FARC-EP's kidnapping of 12 deputies of the Departmental Chamber of Valle del Cauca, on 11 April. The Presidential Programme for Human Rights reports that 43 councillors, 26 local political leaders and 8 mayors were murdered by FARC-EP, ELN, self-defence groups and other unofficial armed organizations, in addition to many threats being made, chiefly by FARC-EP.

⁴⁰ According to the Presidential Programme for Human Rights, in 45 cases the mayors are still performing their duties either in a different municipality or in the chief town of the department.

⁴¹ See National Council on Economic and Social Planning (CONPES) No. 3172: Lines of action for strengthening State policy with respect to human rights and international humanitarian law, 15 July 2002, p. 12.

Annex

Situation of human rights and international humanitarian law

Main breaches and violations

I. INTRODUCTION

1. The present document, annexed to the Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, supplements the description and the analysis in that report on the situation of human rights and humanitarian international law. It includes the main violations and breaches registered by the Office of the High Commissioner during the year 2002, giving details where available, and identifying the parties responsible and the groups that were particularly affected. Under some headings it also provides statistics on violations, responsibility, access to or exclusion from rights, and reflects the impact of some State programmes and measures on various topics.

II. HUMAN RIGHTS

Civil and political rights

(a) Right to life

2. The right to life was affected by extrajudicial executions, both individual and collective, and death threats directed against members of particularly vulnerable groups (including human rights defenders, trade union leaders, members of indigenous and Afro-Colombian communities and peasants). In some cases the executions were selective; in others they were part of social cleansing campaigns, perpetrated chiefly by paramilitary groups and members of the security forces.

3. During the year covered by this report, there was an increase in reported violations of the right to life, including extrajudicial executions and massacres, attributed directly to public officials and more particularly to members of the security forces. The tally of massacres included that of four minors and one adult in Medellín in February. The possibility that 24 paramilitaries were executed while not engaged in combat in Segovia on 9 August, is being investigated. The executions included that of an indigenous person in Puracé (Cauca) in October and of a youngster in Lloró (Chocó) in April, both attributed to the Army, and that of a member of the "Raizal" community in Providencia (San Andrés) in April, attributed to the police.

4. Some procedures undertaken as part of security policy, such as raids and arrests, led to civilian deaths attributed directly to the action of the security forces. Such acts occurred chiefly in the course of operation Orión, in Comuna 13 of Medellín in October, when three civilians died. Prior to that, nine civilians had been killed in the course of operation Mariscal in the same neighbourhood in May.

5. Massacres attributed to paramilitaries in which the State was blamed for failing to take action included those which occurred in Buenaventura (Valle) in May, in Santa Rita (Antioquia) in August, and in Atánquez (Cesar) in December. Massacres for which the State was considered responsible on account of the tolerance, support or complicity shown by members of the security forces included those perpetrated in Corinto in March and June, and in Limón on 31 August, against Wiwa indigenous communities.

(b) Right to personal integrity

6. There were reports of unnecessary or disproportionate use of force, cruel, inhuman or degrading treatment and torture. The Office registered an increase in complaints about the behaviour of officials involving either physical abuse of people in a position of inferiority or helplessness, or the unnecessary or disproportionate use of force. The cases of ill-treatment and disproportionate use of force generally occurred during prison riots, civilian strikes, protest marches, tenement evictions, roundups and searches. Examples of such cases occurred during the peasant march of 16 September in Bolívar and during operations in Medellín in May and October.

7. The Procurator-General's Office reported that, between January and November, 98 investigations were conducted against members of the security forces for torture and 8 for torture leading to death, practically twice as many cases as a year earlier. The reported deaths by torture included that of inmate Luis Preciado Osorio in Valledupar prison in March, and that of a woman in Argelia (Antioquia) in August, the latter being attributed jointly to paramilitaries and military personnel. As in earlier years, it should be remembered that cases of torture tend to be under-recorded.

(c) Right to individual liberty and personal security

8. This right was particularly affected by forced disappearances and by illegal or arbitrary arrests. According to the Office of the Vice-President, and in light of the complaints examined by the Procurator-General's Office, there has been a slight increase in the blame attributed to State officials in cases of forced disappearances. Both people arrested on roads, pathways and other public highways in rural areas, during searches and military sweeps, and people last seen in their homes or at their places of work in urban areas were reported to have disappeared. Disappearances were blamed on public officials in cases such as that which occurred in Popayán (Cauca) on 6 and 7 January, when a minor disappeared after five people were arrested by DAS agents. Seven people disappeared in October following the security forces' operation Orión in Comuna 13 in Medellín.

9. Arbitrary arrests were reported in connection with cases in which administrative authorities, acting without a warrant, arrested individuals in violation of police rules on pre-trial detention or for reasons incompatible with respect for fundamental rights. In other cases, even though warrants had been issued, the arrests were not justified by international standards. Many of the arrests linked to the implementation of Decree No. 2002, under which thousands of people were arrested, were said to be arbitrary.^a

(d) Right to freedom of movement

10. The most serious violations of the right to freedom of movement and residence were caused by unlawful impediments to free internal circulation and by enforced displacements.^b This year, impediments to free circulation arose not only from illegal checkpoints set up by armed groups to control the movement of pedestrians and traffic in areas under their control, but also from the implementation of Decree No. 2002, under which people living in rehabilitation and consolidation zones were subjected to a series of measures incompatible with the international principles of legality, necessity and proportionality which must be observed even in states of emergency.

(e) Right to privacy and inviolability of the home

11. In the last months of 2002, the rights to privacy and inviolability of the home were affected especially by raids and searches under the aforementioned Decree No. 2002, which was used to justify frequent government raids on premises where crimes were not in progress and there was no imminent likelihood of punishable behaviour.

Economic, social and cultural rights

12. Several reports^c in 2002 highlighted the worsening poverty, the profound social inequity and inequality and the high degree of socio-economic exclusion in Colombia. The armed conflict, economic crisis and unlawful attacks by illegal armed groups on public property have damaged the situation of Colombian citizens as regards their economic and social rights. These same factors, moreover, have affected the capacity of the Colombian State to respond effectively to the basic needs of the population, especially the most vulnerable sectors.

13. The problems of extreme poverty and uneven distribution of wealth are among the most serious. It is worth drawing attention to the situation regarding the ownership of land, considering that 1 per cent of landowners own more than 53 per cent of all cultivable land. At present 67 per cent of the population live below the poverty line, slightly less than the average since the 1980s, while 25 per cent fall into the extreme poverty category, a proportion which has risen substantially in recent years.^d In rural areas, more than 40 per cent of the population live in extreme poverty. The situation with regard to children is even more serious, considering that 24 per cent of the population situated below the poverty line are under 10 years old and almost 14 per cent of children under 5 suffer from chronic malnutrition.^e

14. Particularly affected is the displaced population, whose opportunities in terms of jobs, education and health are considerably reduced. Displaced persons do legally have access to health care, but administrative difficulties restrict the use of the resources available.^f

15. Owing to the economic crisis and the financial deficit, the Government was obliged in November to propose a tax reform to Congress. It may be wondered, however, whether the suggested changes really go to the heart of Colombia's structural problems and whether they answer the need for a redistribution of wealth. The potential impact of an increase in indirect taxation on the most vulnerable groups in the country must be examined very carefully.

(a) Right to work

16. High levels of unemployment have persisted since the 1990s, rising from 9 per cent in 1995 to as much as 20 per cent in 1999. The problem was made worse by increases in underemployment and moonlighting in 2000 to 29 per cent and 60 per cent respectively. The economic crisis affected sources of employment in 2002, so that between January and September the jobless rate rose by 1.4 per cent and the underemployment rate by 5 points. In September 2002, 14 per cent of the population were unemployed and 35 per cent were underemployed.^g At the same time, the coverage provided by the pension system remains seriously inadequate, since only 20 per cent of the workforce are covered.

(b) Right to education

17. Despite the efforts made in recent years, the education sector has been having problems in securing universal education and reducing illiteracy. Low levels of net educational coverage have persisted, with rates of 26 per cent in advanced secondary, 52 per cent in basic secondary and 34 per cent in pre-school education; the basic primary rate has never exceeded 82 per cent. Nearly 2 million children and youngsters between the ages of 5 and 17 (16 per cent of the total) remain outside the school system.^h This proportion is twice as high in rural areas (25 per cent) as in urban areas (12 per cent). Despite some improvements in net basic primary coverage in the last 30 years, this has stayed below the average for Latin America and the Caribbean. Moreover, improved coverage has not necessarily brought improved quality.

(c) Right to health

18. Health-care coverage has improved in recent years, rising from 23 per cent to 52 per cent of the population between 1992 and 2000. Considerable differences persist, however, between urban and rural areas (with rates of 57 per cent and 41 per cent respectively). Factors such as widespread evasion and avoidance, non-progressive fees for services, inadequate distribution of subsidies and an inefficient supply of services at the basic level of care, among others, have left a deficit in the clearing account of the contributory health-care system and support payments to the subsidized system have dried up. Despite an increase in health expenditure since 1993, this situation casts doubts on the viability of the current model.

(d) Right to housing

19. The public housing policy followed since 1991 has yielded positive results in terms of the construction of subsidized housing. Nevertheless, there is still a shortfall of more than a million homes for 5 million people, 82 per cent of whom do not manage to earn four times the minimum wage (less than US\$ 500).

20. As a result of the financial crisis in 1998, the amount of housing subsidized by the State was drastically reduced, falling from an annual average of 126,000 units in the period 1990-1998 to 40,000 in the year 2000. Nevertheless, the percentage of total housing finance provided rose from 15 per cent in 1995 to 49 per cent in 2000. Despite this proportionate increase, many

potential beneficiaries of the subsidy continue to experience difficulties in obtaining housing because they cannot meet the requirements for obtaining the mortgage loans needed to pay off the cost of their housing.

Women's rights

21. Despite the progress made from a legislative point of view, real inequality between men and women persists. According to the National Household Survey,ⁱ only 40 per cent of women have jobs, compared to 61 per cent of men. Men's earnings exceed women's on average by 16 per cent. Chronic unemployment affects 20 per cent more women than men.

22. Violence within the family has continued unabated. Women were the victims in 91 per cent of the 43,000 cases of marital violence and 61 per cent of the 14,000 cases of domestic ill-treatment (see report, footnote 20). Despite legislative progress, an effort should definitely be made to improve the protection, assistance and rehabilitation of victims of human trafficking.^j

23. Women's rights have been particularly affected by the armed conflict. In conflict, women tend to be treated as objects and their state of unjust inferiority and subordination to men is further aggravated. Of particular concern is the vulnerability of displaced women and girls (who account for 47 per cent of all displaced persons), including those from rural areas, heads of household, indigenous women and Afro-Colombian women. Displaced women often encounter difficulties in their dealings with the authorities owing to their lack of personal documents. Because there is no comprehensive public policy on displaced women allowing a differentiated approach, it is difficult to attend to their specific needs for assistance and protection, especially against violence and sexual abuse. Also, little attention is paid to women's mental and emotional needs during and after displacement.

Children's rights

24. Children's rights have been particularly affected by the worsening armed conflict and the deepening socio-economic crisis in the country. Poverty and extreme poverty adversely affect children's rights to development, to education and to health, while exacerbating domestic violence. According to the Office of the Ombudsman, out of almost 35,000 reported cases of familial violence,^k 65 per cent were perpetrated against children under the age of 18. Children are also the main victims of sexual abuse, since no less than 85 per cent of all reported cases concerned boys and girls. Approximately 35,000 children under 18 are sexually exploited in the country.^l

25. According to the Office of the Ombudsman, the infant mortality rate is 3.9 per cent, a figure which rises as high as 15 per cent in the Pacific region. In Colombia, 1,500,000 children between the ages of 5 and 17 work;^m some 20 to 25 per cent of these perform high-risk jobs, a percentage which rises as high as 70 per cent in the farming sector,ⁿ where the working day extends over 12 to 15 hours.

26. Displaced children represent a particularly vulnerable group, bearing in mind that 40 per cent of all displaced persons are under 18 years of age. Even though the displaced population is for a period of one year allowed priority access to the education system and is completely exempt from paying enrolment and boarding expenses, no specific budgetary provision is made to cater for their needs. The departments in many cases do not have the necessary resources to deal effectively with the situation, and in addition many displaced families do not manage to find their footing well enough to shoulder education costs once the year is up.

III. INTERNATIONAL HUMANITARIAN LAW

(a) Homicides and threats against protected persons

27. The murder of people protected by international humanitarian law continued to be a systematic practice on the part of the paramilitary groups, but was also perpetrated in many cases by FARC-EP and ELN. In some instances killings were attributed directly to the security forces. Many of the civilian victims of confrontations between armed groups are not recorded as homicides. Between January and October 2002, the Observatory of the Office of the Vice-President registered close to 3,000 homicides perpetrated by “organized units”. In the majority of cases, those responsible are registered as unknown. As indicated by the Office of the Vice-President: “Although it cannot be stated categorically and there is no hard evidence, our analysis of the facts leads us to conclude that most of these occurrences may be attributed to self-defence units and secondly to guerrillas. At least 2,000 of these homicides are attributable to self-defence units and around 500 to guerrillas.”^o

28. The policy of selective killings and social cleansing appeared to be a deliberate paramilitary strategy. In many areas of the country, such as Eastern Antioquia, the practice of selective killings by paramilitaries was quite routine. FARC-EP carried out systematic attacks, in several parts of the country, on local authorities such as mayors, councillors, municipal ombudsmen, judges and prosecutors.^p

29. On the basis of figures provided by the Standing Committee for the Defence of Human Rights, the Observatory of the Office of the Vice-President recorded 1,110 victims of massacres between January and June 2002. Of these killings, more than 50 per cent were attributed to paramilitaries, and the rest mainly to FARC-EP, the Army, ELN and unidentified armed groups. Among the massacres, many of which were cruel and brutal, paramilitary groups were blamed for killing seven people in Barragán (Valle del Cauca) in August, and eight in November in the municipality of San Carlos (Antioquia). FARC-EP were blamed for massacring 15 people on the estate of El Tapón, near San Juan Nepomuceno (Bolívar), in late August. Details of the attack in Bojayá (Chocó) are given in paragraphs 33 to 35 below.

30. The number of murders and massacres in towns rose as a result of increased military activity in urban areas and the proliferation of militia groups linked to FARC-EP, ELN and paramilitary groups. In the metropolitan area of Medellín, for instance, self-defence groups were blamed for massacres of civilians, such as the one in the neighbourhood of Carambolas on 5 October, and that of five displaced persons, including two minors, in the municipality of

Itaguí on 24 October. Guerrilla groups were blamed for the massacre of four women in the district of Floresta on 16 July, and the killing of two young men in the neighbourhood of Olaya Herrera in June.

31. The Office also came across reports of murders allegedly carried out by members of the security forces. For example, during military operations conducted between 2 and 8 July 2002 by the Fourth Army Brigade in Eastern Antioquia, the disappearance was reported of at least six peasants who were subsequently executed and buried in common graves. Other complaints concerned the execution of a 12-year-old boy, on 30 March, as he was running for cover during an operation by members of the same army brigade who entered the neighbourhood of Olaya Herrera in Medellín, accompanied by hooded individuals.

32. Death threats were the tactic most frequently used by illegal armed groups to bring about the displacement of persons considered “undesirable”, either because they were suspected of collaborating with the “enemy”, or to seize their belongings, or to terrorize them and bring them under control, or else to decimate social organizations, or to exact a financial contribution. By means of threats, these groups prevented free movement between urban and rural areas. The Office received complaints of threats against the civilian population that were attributed to the Army, for instance during an operation in Santa Ana (Antioquia) in September, when soldiers accused the local inhabitants of belonging to guerrilla forces and threatened several of them.

(b) Attacks on the civilian population and indiscriminate attacks

33. The humanitarian principles of distinction, limitation, proportionality and immunity of the civilian population continued to be violated by all the parties involved in the conflict in Colombia.

34. Operations by guerrilla groups, especially FARC-EP, featured the indiscriminate use of “home-made” weapons, such as gas cylinders and other explosive artefacts, which caused the deaths of many civilians. The worst of these attacks occurred on 2 May 2002 in Bojayá (Chocó), when a gas-cylinder bomb launched by FARC-EP during a clash with paramilitaries hit a church where a group of civilians trying to escape from the fighting had taken refuge. The bomb killed 119 civilians, including 48 children, and injured over 100. This despicable act illustrates how low the armed conflict has sunk and the conduct of illegal armed groups, in this case FARC-EP, who launched the bomb although aware of the presence of civilians and the indiscriminate nature of their combat methods, massacring one of the highest numbers of victims in recent years.⁹

35. Cases were reported of harassment and attacks, chiefly blamed on guerrilla groups, on people living in the north-east of the department of Cauca and in the Pacific coastal area of the departments of Cauca and Nariño. On 20 September, some 200 ELN fighters attacked the municipality of Samaniego (Nariño), abducting 7 persons, of whom 2 were later found dead. In other cases, FARC-EP used civilians as human shields when the Army arrived, opening fire indiscriminately in order to cause confusion and facilitate their own escape. This happened in April during an attack on Quilcace (Cauca). Similarly, the paramilitaries who rounded up civilians during their battle with FARC-EP in Bojayá (Chocó), as mentioned earlier, did not

hesitate to expose the civilian population to the consequences of the fighting. The Army was reported as using and occupying civilian housing in Chalán from October onwards.

36. Paramilitary groups also continued to attack the civilian population and conduct indiscriminate attacks. Between 7 and 10 August, the Autodefensas Campesinas de Córdoba y Urabá (Peasant Self-Defence Groups of Córdoba and Urabá, ACCU) attacked the village of Santa Rita, traditionally under FARC-EP control, leaving 11 civilians dead and 2 missing. It is worth noting that the security forces have been almost completely absent from the area for the last two years.

37. The Office received reports of attacks on the civilian population and indiscriminate attacks for which Army personnel were held directly responsible. They included an attack in September in the village of Santa Ana, in the municipality of Granada (Eastern Antioquia), and attacks by soldiers of the Fourth Army Brigade and the Metropolitan Police in neighbourhoods of Medellín. Among the latter, special mention may be made of operation Mariscal, launched on 21 May, in which the security forces used heavy weapons, armoured vehicles and air support, killing 9 civilians and injuring another 37, including people waving white flags. On 16 October, operation Orión left 3 civilians dead, 40 more injured, and 7 people missing. According to preliminary incomplete information received by the Office, at least 39 civilians are said to have died in operations conducted by the security forces in Medellín during the year (including 14 minors) and 120 were wounded. Several cases were also reported of indiscriminate air attacks by the Armed Forces, chiefly in the department of Cauca, which affected civilian persons and property. Such attacks occurred in the municipality of Belalcázar in May and in the district of Pitayó on 21 August.

(c) Terrorist acts^r

38. The worsening armed conflict included many acts of terrorism in the country's main cities, mostly perpetrated by FARC-EP, with many civilian victims. Terrorist acts using explosive devices became more frequent after the breakdown of the peace negotiations. They constituted a strategy that served to terrorize the population, demonstrate the operational capacity of the guerrilla forces and send a political message of defiance to the Government. A bomb was set off on 14 April in Barranquilla (Atlántico), while the motorcade of the then presidential candidate, Alvaro Uribe, was driving past. The latter escaped unhurt, but the attack, which the authorities blamed on FARC-EP, left four civilians dead and many more injured. On 19 April, a wave of dynamite attacks were mounted by FARC-EP in exclusive neighbourhoods of Cartagena (Bolívar), killing three people. On 7 August 2002, as President Uribe took office, FARC-EP launched multiple, indiscriminate mortar attacks in Bogotá, killing 21 people and leaving 100 more injured. On 13 December, senator German Vargas Lleras received a parcel bomb which injured him seriously. The same day, another bomb was placed in a restaurant in the centre of Bogotá, resulting in injuries to around 30 people.

39. Both the paramilitary groups and the guerrillas were responsible for acts and threats of violence designed to spread terror among the civilian population. Cases have been reported of the security forces threatening the civilian population, either as a form of reprisal or as a means of forcing the community to cooperate. Such cases occurred in El Limón on 31 August, and in Santa Ana in September.

(d) Torture and other affronts to personal dignity

40. The paramilitary groups, FARC-EP and ELN have all been accused of torturing victims before killing them. In a number of instances, besides being tortured, the victims of massacres and assassinations, especially by paramilitary forces, had been sexually abused and their bodies hideously mutilated. One example was the massacre of indigenous people and peasants in La Guajira on 31 August. FARC-EP were accused of beheading 9 soldiers in San Vicente del Caguán (Caquetá) in May, and ELN, of torturing and killing 2 people in Samaniego (Nariño) in September. There have been reports of ill-treatment by members of the security forces.⁵ There were also many complaints of civilians being held by illegal groups and suffering ill-treatment and brutality at the hands of their captors. On 5 March, at an illegal AUC checkpoint in Cauca, a boy was severely tortured, to the point of being laid in a coffin for several hours alongside a corpse.

(e) Hostage-taking

41. The practice of hostage-taking continued to affect the lives of thousands of Colombian citizens and several foreigners. In many cases, it served to collect funds for illegal armed groups in the form of kidnapping for ransom. For the first time FARC-EP overtook ELN in terms of the number of hostages seized, becoming the leaders in this category of offence. The paramilitary groups have resorted increasingly to this practice in order to raise money or for “political” reasons. According to the País Libre Foundation, 2,730 kidnappings took place between January and November 2002, 20 per cent of them in the department of Antioquia alone. Several were perpetrated by illegal armed groups in league with criminal gangs. Large-scale kidnappings have become commonplace among guerrilla groups, owing to their political impact and significance and as a means of spreading terror among the civilian population.

42. Several people have been taken hostage because of their political importance and significance. This was the case with Senator Jorge Eduardo Gechem Turbay, on 20 February, and with presidential candidate Ingrid Betancourt, on 23 February, both victims of FARC-EP. Other FARC-EP hostages included 12 deputies of the Valle del Cauca Assembly, on 11 April, and the Governor of Antioquia, Guillermo Gaviria, who was abducted together with his peace adviser, Gilberto Echeverri, on 21 April. On 11 November, FARC-EP abducted Monsignor Jorge Enrique Jiménez, the bishop of Zipaquirá and president of the Latin-American Episcopal Council (CELAM), and the parish priest of Pacho (Cundinamarca), Desiderio Orjuela; they were rescued by the Army in a swift operation on 15 November.

(f) Child victims of the armed conflict

43. Children continued to be some of the most vulnerable victims of the armed conflict, in particular on account of displacement, recruitment, anti-personnel mines and indiscriminate attacks by outlawed groups. For instance, 45 children died during the events in Bojayá (Chocó). Many have been killed by guerrilla and paramilitary groups. AUC were blamed for kidnapping and torturing three minors in Medellín, on 16 August, to obtain information about armed organizations in the neighbourhoods where they lived. Two of the children were killed and the third injured. The Office also received reports concerning several cases of minors who had fallen victim to indiscriminate attacks during operations by the security forces such as

operation Mariscal, which took place in Medellín in May. According to the País Libre Foundation, 357 minors were taken hostage in the first 10 months of 2002, i.e. 13 per cent of all victims of this offence.

44. The various guerrilla and paramilitary groups continued to recruit minors under 18 years of age into their ranks. Occasionally the mere threat of recruitment led to the displacement of whole families. The Office of the High Commissioner was informed that on 3 August, ELN troops took 22 youngsters from the district of Altamira, La Vega (Cauca), with them to join their fighting units. In August, an announcement by FARC-EP that all youths over 12 years old would have to join up led to the displacement of 60 families in the municipality of Cunday (Tolima). Reports were also received of “compulsory military service” being imposed on minors by paramilitary groups. Increasing forced recruitment by illegal armed groups of minors who had taken refuge in the border areas of Panama, Ecuador and Venezuela was reported.^t

45. Although there are no consolidated statistics on the exact numbers of children taking direct part in hostilities, nearly 7,000 minors are estimated to be fighting with FARC-EP, ELN and the paramilitaries.^u Another 7,000 are believed to belong to urban militias linked to different parts of the armed conflict. The extension of the conflict to urban areas has led to increased recruitment of minors by illegal militias, as in Medellín.

46. The Office of the High Commissioner has received information about minors being used as informers by the Army in Meta and Putumayo, sometimes with the offer of reward.^v The same was reported when the police arrested three members of the Asociación de mujeres de las Independencias (Las Independencias Women’s Association, AMI) in Medellín in November: a child wearing a hood was said to have been used as an informer.

(g) Women victims of the armed conflict

47. Women have been subjected to various kinds of violence, especially sexual violence,^w by illegal armed groups to spread terror or demonstrate their dominance and control over a territory. Women are also subject to cruel punishment if they do not follow the codes of conduct imposed by paramilitary groups in various areas of the country.^x The Office of the High Commissioner has received accounts of girls being subjected to sexual abuse by members of guerrilla and paramilitary groups. The situation of women’s organizations has worsened this year owing to threats against women’s lives and personal integrity, selective killings, and displacements blamed on illegal armed groups. Some organizations have been threatened because they defended the rights of women, particularly those of peasant, Afro-Colombian, indigenous and displaced women. This was true of the Organización Femenina Popular (OFP), the Asociación Nacional de Mujeres Campesinas, Indígenas y Negras de Colombia (National Association of Peasant, Indigenous and Black Women of Colombia, ANMUCIC) and the Liga de Mujeres Desplazadas de Bolívar (League of Displaced Women of Bolívar).^y

48. Fighting women enrolled in illegal armed groups suffer disregard for their sexual and reproductive rights by their fighting companions. According to the Office of the Ombudsman, out of a group of 65 under-age girls investigated in 2001, all “wore intrauterine devices, some inserted against their will, with no information of any kind, merely because it was an order on which their continued enrolment in the group depended”.

(h) Attacks on medical personnel and units

49. There was a considerable increase in attacks, kidnappings and threats against medical personnel by guerrilla and paramilitary forces. Incidents included attacks on hospital centres and medical and paramedical personnel, threats against health service personnel, attacks on ambulances, refusals to allow ambulances onto the streets, and interference with preventive care such as vaccination campaigns. According to the Observatory for Human Rights of the Office of the Vice-President of the Republic, more than 25 cases of this kind occurred between January and August 2002. According to the Ministry of Health, more than 80 per cent of the attacks on medical units consisted in attacks on the lives and personal integrity of staff, murders, threats and temporary detention at checkpoints. On 20 March, for instance, on a roadway in the municipality of San Carlos, four persons died, including one pregnant woman, when a grenade apparently thrown by FARC-EP at the ambulance transporting the woman exploded. On 11 December, the municipal ombudsman of San Carlos de Guaroa (Meta), who was being transported in an ambulance, was taken hostage, allegedly by paramilitaries.

(i) Attacks on civilian property

50. There was an increase in attacks on civilian property, particularly on public infrastructure, by guerrilla groups, with serious consequences for electricity and water supplies, for the fragile road network and for the natural environment. These attacks also caused many civilian deaths. According to the Judicial Police Office (DIJIN), the number of attacks increased by 49 per cent in the first seven months of the year (the number of bridges blown up rose from 2 to 11 a month, and the number of pylons destroyed from 21 in 2001 to 55 in the first seven months of 2002). Attacks by FARC-EP and ELN guerrillas on the Caño Limón-Coveñas pipeline, though fewer than in 2001, caused heavy damage to the natural environment.

51. Indiscriminate attacks by guerrilla and paramilitary groups, and the indiscriminate use of force in some military operations, caused considerable damage to civilian property. In other cases, both attacks by illegal armed groups and military operations included the plunder and destruction of property, as in the district of La Unión, in the Community of Paz de San José de Apartadó (Antioquia) in March, and in El Limón (La Guajira) in August.

(j) Use of anti-personnel mines

52. The use of mines increased considerably. According to the Landmine Monitor, 256 municipalities were affected by the presence of mines, in 28 of the 31 departments in the country. FARC-EP, ELN and the paramilitaries, in that order, were those mainly responsible, while Antioquia, Santander and Cauca were the departments worst affected. There has been a sharp rise in recent years in the number of victims (203 in 2001, and 129 up to July 2002) and incidents (201 in 2001 and 129 up to July 2002). Of the estimated 130,000 mines strewn across Colombia by the beginning of January 2002, the great majority had been laid by non-governmental armed groups, while the Colombian Army reportedly maintained approximately 18,000 mines to defend fixed positions.^z

53. The new trends are deeply alarming since all the outlawed armed groups have acquired an impressive capacity for the immediate, in situ manufacture of home-made mines, leaving far less scope for controlling them. Of particular concern was the widespread use by guerrilla groups of anti-personnel mines in hotly contested areas, especially in the municipality of Cocorná, in Eastern Antioquia, and in municipalities of Norte de Santander and the region of San Vicente del Caguán. The Office in Colombia was informed that at the beginning of the year the Army had mined the Munchique hills, an area crucial to communications in south-western Colombia. The José Hilario López Battalion in Popayán claimed this was an exceptional measure to protect the power station, since the area had suffered heavy attacks by guerrilla forces, and the mined area was clearly marked to prevent civilian casualties.

Notes

^a See analysis of the state of internal commotion in paragraphs 63 to 66 of the report, and the administration of justice and impunity, in paragraphs 78 to 87.

^b For information concerning movement, see paragraphs 88 to 94 of the report.

^c See for example the report of the Office of the Comptroller General, "Colombia: between exclusion and development", dated July 2002.

^d The proportion remained above 19 per cent during the 1990s.

^e Office of the Comptroller General, "Colombia: between exclusion and development", July 2002.

^f In addition, the implementation and interpretation of the Ministry of Labour and Social Security's Circular No. 042 of November 2002 may render access to health care even more difficult for displaced persons.

^g National Department of Statistics (DANE) - Continuous Household Survey, October 2002.

^h See discussion in National Planning Department, "Bases of the National Development Plan 2002-2006".

ⁱ See report, footnote 8.

^j According to the Inter-Institutional Committee against Traffic in Women and Children, in 1999, almost 50,000 Colombian women had been sold abroad. Executive report on trafficking in persons in Colombia, Inter-Institutional Committee (1998-2002).

^k A figure given by the Forensic Medicine Unit for the period January-October 2002.

^l UNICEF, "La Niñez colombiana en cifras", November 2002, p. 42.

^m A figure published in *El Tiempo* of 29 November 2002, giving information from the DANE “Survey of the population aged from 5 to 17 years in Colombia”.

ⁿ See footnote 1, p. 44.

^o See Communication of the Presidential Programme for Human Rights and International Humanitarian Law, Office of the Vice-President of the Republic, Statistics 2002, 8 November 2002, p. 3.

^p See report, paras. 30 and 31.

^q See the Office’s report dated 20 May 2002 on its mission of observation in the Medio Atrato (Bojayá, 9-12 May 2002), carried out as part of its mandate and at the express request of the Colombian Government.

^r For the purposes of this report, terrorist acts are understood to be those referred to in article 4.2 (c) of Protocol II additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, and the acts and threats of violence aimed at terrorizing the civilian population prohibited under article 13.2 of that Protocol.

^s See chapter V of the report.

^t According to statements by the UNHCR spokesman, Kris Janonski, at a press conference on 21 May 2002, at the Palais des Nations, Geneva, Switzerland, “Colombia, UNHCR concern at the recruitment of refugee children”.

^u See note 1 above, p. 44.

^v “Report 1379”, Coalition to stop the use of child soldiers, November 2002.

^w Like those reported in the department of Sucre in Medellín attributed to paramilitaries, and in the department of Huila, attributed to FARC-EP. The rape of a girl blamed on a member of the National Army in the department of Antioquia is a matter of particular concern.

^x Such cases are believed to have occurred in Barrancabermeja (Santander), Santander de Quilichao (Cauco), Turbo (Antioquia) and Puerto Asis (Putumayo).

^y See the progress report on follow-up to the recommendations of the United Nations Special Rapporteur on violence against women, Ms. Radikha Coomaraswamy, by the “Women and Armed Conflict” panel.

^z Landmine Monitor Report 2002 on Colombia, September 2002, p. 59, quoting the 2001 Human Rights Practices Reports, published in March 2002 by the US State Department.