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

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

**Summary**

The document describes the main developments in Colombia during 2007 regarding the situation of human rights and international humanitarian law, covered by the agreement between the Government of Colombia and the Office of the United Nations High Commissioner for Human Rights (OHCHR), which was renewed in 2007 and remains in force until October 2010. The report highlights the fact that the intertwined dynamics of the internal armed conflict, drug-trafficking and organized crime continue to weigh heavily on the human rights situation. At the same time, the report notes the persistence of structural problems in certain State institutions. Throughout the year, the need to guarantee the rights of all victims of violations of human rights and breaches of humanitarian law was placed at the centre of public debate. The document stresses that it is urgent and imperative to make a proper and timely response to their claims.

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

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

Some of the challenges to be faced relate to the consolidation of the demobilization of the paramilitaries, and the emergence of new illegal armed groups; both of them directly affect human rights. The magnitude of the tasks pending in the judicial proceedings under Law 975/2005 of 2005 (the “Justice and Peace Law”), and the persistence of obstacles to its full application, are causes of uncertainty and concern. There are important challenges in relation to the need to guarantee the participation of the victims in these processes. At the same time, the Supreme Court’s investigations, despite many obstacles and even threats, have made good progress in showing how seriously public institutions and society at large have been infiltrated by the paramilitaries and their organizations.

During 2007, political decisions and measures were taken by the highest civilian and military authorities to counter the persistent extrajudicial executions attributed to the State security forces. The Revolutionary Armed Forces of Colombia-People’s Army (FARC-EP) guerrillas and, to a lesser degree, the National Liberation Army (ELN), have not stopped committing serious breaches of international humanitarian law.

Approximately 45 per cent of the population lives below the poverty line, including the majority of displaced persons; this situation hinders the full enjoyment of their rights. This report also includes information and analysis on disturbing human rights situations in groups that are especially vulnerable, including the victims of the internal armed conflict, displaced persons, indigenous groups, Afro-Colombians, women, trade unionists, human rights defenders, journalists and children. The report also summarizes the activities of the office in Colombia of OHCHR (the Office of the United High Commissioner for Human Rights) during 2007 and presents eight recommendations which, if carried out, would help to bring about a notable improvement in the situation of human rights and humanitarian law.

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## **Introduction**

1. On 26 November 1996, the Government of Colombia and the Office of the United Nations High Commissioner for Human Rights (OHCHR) agreed on the establishment of an office in Colombia of OHCHR, which opened in April 1997. Its mandate is to assist the Colombian authorities in developing policies and programmes to promote and protect human rights, to advise civil society on matters of human rights, to observe the situation of human rights and international humanitarian law in the context of the violence and the internal armed conflict, and to submit its reports and analyses to the High Commissioner.
2. The High Commissioner visited Colombia from 7 to 9 September 2007 to sign an agreement with the Government of Colombia to extend the office in Colombia's mandate<sup>1</sup> in its entirety up to 30 October 2010. After 10 years of activities, the High Commissioner wishes to express her acknowledgement to the Colombian people and to the authorities for having welcomed and cooperated with the Office. The High Commissioner also extends her gratitude to those countries and organizations which have given support to the office in Colombia, and contributed to the promotion and protection of human rights.
3. This report covers the period from January to December 2007, focusing on the most significant aspects of the office in Colombia's mandate. It is based on the following activities: systematic and analytical observations of the human rights situation, including field visits, the processing of complaints, the analysis of reports and statistics, interviews with State authorities, victims, other representatives of civil society, United Nations agencies in Colombia, bodies from the international community and NGOs.

### **I. THE POLITICAL CONTEXT**

4. Colombia has been seriously affected by an internal armed conflict for more than 40 years. It has also become increasingly evident that the illegal armed groups are directly or indirectly involved in drug-trafficking,<sup>2</sup> and are associated with local and international networks of organized crime and corruption. The complex relationships between all these factors, added to persistent structural problems such as impunity and limitations of access to justice, inequality and discrimination, continue to affect the human rights situation negatively. That said, it must be

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<sup>1</sup> See chapter III, "Activities of the Office in Colombia".

<sup>2</sup> These activities include charges to growers, storage and trafficking in their respective zones of influence or control, the direct administration of supplying the precursors required to process illegal drugs, the recruitment and payment of growers and harvesters, protection and maintenance of clandestine landing strips and, in some cases, the direct exportation of drugs and related money-laundering.

recognized that Colombia has made progress in restoring security throughout the country in recent years,<sup>3</sup> and the visibility given to human rights in the public agenda is a solid achievement.

5. During 2007, the most relevant political and security-related events with an impact on the human rights situation were: (a) the judicial proceedings against demobilized paramilitary leaders under Law 975/2005, known as the “Justice and Peace Law”;<sup>4</sup> (b) judicial investigations into the activities of a number of high-level public servants for their alleged links with paramilitary groups;<sup>5</sup> (c) the emergence or consolidation of a range of new illegal armed groups following the paramilitary demobilization process, some of them having strong links with organized crime and drug-trafficking; and (d) the holding of regional and local elections.

6. The security forces continued to implement “el plan de guerra” (war plan) against illegal armed groups, in particular against the guerrillas, through the “Plan Consolidación”, which replaced the former “Plan Patriota”. The intensity of hostilities frequently had a negative impact on the civilian population, and breaches of international humanitarian law were attributed to all armed actors. Several new illegal armed groups<sup>6</sup> emerged, building up strength and engaging in violent acts in certain regions. FARC-EP and ELN persisted in their violent disruptions of public order and continued to infringe international humanitarian law. A number of organizations - including the Organization of American States’ Mission to Support the Peace Process in Colombia (MAPP/OEA) - raised the alert on guerrilla activities in specific areas, formerly under demobilized paramilitary groups’ control.<sup>7</sup> According to the security forces, there was an increase in militia-type activities by the guerrillas as they retreated from the regular

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<sup>3</sup> Relevant official violence-related indicators showed a decrease in the number of massacres and homicides, kidnappings, guerrilla attacks against small villages and military bases, illegal checkpoints and destruction of transmission towers and oil pipelines, among others. As a result, foreign direct investment and tourism also rose during the year.

<sup>4</sup> Law 975/2005 of 2005 (“Justice and Peace Law”) regulates the procedures to be followed with demobilized members of illegal armed groups and establishes judicial benefits based on their contribution to justice and reparation. See “Report on the Implementation of the Justice and Peace Law: Initial Stages in the Demobilization of the AUC and First Judicial Proceedings”, Inter-American Commission on Human Rights (IACHR), OAS, Document OAS/Ser.L/V/II.129, Doc. 6, 2 October 2007.

<sup>5</sup> See section on “The fight against impunity” (paras. 12-14).

<sup>6</sup> See section on “Demobilization processes” (paras. 40-44).

<sup>7</sup> See Organization of American States, “Tenth Quarterly Report MAPP/OAS”; document OAS/Ser. G., CP/doc. 4249/07, October 31, 2007, and “Ninth Quarterly Report MAPP/OAS”, document OAS7/Ser. G., CP/doc. 4237/07, 3 July 2007.

forces' offensives. These dynamics are more directly observed in the south of the Department of Córdoba, in the Urabá-Chocó area, eastern Antioquia, the north of Santander, the north of Tolima, Nariño, Putumayo, Guaviare, Vichada and Arauca.

7. The Government authorized and sponsored a number of initiatives of its own<sup>8</sup> and of third parties, to make contact with FARC-EP, with varying degrees of support. Its intention was to find agreements which would lead to the release of hostages in exchange for imprisoned guerrillas and, perhaps, eventually lead to peace talks. There was enormous consternation when the 11 deputies from the Departmental Assembly of Valle del Cauca had been murdered,<sup>9</sup> after being held by FARC-EP since 2002. Their death was met with a unanimous outcry by Colombians, leading to massive protests, and a widespread movement of public opinion urging the release of all the kidnap victims. A mixture of shock and grief also shook the nation with the publication of pictures of the hostages and letters written by them to their families, seized by the authorities from FARC-EP agents in late November, which showed their deplorable situation. All of this reminded people at home and abroad that those who fall into the hands of illegal armed groups remain permanently defenceless and vulnerable. Some of them have already been held for as long as 10 years.<sup>10</sup>

8. On 28 October 2007 elections were held nationwide for regional and local authorities. Governors and members of local assemblies were elected in the 32 departments, mayors and councillors in 1,094 municipalities, four metropolitan districts, and for local wards. Candidates were nominated from a broad range of political groups.<sup>11</sup> The voter turnout was high and the results confirmed the country's political plurality. The mobilization of the forces of law and order contributed to security at the polls. During the polling day, a climate of normality prevailed. However, before and after that day, there were isolated acts of violence.<sup>12</sup> There were death threats and even murders in some places, mainly by guerrilla groups (especially FARC-EP), although some were attributed to members of the new illegal armed groups, drug-traffickers and criminal gangs who threatened the lives of numerous candidates and

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<sup>8</sup> For example, they identified over 180 imprisoned members of FARC-EP, including one of its leaders, for unilateral release.

<sup>9</sup> See Organization of American States, "Conclusiones de la Comisión Forense Internacional para esclarecer las circunstancias en torno a la muerte de los Diputados colombianos del Valle del Cauca en junio de 2007", document OAS/Ser. G., CP/INF. 5545/07, 18 September 2007.

<sup>10</sup> See section on "Guerrilla groups" (paras. 45-49).

<sup>11</sup> The National Registry Office reported that 61,949 candidates were registered.

<sup>12</sup> Results in 18 municipalities in the departments of Atlántico, Bolívar, Boyacá, Caquetá, Cesar, Huila, Magdalena, Nariño and Santander were challenged for supposed irregularities, such as vote-buying or obstacles to voters and threats to officials in charge. Disturbances in a few places caused damage to the Registrar's Office, local government offices and private homes.

restricted their political activities.<sup>13</sup> A total of 8 aspiring candidates and 23 registered candidates were murdered; 4 aspiring candidates and 5 registered candidates were kidnapped.<sup>14</sup>

9. Another important aspect of the political context was the continuation of the dialogue among the Government, civil society and the international community, which led to the III International Congress on Colombia, held in Bogotá in November 2007. The final declaration reaffirmed the need to continue with efforts to achieve results [in applying the recommendations of the High Commissioner] as quickly as possible.<sup>15</sup>

## **II. THE HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW SITUATION**

10. Although there are some encouraging signs of improvement, the situation of human rights and international humanitarian law remains a matter of concern, particularly in regions in which the dynamics of internal armed conflict have become more intense.

11. The authorities, especially the Government, welcomed the High Commissioner's recommendations and cooperation in general, renewing their commitment to full implementation, while acknowledging that there are still challenges to be faced and shortcomings to be remedied. However, major efforts and additional measures must be sustained and reinforced over a long period of time if they are to be really effective. This should include coordinated and convergent actions by all sectors and institutions of the State and civil society. Specific efforts must be made to prevent victims' demands from becoming invisible and thus irrelevant. The fulfilment of the rights of victims of the armed conflict to truth, justice, and reparation, and the guarantee of non-repetition, are essential conditions for a transition towards lasting peace and national reconciliation.

### **A. State authorities**

#### **1. The fight against impunity**

12. Structural problems persist in the administration of justice. These include the underreporting of crimes to the authorities, the difficulties of access to the judicial system, the insufficiency of funds and technological resources (despite increased budgets), the lack of uniform criteria in the application of the law, the high workload of judges and prosecutors, the slow pace of proceedings, and cases of corruption. During 2007 some progress was made in opening up channels to combat impunity, particularly in judicial proceedings under Law 975/2005 against demobilized paramilitary leaders whose depositions represent a first step

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<sup>13</sup> Threats were reported in Antioquia, Arauca, Bolívar, Cauca, Putumayo, Santander, Tolima and Valle, and voters were intimidated in Córdoba and Nariño.

<sup>14</sup> Antioquia, Valle del Cauca and Tolima were the departments worst affected.

<sup>15</sup> "Declaration of Bogotá", III International Conference on Colombia, Bogotá, 30 November 2007, see Point 7.

in clarifying past events.<sup>16</sup> Investigations have also been undertaken by the Supreme Court and the Attorney General's Office against high-level civilian and military officials for alleged links with paramilitary groups and corruption.

13. Investigations into the storming of the Palace of Justice by the M-19 guerrilla group and its recovery by the army in 1986, and others related to the murders of members of the Unión Patriótica were reopened.<sup>17</sup> The courts also handed down decisions against members of the security forces who perpetrated extrajudicial executions, as in the cases of the three trade unionists murdered in August 2004 at Caño Seco in Saravena, Arauca, and the farmer murdered in April 2004 in the village of La Hondita in El Peñol, Antioquia. In both cases the military patrols reported that the victims had been "shot in combat", and the courts found that they were not. The Attorney General's Office also ordered the detention of an army captain for the massacre of five adults and three children in San José de Apartadó, Antioquia, in February 2005.

14. At the international level, the Inter-American Court on Human Rights has ruled against the Colombian State, which accepted responsibility for the extrajudicial execution of an indigenous leader in the Nasa community, Cauca, by members of the armed forces in February 1988. In another case in which the State has also accepted responsibility, the same Court found that paramilitaries, with the collaboration of State agents, were guilty of the massacre of 12 officers of the judiciary<sup>18</sup> in January 1989 in La Rochela, Santander.

**(a) Investigations into links between public officials and private enterprise with paramilitary groups**

15. The Supreme Court of Justice opened investigations into the activities of 45 members of Congress for their alleged links with paramilitary groups. The accused are from 16 different departments; 18 of them have been imprisoned. Others under investigation include four former departmental governors and 18 former mayors. In November, the Procurator General dismissed the Director of the Administrative Department of Security (DAS) and barred him from holding public office for 18 years, for having collaborated with paramilitary groups and taken part in acts of corruption. All of these investigations have revealed the extent of paramilitary infiltration within the State through alliances with politicians and the support of certain private companies.<sup>19</sup> The Supreme Court has given clear evidence of its strength and independence, which reinforces the possibility to further expose other paramilitary connections with members of public and private institutions.

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<sup>16</sup> See note 4 above.

<sup>17</sup> This left-wing political party was created within the context of peace talks with FARC-EP in the late 1980s. Many of Unión Patriótica's members and supporters have been murdered.

<sup>18</sup> Several of the paramilitaries involved in this massacre are currently applying for legal benefits under Law 975/2005.

<sup>19</sup> In that same line, a United States court convicted and fined Chiquita Brands International for having financed Colombian paramilitary groups between 1997 and 2004.



16. Despite these very important cases, there remain serious structural problems for the efficacy of the justice system, as mentioned before. The full introduction of the accusatory system in the criminal courts, due to be completed by early 2008, is intended to help combat impunity at all levels.

**(b) Judicial proceedings under Law 975/2005, the “Justice and Peace Law”**

17. Law 975/2005 regulates the procedures to be followed with demobilized members of illegal armed groups and establishes judicial benefits based on their contribution to justice and reparation. In 2007, 3,127 of the 31,671 demobilized paramilitaries<sup>20</sup> were candidates for benefits under Law 975/2005. As at 19 December 2007, the Attorney General’s Office had begun the process of receiving 1,057 voluntary depositions; of these, 941 depositions were closed because the deponents did not ratify their willingness to be processed according to Law 975/2005. A total of 542 candidates for benefits are in prison. The Attorney General’s Office has also registered 121,547 victims. There is a marked contrast between the large number of cases and the limited progress made - during 2007 not a single indictment was issued. This shows the size of the Attorney General’s challenges, and supports many of the concerns and doubts about the process.

18. Some of the victims and some human rights defenders have pointed out that the information revealed by the demobilized paramilitaries is often neither complete nor truthful. It is evident, too, that the statements made by the majority of these paramilitaries often attempt to justify - and even openly claim credit for - the acts committed by their organizations. This leads to real risks to the lives and safety of those victims who participate in proceedings.<sup>21</sup> At the same time, the flow of information that has come to light as a result of these depositions has exposed the enormous dimensions of paramilitary criminal activity,<sup>22</sup> and the unspeakable details of events hitherto unknown to the authorities - let alone the public.<sup>23</sup> These new disclosures generate legitimate concern about the group of approximately 19,000 demobilized paramilitaries who have not submitted to Law 975/2005 and have no formal investigation open against them.<sup>24</sup>

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<sup>20</sup> There are still 439 of these candidates that have not yet been conclusively identified.

<sup>21</sup> See section on “Victims of the armed conflict” (paras. 50-52).

<sup>22</sup> For example, a former leader of the group called “Bloque Bananero” of the paramilitary AUC declared that he ordered the murder of approximately 1,500 people in the Urabá area (in the Department of Antioquia) alone.

<sup>23</sup> The Attorney General reported that there was no record of prior investigations in the case of 2,193 of the 3,127 people who claim the status of demobilized paramilitaries.

<sup>24</sup> See especially Decree 128 of 22 January 2003 “which regulates Act 418 of 1997, supplemented and amended by Act 548 of 1999 and Act 782 of 2002 in the matter of reincorporation into civil society”.

19. There is a growing consensus regarding the need for new professional and technical resources for the Attorney General's Office, the Procurator General and the judicial system. There must also be renewed national and international political support in order to reinforce the judicial and political processes of the Justice and Peace Law.

20. Another challenge lies in the implementation of mechanisms to guarantee security for the victims to participate and to receive reparations. This will have to be a central issue in 2008 if the Attorney General's Office takes the steps that should follow the depositions of the paramilitary leaders.<sup>25</sup>

## 2. Extrajudicial executions

21. The persistence of extrajudicial executions attributed to members of the security forces, especially members of the Army, has prompted the Government to strengthen the control mechanisms. The political will of senior civilian and military personnel to adopt measures which will prevent, investigate, punish and expose situations in which this type of action has occurred has been most evident in their discussions with the Office during 2007; and they acknowledge that serious crimes, such as extrajudicial executions, do not even achieve any kind of military advantage.

22. New directives produced this year by senior Ministry of Defence officials and military authorities<sup>26</sup> have emphasized technical and regulatory matters. These directives could serve as the practical basis for a comprehensive attempt to deal with allegations of extrajudicial executions attributed to the security forces. The office in Colombia will closely and regularly monitor implementation and results in 2008. All these measures follow the orientation of several recommendations made by this office, and it is expected that they will be fully developed in the document on integral policies of human rights and international humanitarian law to be published by the Ministry of Defence in early 2008. The Government has also asserted that the Military Criminal Justice has a restrictive area of action and should be limited to exceptional cases, as stated in the presidential objection to the bill containing a new Military Criminal

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<sup>25</sup> For example, there is an unresolved procedural debate about the correct moment to issue individual indictments - whether to use information already in hand for immediate prosecution, or to wait until all the evidence is in for all possible cases (including those yet unopened, based on hitherto unknown facts now coming to light).

<sup>26</sup> For example, resolution 12 of 5 March 2007, "Rules for Engagement for the Military Forces"; Permanent Directive 10 of 6 June 2007 "Reiteration of the obligations on the part of the authorities to enforce the law and prevent the murder of protected persons"; Permanent Directive 19 of 2 November 2007, "Complement to Directive 10 of 2007 - Reiteration of the obligations on the part of the authorities to enforce the law and prevent the murder of protected persons"; Permanent Directive 300-28 of 20 November 2007, "Rules, analysis, diagnosis and measurement of the impact of operational results in the light of the policy of democratic security" (where priority is accorded to demobilization over arrests, and arrests have priority over deaths in combat).

Code.<sup>27</sup> Adjustments were also made to adopt the accusatory system within the Military Criminal Justice. Other Army measures included the deployment of operational legal advisers; the strengthening of internal controls; the reinforcement of its human rights offices; and training on the application of guidelines for personnel who are the “primary responsible authority” to preserve evidence for the Attorney General’s Office.

23. There is an abundance of guidelines within the military, and an expanded policy of training in human rights and international humanitarian law. Nevertheless, there is still much to be done towards the effective implementation of these principles within the security forces.

24. The office in Colombia continues to receive complaints of extrajudicial executions attributed to the security forces. Some common characteristics of the complaints are the following: the victims are represented as having being killed in combat; the scene of the crime has been tampered with before the bodies were identified; and often investigations have been initiated by the Military Criminal Justice system. Official investigations reveal that the underlying motives in several of these cases may be related to pressure on the military to show results, or to false claims of success in action by certain members of the security forces to obtain benefits and recognition.

25. The complaints also indicate that the victims included some who might have been linked to new illegal armed groups, such as in Toluviejo in June 2007, where six young men, apparently recruited by unidentified persons, were found dead several days later and were reported as having been killed in combat in Chinú, Córdoba, by the Unified Action Group for Personal Liberty (GAULA) of Army Brigade 11.

26. It is urgent to identify internal obstacles so that the policies described above can become fully operative. There is also a need to make progress in the review, design and implementation of new models of tactical training to be used at the level of operative units, and to analyse lessons learned.

27. At the same time, OHCHR welcomes the decision taken by the military leadership regarding the June 2007 incident in Balsillas, Caquetá, when two soldiers shot six people (including a minor). The immediate reaction of the military commanders was to send the case to the civilian jurisdiction, where the soldiers were tried and sentenced in just three months.

28. If extrajudicial executions are to be totally eradicated, the Attorney General’s Office and the control agencies need to have greater commitment. The Attorney General’s Office has created a special unit to conduct investigations of extrajudicial executions. The complexity and dimensions of this problem require the allocation of sufficient technical and budgetary resources, and appropriate training for the investigation team.

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<sup>27</sup> In July, Congress approved a reform to the Military Criminal Code that did not exclude all human rights violations and serious breaches of international humanitarian law from the military jurisdiction, as required by international norms. President Alvaro Uribe objected to this provision. A final decision by the Constitutional Court is pending. See Republic of Colombia, *Diario Oficial*, Year CXLIII, 46,706 (31 July 2007).

### **3. Enforced disappearances**

29. So far, the depositions by demobilized paramilitary leaders have revealed the location of 1,009 clandestine graves within their respective zones of influence or control. This has made it possible to recover the remains of 1,196 victims, most of whom have not yet been identified (440 were reported as preliminary identified, and 118 fully identified bodies have been returned to the families).<sup>28</sup> The process has certainly revealed the way in which these extremely serious crimes were systematically committed by paramilitary groups, and the widespread practice of enforced disappearance in Colombia in recent years.

30. It is urgent to redirect the processes of exhumation so that many more bodies can be properly identified. This will only happen if there is greater effort to facilitate the participation of the victims' families in the processes of investigation, in line with international standards. Colombian and foreign forensic experts have already made this recommendation to the authorities. The National Plan for the Search of the Disappeared, issued in February 2007, favours collective and regional investigations, thus facilitating the identification of patterns and optimizing the efforts to identify the remains. But the Plan has barely gone into operation. There have been positive experiences in the application of this type of approach in Santa Marta, Magdalena, and Yopal, Casanare, which are worth perfecting and extending to other regions, with the inclusion of guarantees for the relatives.

### **4. Torture and the excessive use of force**

31. The office in Colombia has received information on cases of torture, cruel, inhuman and degrading treatment and the excessive use of force by members of the security forces. In Cesar, complaints have stated that in some extrajudicial executions attributed to Army personnel, the victims had been tortured.

32. Likewise, the office in Colombia received information on torture inflicted on soldiers by their superiors in Bogotá, and it was also informed of cases of torture attributed to members of the National Police in certain police stations or during patrols in Bogotá, Huila and Norte de Santander. In the first of these cases, six officers in Bogotá were removed from active service. The office in Colombia is also following up complaints on excessive use of force by members of the Police Force's Mobile Anti-Riot Squad (ESMAD) in Chocó and Putumayo.

33. Cases were reported of abuses allegedly committed by members of the police against the transgender population engaged in prostitution in Bogotá, Medellín and Cali.

### **5. Illegal or arbitrary detentions**

34. Complaints were made about illegal or arbitrary detentions in which warrants were exclusively based on the testimony of former guerrillas, which was not properly corroborated by

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<sup>28</sup> Data from the Attorney General's Office, Justice and Peace Unit, covering information from 29 March 2006 to 19 December 2007.

other evidence. In Cesar, 11 people were arrested and presented to the media as guerrillas, and had to be released several days later for lack of proper evidence. The same happened to another 12 detainees in Santander.

35. Some judicial decisions have questioned the impartiality of witnesses, such as former guerrillas or paramilitaries who receive economic benefits for their testimonies. This happened in the case of a human rights defender in Santander who spent 14 months in prison on the basis of the testimony of two former guerrillas, and was later acquitted when it was shown to be false.

## **6. The situation in prisons**

36. According to official data, overcrowding in prisons has reached an average of 20.6 per cent, and the situation is much worse in some establishments. The Government intends to build 11 new prisons during its remaining two and a half years of office. The current situation requires additional efforts and measures to meet the basic needs of prisoners, such as health, food, sanitation, legal advice and expert assistance, and others such as family visits, education and work projects. Steps already taken to implement an educational model and work training should be extended to a greater number of inmates. The continuing need for differential treatment of women prisoners, indigenous people, Afro-Colombians, lesbian, gay, bisexual, and transgender persons (LGBTs) and AIDS sufferers within the prison system is still a matter of concern.

37. The National Penitentiary and Prison Institute (INPEC) has indicated that it will amend Law 65/1993 (Penitentiary Code) and reform the General Regulations for Penitentiaries and Prisons, to respond to the above-mentioned issues.

38. Finally, Law 975/2005 implies new challenges in the design of a criminal policy. This refers particularly to the security risks caused by the complex situations arising when those formerly involved with paramilitary, guerrilla and common criminal groups are brought together in the same facility.

## **B. The demobilization processes**

39. After the formal end of the collective demobilization, the Casanare Rural Self-Defense Group is the only remaining paramilitary group recognized during the negotiation process that is still operating.<sup>29</sup> As per the information directly collected by the office in Colombia, there is still concern that there are new illegal armed groups operating in the Departments of Meta, Vichada and Guaviare, and there have been actions in Nariño attributed to the self-styled Nueva Generación (“New Generation”), as was already mentioned in the High Commissioner’s report of 2006 (E/CN.4/2006/9). These groups are heavily armed, have a military organization and responsible leaders, and have the capacity to control territory and to conduct military operations against other armed actors. They represent an active factor in intensifying the armed conflict,

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<sup>29</sup> Members of the “Cacique Pipintá Front”, which operated in the departments of Caldas and Antioquia, surrendered in September 2007.

with direct and serious consequences for the civilian population. There has been information suggesting that certain members of the armed forces have links with actions attributed to these groups, or take an acquiescent or tolerant attitude to them.

40. There are also serious challenges to the consolidation of the demobilization process, precisely because of the emergence of new illegal armed groups.<sup>30</sup> The structures, interests and modus operandi of these groups are not homogeneous, and the use of identical terms to describe them often conceals a wide variety of different activities, aims and alliances. However, whatever their denomination, they remain a legitimate source of concern because they continue to inflict violence on the civilian population,<sup>31</sup> for example, in the Departments of Chocó, Valle del Cauca, and Putumayo. The extensive use of the name *Aguilas Negras* (Black Eagles) by several of the existing groups, although they apparently do not belong to a single structure, has created confusion and has occasionally enabled these groups to divert attention from their real importance. For this reason, the simple description of these new structures as “criminal gangs”, does not take into account the complexity, variety and plurality of the phenomenon and the danger it implies. Official figures report that the armed forces killed more than three times as many members of such groups in 2007 as they did in 2006.<sup>32</sup>

41. The authorities have detected that former middle-ranking cadres from previous paramilitary groups act as heads of some of these new groups, and that a number of low-level demobilized members operate in areas which were once zones of influence of the paramilitaries. Information received by the office in Colombia claims that these groups maintain links with demobilized paramilitary leaders who have accepted the terms of Law 975/2005. The Attorney General’s Office is investigating demobilized paramilitary leaders accused of continuing with their criminal activities from their cells in Itagui, Antioquia.

42. Many of these groups have been engaged exclusively in illegal activities which imply a control of territory and of the population, such as drug-trafficking, extortion, security-related actions, racketeering and other illegal activities. These have often led to violent disputes among the criminals themselves. Their activity is making a noticeable impact on the population in the

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<sup>30</sup> See Organization of American States, “Eighth Quarterly Report MAPP/OAS”, document OAS/Secr. Gen. CP/doc. 4176/07, 14 February 2007, p. 6, which “identifies 22 new structures composed of approximately 3,000 members”. See also “Disidentes, rearmados y emergentes: ¿bandas criminales o tercera generación paramilitar?”, Report No. 1, Comisión Nacional de Reparación y Reconciliación; Area de Desmovilización, Desarme y Reintegración, August 2007. Non-governmental sources such as the NGO INDEPAZ (Instituto de Estudios para el Desarrollo y la Paz) give higher figures.

<sup>31</sup> Specifically, the victimization of sectors that had been directly targeted by paramilitary groups, such as human rights defenders, social leaders, members of ethnic groups, university professors and students, journalists and justice officials.

<sup>32</sup> Ministry of Defence, “Logros y retos de la Política de Seguridad Democrática”: 198 killed in 2006; 636 killed in 2007.

form of murders,<sup>33</sup> massacres, acts of “social cleansing”,<sup>34</sup> death threats and child recruitment,<sup>35</sup> evidencing the need for ever greater efforts by the authorities to combat these new groups and investigate their possible links with public servants and local government officials. Likewise, the economic influence of these groups tends to encourage corruption amongst authorities.

43. The Government considers security and development to be central to sustainable reintegration of demobilized persons, admittedly aware that the persistence of drug-trafficking and other illegal activities facilitates the relapse of former combatants and renews the capacity for recruitment of all illegal armed groups. The Presidential Advisory Office for Reinsertion is implementing a number of projects for the effective reintegration of the demobilized population. However, it faces serious challenges in trying to secure greater participation of regional and municipal authorities and the business sector to offer alternative means of employment to the demobilized and guarantee their security. This Office draws attention to the fact that many of the victims who have not received reparations in the judicial proceedings under Law 975/2005 perceive the efforts described here as a form of “revictimization” that offends their personal dignity and sense of justice.

### C. Guerrilla groups

44. The FARC-EP continued to disregard their duty to respect international humanitarian law. They have committed grave and systematic breaches such as massacres, murders, the taking of hostages, the planting of anti-personnel mines, acts of sexual violence, recruitment of children (boys and girls) and terrorist acts. Among their many crimes, members of this group were said to be responsible for two massacres in May and August 2007 with 10 victims (among them a girl) perpetrated in Turbo, Antioquia, as well as the murder of 11 Valle del Cauca assemblymen.<sup>36</sup> They also murdered a number of municipal officials, including two councillors in Doncello, Caquetá, and the mayor of San José de Palmar, Chocó.

45. FARC-EP continued taking hostages, among them 10 timber workers in Riosucio, Chocó, a candidate for the mayoral elections in Anorí, Antioquia, and five people in the Department of Nariño who were later found murdered. This tactic is also employed, to a lesser degree, by ELN.

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<sup>33</sup> For example, the murder in Cali, Valle del Cauca, of Sergio Mauricio Cortés, an activist in the Polo Democrático Alternativo political party, in May 2007. This crime was denounced by the victim’s brother to the Attorney General’s Office. The victim’s brother was murdered at the end of that month.

<sup>34</sup> For example, the murder of four women in La Hormiga, Putumayo, in July 2007, supposedly because they were suffering from AIDS, considered to be drug addicts and to have maintained relations with guerrillas.

<sup>35</sup> For example, the recruitments reported in Cartagena, Medellín and Valle del Cauca which are quoted in the report of the Secretary-General on children and armed conflict (A/62/609-S/2007/757, para. 116) of 21 December 2007.

<sup>36</sup> See note 9 above.

The systematic kidnapping and the prolonged captivity of hostages are a matter of grave concern. FARC-EP disregard the obligation to give humane treatment to persons deprived of their freedom for reasons related to the conflict, as is the case of members of the security forces held captive for many years. They also take hostages to obtain economic benefits or to exert political pressure. These military and police personnel and civilians have spent many years in captivity in conditions which are not verifiable, with no access to the humanitarian intervention by the International Committee of the Red Cross (ICRC). This must be a cause for serious ethical and legal reflection that should question the categories of breaches of international humanitarian law applied to these situations in the light of the universal criminal jurisdiction. The High Commissioner has always unreservedly condemned this situation and has insisted firmly and repeatedly that the kidnap victims should be unconditionally released.

46. FARC-EP continued to plant anti-personnel mines and to commit violent acts. They are considered to be responsible for a car-bomb explosion in Cali on 10 April which destroyed the Headquarters of the Metropolitan Police there, produced the death of a civilian, and severely damaged various buildings.

47. Although ELN continues to engage in talks with the Government, it continues to disregard international humanitarian law and has made death threats, committed murders, taken hostages and used anti-personnel mines. Among their crimes, there was the murder of an indigenous leader of the Awa ethnic group in Ricaurte, Nariño, and kidnappings in Norte de Santander and Arauca.

48. Fighting continues between FARC-EP and ELN in the departments of Arauca,<sup>37</sup> Cauca and Nariño, and this has led to an increase in the number of murders, death threats, planting of anti-personnel mines, and forced displacement.

#### **D. Situations of special concern and particularly vulnerable groups<sup>38</sup>**

##### **1. Victims of the armed conflict**

49. As noted earlier, the Attorney General's Office has registered over 121,547 victims of crimes committed by members of paramilitary groups who expect to exercise their rights in the proceedings in progress under Law 975/2005. Nevertheless, the number of victims of crimes committed in the internal armed conflict is not restricted to that group alone, and the condition of the victims as such is not derived from the State's recognition or by their participation in judicial proceedings. All of these victims have a legitimate aspiration to truth, justice, and integral

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<sup>37</sup> In Arauca alone during the first six months of 2007, 128 murders were attributed mainly to FARC-EP and ELN.

<sup>38</sup> The office in Colombia has been following up situations which also affect sectors such as the community of lesbians, gay, bisexual and transgender persons, including cases of homicide such as those perpetrated against transvestites, particularly in Cali, where 12 murders of this kind were reported in the first six months of 2007.



reparation; and to guarantees of non-repetition. It may be that the response to these expectations will always be relative, but the State has a permanent duty to maintain its willingness to resolve these problems in the best possible manner.

50. Those victims who aspire to exercise their rights under Law 975/2005 are confronted with serious and very concrete obstacles, beginning with the danger to their lives and their personal safety. The National Police has reported 160 cases of death threats against victims claiming their rights, and the National Commission for Reparation and Reconciliation (CNRR) has recorded 13 murders of people who were pressing claims for the restoration of land and other possessions. There are still difficulties for the victims who wish to be parties in related court proceedings due to a lack of clarity regarding the application of some provisions of Law 975/2005. Added to this, there is limited access to legal counsel and to appropriate representation in court.

51. In September, the Government created the Program of Protection for Victims and Witnesses under Law 975/2005, but this programme has received criticisms from some of the main beneficiary sectors. Both the Government and CNRR have recognized the need for administrative mechanisms for reparation that will overcome the limitations of the existing judicial mechanisms. At the time of writing, the Government and CNRR were working to set up a legal framework, which could represent an important initial step forward to fulfil the rights to truth, justice and guarantees of non-repetition. This is an area of reform and adjustment still required by the process initiated with Law 975/2005.

## **2. Displaced persons and isolated communities**

52. In 2007, the Office of the United Nations High Commissioner for Refugees published a comprehensive report on forced displacement in Colombia.<sup>39</sup> The figures on forced displacement in 2007 reveal that incidents were provoked mainly by attacks on the civilian population by FARC-EP and the ELN, by clashes between these two groups,<sup>40</sup> or by clashes between these groups and law enforcement agencies.<sup>41</sup> In Nariño, one of the departments most affected, displacements were caused by clashes between the guerrillas and the self-styled Nueva Generación.<sup>42</sup> Also, in certain areas displacement was related to the presence of illegal crops, or to pressure exerted by illegal armed groups, or gangs engaged in the growing of illegal crops and drug-trafficking, or as the effect of aerial spraying.

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<sup>39</sup> United Nations High Commissioner for Refugees, office in Colombia, “Balance de la política pública para la atención integral al desplazamiento forzado en Colombia, enero-abril 2007”, published August 2007.

<sup>40</sup> In Arauca, 253 families were displaced in January, and 132 in April, including 16 families from the Makaguan ethnic group from the La Esperanza de Tame indigenous reservation.

<sup>41</sup> In March, displacement of El Charco affected some 5,000 inhabitants.

<sup>42</sup> In May, some 525 people were displaced in the municipality of Cumbitara (Department of Nariño).

53. FARC-EP continued to isolate a number of communities,<sup>43</sup> on occasion planting anti-personnel mines, which has seriously affected the economic, social and cultural rights of the population to the point of preventing access to health care and food.

54. The Government has increased the funding allocated to meet the needs of the displaced population and its budgetary effort is significant. However, the Controller General, the Procurator General and the Constitutional Court have drawn attention to persisting deficiencies with regard to the differentiated attention to specific population groups (such as women, indigenous, Afro-Colombians) and inequity in handling protected rights, especially the right to housing. Cases of forced displacement (a crime under Colombian law, which has driven almost 2 million Colombians off their land)<sup>44</sup> have not been properly investigated, and very few perpetrators have been convicted and reparation has been granted in very few cases.<sup>45</sup>

55. The Constitutional Court has actively followed up the issue of displaced persons and established indicators to measure the effective enjoyment of rights and to overcome the situation that it had declared unconstitutional, among other means, by extending the three-month period of humanitarian emergency aid offered by the State until the affected persons can support themselves. The court also made it clear that the State must take full responsibility for the stabilization of the situation of all displaced persons.

### **3. Indigenous groups and Afro-Colombians**

56. Indigenous and Afro-Colombian groups - who make up a considerable percentage of the displaced population - have been particularly affected. This situation is partly due to the fact that they are located in territories that are strategic in the dynamics of the internal armed conflict, and partly because they have suffered from discrimination and marginalization. In addition, they have also been affected by large-scale productive projects imposed on their collectively held territories and by legislation unfavourable to traditional forms of production, by the development of major infrastructure projects - such as dams which can negatively impact the environment - and by the aerial spraying of illegal crops.

57. Serious violations committed against indigenous ethnic communities have been attributed to illegal armed groups. One instance was the massacre of eight Awá and Pastos Indians in the

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<sup>43</sup> In Arauca, the population has been affected by restrictions to the circulation of traffic imposed by FARC-EP on roads connecting the municipalities of Arauca, Saravena and Tame.

<sup>44</sup> Official figure given by the United Registry System (SUR, Sistema Único de Registro), although non-official figures report up to 3 million displaced persons.

<sup>45</sup> The Council of State's decision of November 2007 declared the State responsible for the damages caused to 538 persons displaced from the rural district of Filogringo (Municipality of El Tarra, Department of Norte de Santander) following a paramilitary attack in March 2000, fining the State almost 12 billion Colombian pesos (equivalent to about US\$ 6 million) in reparations.

municipality of Cumbal, Nariño, in June 2007, attributed to FARC-EP. The worst affected regions are Arauca, Cauca, Chocó, Córdoba, Guajira, Nariño, Putumayo and Valle del Cauca. The intensification of the armed conflict in Buenaventura gravely affected the individual and collective rights of the Afro-Colombian population in that area. A very large number of members of the nomad group Nukak Makú - inhabitants of a region in the Department of Guaviare who, as a group, are in danger of extinction - have been displaced and are in a critical situation, needing very specific attention due to their cultural peculiarities.

58. The Government extended its comprehensive plan for the support of extremely vulnerable or endangered indigenous communities into the Departments of Cesar, Risaralda, Meta and Guajira. This is a positive step which needs to be consolidated, expressly taking into account results from studies conducted among several ethnic groups focusing on their expected life plans.

59. A plan for integral development was formulated to improve the situation of Afro-Colombians, and progress was made in regulating several articles of Law 70 of 1993 on collective land ownership. This is a process which should culminate in specific decisions arrived at after consultation with the communities themselves.

#### **4. Human rights defenders**

60. In 2007, human rights defenders - both men and women particularly rural and grassroots leaders - were murdered. In Antioquia, Casanare, Norte de Santander, Putumayo and Sucre, cases were reported in which responsibility was attributed to members of the security forces. Other cases were attributed to FARC-EP in Antioquia, Arauca, Caldas and Putumayo and to new illegal armed groups in Antioquia, Bolívar, Cesar, Córdoba, Putumayo and Valle del Cauca. Cases were recorded also of threats made against human rights defenders in Antioquia, Atlántico and Bogotá and information was stolen from the offices of human rights NGOs in Bogotá. Information was also stolen from the Regional Ombudsman's offices in Bolívar and Santander. Some members of organizations which offer advice to the victims of paramilitary groups in the proceedings under Law 975/2005 have also received threats or been subjected to interference with their work and their work has been publicly questioned, even by State authorities, especially in Bogotá and Medellín.

61. In the course of her visit to Colombia from 7 to 9 September 2007, the High Commissioner reiterated her support for the dedicated and courageous work of men and women working as human rights defenders, and advocated for effective measures to improve their protection. The High Commissioner called for public officials to stop making statements designed to discredit human rights defenders' work, because they might increase the danger to the defenders' lives or personal safety.

62. The Protection Programme of the Ministry of Interior and Justice was strengthened with additional personnel and extended its coverage to new groups of beneficiaries, such as displaced persons and victims who were involved in cases under Law 975/2005. Until effective results are achieved in the investigation, processing and punishment of those responsible for the attacks on human rights defenders, however, crimes against them are unlikely to cease.

63. Renewed impetus must be given to the tasks recommended to the Procurator General and the Ministry of Defence to guarantee that military and police intelligence files do not include human rights defenders and organizations without justification. Legislation has yet to be introduced which will regulate the handling of this kind of information in accordance with international standards.

## **5. Trade unionists**

64. Official figures from the Ministry of Social Protection record 26 murders of union leaders or members, 18 of whom were teachers. The trade unions record a total figure of 34. The difference between these numbers, and the consideration of accumulated figures over longer periods,<sup>46</sup> has generated an intense debate on the risks faced by union activists in Colombia.

65. A number of murders and death threats against trade unionists denounced to the office in Colombia in 2007 were attributed to members of the FARC-EP, to new illegal armed groups, or to unidentified persons.

66. In 2006 the Attorney-General created a special unit to investigate these incidents; to date the unit has received a total of 1,231 cases. The unit has 13 prosecutors, a group of investigators and 24 lawyers. At the time of writing, there were convictions in 82 of those cases, 36 of which were issued in 2007. There was a conviction in only one of the 21 investigations into the murders of unionists initiated in 2007. The judiciary's administrative authority, the Superior Council of the Judicature, appointed three specialized judges (known as "Decongestion Judges") who have been working on 24 cases in recent months, of which seven have been decided.<sup>47</sup>

67. The State has paid attention to the problems of union members, especially in allocating a significant amount of resources to provide protection to union members. Nevertheless, the poor results of the judicial system reveal an urgent need for more decisive actions that will secure fundamental rights and the practical exercise of the right to freedom of association.

## **6. Journalists**

68. Journalism in Colombia is vigorous, and it expresses a variety of ideological perspectives. Nevertheless, in 2007 the Foundation for Freedom of the Press (FLIP, or Fundación para la Libertad de Prensa) recorded 1 murder, 92 death threats, 2 kidnappings and 7 exiles. The office in Colombia received information regarding journalists who had been intimidated or otherwise threatened while covering the public hearings of demobilized paramilitary leaders in Medellín, Barranquilla and Bogotá.

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<sup>46</sup> According to the International Confederation of Unionists, in 2006 there were 78 unionists murdered in Colombia. See Annual Report 2007.

<sup>47</sup> ILO, Special Services and Decongestion Center, Judiciary Branch.

69. The Ministry of Interior and Justice maintains its Journalists Protection Program, but the measures requested from the Committee for Regulation and Assessment of Risk need to be expedited. The lack of effective progress in the investigation, processing and punishment of those responsible for violations of the rights of journalists contributes to the persistence of crimes against them.

### **7. Violence against women and children in the context of the conflict**

70. The armed conflict continues to have a specific impact on women, even though, as in previous years, it is not easy to document cases of sexual abuse that have occurred in this context. Information has been received on cases attributed to FARC-EP, revealing that sexual violence is used as a mechanism for pressure or retaliation. For example, in June 2007 a teacher was subjected to sexual violence in Medellín for having refused to instruct her pupils in the political ideals of the guerrillas. FARC-EP was also attributed responsibility for the murder of women who attempted to desert from their ranks.

71. The office in Colombia also received information on cases of sexual violence attributed to members of the army in incidents which occurred in Bolívar and Putumayo.

72. In May 2007, the Attorney General set up a special group within its Human Rights Unit to be responsible for the investigation of cases in which the victims have been women, children and adolescents subjected to specific violations of their rights in the context of the armed conflict.

73. Minors - both boys and girls - find themselves in a particularly precarious situation when they are victims of displacement due to the armed conflict. Cases are still being recorded of boys and girls seriously harmed by anti-personnel mines, acts of sexual violence, indiscriminate attacks and terrorist activities.

74. FARC-EP continued to recruit children of both sexes, especially in the departments of Arauca, Cauca, Antioquia, Sucre, Bolívar, Guaviare, Meta, Nariño and Valle del Cauca. In some cases the children were placed in the front line, resulting in killings in combats with State security forces. Likewise, ELN and the new illegal armed groups continued to recruit children.

### **8. Economic, social and cultural rights: poverty and inequality**

75. During 2007, official figures, including statistics on poverty, unemployment and other socioeconomic indicators, were the object of public debate due to the changes introduced in official methods of measurement and to limitations of access to “plain files”, thus impeding comparisons with figures from previous years. As a result the credibility of these figures has been questioned. Official statistics reflect that approximately 45 per cent of Colombia’s population lives below the poverty line, and 12 per cent in extreme poverty.<sup>48</sup> Displaced persons are the poorest of the poor.<sup>49</sup> The Gini coefficient for Colombia, which is a measure of inequality

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<sup>48</sup> President Alvaro Uribe, Report to Congress 2007, 20 June 2007, p. 12.

<sup>49</sup> Research by International Committee of the Red Cross and World Food Programme (WFP) in eight cities (out of nine) with the largest number of displaced persons, 2007.

of income and wealth, is 58.6, the third worst in Latin America.<sup>50</sup> Progress is therefore needed in identifying the most appropriate instruments with which to measure the effective enjoyment of economic, social and cultural rights.

76. In 2007, the Government's initiative in implementing the pilot phase of the Social Protection Network for Overcoming Extreme Poverty (a project known as JUNTOS) plans to extend social services, and has a target of 1.5 million families as potential beneficiaries, of which 300,000 families are victims of forced displacement. The beneficiaries receive cash subsidies with the condition that their children attend school and go for medical check-ups. The programme has extended the access to services in rural areas, but its impact on the reduction of overall poverty and inequity is contingent on further advances in an integral policy against poverty. The high rate of economic growth in 2007 and the reduction of unemployment<sup>51</sup> were not accompanied by an improvement in the quality of employment contracts.

77. In 2007 reforms to the Social Security (Health) System<sup>52</sup> came into effect, relieving the lowest income earners from any obligation to make contributions.<sup>53</sup> This measure may help to eliminate barriers to access of the poorest groups to health services: access to these services is at present not equitable, particularly in the case of displaced populations, indigenous groups, women, adolescents and the elderly.

78. The reforms to the regime of budget transfers from the central Government to regional and local governments approved in 2007 will modify the distribution of funds received by the regions for education, health, drinking water and sanitation services,<sup>54</sup> and its impact on both the coverage and quality of services is still uncertain. As a point of context of this development, the Ombudsman has denounced the fact that in 2007 over 16 million Colombians did not have access to drinking water. The State also failed to comply fully with the mandate of the Constitution that education for those aged between 5 and 15 (including at least one year of pre-school and nine years of basic education) should be universal, free and mandatory. Finally, other norms approved this year will make it more difficult to recognize land ownership rights of the displaced in rural areas.<sup>55</sup>

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<sup>50</sup> United Nations Development Programme, *Human Development Report 2007/2008*, 2007.

<sup>51</sup> Official figures from the government statistical bureau, DANE, indicate that unemployment decreased from 11.9 per cent in the December 2005 to November 2006 period, to 11.3 per cent in the same period in the following year.

<sup>52</sup> Law 1122 of 2007, which modifies the General System of Social Health Security.

<sup>53</sup> Article 14, para. g, Law 1122 of 2007.

<sup>54</sup> Legislative Act 4 of 2007, which reforms articles 356 and 357 of the Constitution.

<sup>55</sup> Law 1152 of 2007, which establishes the Statute on Rural Development and reforms the Colombian Institute of Rural Development (INCODER).

79. The approval of policies for health<sup>56</sup> and education<sup>57</sup> has all in all been positive and should serve as a basis for other specific measures that will guarantee the rights of sectors that are particularly vulnerable and discriminated against.

### III. ACTIVITIES OF THE OFFICE IN COLOMBIA

80. During 2007, the office in Colombia received 1,871 complaints and followed up 1,563 of them. A total of 234 observation missions were undertaken, which represented 606 days of field visits. The office in Colombia continued with its activities in other areas of its mandate - advisory services, technical cooperation and dissemination - from Bogotá, Bucaramanga, Cali and Medellín. On the first of these areas, activities were concentrated mainly on instruction regarding international standards of transitional justice, the prevention of violations of human rights, particularly extrajudicial executions, the scope of military jurisdiction, discrimination, gender-based violence and the rights of victims. Regarding dissemination activities, there were 42 press releases and 11 lectures on subjects such as peace and human rights, victims' rights, gender and armed conflict and impunity, among others.

81. The renewal of the office in Colombia's mandate was preceded by a joint reflection exercise of between State agencies and the office regarding its activities in Colombia since 1997, and the performance of the State. This exercise enabled themes of common interest to be identified and the scenarios to enrich the implementation of the Agreement to be created. Also, an assessment of the impact of the office in Colombia was made during the year in a frank and productive dialogue with Colombian organizations, civil society and the international community. The analysis led to recommendations that will prove useful in enriching the responses which the office in Colombia will make to new demands and needs that arise with regard to the situation of human rights and humanitarian law.

82. Working with the embassies of Spain and Sweden and with the United Nations Development Programme (UNDP), the office in Colombia continued to support the Government and civil society in the process of formulating a National Action Plan on Human Rights and International Humanitarian Law, with encouraging results in the definition of criteria for a methodology for agreeing content and stages for substantial progress in 2008. The office in Colombia also provided advice to the National Plan for Education in Human Rights, which advanced in 2007 by forming five regional technical teams and by developing pilot plans for the five regions.

83. Among other technical cooperation projects implemented in the course of 2007, there was the programme to incorporate a human rights-based approach into municipal development plans. The office in Colombia offered advice to local authorities and civil society organizations in 20 municipalities and 2 districts of Bogotá.

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<sup>56</sup> National Public Health Plan 2007-2010.

<sup>57</sup> National Decennial Education Plan 2006-2016.

84. Working with the Ministry of Interior and Justice, the office in Colombia implemented a programme of training in human rights for 141 officials and community leaders in 9 Civic Coexistence Centers set up in municipalities where the conflict has been most intense. The office in Colombia also started a project to support the Office for Ethnic Affairs of the Ministry of Interior and Justice in the area of prior consultations with indigenous groups.

85. Working with the Procurator General, the office in Colombia supported the transition of municipal administrations in a process of accountability addressed to municipal ombudsmen.

86. The office in Colombia held many training courses, including the following: (a) courses for military officers and for personnel from other Latin American countries on matters of human rights and international humanitarian law; (b) training for 12 civilian and military institutions on the Istanbul Protocol regarding investigation of torture; (c) courses for prosecutors on investigation of extrajudicial executions under the Minnesota Protocol; (d) courses for 98 judges and appeal justices from the Courts Martial System on the application of the system's jurisdiction.

87. In the area of enforced disappearances, the office in Colombia began a project for the development of a "diagnostic guide" on the procedure to be followed before the administration of justice in cases of enforced disappearance. In coordination with the ICRC, the office in Colombia facilitated the work of an inter-institutional round table on psychosocial assistance to the relatives of victims of enforced disappearance.

88. The project for strengthening the Attorney General's Office, co-financed by the European Union, ended in 2007. Activities after June were financed by USAID and were designed to assist the implementation of the High Commissioner's recommendations for the institutional strengthening of the Attorney General's Office, the fight against impunity and the promotion of human rights and international humanitarian law in that office.

89. The signature of the United Nations Development Assistance Framework (UNDAF) with the Government of Colombia on 23 July 2007 was a noteworthy accomplishment for the United Nations Country Team in Colombia. The office in Colombia participated actively in the drawing up of the document.

90. In the framework of the United Nations Action 2 Global Fund, the office in Colombia supported the incorporation of the human rights-based approach in the pilot programme executed jointly with the United Nations system in Soacha, along with the training of United Nations officials in planning with a human rights perspective, and the evaluation of the impact of activities performed from 2004 and 2007 in the Action 2 Programme.

91. Working through the Inter-Agency Group on Gender, the office in Colombia played an active part in preparing information material on gender for all United Nations System officers in Colombia. It also offered advice on the issue of gender-based violence to women members of Congress, and participated in the design of an "Integral Strategy for the prevention, attention and eradication of all forms of gender-based violence in Colombia", a project to be financed by the Millennium Development Goals Fund (MDGF) of Spain's agency for international cooperation and development, AECID.



#### IV. RECOMMENDATIONS

92. The office in Colombia of OHCHR has continued to support and follow up the implementation of the recommendations made to all relevant institutions in previous reports. The results have been of a varied nature. Noteworthy achievements include the strengthening of the mechanisms for working with the Government, particularly with the Ministry of Defence and the armed forces, and the progress made in judicial investigations of the links of political leaders with paramilitary groups. There is however a need for further progress in the fight against impunity. The economic and political structures of the demobilized paramilitary groups need to be dismantled. The illegal armed groups continue to disregard the recommendations.

93. The office in Colombia intends to take advantage of the extension of its mandate to undertake a review of all the recommendations made during the past 10 years. This exercise will attempt to assess progress, identifying pitfalls and updating pending recommendations where necessary. The follow-up of the recommendations will be re-evaluated in order to promote implementation through more effective, permanent, coordinated and participatory mechanisms.

94. The High Commissioner encourages the authorities to pay special attention to the following recommendations. She is firmly convinced that their implementation will contribute to a substantial improvement in the human rights situation and in respect for international humanitarian law:

(a) The High Commissioner calls on the Government, the illegal armed groups and civil society to give priority to full respect for international humanitarian law and human rights, particularly the rights of victims, in their efforts to chart a course for dialogue and negotiations for the achievement of lasting peace;

(b) The High Commissioner reiterates the importance of follow-up and implementation of previous recommendations pending. She invites the Government and civil society to continue to progress jointly and systematically in their efforts to establish methodologies to improve implementation of those recommendations. She hopes that the mechanisms set up for this purpose in 2006 will be maintained, and thanks the international community for its permanent accompaniment, which she urges it to continue. She trusts that these efforts will enable priority themes of the National Action Plan on Human Rights and international humanitarian law to be consolidated, and that this Plan will address the causes of the principal challenges in this area;

(c) The High Commissioner calls on members of illegal armed groups to practice full respect for the norms of international humanitarian law and to release, immediately and unconditionally, all those they are holding as hostages;

(d) The High Commissioner urges the Ministry of Defense and the Attorney General's Office to implement effective means of dismantling all forms of illegal armed groups that have emerged after the demobilization process began, and to take all measures required to dismantle the political and economic structures of the demobilized paramilitary

**groups. The High Commissioner urges the judiciary to continue in its investigations of public servants and political leaders who have links with paramilitary groups;**

**(e) The High Commissioner urges the Government and Congress to redouble their efforts in the application of mechanisms of reparation that are inclusive and comprehensive, embracing all judicial and administrative measures that will provide an effective guarantee that the victims will be protected when they exercise their right to the truth, justice, reparation and non-repetition;**

**(f) The High Commissioner calls on the Government, Congress and international cooperation agencies to strengthen and increase resources for the Attorney General's Office, the Procurator General, the Ombudsman's Office and the Judiciary. The High Commissioner further urges these institutions to adopt all measures necessary to respond to the challenges of the implementation of Law 975/2005, and in general, the fight against impunity - especially the judicial proceedings regarding extrajudicial executions, murders of trade unionists, journalists and human rights defenders;**

**(g) The High Commissioner calls on the Government, the control agencies and the senior officers of the Armed Forces to strengthen their efforts to eliminate extrajudicial executions, to adopt measures designed to prevent, investigate, punish and publicize those situations in which such violations may have occurred, and to apply and extend the instructions issued by the Ministry of Defence, as a priority. The High Commissioner also urges the Attorney General's Office to clarify all the accusations of alleged extrajudicial executions at the earliest opportunity;**

**(h) The High Commissioner urges the Government to increase its efforts to reduce poverty and extreme poverty, and in particular, to adopt integral and progressive approaches that will allow it to overcome the imbalances and inequities that affect large sectors of society, especially vulnerable groups and those living in rural areas. Priority should be given to grant and expand equitable access to health, education and housing services to displaced populations, indigenous groups, women, children, adolescents and the elderly. In addition, measures to protect and recognize land ownership rights of the displaced in rural areas should be considered and implemented.**

## **Annex**

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

#### **I. VIOLATIONS OF HUMAN RIGHTS**

##### **A. The right to life**

1. The office in Colombia of OHCHR received complaints of violations of the right to life by extrajudicial execution. In most cases, these executions followed the same pattern observed in previous years: the victims were civilians who were presented as members of guerrilla groups or other illegal armed groups, reported as killed in combat.

2. The office in Colombia reported several of these cases to the competent authorities. In Riohacha, La Guajira, members of the Cartagena Battalion were allegedly responsible for the death of a peasant farmer affected by mental disability. On 2 May 2007, in Hato Corozal, Casanare, there was the death of a community leader, in events attributed to members of the Counter-Guerrilla Battalion No. 65. On 13 May, in Pueblo Bello, Cesar, a murder was allegedly perpetrated by soldiers of Brigade 10. In Orito Putumayo, members of Mobile Brigade 13 were allegedly responsible for the death of 3 civilians on 9 September.

3. Other violations of the right to life were reported to have been committed by members of the Army. In Buenaventura, on 3 August, soldiers of the Cisneros Task Force were allegedly responsible for opening fire against students, whom they confused with guerrillas. A girl of 14 died. On 17 September, in Montelíbano, Cordoba, soldiers of Brigade 11 reportedly opened fire against two peasant farmers who were under the effects of alcohol, one of whom died. Two soldiers of Brigade IX were condemned for the killings of six civilians perpetrated on 10 June in San Vicente del Caguan, Caqueta.

4. The office in Colombia received complaints of extrajudicial executions attributed to members of the Police. These include the death of three individuals on 25 March in Ipiales, Nariño. On 8 September, the killing of a young man aged 22 in El Carmen, Bolivar, was allegedly perpetrated by members of the Sectional Judicial Police SIJIN, in an act which had characteristics of “social cleansing”. In Zulia, Norte de Santander, a man died on 3 July after being shot by members of the Mobile Rifles Squadron, EMCAR, in a manoeuvre which the police officers considered to be suspicious.

5. The office was also informed of several murders of human rights defenders, union members and other social leaders. On 28 January, the president of the Municipal Committee for the Displaced population in La Cotorra, Cordoba, was murdered. In Montería, on 31 January, there was the murder of Yolanda Izquierdo, the leader of the displaced who coordinated a collective movement to recover lands usurped by paramilitary groups. In Medellín, Antioquia, on 23 April, the president of the Community Action Board of the El Pesebre district of Commune 13, who was also the adviser to the Asociación Madres de la Canderlaria (Mothers’ Association of La Canderlaria) was murdered, allegedly because of her work in making denunciations. On 7 November, in Cartago, Valle del Cauca, the murder of the Coordinator of

the Women's Committee in the Sindicato Unico de Trabajadores de la Educación (union of education workers) was reported. On 4 May, a political activist of the Polo Democrático Alternativo ("Alternative Democratic" list) party was murdered in Cali, Valle de Cauca.

6. In October, the office in Colombia received reports of death threats against members of the NGO Corporación Yira Castro, and the National Coordinator for the Displaced. In September, a human rights defender in Tulua, Valle del Cauca was displaced, due to death threats and the kidnapping of his wife. On 6 November, the Office condemned the aggression and death threats against Yolanda Becerra, president of Organización Femenina Popular (Popular Women's Organization). In Bogotá, in May, three union members received pamphlets and telephone calls with death threats.

### **B. The right to personal integrity**

7. A report was received that three young men were tortured on 4 August inside a police station by members of the National Police in Ocaña, Norte de Santander. In Bogotá, on 12 August, it was reported that agents of the National Police struck a taxi driver.

8. Cases were reported of abuses allegedly committed by members of the police against the transgender population engaged in prostitution in Bogotá, Medellín and Cali.

9. On 26 May, it was reported that members of the Mobile Anti-Riot Squad ESMAD used tear gas against members of an indigenous community who were blocking the Pereira-Quibdó road, and they destroyed and burned several items of personal property. On 28 September, there was a report of the mobilization of peasant farmers towards Orito, Putumayo, to prevent the arrival of the crews for illegal crop eradication, and members of ESMAD used violence to dislodge them.

### **C. The right to individual freedom and personal security**

10. There were reports of mass detentions conducted by State agents based on intelligence reports or statements made by informers which had not been properly corroborated. On 24 January, in Aguachica, Cesar, 11 alleged ELN militiamen were detained by members of the police. Their photographs and names were published, and they were later released due to lack of evidence.

11. Cases were reported of illegal detentions of human rights defenders and social leaders who were accused, without sufficient evidence, of the crime of rebellion. The Office was informed of the case of a detention of a member of the Kankuano indigenous community by Army personnel on 15 July in Valledupar, Cesar, with no judicial order to do so. On 13 February, the president of the Permanent Human Rights Committee in Nariño was detained. Subsequently, the Attorney General's Office decided that there had been irregularities in the evidence presented, and ordered the accused to be released.

### **D. The right to due process**

12. In several of the cases reported to the office, the authorities in the Military Criminal Justice System took up the investigation of crimes which should have been taken by the civil courts. On 30 September in Aguazul, Casanare, there was a murder which was allegedly committed by

members of the Taurema Battalion and the investigation was taken by Military Criminal Court 13. The investigation of the killing of a peasant farmer on 26 April in Abrego, Norte de Santander, allegedly committed by members of Battalion 15, was sent to Military Criminal Court 37.

13. The office was also informed of cases in which prosecutors of the civil jurisdiction sent case files opened for homicides with characteristics of extrajudicial executions to the military jurisdiction. In the case of the murder of the president of the Community Action Board of La Union, Yondó, on 25 June, the Regional Prosecutor's Office of Barrancabermeja sent the case to Military Criminal Court 14. In several cases of civilians reported as killed in combat in Aguazul, Casanare, the Attorney General's Office remitted the cases to the Military Criminal Courts.

14. The office was informed that certain judges in the criminal military system who intended to return case files to the civil courts came under pressure from the commanding officers of the units.

15. The office also received information on cases in which the work of the justice system was obstructed. On 15 February, after a clash in which four individuals died in La Gloria, Cesar, police personnel had no access to the crime scene, and the official reports on the bodies were prepared by Army personnel.

#### **E. The right to private life and inviolability of domicile**

16. On 26 January, a peasant farmer was detained by Army personnel in Fortul, Arauca, accused of being a guerrilla. He was taken to Bogotá, where he was presented before several national media. Two days later he was released, due to an error of identification.

17. On 25 January, soldiers of the Mechanized Infantry Battalion No. 3, entered the indigenous reserve of Chagui Chimbuza, Nariño, and with no judicial order, searched the houses of several members of the Awá indigenous communities.

18. Human rights organizations in Bogotá, such as JUSTAPAZ (Centro Cristiano para Justicia, Paz y Acción Noviolenta) and Corporación Jurídica Yira Castro, reported that during June, August and November their offices were broken into, and the hard disks containing information on their work with victims were stolen from their computers.

#### **F. The right to freedom of opinion and expression**

19. The Fundación para la Libertad de Prensa (FLIP, Foundation for Press Freedom) recorded 92 cases of death threats against journalists.

20. In Bogotá, in September, the journalists Hollman Morris and Gonzalo Guillén received death threats over the telephone and by e-mail, as a result of their work on human rights issues and the process of demobilization of paramilitaries

## II. BREACHES OF INTERNATIONAL HUMANITARIAN LAW

### A. Murder and threats against protected persons

21. The office in Colombia recorded in 2007 a large number of massacres, most of which were attributed to members of FARC-EP. On 18 June, 11 assemblymen from Valle del Cauca, kidnapped by FARC-EP in 2002 were murdered. In Turbo, on 16 May, members of FARC-EP were allegedly responsible for opening fire against a vehicle, which caused the deaths of four people including a girl aged 3. In Cumbal, Nariño, on 5 June, FARC-EP were allegedly responsible for the death of eight members of the indigenous Awá and Pasto communities. There was also the killing of three peasant farmers allegedly perpetrated by members of the ELN, on 12 March in Mercaderes, Cauca.

22. There were also reports of selective murders. On 15 January, members of FARC-EP murdered two teachers in Ricaurte, Nariño, and on 23 January, they murdered the president of the Community Action Board in Samaná, Caldas. Members of ELN were allegedly responsible for the murder of a community leader in Tame, Arauca on 28 July. On 11 June, on the Totumeando-Manjuari road, members of FARC-EP reportedly used an electric saw to kill a truck driver.

23. According to information collected, 8 potential candidates and 22 candidates to the 2007 local elections were murdered by the illegal armed groups in the course the election campaigns. Members of FARC-EP were allegedly responsible for most of these murders. There were also murders of local authorities. In El Doncello, Caquetá, on 9 July, two municipal councillors were murdered during actions attributed to members of FARC-EP. The same group was allegedly responsible for the murder of the Mayor of San José del Palmar, Chocó, on 12 July.

24. There continued to be reports of murders of indigenous leaders. FARC-EP were allegedly responsible for the murder of two members of the Central Assembly of the Nasas settlements in Florida, Valle del Cauca, the murder of a member of the Awá community in the Cuascabi Paldubi reservation in Nariño, on 1 May, and of two members of the Embera Katio indigenous community in Cordoba on 31 May. ELN was allegedly responsible for the murder of an Awá leader on 11 January in the Gualcalá reservation in Nariño.

25. There were reports of murders attributed to the illegal armed group Autodefensas Campesinas - Nueva Generación (“New Generation-Peasant Self-Defence Force”, or AC-NG). On 3 February, in Samaniego, Nariño, a man was taken from his home by a group of individuals, and on 8 February, his body was found with signs of torture. On 25 February, the Mayor of Cumbitara, Nariño was intercepted by a group of paramilitary AC-NG, who tied him to a tree and threatened to kill him.

26. There were death threats against candidates to the local elections and authorities. In Huila, several mayors reported death threats attributed to members of FARC-EP. The same group was allegedly responsible for threats against municipal officials in Villagarzón and in Puerto Guzmán, Putumayo, and against five mayors in Valle del Cauca.

27. There were also reports of threats by members of FARC-EP against journalists. These included threats against journalists in Arauca and Saravena on 7 August, for not having read out a press release made by this group.

28. On 20 March and 6 June, the illegal armed group AC-NG made death threats on the Internet against several human rights defender organizations, the Pastoral Social of Tumaco, and the Mayor of Samaniego, accusing them of being “terrorists and couriers of human rights”.

### **B. Attacks against the civilian population and indiscriminate attacks**

29. On 20 August, guerrillas of the FARC-EP attacked an Army armoured car, which caused the death of a civilian and wounded five more. On 9 April, an attack with a car bomb destroyed the police headquarters in Cali, causing the death of one person, wounding 41, and damaging 240 properties.

30. On 29 April, in Puerto Asis, Putumayo, devices placed by members of FARC-EP exploded and damaged property.

31. In Nariño, clashes between FARC-EP and ELN throughout the year led to blockades of food, medicines and fuel, a crisis in the health and hygiene system, and the isolation of communities due to the planting of minefields.

32. On 3 September, members of FARC-EP stopped a bus on the Medellín-Anori road and forced the passengers to step out of the vehicle. In Teorama, Norte de Santander, members of FARC-EP blocked traffic for five days, by placing a truck belonging to the municipality across the road, and saying that they had planted a bomb in it.

33. In Lopez, Cauca, in February, members of Mobile Brigade No. 14 allegedly imposed restrictions on the provision of food and fuel. On 9 October, in Orito, Putumayo, troops of the Anti-Narcotics Brigade stopped a health brigade truck from entering the rural district of Santa Lucia.

### **C. Acts of terrorism**

34. In Carmen de Viboral, Antioquia, on 19 May, numbers of FARC-EP were allegedly responsible for the murder of two peasant farmers, and for having dynamited their houses in order to intimidate the population. FARC-EP were reported to have mounted a number of attacks in Cali and Buenaventura, including 5 on 23 June, which left 23 wounded.

### **D. The taking of hostages**

35. The office in Colombia was informed of the kidnapping of nine geologists in Choco on 13 March, by FARC-EP; of four contractors of an oil company in Saravena on 12 March; and of a businessman in Caldas in a rural area of Manizales on 1 May, who subsequently died in a military operation. On 22 January, four peasant farmers were kidnapped by members of the ELN in Hacarí, Norte de Santander.

36. On 14 August, a local candidate for mayor in Betulia, Antioquia, was kidnapped by members of FARC-EP. In La Playa Norte de Santander, a candidate for mayor was kidnapped on 5 July, by persons allegedly belonging to ELN.

### **E. Forced displacement**

37. On 24 February, 375 members of the indigenous Pastos and Awá groups took refuge in Ecuador, due to the murder of the president of the indigenous reservation of San Juan de Mayasquer, and as a result of death threats against several teachers by FARC-EP.

38. On 24 March, in El Charco, Nariño, a total of 4,876 persons were displaced due to combat between FARC-EP and the Colombian Marines.

39. In Arauca, a clash between FARC-EP and ELN forced a number of mass displacements, such as those reported in January and April in Fortul and Arauquita.

40. On 16 May there were reports of forced displacement of 40 families from the rural area of Istmina, Chocó, due to clashes between FARC-EP and an illegal armed group which calls itself “Rondas Campesinas Populares” (popular peasant “rounds”, or civil defence groups).

41. On 25 May, 40 families, 24 of them from the indigenous Awá communities, were displaced to the town of Valle del Guamez, Putumayo, as a result of the killing of a young man allegedly committed by members of Counter-Guerrilla Battalion 87.

### **F. Child victims of the armed conflict**

42. The office in Colombia was informed of several cases of recruitment, particularly by FARC-EP in the Departments of Putumayo, Cauca, Caldas and Nariño, and by ELN in Bolivar and Norte de Santander. In Cartagena, Bolivar, there were reports of the recruitment of boys and girls by unidentified armed groups.

43. Several cases were recorded of child victims of anti-personnel mines. On 22 September, in the Nulpe Medio Alto Reservation in Nariño, three children from the indigenous Awá group died when they stepped on anti-personnel mines planted by FARC-EP.

44. The office in Colombia received a complaint about the use of a boy of 11 as a guide by members of the Nueva Granada Battalion in a military operation in southern Bolivar; another case reported the use of boys and girls as informers for the Marines and the National Police.

### **G. Women victims of armed conflict**

45. On 26 June, a woman was the victim of a rape by FARC-EP guerrillas, in retaliation for having refused to cooperate with the illegal group.

46. There was a case of sexual violence on 27 July, in El Carmen de Bolivar, Bolivar, against a woman suffering from mental disability, attributed to seven soldiers of the Army.



47. The office in Colombia recorded attacks on the lives of woman leaders, such as those suffered by the Mayor of Neiva, Huila, on 28 February and 22 December, attributed to FARC-EP. There were also the murders of a town councillor of San Vicente del Caguan, Caqueta, on 6 January and a woman councillor of Arauquita, Arauca, on 8 June.
48. There were death threats against women in Cauca by FARC-EP, caused by the fact that they had personal relationships with members of the regular armed forces.
49. The office was informed that members of Jungle Brigade 27 had sexually harassed girls in the rural area of San Miguel, Putumayo.

#### **H. Use of anti-personnel mines**

50. In the Nulpe Alto Reservation in Nariño, 167 families in the Awá community were isolated due to the large number of mines planted by members of FARC-EP. The same situation occurred in the Nasa Kwe's Kiwe indigenous reservation in Valle del Cauca.
51. The existence of the minefields has also caused forced displacement. On 23 April, in Tame, Arauca, all members of the La Esperanza indigenous reservation were displaced after the area was mined.
52. There were also reports of schools mined by the illegal armed groups. In April, members of FARC-EP planted anti-personnel mines around the school in the rural district of Campiña de Manzanares, Caldas.

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