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### Rapport annuel du Haut-Commissaire des Nations Unies aux droits de l'homme et rapports du Haut-Commissariat et du Secrétaire général

## Rapport annuel du Haut-Commissaire des Nations Unies aux droits de l'homme

### Additif

### Rapport du Haut-Commissaire aux droits de l'homme sur la situation des droits de l'homme en Colombie\* \*\* \*\*\*

#### *Résumé*

Le présent rapport met en évidence les mesures positives adoptées par le Gouvernement colombien afin de promouvoir et de protéger les droits de l'homme en 2011, ainsi que les problèmes qu'il doit encore régler. Il expose brièvement les principales activités réalisées par le bureau du Haut-Commissariat des droits de l'homme en Colombie, et propose l'adoption de recommandations concrètes pour améliorer la situation des droits de l'homme.

En 2011, les perspectives politiques en matière de promotion et de protection des droits de l'homme se sont élargies dans le pays. La Haut-Commissaire reconnaît les efforts déployés par le Gouvernement pour renforcer l'état de droit. D'importantes initiatives d'ordre législatif et politique ont été entreprises, les violations des droits de l'homme condamnées et des mesures prises pour combattre la corruption et l'appropriation illégale de terres. Toutefois, ces efforts n'ont pas encore donné les résultats escomptés au niveau local.

\* La soumission tardive de ce document s'explique par le souci d'y faire figurer des renseignements aussi à jour que possible.

\*\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit est joint en annexe au résumé, et il est distribué en anglais et en espagnol seulement.

\*\*\* Les appendices sont reproduits tels qu'ils ont été reçus, dans la langue originale seulement.

Ont été particulièrement importantes les mesures prises pour remédier aux violations des droits de l'homme particulièrement graves telles que les exécutions extrajudiciaires (phénomène dit des «faux positifs») ou les nombreuses écoutes téléphoniques illégales organisées par les services de renseignement dans le passé. L'adoption de la loi sur les victimes et la restitution des terres a montré la volonté du Gouvernement de défendre les droits des victimes du conflit armé interne, quelle que soit l'identité des responsables. La participation active et directe de la société civile, en particulier des victimes et de leurs organisations, s'impose encore pour continuer à améliorer la situation.

Nombre de violations des droits de l'homme et du droit international humanitaire continuent d'être perpétrées, en particulier par des groupes armés illégaux mais aussi, vraisemblablement, par des agents de l'État. Le niveau de violence, qui demeure très élevé, et la persistance du conflit armé interne ont de graves conséquences humanitaires pour les civils.

## Annex

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

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## I. Introduction

1. In October 2010, the Government of Colombia and the United Nations High Commissioner for Human Rights renewed the 1996 agreement that established the office in Colombia (OHCHR-Colombia), until 31 October 2013. The renewal reiterated all aspects of the original mandate, adding assistance to the Government in establishing a national human rights centre.
2. OHCHR-Colombia continued to observe the human rights situation, to provide national counterparts with legal advice and technical cooperation, and to promote human rights and international humanitarian law in the context of the internal armed conflict and its serious humanitarian consequences.
3. The Secretary-General visited Colombia in June. He witnessed the signing of Law 1448 of 2011, known as the “Victims’ and Land Restitution Law”, and the adoption of Agreement for Prosperity No. 36.
4. Colombia became a non-permanent member of the Security Council for 2011-2012. The Free Trade Agreement between Colombia and Canada entered into force in August and the Free Trade Agreement with the United States of America was signed in October.

## II. Context

5. Violence caused by the internal armed conflict and its serious humanitarian consequences, including forced displacement, the recruitment of children and adolescents, and anti-personnel mine incidents, continue to affect the full enjoyment of rights. The Constitutional Court confirmed in 2011 the “persistence of the unconstitutional state of affairs” identified in 2004 regarding forced displacement.<sup>1</sup> President Juan Manuel Santos publicly recognized the internal armed conflict, which was denied by previous Governments. This facilitates constructive dialogue with the international community, makes it possible to use a common language when referring to the situation in Colombia, and contributes to the effective implementation of international protection.
6. In November, the top commander of the Revolutionary Armed Forces of Colombia - People’s Army (FARC-EP), Guillermo León Sáenz Vargas, alias “Alfonso Cano”, was killed in combat during a military operation.
7. Several cases of large-scale corruption in the areas of agriculture, health, drugs and public contracts are currently under investigation. Various public officials of the previous Government have been prosecuted and serious cases of corruption in Bogotá raised particular public concern.
8. Local elections of more than 18,000 authorities were held in October. Despite isolated acts of violence, voting took place in an environment of calm, contrasting with violence and reports of fraud and corruption during the campaign. The State improved its inter-institutional coordination to respond to violence and illegal armed groups’ attempts to control results. Reports of irregularities and electoral wrongdoings confirm the need to continue strengthening institutional controls in the regions.
9. Impunity remains a structural problem affecting the full enjoyment of rights. Combating it requires a criminal policy that upholds human rights, emphasizes crime

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<sup>1</sup> Order 219.

prevention and strengthens training and education. OHCHR-Colombia notes, however, that Law 1453 of 2011, known as the “Citizen Security Law”, prioritizes substantially higher penalties, restrictive grounds for release and alternatives to imprisonment, and extended procedural timelines.

10. The Government and the Judiciary made efforts to achieve judicial reforms through a participatory and consensus-based process; such efforts should be increased. These reforms should focus on the need to increase the efficiency and quality of the judicial system and improve access to justice, designing mechanisms to resolve the backlog of existing cases.

11. High-ranking Government members and military officers have been critical of the work of the United Nations, in the national media and at the international level. This criticism related primarily to the implementation of Security Council resolution 1612 (2005) on children and armed conflict, and other areas of cooperation.

12. Between April 2010 and October 2011, the emergency situation caused by rains and flooding affected almost 3.5 million people, including 1.4 million who had previously been displaced.<sup>2</sup>

13. As part of a process of dialogue and consensus building, expected to culminate in December 2012 with the National Conference on Human Rights, several regional forums were held, with the participation of representatives of Government, civil society and the international community. In November, the National System for Human Rights and International Humanitarian Law, a policy coordination and follow-up mechanism, was established, led by the Vice-President of the Republic.<sup>3</sup>

### **III. Human rights and international humanitarian law**

#### **A. Human rights defenders**

14. OHCHR-Colombia continues to be concerned about the significant number of attacks against human rights defenders, community, social, Afro-Colombian and indigenous leaders, trade union members and journalists. Of particular concern in 2011 were numerous cases of harassment, threats, and detention apparently without proper investigation.

15. Illegal surveillance of and threats made in pamphlets and e-mails against human rights defenders were registered, particularly in Antioquia, Atlántico, Arauca, Bogotá, Bolívar, Caquetá, Cesar, Chocó, Córdoba, Guaviare, Meta, Nariño, Norte de Santander, Santander, Valle del Cauca and Vichada. Of particular concern were threats against women’s organizations, especially those working on the Caribbean coast, and against journalists. By September, one journalist had been killed and 107 had been threatened, almost twice as many as in 2010.<sup>4</sup>

16. In several cases, illegal armed groups that emerged after the demobilization of paramilitary organizations, such as the Popular Revolutionary Anti-terrorist Army of Colombia (ERPAC), Los Paisas, Los Rastrojos and Los Urabeños, and occasionally FARC-EP, claimed responsibility for these acts. On other occasions, there has been uncorroborated information on the involvement of State agents, including members of civilian and military

<sup>2</sup> Information provided by the Office for the Coordination of Humanitarian Affairs in Colombia.

<sup>3</sup> Decree 4100 of 2011.

<sup>4</sup> Information provided by Freedom of the Press Foundation.

intelligence services, in illegal and clandestine operations. Most cases have not been resolved. If no significant progress is made in preventing, investigating and punishing these acts, it will be difficult to guarantee non-repetition.

17. Detentions of human rights defenders on the basis of what seems to be unsubstantiated information occurred in Antioquia, Caquetá, Huila, Norte de Santander, Putumayo, Santander and Tolima. One example is the case of a member of the Political Prisoners Solidarity Committee in Bucaramanga: more than eight months after the warrant for her arrest had been issued, the investigation against her was closed, with no charges having been laid, and she was released.

18. OHCHR-Colombia is concerned about certain investigations led by the Attorney General's Office involving human rights defenders. Some of its prosecutors act quickly on the basis of what seems to be unsubstantiated information in cases against human rights defenders, while others do not properly pursue cases in which defenders are the victims.

19. The Presidential Human Rights Programme<sup>5</sup> reported the deaths of 20 union members (including 12 teachers) between January and October, 34 per cent fewer than during the same period of the previous year. While the Unitary Workers Union also reported fewer deaths, it recorded the killing of 21 trade unionists in the same period.

20. The Government, inter alia, unified the protection programmes of the Ministry of Interior<sup>6</sup> and the Department of National Security (DAS) under the new National Protection Unit.<sup>7</sup> It is crucial that this new unit coordinate its efforts with other State protection programmes. Other challenges include the effective implementation of a differential approach, the coordination by the Ministry of Interior of risk assessments, which are to be completed within a maximum of 30 days, as well as coverage for additional persons<sup>8</sup>. One example that highlights the shortcomings of the system is the murder of the municipal ombudsperson of Aguadas, Caldas, in January, after an official risk assessment did not recommend protection measures.

21. Led by the Ministry of Interior, six thematic meetings took place in the framework of the National Round Table on Guarantees.<sup>9</sup> This process was suspended in June by human rights organizations in view of the continued attacks against them. When the process resumed one month later, new agreements were reached, inter alia, on the establishment of regional risk assessment committees and of a procedure to assess urgent cases. Compliance with these agreements is crucial to increase the levels of trust between the Government and the organizations.

22. A person recognized by the State as a victim of the 1997 massacre in Mapiripán, Meta withdrew her testimony. Acknowledging the need to investigate this and other similar cases, OHCHR-Colombia is concerned about attempts to use this fact to delegitimize victims, human rights defenders and their organizations, and regional protection mechanisms.

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<sup>5</sup> Government programme, led by the Vice-President, for the coordination of public policies on human rights.

<sup>6</sup> Under this programme, a reported 1,531 defenders and 1,373 unionists were protected.

<sup>7</sup> Decree 4065 of 2011.

<sup>8</sup> Decree 4912 of 2011.

<sup>9</sup> Dialogue mechanism between the Government and human rights organizations on conditions to guarantee their work.

## B. Intelligence services

23. Judicial and disciplinary authorities made progress in resolving cases, reported in previous years, of wiretapping, surveillance and other illegal activities by members of intelligence services. However, OHCHR-Colombia continued to receive new reports of illegal activities, targeting in particular human rights defenders and journalists.

24. In September, the Supreme Court of Justice sentenced Jorge Noguera Codes, the 2002-2005 DAS director, to 25 years in prison for homicide and criminal association with paramilitary groups. Other DAS directors, who were in office between 2005 and 2008, and over 40 DAS officials, as well as senior officials from the previous Government, have been implicated in judicial proceedings for abuses and illegal activities.

25. OHCHR-Colombia welcomes the adoption in June of the “Intelligence Law”. The law defines the limits and purposes of intelligence in terms of respecting human rights and creates two commissions: one to assist in the purging of intelligence files and another, a congressional commission, to monitor intelligence activities. Noteworthy challenges to the implementation of this law are the weak mandate of the congressional commission and the lack of effective internal control mechanisms.

26. In addition to this legal framework, measures must be adopted in order to comprehensively reform intelligence services and transform the institutional culture that led to the commission of human rights violations. For example, the process for updating, rectifying, annulling or keeping personal information in intelligence files, as noted by the Constitutional Court in October,<sup>10</sup> should be regulated. It is also necessary to protect public officials from the intelligence services who report abuses or refuse to comply with illegal requests. Moreover, vigorous vetting of intelligence personnel, with strict human rights criteria, should be undertaken.

27. In October, DAS was officially closed and the new National Intelligence Directorate was established, together with a specific mechanism to oversee its functioning.<sup>11</sup> This change is too recent to permit an analysis of its effectiveness in preventing further abuses.

28. The military intelligence services require public regulations to define and limit their actions. Their internal control mechanisms and public accountability need to be substantially strengthened, particularly in view of the increased allocation of military intelligence service resources planned for in the 2011 Comprehensive Security and Defence Policy for Prosperity.

29. The High Commissioner urges the Procurator General to strengthen the exercise of its preventive and disciplinary responsibilities related to the intelligence services and in the purging of their files.

## C. Extrajudicial executions

30. Extrajudicial executions have not been totally eradicated. OHCHR-Colombia observed cases with elements that may indicate the occurrence of extrajudicial executions in Arauca, Bogotá, Cauca and Cesar. For example, in June an indigenous person was reported as “killed in combat” by the Army in Arauca but, following pressure from his community, the death was classified as a “military error”.

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<sup>10</sup> Decision C-748.

<sup>11</sup> Decrees 4057 and 4179.

31. In several cases, inconsistencies were noted in the military officials' versions of the events; a trend of discrediting and stigmatizing victims and efforts by some officials to obstruct justice were also observed. This was the case for five civilians killed in June by members of the Army in Cesar.

32. These cases should alert the authorities about the need to redouble their efforts to prevent this serious human rights violation, with an emphasis on effectively implementing the measures introduced in 2008 for that purpose. OHCHR-Colombia noted that some Army officers continue to deny the occurrence of extrajudicial executions and to discredit the judicial system when convictions are handed down. These attitudes are in blatant disregard of Ministry of Defence policies and do not contribute to creating a culture of reprobation, thus jeopardizing the guarantee of non-repetition. They also increase risks to judicial officials, victims and their families, and the organizations that support them.

33. By August, the National Human Rights Unit of the Attorney General's Office had been assigned a cumulative total of 1,622 cases of alleged homicides attributed to State agents, involving 3,963 members of the security forces. A total of 148 convictions had been handed down. Especially noteworthy was the June ruling against a retired colonel who accepted his responsibility in 57 extrajudicial executions committed between 2007 and 2008 when he was commander of the Sucre Task Force. He is the highest ranking military official convicted for this crime to date.

34. A special mechanism was established in February to review cases involving conflict between civilian and military jurisdictions. This facilitated the transfer of 220 investigations of homicides attributed to members of security forces to the ordinary justice system. The mechanism could further include the search for solutions to allow the revisiting of cases that were closed by the military justice without proper investigation.

35. OHCHR-Colombia reiterates the obligation of military justice to abstain from investigating or claiming jurisdiction over cases that may involve human rights or international humanitarian law violations. When in doubt, the ordinary, and not the military justice system, should be competent, as the former is the general rule and the latter the exception, in conformity with international standards and national jurisprudence of the Constitutional Court. OHCHR-Colombia considers it essential that in these cases the ordinary system undertake the initial investigations without exceptions. This should be reflected in the discussions on justice reform that are currently taking place in Congress. The death of a 17-year-old in Bogotá last August after being shot in the back by a Police agent, the investigation of which was voluntarily transferred by the Attorney General's Office to military justice, illustrates the need for a firm policy by the Ministry of Defence that fully respects the limits of military jurisdiction.<sup>12</sup>

36. Illegal granting of benefits to members of the Army detained in military facilities or convicted for extrajudicial executions can become a form of impunity and implicate the responsibility of the military-facility commander and his superiors.<sup>13</sup> OHCHR-Colombia is confident that the measures recommended by the Temporary Verification Commission created in April to study these allegations will be promptly implemented.

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<sup>12</sup> In November, the Superior Council of the Judiciary decided that the Attorney General, not the military justice system, should investigate the case.

<sup>13</sup> In the Tolomaida military base, Tolima, convicted military personnel obtained permission to leave jail, hold parties or even take promotion courses to continue their military career.



## D. Illegal armed groups that emerged after demobilization of paramilitary organizations

37. In 2011, OHCHR-Colombia noted with concern the continuous expansion of illegal armed groups that emerged after the demobilization of paramilitary organizations. These groups, which are deeply involved in drug trafficking and other criminal activities, generally avoid confrontation with security forces and have a devastating impact on the population.

38. The High Commissioner expresses her great concern about the increasing violence caused by these groups, including against social leaders and public officials. The number of massacres and victims attributed to such groups continues to rise, especially in Antioquia and Córdoba.<sup>14</sup> This violence occurs during confrontations between groups or within the same group, occasionally against guerrilla groups, and in several instances during direct attacks against the population. The Police reported that 53 per cent of the members of these groups who have been captured or killed to date were demobilized paramilitaries.

39. These illegal armed groups are present in most departments and have significant capacity to recruit, including children and adolescents, and use criminal structures and *sicarios* to support their activities. To carry out their criminal activities, these groups control territory, restrict the freedom of movement of the population, and perform a “social control”, imposing their code of conduct and public sanctions, and “resolving” social conflicts, often brutally. In the case of ERPAC, due to the absence of “opposing” groups and the limited State presence in the area, there is little, if any, outside public awareness of the group’s impact on the population.

40. In February, the Government convened its first National Security Council to address threats posed by these groups. It prioritized inter-institutional coordination in order to advance in the investigation, prosecution and dismantling of their support structures.

41. Combating these groups should be part of an integrated strategy, and not be limited to the use of armed force by the Police and the Military, which must strictly adhere to human rights law in performing their task. The strategy to dismantle these groups should include policies to overcome poverty and marginalization, in particular for children and adolescents, as well as protection measures for local authorities and judicial officials.

42. OHCHR-Colombia continues to be concerned about indications that these groups benefit from the collusion of some local authorities and members of security forces, due primarily to corruption, intimidation and threats. In May, agents of the Technical Investigation Unit and the Attorney General’s Office arrested 37 officials in Nuquí and Bahía Solano, Chocó, including members of the Police, the judicial system and local administrations, for collaborating with these groups.

43. To support their criminal activities, groups have forcibly appropriated or retained properties previously stolen by paramilitary groups and their networks, which may be included in the Government’s land restitution policies. Thus, the increased violence by these groups represents an undeniable risk for people seeking to recover their land and for the sustainability of the overall restitution process. An illustration of this is the killing and threats against leaders and other people involved in land restitution processes in the region of Urabá.

<sup>14</sup> From January to November, 32 massacres were registered; 15 occurred in Antioquia.

## E. Transitional justice

44. In 2011, the Government publicly recognized the need to reform Law 975 of 2005,<sup>15</sup> given that the realization of victims' rights continued to be insufficient: the right to truth has not been fully upheld, the political and economic structures used by paramilitary organizations have not been completely dismantled in order to guarantee non-repetition, and only six sentences have been handed down. The High Commissioner welcomes the revision of the law and reiterates that it should lead not only to procedural changes, but also to structural reforms in the context of all possible transitional justice mechanisms, in particular the Victims' and Land Restitution Law.

45. In March, OHCHR-Colombia submitted to relevant authorities a proposal for the amendment of Law 975. This proposal includes, inter alia, the following recommendations: voluntary depositions, which could also be collective, should be provided during an established time frame; efforts should be focused on the most serious crimes and the identification of those most responsible; conciliations between victims and perpetrators should be avoided given the seriousness of the crimes under investigation; crimes committed by children and adolescents should be attributed to the persons over 18 years of age who recruited them; and compliance with reduced sentences should start from the date of sentencing.

46. Law 1424, urgently adopted in December 2010 to resolve the situation, in exchange for truth, of demobilized persons who were not considered under Law 975, has not led to concrete results. Decree 2601 of 19 July regulating this Law provides that only in January 2012 will the process begin to verify the prerequisites such demobilized persons must fulfil in order to sign an "Agreement to Contribute to the Historical Truth and Reparations".

47. In 2011, the Supreme Court sentenced 15 parliamentarians in so-called "*parapolítica*" proceedings. The Court has a total of 120 cases under preliminary investigation, 9 under investigation, and 14 on trial. The Attorney General has opened 270 investigations against local authorities, most of which are under preliminary investigation, and only 12 convictions had been obtained by November.

48. Debates about judicial reform have addressed, among other issues, the right to appeal in *parapolítica* proceedings. OHCHR-Colombia reiterates the need to legitimize, reinforce and maintain the role of the Supreme Court in such proceedings, and to fully respect the right to due process. Furthermore, it is important for the Supreme Court and the Attorney General's Office to establish common investigation criteria to ensure consistency in their efforts against these crimes.

## F. Victims' and Land Restitution Law

49. On 10 June, President Santos signed the Victims' and Land Restitution Law, in the presence of the Secretary-General. This could be considered as the most important law enacted in recent years for the peace and reconciliation process in Colombia, facilitating an approach based on the recognition, promotion and protection of and respect for victims' rights.

50. The law applies to all victims of the armed conflict, regardless of the perpetrator. It is a step forward in developing a concept of comprehensive reparations, including land restitution, and provides for integrated protection for all, incorporating a gender approach.

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<sup>15</sup> Law 975 provides for reduced prison time for demobilized persons in exchange for their contribution to truth and reparation.

It has, however, some flaws, such as not considering as victims members of illegal armed groups, who may have suffered human rights violations, or recruited children who had not left illegal armed groups before turning 18.

51. As stated by the Secretary-General, “a good law is not enough; it needs to have a real transforming effect on the ground”.<sup>16</sup> The implementation of the law will then be crucial and its success will depend, to a high degree, on adequate and coordinated execution of responsibilities by the competent State entities. The role of the National Ombudsperson’s Office will be especially important in this process.

52. The regulation of the Law has raised some questions about the participation of victims and their organizations and their protection. Such participation is an essential condition of a human rights-based approach and for building a legitimate, sustainable and effective reparations process.

## 1. Land restitution

53. Estimates of the scale at which land was abandoned or otherwise illegally or forcibly appropriated as a result of conflict-related violence vary. Official sources, limited to land lost by displaced persons, indicate about 3 million hectares.<sup>17</sup> Civil society surveys indicate that at least 6.5 million hectares of land were illegally appropriated by various means, not including collective land.<sup>18</sup> This occurred primarily in Antioquia, Bolívar, Caquetá, Cauca, Cesar, Chocó, Córdoba, Meta, Nariño, Putumayo, Sucre and Tolima.

54. The protection of judges who will be responsible for ruling on land restitution cases will require special attention, in order to guarantee their independence and impartiality; their competence and honesty should also be ensured. If these judges do not perform their duties adequately, the mechanisms may have a re-victimizing effect and the law would run the risk of legalizing illegal land appropriation, rather than providing justice for victims.

55. This process of restitution of illegally appropriated lands is unprecedented in recent Colombian history. There are, and have been in the past, other land restitution mechanisms, but the scope, aspirations and impact of the processes provided for in the Law are unparalleled. It is important that land restitution efforts be part of a holistic strategy for development, which includes strengthening income-generating programmes to ensure a sustainable and dignified standard of living for victims.

## 2. Protection

56. One of the main challenges to the implementation of the law, especially in land restitution proceedings, is to protect all those involved, including State officials, and in particular judges.

57. OHCHR-Colombia observed that land restitution leaders face high levels of risk and vulnerability, given the criminal interest in the lands that are subject to restitution. The murders committed in 2011, such as the death of the founder of a victims’ rights organization from Antioquia, and those reported in 2010, as well as a number of threats and attacks, confirm the risks and conflict associated with land issues. Authorities must give priority to guaranteeing the life and integrity of those claiming their lands and their representatives.

<sup>16</sup> Secretary-General’s speech at the Victims’ Law signing ceremony.

<sup>17</sup> Source: Land Restitution Programme, National Commission for Reparation and Reconciliation, July 2010.

<sup>18</sup> United Nations Development Programme (UNDP), *Colombia rural: Razones para la esperanza – Informe Nacional de Desarrollo Humano 2011* (Bogotá, 2011), pp. 277-278.

58. OHCHR-Colombia reiterates the need to adopt comprehensive protection measures that include rigorous risk assessments in which victims can participate. Police efforts to expand risk-assessment criteria are recognized and valued. However, protection measures must be enhanced, for example, by incorporating in practice a differential and gender approach, and strengthening relevant local institutions. It is also necessary to bolster political and public support to community and victims' organizations and strengthen criminal investigations.

59. The sustainability and integrity of the process in some areas of the country, such as the Urabá region in Antioquia, will depend to a large extent on the implementation of robust criminal and disciplinary investigations.

## **G. Enforced disappearance**

60. In August, Law 1418 of December 2010 adopting the International Convention for the Protection of All Persons from Enforced Disappearance was declared constitutional by the Constitutional Court.<sup>19</sup> The High Commissioner reiterates the importance of Colombia becoming a State party as soon as possible, and accepting the additional competence of the Committee under article 31.

61. OHCHR-Colombia welcomes the transparent and participatory process undertaken by the Ministry of Interior to regulate the "Law to Pay Homage to Victims of Enforced Disappearance".<sup>20</sup> This is an example of how victims can engage in the formulation of public policy. OHCHR-Colombia further recognizes the significance of the legislative initiative currently being debated in Congress that would enable victims to submit "declarations of absence" rather than require them to "declare the presumed death" of disappeared persons.

62. Despite the existence of a legal framework that is rights-based and provides for protection against enforced disappearance, the magnitude of the phenomenon and the level of impunity are disturbing. By October, the National Registry of Disappeared Persons cumulatively recorded 62,745 disappeared persons (13,470 women), of which 16,884 are alleged enforced disappearances.

63. By July, the Attorney General had registered over 16,000 cases of disappearance. Most are in the investigation phase and almost half took place in Antioquia and Meta. By September, 2,546 cases had been registered under Law 975, out of a total of 26,026 recognized crimes.

64. In April, a judge sentenced a retired Army general to 35 years in prison for enforced disappearances related to the 1985 Palace of Justice events. Political and media pressure against this verdict and other court decisions poses a threat to judicial independence and can increase the vulnerability of judicial officials and victims' families and their representatives.

65. Further efforts are required to ensure the dignified handing over of remains to families. Under the 2009 Agreement between the Ministry of Interior, the Institute of Legal Medicine, and the Registrar's Office, 9,968 persons were identified, but only 49 bodies were handed over to families. By October, the Attorney General's Office had exhumed 4,703 bodies, of which close to 30 per cent (1,442) have been fully identified and handed over to families.

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<sup>19</sup> Decision C-620/11.

<sup>20</sup> Law 1408 of 2010.

66. OHCHR-Colombia recognizes the efforts of local authorities to assist victims of enforced disappearance. However, inter-institutional coordination and the participation of victims and their organizations must be improved, and the level of knowledge of response protocols and norms must be improved among local officials.

## H. Conflict-related sexual violence

67. In 2011, acts of conflict-related sexual violence attributed to illegal armed groups continued to be reported, some of which were particularly cruel. For example, in March, OHCHR-Colombia registered the case of a 17-year-old girl from Nariño who was stripped naked, beaten and forced to publicly eat manure, after which she was killed, allegedly by Los Rastrojos. Repeated acts of sexual violence by illegal armed groups against indigenous girls in Guaviare were also reported. In another reported case, a girl was subjected to continuous sexual abuse for three days in March by someone identified as a member of Las Águilas Negras.

68. OHCHR-Colombia also registered cases of sexual violence attributed to members of security forces, including the rape, allegedly by a member of the Army, of a woman in Nariño in April, and the rape of an 18-year-old girl attributed to a member of the Police in Bolívar in May. The authorities took corrective actions in these cases.

69. The fight against impunity in cases of conflict-related sexual crimes continues to require additional efforts by the justice system. For example, by November, only four cases were on trial out of the 183 that the Constitutional Court, in its Order 92 of 2008, instructed the Attorney General to investigate without delay. Judicial proceedings in the killing of three child victims of sexual abuse, allegedly by a member of the Army, in 2010, in Arauca, have progressed slowly.

70. The new Attorney General has taken positive steps on this issue. Noteworthy are her willingness to establish dialogue with non-governmental organizations, the creation of a working group on gender, and the adoption of a policy of equality and non-discrimination aimed at incorporating a gender focus into the institution's procedures.

71. Prejudice continues to have a negative impact on legal processes. For example, the Attorney General's Office did not investigate the alleged case of sexual abuse in May of a 14-year-old girl by a member of the Police in Valle del Cauca, arguing that it was a consensual sexual relation, disregarding the fact that acts of sexual violence against children should be punished, irrespective of the consent of the child.

72. The Ministry of Defence moved forward in its review of Directive No. 11 of 2010, which is aimed at preventing all forms of violence against women and girls. This instrument should be part of a comprehensive policy of zero tolerance of sexual violence by members of security forces, which should include measures to strengthen command responsibility and impose corresponding sanctions. Involvement in such crimes should lead to disqualification from public service or to a freeze on promotions, especially to positions of command or control, and "due obedience" cannot justify failing to report or covering up such crimes.

73. In 2011, the Procurator General took action to strengthen the supervision of cases of sexual violence, such as issuing Directive No. 006 of 17 May, the impact of which had not been evaluated at the time of writing.

74. The High Commissioner reiterates her 2010 suggestion to the Government that an invitation be extended to the Special Rapporteur on violence against women, its causes and consequences, and the Special Representative of the Secretary-General on sexual violence in conflict to assess the situation of women in Colombia (A/HRC/16/22, para. 64). In

addition, the High Commissioner invites the Government to use the Team of Experts established by the Secretary-General following Security Council resolution 1888 (2009) to promote an integrated approach to address sexual violence.

## **I. Conflict-related violations of the rights of the child**

75. In 2011, OHCHR-Colombia registered a disturbingly high number of crimes committed against children in Antioquia, Arauca, Bogotá, Bolívar, Caquetá, Cauca, Cesar, Chocó, Córdoba, Guajira, Guaviare, Meta, Nariño, Norte de Santander, Putumayo, Sucre and Valle del Cauca.

76. Cases of recruitment and threats of recruitment; death and injuries caused by explosive artefacts; occupation of and attacks against schools; displacement; homicide; and injuries were attributed to FARC-EP and the National Liberation Army (ELN). A significant number of cases were also attributed to illegal armed groups that emerged after the demobilization of paramilitary organizations.

77. Children and adolescents, including indigenous and Afro-Colombian, most between 12 and 17 years of age, continue to be the victims of recruitment. In two specific cases, FARC-EP was allegedly responsible for threatening to recruit 7-year-old boys in Norte de Santander. FARC-EP was also accused of recruiting 15 boys in Campamento, Antioquia, in May, and ELN allegedly recruited 13 boys in the same municipality, also in May. There have been cases of recruitment or threats of recruitment of children that led to the forced displacement of their families and even entire communities.

78. Several initiatives to prevent child recruitment have been undertaken by national and local authorities.<sup>21</sup> However, further measures are required to stop these practices and combat the high levels of impunity. Under Law 975, by September, 1,448 cases of child recruitment had been registered, out of a total of 26,026 recognized crimes, and a conviction had been obtained for the recruitment, between 1997 and 2002, of 309 children in Chocó and Antioquia.

79. The Child and Adolescent Code, as well as several directives by the Ministry of Defence, prohibit the use of children and adolescents in “military activities, psychological operations, civic-military campaigns, among others”. However, OHCHR-Colombia verified that members of the Army continued to carry out activities of this nature, for example, in Caquetá and Cesar. The office registered cases of the use of children for intelligence work and use of school premises by members of the Army. An example of these situations is the alleged use of a 9-year-old indigenous boy as an informant in Valle del Cauca in March.

80. The High Commissioner calls on the Government to effectively implement Security Council resolution 1612 (2005), to collaborate with the Task Force established for this purpose, and to comply with the recommendations formulated by the Secretary-General (see S/2009/434) and the Security Council Working Group on Children in Armed Conflict (see S/AC.51/2010/3).

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<sup>21</sup> In addition to regional efforts, national programmes focused on 29 municipalities, media campaigns by the High Council for Reintegration, and initiatives of the Ministry of Defence.

## J. International humanitarian law

81. The Ministry of Defence's municipal security index, which divides the country into "red, yellow, and green zones", provides evidence that over 50 per cent of the total population lives in conflict-related areas.<sup>22</sup>

82. In the areas where the conflict was the most intense in 2011, such as Antioquia, Arauca, Caquetá, Cauca, Chocó, Meta, Nariño, Putumayo and Valle del Cauca, serious violations of international humanitarian law were observed. Perpetrators, primarily guerrilla groups, disregarded the principles of distinction, limitation and proportionality. The most severe humanitarian needs and consequences are located in these areas.

### 1. Guerrilla groups

83. FARC-EP and ELN continued to systematically violate international humanitarian law.

84. Although ELN reiterated that it adhered to humanitarian law, its actions revealed the opposite: indiscriminate attacks, recruitment of children and adolescents, attacks against protected property, kidnappings, and restrictions to freedom of movement of civilian populations. Illustrative cases are the attack in May on a hospital in Sucre, Cauca, which also affected civilian homes and endangered civilian lives, and the conduct of an "armed strike" in Arauca in September.

85. On a greater scale, cases of homicide of protected persons, forced displacement, recruitment of children and adolescents, restrictions to freedom of movement, indiscriminate attacks and kidnapping were attributed to FARC-EP. For example, of great concern was the case in November, in Solano, Caquetá: in the midst of an armed confrontation with the Army, FARC-EP killed four members of security forces who had been held in captivity for between 12 and 14 years. FARC-EP commanders seem to have received a standing order to kill hostages before allowing a military rescue. In another example, in Anorí, Antioquia in January, FARC-EP forcibly displaced nearly 5,000 people, almost half of whom were children.

86. Both guerrilla groups violated the principle of distinction by carrying out hostilities without differentiating between civilian and military spheres. The pressure exercised by FARC-EP along the Guaviare River throughout the year has mostly affected the civilian population; this has included serious obstructions to the free movement of civilians and national and international humanitarian organizations, attacks against medical missions, and the isolation of entire communities, such as the one in Puerto Alvira, Meta, to where a number of Sikvani and Jiw families had been displaced. ELN was accused of the massacre of eight peasants in Colón Génova, Nariño in June.

87. By planting anti-personnel mines, both groups disregarded the principle of limitation, which prohibits causing superfluous and unnecessary harm. These weapons have an indiscriminate effect, which is prohibited, and violate the principle of humanity which seeks to prevent and alleviate human suffering under any circumstances. From January to October, the total number of incidents related to such mines increased by 33 per cent compared with the same period in 2010 (from 1,165 to 1,550).<sup>23</sup>

<sup>22</sup> Comprehensive Security and Defence Policy for Prosperity. Out of a population of close to 45 million, approximately 2 million live in "red" zones and close to 22 million in "yellow" zones.

<sup>23</sup> Information provided by the Presidential Human Rights Programme.

88. The principle of proportionality, which prohibits attacks when excessive harm to civilians can be foreseen, was also violated by both guerrilla groups. In June, an ELN attack in Popayán, Cauca killed one civilian and injured 15, including two children. In July, an attack attributed to FARC-EP, allegedly directed against a Police station in Toribío, Cauca, took place on market day, close to the municipal plaza where approximately 1,500 civilians had gathered. A total of 3 civilians were killed and 122 injured.

89. OHCHR-Colombia notes the 76.5 per cent increase in the number of kidnappings attributed to FARC-EP and the reduction of 38.1 per cent in those by ELN during the first quarter of the year.<sup>24</sup>

## **2. Security forces**

90. Most of the violations attributed to members of the Army registered by OHCHR-Colombia refer to the principle of distinction, including the need to take precautions when conducting attacks or during hostilities.

91. In some cases, the presence of military units in or around civilian premises, in violation of the principle of distinction, placed civilians at risk. This was the case in Cauca, in April, when 300 children were caught, while at school, in crossfire between FARC-EP and the Army, which had set up camp in the school's football field.

92. In other cases, members of the Army did not take due care to respect the principle of precaution, causing unnecessary harm to civilians. An example is the attack, in May, on a truck carrying 14 civilians that resulted in several children injured in Caquetá. The principle of precaution was also violated in cases of attacks without adequate information about the target, which in principle may have been legitimate. This was the case in March, where four boys were killed and another seriously injured in an attack on an alleged FARC-EP camp at an indigenous reservation in Tacueyó, Cauca.

93. OHCHR-Colombia received information on irregularities in dealing with the civilian population, such as acts of abuse and intimidation. In some cases, members of the Army took video and photos of civilians in meetings, such as in Valdivia, Antioquia in September. Similarly, civilians were subject to abuse and arbitrary restrictions to freedom of movement. OHCHR-Colombia welcomes the efforts of the Ministry of Defence to prevent these acts.

94. No significant progress has been made in drafting a bill to regulate the right to conscientious objection to military service; and debate on this topic has been stalled in Congress since July. Illegal practices in military recruitment procedures continued without effective control in several cities, such as Bogotá, Bucaramanga, Cali and Medellín.<sup>25</sup>

## **K. Indigenous peoples and Afro-Colombian communities**

95. Obstacles persisted with regard to conducting consultations to obtain prior, free and informed consent from indigenous peoples and Afro-Colombian communities. OHCHR-Colombia observed a lack of understanding by some local authorities of the scope of the consultations and confirmed the risks and pressure ethnic groups face when carrying out

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<sup>24</sup> Information provided by the País Libre Foundation.

<sup>25</sup> In its decision C-879/11, the Constitutional Court confirmed that certain military recruitment procedures are illegal.



some of these processes. The most effective protection of the right to consultation has been provided by the Constitutional Court when resolving legal actions (*acciones de tutela*).<sup>26</sup>

96. In some cases, authorities have violated the principle of good faith, such as when departmental authorities of Cauca excluded the educational centre at the Páez de la Gaitana indigenous reservation from the consultation on ethno-education.<sup>27</sup> The procedures provided for in Decree 1320 of 1998 continue to be used as a point of reference for conducting consultation processes, although the Constitutional Court has reiterated that it is an inappropriate instrument.<sup>28</sup>

97. Moreover, the ethnic and cultural identity and survival of several indigenous peoples and Afro-Colombian communities continue to be threatened by the internal armed conflict, violence, the lack of enjoyment of economic, social and cultural rights, and by continued social marginalization and exclusion.

98. By October, 79 indigenous people had been killed in the context of the armed conflict, representing an increase of 54.9 per cent over the same period in 2010.<sup>29</sup> The National Indigenous Organization of Colombia had registered the killings of 107 indigenous persons by November. At least 12 per cent of displaced people belong to an ethnic group. There have been 328,000 displaced Afro-Colombians and 93,000 indigenous people registered cumulatively to February 2011.

99. The situation of the Awá people in Nariño and Putumayo was of particular concern, since they continue to be exposed to actions by illegal armed groups, including displacement, threats of recruitment, intimidation, disappearances, killings and retaliation after security forces enter into contact with the population. The Constitutional Court ordered the Government to take urgent action to address the “serious negligence by omission of the duty to protect” the Awá people.<sup>30</sup> Moreover, the Inter-American Commission on Human Rights granted them precautionary protection measures in March.

100. Twenty-one families from the Nonan community of the Wounaan indigenous people, who live along the San Juan River, Chocó, were also granted precautionary protection measures in June by the Inter-American Commission on Human Rights.

101. The situation of the Afro-Colombian population on the Pacific coast must also be given special attention. Urban displacement in Buenaventura, Valle del Cauca increased, due to deteriorating security conditions, the population in Medio Atrato, Chocó was isolated in several instances, and confrontations between illegal armed groups over control of Tumaco, Nariño resulted in forced displacement, killings, kidnappings and disappearances.

## L. Economic, social and cultural rights

102. Despite increasing Government efforts, rural areas<sup>31</sup>, where the armed conflict is more intense, continue to reflect the greatest gaps in terms of the Millennium Development Goals. These areas have high levels of poverty and extreme poverty, in addition to inequality. The gross education coverage in these municipalities is 2.7 times lower than in

<sup>26</sup> See, for example, decisions T-129/11 and T-1045-A/10.

<sup>27</sup> Constitutional Court decision T-116/11.

<sup>28</sup> Decision T-745/10.

<sup>29</sup> Information provided by the Presidential Human Rights Programme.

<sup>30</sup> Order 174/11.

<sup>31</sup> At least 75 per cent of municipalities are considered rural. UNDP, *Colombia rural* (footnote 18 above), p. 56.

urban centres, institutional childbirth care is 19 points below that in urban areas, and there are qualitative shortfalls in terms of housing and access to water and sewage services, compared to the average in urban zones.<sup>32</sup>

103. Given the persistence of poverty and extreme poverty revealed by the Multidimensional Poverty Index adopted by Colombia in 2011, Government efforts should strengthen income generation programmes, moving beyond subsidies, and promote health, education and standard of living improvements for the rural population.

104. Disregard for legal obligations, corruption within the companies that provide health services and weak controls over the use of public resources have led to violations of the right to health. This is of greater concern in the case of people living in poverty, children, internally displaced persons, and people living with HIV/AIDS.

## **M. Discrimination**

105. In September, Congress approved Law 1482, aimed at punishing acts of discrimination. OHCHR-Colombia welcomes this Law and suggests that it be complemented with actions to eradicate any discriminatory practices that may be embedded in Colombian society.

106. In May, Colombia became a party to the Convention on the Rights of Persons with Disabilities, but the Optional Protocol thereto has yet to be considered.

107. The Police formulated an anti-discrimination policy to protect lesbians, gays, bisexuals and transgender persons. However, this community continues to face a great deal of intolerance and discrimination.

## **IV. Summary of the activities of OHCHR-Colombia**

108. Between January and November, OHCHR-Colombia received 630 complaints about human rights and international humanitarian law violations, of which 500 were followed up. A total of 298 missions were undertaken, which represented 946 days in the field. OHCHR-Colombia participated in 3,025 working sessions: 1,381 with public institutions, 947 with civil society representatives, 327 with United Nations agencies, and 370 with the international community.

109. OHCHR-Colombia provided advice during legislative debates on the Victims' and Land Restitution Law, as part of a collective effort by the United Nations system. This effort included technical and active participation in discussions and presentation of proposals based on international standards and best practices. OHCHR-Colombia organized public events promoting the participation of victims and their organizations and addressed Congress on this matter. The office also provided analyses on the Intelligence Law and the draft law on technical defence for members of armed forces accused of human rights violations.

110. OHCHR-Colombia provided further advice on the draft Ministry of Defence directive to prevent sexual violence and for the formulation of a comprehensive zero-tolerance policy. Moreover, as a member of the monitoring and reporting mechanism established pursuant to Security Council resolution 1612 (2005), OHCHR-Colombia participated in its activities. It fostered, with other organizations, debate and analysis on matters of transitional justice, children's rights, and enforced disappearance.

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<sup>32</sup> Ibid., pp. 64-66.

111. As part of its technical cooperation programme, OHCHR-Colombia supported the Ministry of Education in implementing the National Plan for Education on Human Rights. The cooperation with the Ministry of Defence included a project to monitor the effectiveness of Government actions to overcome extrajudicial executions. Another important initiative of OHCHR-Colombia was a community-based process on the right of indigenous peoples and Afro-Colombian communities to consultation to obtain their prior, free, and informed consent. Furthermore, the office prepared a report with recommendations to the relevant authorities on the situation of the prison in Valledupar, Cesar.

112. In compliance with its mandate to advise the Government on the establishment of a national human rights centre, OHCHR-Colombia supported a working group created by the Vice-President, including by providing information on comparative experiences. This facilitated discussions on the centre's basic functions, including serving as a space to reach consensus and promoting compliance with international recommendations.

113. OHCHR-Colombia continued to participate in United Nations interagency initiatives and mechanisms. During the visit of the Secretary-General it organized a meeting with victims of human rights violations and presented agreements with the Government on the expected rule-of-law results from the United Nations Development Assistance Framework.

114. OHCHR-Colombia developed a campaign to support victims involved in land restitution processes, in collaboration with the Catholic Church, the Office of the United Nations High Commissioner for Refugees, and the Ministry of Agriculture and Rural Development. OHCHR created a web page dedicated to the International Year for People of African Descent.<sup>33</sup>

115. OHCHR-Colombia issued 20 press releases and presented 19 public speeches, distributed 90,000 copies of publications and participated in workshops for the promotion of human rights.

116. OHCHR-Colombia was audited by United Nations external auditors in June with positive results and carried out a participatory internal planning process with a results-based management approach for the period 2012-2014.

## V. Recommendations

117. **The High Commissioner reiterates all her previous recommendations that have not been completely implemented and urges the Government of Colombia to strengthen the implementation of international recommendations, in order to contribute to the full enjoyment of all rights.**

118. **In light of the situation as observed by OHCHR-Colombia and summarized in the present report, the High Commissioner:**

(a) **Reiterates the recommendation to seek a peaceful solution to the armed conflict in order to achieve lasting and sustainable peace; and exhorts illegal armed groups to strictly adhere to international humanitarian law and release all kidnapped persons immediately and unconditionally, stop all violations of child rights, cease to commit acts of sexual violence and desist from using anti-personnel mines;**

(b) **Invites the Government to more actively include victims and their organizations in the implementation of the Victims' and Land Restitution Law; urges**

<sup>33</sup> [www.hchr.org.co/afrodescendientes](http://www.hchr.org.co/afrodescendientes).

the Government to designate a focal point to manage the comprehensive protection programme provided for in this Law; and calls upon the Attorney General to establish a special unit dedicated to investigating crimes relating to land restitution processes;

(c) Calls upon the Government to complement land restitution processes with rural development and income-generation programmes to ensure a dignified standard of living for victims, and reiterates the importance of properly selecting and effectively protecting judges in charge of land restitution proceedings;

(d) Exhorts the Government to ratify pending international instruments, in particular the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

(e) Reiterates to the Government the need to purge the intelligence files and vet the personnel of the new civilian intelligence agency, applying human rights standards, and urges the Government to strengthen the congressional commission for the Intelligence Law and create a unit to supervise military intelligence activities;

(f) Encourages the Government to conclude the participatory process for the National Conference on Human Rights, and calls upon recently elected local authorities to implement the conclusions of the regional forums and formulate local development plans with a human rights-based approach;

(g) Urges the Attorney General and the Police to strengthen the mechanisms to effectively investigate attacks against human rights defenders and move forward on the prosecution and punishment of these acts;

(h) Calls upon the Ministry of Defence to reaffirm decisions to prevent extrajudicial executions by, in particular, implementing measures introduced in 2008, and do everything possible to ensure that those responsible appropriately comply with sanctions imposed, and encourages the Ministry to issue clear and firm instructions for the strict compliance of the limits of military jurisdiction;

(i) Urges the Government to improve institutional and operational coordination to dismantle illegal armed groups that emerged after the demobilization of paramilitary organizations and their support structures, in conformity with human rights law, and to prosecute their members and collaborators, including State officials, and exhorts it to address on a priority basis socio-economic factors that promote the use of children and adolescents by these groups.

## Appendices

### Appendix I

#### **Illustrative cases of violations of human rights and of international humanitarian law**

1. As a complement to the High Commissioner's report on the situation of human rights in Colombia, and by way of illustration, a number of cases of violations of human rights and of international humanitarian law that have come to the attention of the office in Colombia of the High Commissioner for Human Rights ("OHCHR-Colombia) during the reporting period are described below.

#### **A. Human rights defenders**

2. The following are illustrative cases of homicides, disappearances, threats, detentions apparently without proper investigation and information theft, among others, against human rights defenders.

(a) In Buenaventura (Valle del Cauca), on 2 March, the President of the Board of the Rio Cajambre Community Council and her husband were kidnapped and allegedly murdered by the FARC-EP. These acts, which provoked the displacement of other members of the Board, are related to illegal mining activities in the region.

(b) In Tierralta (Córdoba), on 5 October, the leader of CORPOCODESA, an organization of internally displaced persons, was murdered, allegedly by the FARC-EP.

(c) In rural South of Bolívar, on 9 and 12 October, 25 persons were arrested and accused of rebellion and criminal association with guerrilla groups. They were released in February 2011 due to failure by the Attorney General's Office to investigate or prosecute before the expiration of terms.

(d) In the rural zones of El Tame (Arauca), on 14 March, the President of the Community Action Board was detained and accused of criminal association with a guerrilla group. He was released five days later.

(e) On 17 February, several human rights organizations working in different departments and regions around the country, as well as six journalists, received a threatening e-mail from the *Águilas Negras*. The Attorney General's Office does not appear to have a special investigative procedure for this type of crimes and its investigation of the facts had not, by the close of this report, produced satisfactory results.

(f) In Cartagena (Bolívar), on 4 April, 20 women's organizations that form the Committee to Monitor Constitutional Court Order 092, received threatening e-mails signed by the Revolutionary Popular Anti-communist Army (ERPAC). OHCHR-Colombia is not aware of any results obtained by the Attorney General's Office investigation of this threat.

(g) In Medellín (Antioquia), on 27 May, the leader of an LGBT organization received threats after denouncing the sale of drugs and child prostitution in the area where he lives.

(h) In Chigorodó (Antioquia), on 28 June, indigenous authorities of the Polines Reservation received threats from *Los Urabeños* after opposing the planting of coca leaf and the involvement of indigenous youth in this group.

(i) In Sincelejo (Sucre), between March and June, members of the Sucre section of Victims of State Crimes organization (MOVICE), including its spokeswoman, received numerous and repeated death threats by e-mail. One of the e-mail messages included threats against the 15-year-old daughter of one of the victims.

(j) In Medellín (Antioquia), on 10 March, a journalist covering the disturbances at the Antioquia University to protest against the Government initiative to reform education was attacked and her camera and mobile phone were stolen by unknown persons. Days later her Facebook page was unlawfully intercepted and she received threatening telephone calls accusing her of subversive activities.

(k) In Apartadó (Antioquia), on 11 July, a SAT analyst for Urabá received threats on her mobile phone after preventing a 20-year-old from joining *Los Urabeños*. The analyst was forced to leave the area.

(l) In Medellín (Antioquia), on 21 February, unknown persons entered the home of a member of the “Gustavo Marulanda” Human Rights Committee during the day and stole two computers containing information on his activities in defence of human rights.

(m) In Bogotá (D.C.), on 13 May, unknown persons entered the home of a member of the Inter-Ecclesiastic Justice and Peace Commission during the day and stole two USB memory sticks containing information on its work defending human rights. By August these events had not been investigated.

## **B. Intelligence services**

3. Cases were reported of interception of e-mails, surveillance, information theft and harassment against members of different organizations and social and political figures, attributed to unlawful and clandestine actions by members of the State intelligence agencies. This conclusion was reached after the comprehensive analysis of different elements, including the type of victims, the correlation between the persons being investigated by the intelligence agencies and by the Attorney General’s Office, the connections between victims and specific social organizations or with previously documented cases, the *modus operandi* or the links between time and place of certain events.

(a) In Medellín (Antioquia), on 15 April, a student leader from the Antioquia University who was conducting extra-academic research on alleged extrajudicial executions in Ituango was the victim of illegal interception of e-mails, surveillance, illegal search of his home, threats and theft of a hard drive and research documents. The similarity with other situations and the *modus operandi* suggest the involvement of State intelligence personnel in these acts.

(b) In Cali (Valle del Cauca), on 23 August, several members of the Committee for Solidarity with Political Prisoners Foundation received threats to their mobile phones on the day after their participation in a judicial hearing where members of the public security forces were accused of the acts that occurred in La Reforma in 2007. During the hearing, several soldiers were taking photos of the persons who were later threatened.

(c) In Ituango (Antioquia), on 12 June, a blog appeared called “Colombia Libre Siempre” (Colombia Forever Free), which accused a large group of people, including members of social organizations, of sympathizing with the guerrilla. The blog published reserved or confidential information and documents from public entities. This could be considered an indication of the possible involvement of State agents in these acts.

(d) In Medellín (Antioquia), on 21 May, the alternative newspaper “Periferia” received an e-mail with threats against one of its directors. As in the case above, the

similarity with other acts against the victim and the *modus operandi* suggest the involvement of State intelligence agents.

### **C. Extrajudicial executions**

4. In 2011 the practice of extrajudicial executions was not fully eradicated. The military justice system has continued to claim jurisdiction over cases of human rights and international humanitarian law violations and the expansion of the military jurisdiction is currently being debated. There have also been reports of situations where Police agents have killed persons in situations where there was no combat, no armed resistance or any other reason to use force in such proportions.

(a) In Argelia (Cauca), on 20 December 2010, a police agent shot and killed a person who, while intoxicated, had kicked a piece of wood that served to mark the perimeter of the Police station in the village of El Mango. The investigation is ongoing.

(b) In Tamalameque (Cesar), on 28 July, soldiers from the Army Energy and Highways Battalion No. 3 allegedly committed an extrajudicial killing of five persons accused of belonging to *Los Rastrojos*. The military justice pressured the competent official of the Attorney General's Office to transfer jurisdiction of this case.

5. OHCHR-Colombia has monitored the prosecution of several cases of extrajudicial executions attributed to members of the Army, in which the safety of the families of victims, witnesses and lawyers of the victims is a matter of concern.

(a) In Cali (Valle del Cauca), on 2 June, a lawyer representing the family of a victim of an alleged extrajudicial execution that occurred in January 2007 received death threats on his mobile phone in the proceedings against members of the GAULA (Army Unified Action Groups for Personal Freedom) and the AFEUR (Urban Anti-Terrorist Special Forces Group) registered to the Army Third Brigade. Five days later the death threats were repeated by e-mail and this time also included the family of the victim.

(b) In Barranquilla (Atlántico), on 26 March, the lawyer of the victims of several cases of alleged extrajudicial executions attributed to members of the Army received death threats by text message to his mobile phone. He had previously been the victim of surveillance and other acts of intimidation.

(c) In Medellín (Antioquia), on 13 October, a family member of a victim of an alleged extrajudicial execution attributed to members of the Army Fourth Brigade, who is also a witness in a trial, suffered an attempt against his life. The victim had previously received death threats by phone.

(d) In Granada (Antioquia), on 14 January, personnel from the Military Defence (DEMIL), who posed as officials of the Attorney General's Office, intimidated several trial witnesses and family members of victims of alleged extrajudicial executions that occurred in 2004 and were attributed to soldiers from the Army Colonel Jorge Eduardo Sánchez Rodríguez Artillery Battalion No. 4 (BAJAS).

### **D. Illegal armed groups that emerged after demobilization of paramilitary organizations**

6. The expansion and the intensity of the acts of violence perpetrated against the population by these groups in 2011 is a matter of concern.

- (a) In Dibulla (Guajira), on 13 February, three persons were murdered, including one girl, as a consequence of disputes between *Los Urabeños* and *Los Rastrojos* in that area.
- (b) In El Bagre (Antioquia), on 15 March, 10 persons were victims of a massacre as a consequence of disputes between members of *Los Rastrojos* in that area.
- (c) In Sopetrán (Antioquia), on 24 April, 10 persons were murdered as a consequence of disputes between two groups in Medellín, and the perpetrators attempted to disappear the bodies.
- (d) In Villa del Rosario (Norte de Santander), on 31 May, five persons were murdered as a consequence of disputes between members of *Los Rastrojos*.
- (e) In Zaragoza (Antioquia), on 8 July, four persons, including a boy, were murdered by *Los Rastrojos* when they were pursuing the boy, who was the “*campanero*” (guard) of *Los Urabeños*. The boy entered the home of a family in order to evade his pursuers and *Los Rastrojos* murdered everyone they found in the house.
- (f) In San Bernardo del Viento (Córdoba), on 27 July, three persons accused of collaborating with *Los Paisas* were murdered by *Los Urabeños*. The area where the acts occurred is under dispute between these two groups to control drug trafficking.
- (g) In San Antero (Córdoba), on 25 September, five persons were murdered as a consequence of disputes between members of *Los Paisas*.
- (h) In Tierralta (Córdoba), on 5 May, members of *Los Paisas* entered the village of Quebrada Bonita, murdered one person and looted the houses in the community, accusing the villagers of supporting *Los Urabeños*. This appears to be an area of dispute between *Los Urabeños* and *Los Rastrojos* for control of drug trafficking.
- (i) In Policarpa (Nariño), on 27 August, members of *Los Rastrojos* fired shots against the president of the Community Action Board of the village of Madrigal, who they accused of being an informant for the authorities. Timely police intervention saved the life of the community leader. Two members of this group had been arrested in this village the day before.
- (j) In Cumbitara (Nariño), on 12 September, four persons were kidnapped by *Los Rastrojos*, including two children, in the village of El Displayado. One of the victims was accused of being an informant for the authorities and another refused to have a sentimental relationship with a member of *Los Rastrojos*. After 17 days in captivity, the four persons were liberated by the Army.
- (k) In Barranca de Loba (Bolívar), on 21 March, 18 families dedicated to mining were displaced from their village to the urban center as a consequence of extortion by *Los Urabeños*.
- (l) In Bajo Baudó (Chocó), on 15 February, an indigenous community was displaced due to threats from *Los Rastrojos*, who blamed the community for the loss of a drug shipment.
- (m) In Bahía Solano (Chocó), on 25 September, the municipal ombudsman received threats from *Los Rastrojos* after he denounced drug trafficking and the use of children by this group.
- (n) In Medellín (Antioquia), on 22 June, a journalist received threats after publishing the identity of the head of one of the groups that operates in that city.
- (o) In Antioquia, in April, four children between 14 and 16, involved with *Los Rastrojos*, were captured by the Police together with other members of this group. The



children joined this group after they were offered money to serve as “*campaneros*” (guards).

(p) In Córdoba, in January, one 10-year-old boy involved with *Los Urabeños* surrendered to the Army. Another 10 members of this group surrendered at the same time.

(q) In Necoclí (Antioquia), in the area of La Reforma, *Los Urabeños* forced the villagers to stay in their homes while drugs were being transferred through the area.

7. Also, some members of the public security forces and other public officials acted, mainly because of corruption, in collusion with some of these groups.

(a) In Cúcuta (Norte de Santander), on 2 May, several police officers and agents, who were in charge of coordinating drug trafficking and fuel contraband in the area, were arrested after an operation of the Judicial Intelligence and Investigation Section (SIJIN), when authorities dismantled a group of *Los Rastrojos* in that city.

(b) In Cartago (Valle del Cauca), on 19 May, a prosecutor and three police agents accused of selling information to *Los Rastrojos* were arrested.

(c) In Cáceres (Antioquia), on 25 July, after handing over two members of *Los Rastrojos*, the authorities obtained a USB with information on payments by *Los Rastrojos* to municipal officials and members of the Police in several municipalities of Bajo Cauca.

(d) In Bello (Antioquia), on 25 August, three police and one municipal official from the land registry office were arrested, accused of collaborating with one of these groups.

(e) In Roldanillo, Tuluá, Riofrío, Bolívar and Trujillo (Valle del Cauca) 12 members of the Police, including seven station commanders, were arrested for collaborating with *Los Rastrojos* in exchange for a monthly payment.

## **E. Victims’ and Land Restitution Law**

8. During the formulation and adoption of Law 1448, known as the “Victims’ and Land Restitution Law”, cases were reported of threats, aggression, and murder of leaders and persons involved in land restitution processes, as well as their legal representatives.

(a) In San Onofre (Sucre), on 23 March, Eder Verbel Rocha, a victims’ leader involved in the Sucre Chapter of the section of MOVICE was murdered. His brother and son were wounded during the crime. In 2004, the victim’s brother had also been murdered and members of his family have been victims of continuous threats and intimidation.

(b) In Necoclí (Antioquia), on 16 November, Alejandro Padilla, a leader involved in land restitution processes was murdered in Urabá. He had been supporting a process for the restitution of 170 hectares of land in the village of Nueva Esperanza since 2008.

(c) In Montería, (Córdoba), on 26 November, Leoncio Mendoza, father of two land restitution leaders and also involved in processes for the restitution of lands in Urabá, was murdered. The victim had protection measures under Law 975 protection program.

(d) In Turbo (Antioquia), on 20 March, Alfranio Solana Morales, leader of the Tierra y Vida Association was threatened. As part of his functions, he was working with a group of victims that were claiming lands in southern Turbo. After receiving these threats, the leader was forced to leave the area.

(e) In La Jagua de Ibirico (Cesar), in April and June, a lawyer for land restitution claimants of the El Prado de Mechoacan property received death threats.

(f) In Montería (Córdoba), on 18 November, the Minister of Agriculture handed over land titles during a symbolic land restitution event. One of the families who received a title for the lands from which they had been previously displaced was not able to return due to threats by *Los Urabeños*, which the public security forces have not been able to control.

## **F. Conflict-related sexual violence**

9. The following cases illustrate how women and girls are victims of the sexual violence generated by all parties to the conflict, as well as by illegal armed groups that emerged after the demobilization of paramilitary organisations.

(a) The trial for the rape of two girls and the subsequent murder of one of them and her brothers, ages 14, 9 and 6, which was committed in October 2010 in Arauca allegedly by a member of the Army, had not yet concluded by 2011. The accused had changed his defense attorney at least seven times, which delayed the process and may have affected the evidence. The judge originally in charge of trial, Gloria Constanza Gaona, was murdered in March, but it has not been established with certainty whether the crime was related to the trial of the murder of the three children.

(b) In Ipiales (Nariño), on 3 April, a woman was raped and then seriously wounded with a knife by an Army soldier, who subsequently accepted the charges during the investigation conducted by the Attorney General's Office.

(c) In Campamento (Antioquia), on 12 September, information was received about a 16-year-old recruited by the FARC-EP who denounced that another minor belonging to this guerrilla group had been the victim of acts of sexual violence, *inter alia*, rape and five forced abortions.

(d) In Medellín (Antioquia), on 14 July, a 17-year-old girl was murdered in the presence of another two girls, 17 and 14 years old, by the head of an illegal armed group that emerged after the demobilization of paramilitary organisations, for refusing to have sexual relations with him. One of them was also subsequently murdered and the other was wounded.

(e) In Medellín (Antioquia), on 11 June, a 12-year-old girl was drugged and raped by adolescent members of two illegal armed groups that emerged after the demobilization of paramilitary organisations made up of children and adolescents. Despite the medical evidence of the consequences of the violence committed against the girl, the Attorney General's Office did not make progress in the investigation.

## **G. Conflict-related violence against children**

10. The following cases illustrate the consequences for children and adolescents of conflict-related acts of violence, including those attributed to illegal armed groups that emerged after the demobilization of paramilitary organisations.

(a) In Puerto Libertador (Córdoba), on 11 January, a 14-year-old boy and his father were wounded by an antipersonnel mine planted by the FARC-EP.

(b) In Tame (Arauca), on 15 February, a 16-year-old boy lost both legs when he manipulated a grenade left by the FARC-EP during an attack against the municipal Police station.

(c) In Tibú (Norte de Santander), on 25 February, a woman and her six children, between 7 and 17 years of age, were displaced after the FARC-EP threatened to recruit two of them.

(d) In Santa Rita de Iró (Chocó), on 11 February, a member of the ELN who had demobilized used a 10-year-old Afro-Colombian boy as a guide. Following this incident, the ELN blamed the community to which the boy belonged for the demobilization, and threatened them, causing the displacement of 20 families.

(e) In Anorí (Antioquia), on 8 February, reports were received that the FARC-EP had been occupying the school at the village of Concha Medio and carried out political propaganda and military training activities with the students. Some of these children were victims of recruitment by this guerrilla group.

(f) In Caloto (Cauca), on 11 September, an 11-year-old girl died and six children between the ages of 7 and 17 were wounded as a consequence of the explosion of an artifact during an armed confrontation between the Army and the FARC-EP.

(g) In Cáceres (Antioquia), on 25 May, a three-year-old boy and five-year-old girl were wounded by gunfire between members of *Los Rastrojos* and *Los Urabeños*.

(h) In Anorí (Antioquia), on 27 October, the FARC-EP mined the school of the village of Las Nieves, allegedly to sabotage the 30 October elections, since voting tables had been installed in the school.

(i) In Montelibano (Córdoba), on 18 April, a 15-year-old boy was murdered by *Los Paisas*, for whom he presumably worked as a recruiter. The body of the boy showed signs of torture.

(j) In Puerto Caicedo (Putumayo), on 4 April, a 14-year-old indigenous boy presented himself to the authorities with the intention of demobilizing. The boy said he had been recruited by the FARC-EP when he was 13 to carry out intelligence and extortion activities.

## H. International humanitarian law

### Guerrilla groups

11. OHCHR-Colombia documented selective killings, kidnappings, murder of hostages, threats, antipersonnel mines, displacements and indiscriminate attacks, attributed by the authorities to the FARC-EP and ELN guerrilla groups.

(a) In San José del Guaviare (Guaviare), on 3 June, members of the FARC-EP detained members of a medical mission for two days. Their boat used for mobilization, medicine, camera and logos were also stolen. Subsequently, on 3 August, another medical mission in the same department also had their medicine, medical equipment and the boat in which they travelled stolen.

(b) In La Macarena (Meta), on 16 September, the FARC-EP took the principal of the school at the El Rubí village hostage.

(c) In Tumaco (Nariño), on 25 September, the assistant to the mayor was kidnapped by the FARC-EP and released on 29 October. A 61-year-old member of the community was also kidnapped along with the assistant to the mayor, but was released after a few hours.

(d) In Solano (Caquetá), on 26 November, the FARC-EP murdered four members of the public security forces who they had been holding hostage. Army Sergeant José Libio Martínez had been held captive for 14 years, Mayor Elkin Hernández and Captain Edgar Yesid Duarte, both from the Police, had been kidnapped for 13 years, and Police superintendent Álvaro Moreno had been a hostage for 12 years. The FARC-EP

assumed responsibility for the act and the Institute of Legal Medicine confirmed that the examination of the bodies revealed that they had been shot at close range and in the back.

(e) In Toledo (Antioquia), on 18 April, two unarmed soldiers who were on leave were kidnapped and murdered by the FARC-EP. Their bodies were found two days later surrounded by explosives.

(f) In Tibú (Norte de Santander), on 6 March, the leader of the government's Families in Action Program was murdered by the FARC-EP in the presence of her husband and four daughters.

(g) In Carmen de Atrato (Chocó), on 25 May, the FARC-EP murdered two civilians in their homes, one of whom was a demobilized ex-combatant from the Guevara Revolutionary Army (ERG) guerrilla group.

(h) In Puerto Asís (Putumayo), on 14 January, the FARC-EP attacked the home of the mayor. The mayor's 17-year-old grandson lost his life as a consequence of the attack.

(i) In Yarumal (Antioquia), on 11 June, the FARC-EP mined and blew up explosive charges on an access road to a health center.

(j) In Toledo (Antioquia), on 18 April, two children died when they stepped on an antipersonnel mine planted by the FARC-EP.

(k) In the rural area of Puerto Asís (Putumayo), on 22 August, an 18-year-old was wounded after stepping on an antipersonnel mine planted by the FARC-EP. The victim had to be moved over a dirt path for three hours to reach the nearest road.

(l) In Pradera (Valle del Cauca), on 1 August, a peasant farmer was wounded when he stepped on an antipersonnel mine planted by the FARC-EP on his farm.

(m) In Argelia (Cauca), on 18 May, the FARC-EP placed an explosive artifact in the office of the municipal ombudsman.

(n) In Cumbitara (Nariño), on 12 September, 13 members of a family were displaced from the village of Sidón for fear of reprisals by the FARC-EP after refusing to allow their children to be recruited by this guerrilla group.

(o) In Riosucio (Chocó), on 23 January, 15 indigenous families from the Perancho Baquera community were displaced after the FARC-EP murdered two of their members, one of whom practiced traditional medicine.

(p) In Sucre (Cauca), on 7 May, the ELN conducted an indiscriminate attack on the municipal capital. The local hospital was almost completely destroyed after it was hit by six explosives.

(q) In Campamento (Antioquia), on 28 February, the FARC-EP attacked a rural school in this municipality. The damages caused both the school classes and the breakfast service to be suspended, which in many cases is the only meal these children receive.

### **Security forces**

12. OHCHR-Colombia continued to observe the practice of placing military units in populated areas, very near to houses and other protected properties, such as schools. It also received reports of stigmatization and arbitrary acts by some members of the Army against the civilian population.

(a) In Florida (Valle del Cauca), on 16 January, Army troops camped in the yard of the home of an indigenous family of the Kwet-Kiwe reservation.

(b) In San José de Oriente (Cesar), on 5 August, Army troops camped close to the soccer field of the school at the village of El Tesoro.

(c) In Pradera (Valle del Cauca), on 16 March, approximately 70 soldiers occupied a farm, causing damages to the structure and accusing the farmers of being guerrillas.

(d) In Villavicencio (Meta), on 18 March, an Army soldier recorded and photographed several persons participating in the presentation of the Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia in that city.

(e) In El Tarra (Norte de Santander), on 23 June, two farmers were detained by Army soldiers and, after accusing them of being guerrillas, hit them with machetes and then demanded that they bring them chickens and sign a certificate of good treatment.

## I. Indigenous peoples and Afro-Colombian communities

13. The rights of indigenous peoples and Afro-Colombian communities are still disproportionately affected by the internal armed conflict and by the violence generated by the illegal armed groups that emerged after the demobilization of paramilitary organisations.

(a) In Arauca (Arauca), on 16 January, an indigenous person members of the *La Ilusión* community died after falling on an antipersonnel mine planted by a guerrilla group.

(b) In Riosucio (Chocó), on 20 January, two indigenous persons – one from the Jaibaná indigenous group- were murdered by the FARC-EP after being accused of being Army informants.

(c) In Vigía del Fuerte (Chocó), on 7 November, an indigenous person was murdered by the FARC-EP after being accused of transporting in his canoe two guerrillas who were going to demobilize.

(d) In Montelíbano (Córdoba), on 1 July, an indigenous leader was murdered and his brother wounded after an attack by *Los Urabeños*.

(e) In Barbacoas (Nariño), on 11 November, two Awá children were murdered by the FARC-EP in actions related to the desertion of another Awá child from this guerrilla group. This child and his father were also murdered by the FARC-EP.

(f) In Nariño, on 16 September, four Awá children were captured by the FARC-EP. Two days earlier they had been captured by the Army and delivered to their parents.

(g) In Corinto (Cauca), on 12 April, two indigenous children were recruited by the FARC-EP; the community intervened and obtained their release on the following day. The families of the children were then threatened by this guerrilla group.

(h) In Florida (Valle del Cauca), on 8 February, 96 indigenous persons who were returning from an assembly were caught in the crossfire between the FARC-EP and the Army.

(i) In Florida (Valle del Cauca), on 17 February, Army troops occupied the community house of the Kwet-Kiwe reservation.

(j) In Caloto (Cauca), on 23 January, armed confrontations between the Army and the FARC-EP in the Huellas indigenous reservation caused the displacement of approximately 200 persons.

(k) In Mutatá (Antioquia), on 18 October, indigenous leader William Carupia received threats about some lands that were occupied by the Patadó community while armed actors entered the homes of the members of that community.

(l) In Buenaventura (Valle del Cauca), on 7 May, the FARC-EP massacred five members of a family of the Naya Community Council.

(m) In Medio Atrato (Chocó), on 22 May, FARC-EP guerrillas fired against a civilian boat that provided river transportation services, leaving three civilians dead and two wounded.

(n) In Medio Atrato (Chocó), on 20 February, approximately 360 persons from the Afro-Colombian community of *La Villa* were displaced as a consequence of combat between the Army and the FARC-EP.

(o) In Timbiquí (Cauca), on 18 April, approximately 1,000 persons from the Afro-Colombian communities of *Santa Ana* and *Chaco* were displaced to the municipal capital after receiving threats by unspecified armed actors.

(p) In El Charco (Nariño), on 22 May, an Afro-Colombian boy managed to escape from being forcibly recruited by the FARC-EP and was injured during his escape.

(q) In Tumaco (Nariño), on 19 November, a 17-year-old involved with an unspecified illegal armed group attacked the home of a gas station owner with explosives. A similar act was committed in September in the same city, but on that occasion by a young man of 16.

## Appendix II

### Regulations and case law references

As a complement to the Annual Report by the High Commissioner on the situation of human rights in Colombia, the following is a list of relevant laws, decrees, resolutions and judicial decision related to human rights enacted during the reporting period.

#### Introduction

- Law 1448 of 10 June 2011, "Which dictates measures to provide attention, assistance, and comprehensive reparations to victims of the internal armed conflict and dictates other provisions" (known as the "Victims' and Land Restitution Law").
- Prosperity Agreement No. 36 of Cartagena. This agreement focuses on poverty reduction; sustainable development; governance and human rights; peace, security and reconciliation; and humanitarian and emergency aid.

#### Context

- Constitutional Court Order 219 of 13 October 2011, which monitors government actions to overcome the unconstitutional state of affairs dictated by Constitutional Court decision T-025 of 2004. Decision drafted by Magistrate Luis Ernesto Vargas Silva.
- Law 1453 of 24 June 2011 (known as the "Citizen Security Law"), "Which reforms the criminal code, the criminal procedural code, the children and adolescent code, the rules governing seizure of property and dictates other provisions related to security."
- Decree 4100 of 2 November 2011, "Which creates and organizes the National Human Rights and IHL System, modifies the Inter-Sectoral Commission on Human Rights and IHL, and dictates other provisions."

#### A. Human rights defenders

- Decree 4065 of 31 October 2011, "Which creates the Protection Unit (NPU) and establishes its purpose and structure."
- Decree 4912 of 26 December 2011, "Which organizes the Programme for the Prevention and Protection of the Rights to Life, Liberty, Physical Integrity and Security of Individuals, Groups and Communities of the Ministry of Interior and the National Protection Unit".

#### B. Intelligence agencies

- Supreme Court Decision of 14 September 2011, Criminal Appeals Chamber, Proceedings No. 331, Decision drafted by Magistrate Alfredo Gómez Quintero (sentence against Jorge Aurelio Noguera Cotes).

- Law (not yet sanctioned), “Which issues norms to strengthen the legal framework that allows agencies that perform intelligence and counterintelligence activities to fulfil their constitutional and legal mandate, and dictates other provisions.” (Known as the “Intelligence Act”, currently under review by the Constitutional Court).
- Constitutional Court Decision C-748 of 6 October 2011, File PE-032, Decision drafted by Magistrate Jorge Ignacio Pretelt Chaljub. (On the confidentiality of personal information contained in intelligence files).
- Decree 4057 of 31 October 2011, “Which eliminates the Department of National Security–DAS, reassigns its functions, and dictates other provisions”.
- Decree 4179 of 3 November 2011, “Which creates an Administrative Department and establishes its purpose, functions and structure”. (Creates the National Intelligence Agency).
- Ministry of National Defence, “Comprehensive Security and Defence Policy for Prosperity (PISDP)”, May 2011.

### **C. Transitional justice**

- Law 1424 of 29 December 2010, “Which dictates transitional justice provisions to guarantee the right to truth, justice, and reparations for victims of demobilized from unlawfully organized groups, concedes legal benefits, and dictates other provisions”.
- Decree 2601 of 19 July 2011, “Which regulates Law 1424 of 2010.”

### **D. Victims’ and Land Restitution Law**

- Law 1448 of 10 June 2011, "Which dictates measures to provide attention, assistance, and comprehensive reparations to victims of the internal armed conflict and dictates other provisions" (known as the Victims’ and Land Restitution Law”).

### **E. Enforced disappearance**

- Law 1418 of 1 December 2010, which approves the “International Convention for the Protection of All Persons from Enforced Disappearance”.
- Constitutional Court Decision C-620 of 17 August 2011, which declares the constitutionality of the Convention, File LAT-363, decision drafted by Magistrate Juan Carlos Henao Pérez.
- Law 1408 of 20 August 2010, "Which pays homage to victims of enforced disappearance and dictates measures for locating and identifying these victims”.
- Case 2009-0203, Criminal Circuit Court 51, Bogotá, D.C., 28 April 2011. Sentences a retired Army general to 35 years of prison for the enforced disappearance of persons during the events of 1985 in the Justice Palace.

### **F. Conflict-related sexual violence**

- Constitutional Court Order 092 of 14 April 2008, decision drafted by Magistrate Manuel José Cepeda Espinosa, Reference: Protection of the fundamental rights of women victims of forced displacement as a consequence of the armed conflict, in



the framework of overcoming the unconstitutional state of affairs established in Decision T-025 of 2004.

- Ministry of Defence, Permanent Directive No. 11 of 21 July 2010, issued for the purpose of preventing violence against women and girls.
- Directive 006 of the Procurator General's Office, of 17 May 2011, "Directives to address the fight against impunity in cases of sexual violence in the context of the Colombian conflict, especially violence committed against women and to guarantee their dignity".
- United Nations, Security Council, Resolution 1888 of 30 September 2009.

## **G. Conflict-related violence against children**

- Law 1098 of 8 November 2006, "Which issues the Child and Adolescence Code".
- United Nations, Security Council, Resolution 1612 of 26 July 2005.
- United Nations, Security Council, Report of the Secretary-General on children and armed conflict in Colombia, S/2009/434 of 28 August 2009.
- United Nations, Security Council, Working Group on Children and Armed Conflicts, Conclusions on children and the armed conflict in Colombia, S/AC.51/2010/3, 30 September 2010.

## **H. International humanitarian law**

- Press release by the Constitutional Court on its decision C-879 of 22 November 2011, on the right to conscientious objection.

## **I. Indigenous peoples and Afro-Colombian communities**

- Constitutional Court Decision T-129 of 3 March 2011, on recourse to tutela for protection of constitutional rights by the Embera-Katío peoples of the Chidima-Tolo and Pescadito reservations.
- Constitutional Court Decision T-1045 A of 14 December 2010, on the tutela for protection of constitutional rights presented by the La Toma Community Council.
- Constitutional Court Decision T-116 of 24 February 2011, on the tutela for protection of constitutional rights presented by the Páez de la Gaitana Indigenous Reservation vs. the Department of Cauca.
- Decree 1320 of 13 July 1998, "Which regulates prior consultation with indigenous and black communities for the exploitation of natural resources on their territories".
- Constitutional Court Decision T-745 of 14 September 2010, on the tutela for protection of constitutional rights presented by the village of Pasacaballos vs. the Mayor of Cartagena and the Road Consortium of Barú Island. Made public in January 2011.
- Constitutional Court Order 174 of 9 August 2011, on the adoption of urgent precautionary measures to protect the fundamental rights of the Awá indigenous peoples located in the departments of Nariño and Putumayo, in the framework of the unconstitutional state of affairs established by Decision T-025 of 2004 and

subsequent orders issued in Court Order 004 of 2009. Decision drafted by Magistrate Luis Ernesto Vargas Silva.

## **J. Discrimination**

- Law 1482 of 30 November 2011, “Which modifies the Criminal Code and establishes other provisions”.
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