



UNHCR
The UN Refugee Agency

**International protection considerations
regarding Colombian
asylum-seekers and refugees**

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I. Introduction

The Colombian conflict has significantly worsened over the past three years. This has led to an increase in internal displacement as well as refugee movements to neighboring countries and further abroad. The growing number of asylum-seekers from Colombia in neighboring countries, Central America, North America and Europe, whose various profiles reflect the complexity of the Colombian situation, and the difficulties to assess their asylum claims in the context of a rapidly evolving environment, have made eligibility guidance necessary.

II. Background

1. General information on Colombia

1. Colombia is administratively divided into 32 departments and 1 capital district (Bogotá). Each department is comprised of a varied number of municipalities, which total 1,098 nationwide. The authorities acknowledge that 192 municipalities lack a State security presence.

2. According to 2001 estimates, the population of Colombia amounts to some 40.3 million persons. Most of the population (60%) is classified as *mestizo* (mixed race), although there are significant minorities of both European (20%) and African origin (18%). Indigenous communities make up about 2% of the population.

3. The population is overwhelmingly urban, with around 30% of the people living in the four major cities of Bogotá, Medellín, Cali and Barranquilla. Medium-sized cities with populations of more than 250,000 are normally located near these regional centers. According to Colombia's National Planning Department (DNP), the proportion of the urban population of the total population increased by 4% in ten years from 70% in 1990 to 74% in 2000. The same source of information considers that this fact reflects not only a structural shift away from agriculture, but also that guerrilla and paramilitary violence has forced families from rural areas to seek refuge in the towns and the cities (see further under *Internal Displacement, below*).

2. The political context and the actors¹

4. The Colombian political scene has long been dominated by two rival political parties, the Conservative Party (Partido Social Conservador - PSC) and the Liberal Party (Partido Liberal - PL),² and is characterized by organized violence and a weak State. In the Era of Violence (1946-1958), clashes between the parties led to an estimated 300,000 political killings. During this period, Communists and Liberals organized themselves into self-defense groups, a precursor to later rebel groups, to counter violent attacks from Conservative forces. In 1958, the two parties reached a power sharing agreement which provided for a National Front government with a rotating presidency and a sharing of government posts. Given the strong rural support as well as ties with local politicians of both parties, the rural insurgencies were not completely defeated by the State. They subsequently transformed themselves into peasant armies opposing social inequality and highly concentrated land ownership.³

¹ This section draws heavily on the Latin American Report No. 1 "Colombia's Elusive Quest for Peace", International Crisis Group, ICG, Latin America Report No. 1, 26 March.

² In general, the Conservatives stand for a central government, slow economic and political change, and are strongly influenced by the Roman Catholic Church while the Liberals prefer a federal system, free trade and espouse the interests of urban low-income voters, as described in Colombia Country Profile, Economist Intelligence Unit, 2001, pg. 4.

³ An estimated 100 armed groups were active in Colombia in 1964, particularly in coffee growing areas. "Colombia's Elusive Quest for Peace", ICG, pg. 3; see also, Colombia Country Profile, EIU, pg. 4-5.

5. The rise of drug trafficking cartels in the late 1970's and early 1980's transformed both Colombian society and the nature of the civil conflict. Widespread and high level corruption, intimidation and murders weakened the government, particularly the law enforcement apparatus, as well as the influence of the traditional political parties. As the State targeted the drug cartels, the *Fuerzas Armadas Revolucionarias de Colombia* (Revolutionary Armed Forces of Colombia - FARC) and paramilitaries became increasingly engaged in drug cultivation, processing and trafficking. This has allowed them to obtain finances that for recruitment, arming, as well, as independence from the Communist Party and large landowners, respectively.

6. Between 1982 and 1998, there were many efforts to negotiate peace but talks were often accompanied by an escalation of fighting; and efforts to transform guerrilla organizations into political entities were met with violence. For example, between 1990 and 1994 most of the members of two guerrilla groups, the *Movimiento 19 de Abril* (M-19) and the *Ejército Popular de Liberación* (Popular Liberation Army - EPL), demobilized and a coalition party was formed to contest 1990 elections. While their electoral support was significant, the paramilitaries and local security forces targeted many former guerrillas for execution. The largest guerrilla group, the FARC, was involved in unsuccessful attempts to negotiate peace in 1984-87, 1991, and 1992. During the first peace process, which included a cease-fire, the FARC formed a political party, the *Unión Patriótica* (Patriotic Union), which contested the 1986 elections and obtained significant support. However, between the Patriotic Union's founding in 1985 and the early 1990s, at least 3,000 of the party's congress members, mayors, activists, and candidates, including two for the Presidency, were killed by paramilitaries, security forces, and drug cartels.⁴ The large-scale killings of members of the Patriotic Union left the FARC's military structure intact, but left the group with few articulate political spokespeople while acting as a strong deterrent to rebel groups contemplating a transformation to non-violent political participation.

7. In June 1998, Andreas Pastrana of the Conservative Party won the Presidency with a promise to negotiate peace as part of his platform. As President-elect, in July 1998, he met with the FARC's commander, Manuel Marulanda, and military chief, Jorge Enrique Briceño, alias "Mono Jojoy". A *Zona de Despeje*, or demilitarised zone (DMZ), comprising five municipalities in the departments Caquetá and Meta, of a total of 42,129 square kilometres (the approximate size of Switzerland) was established, the idea being to have a neutral area where the government and guerrillas could meet to talk peace. The DMZ, an essential FARC demand, was originally created for only 90 days. FARC control of this zone was extended 11 times until February 2002 despite a lack of progress in achieving peace.

8. Although formally involved in negotiations, FARC continued attacking towns, kidnapping civilians and public servants, hijacking planes and killing government officials. The paramilitaries also continued their strategy of murdering civilians suspected of leftist sympathies. According to various sources, including the United Nations High Commissioner for Human Rights (UNHCHR), the DMZ itself was used to hold kidnap victims, stolen goods and for military training as well as processing coca.⁵ Negotiations were frozen in October 2001 due to FARC objections to newly announced government controls on the DMZ, such as aerial surveillance and checkpoints at entry points, intended to end misuse of the zone. In January 2002, President Pastrana questioned the commitment of FARC to the peace process and gave them 48 hours to evacuate the Zone. A last minute agreement by the FARC to accept international mediation and the intervention of the U.N., the Roman Catholic Church, and foreign diplomats brought an extension of the DMZ to 10 April 2002 and a timetable for further progress on a peace framework, but not an immediate truce. FARC attacks on infrastructure and civilians not only continued but also intensified, including the well planned abduction on 20 February 2002 of Senator Eduardo Gechem, President of the Senate Peace Commission. The Colombian armed forces were ordered into the DMZ the next day.

⁴ "Colombia's Elusive Quest for Peace", Pg 6.

⁵ OHCHR report on the human rights situation in Colombia of 28 February 2002 (E/CN.4/2002/17), paragraph 198.

9. In May 2002, Alvaro Uribe, an independent candidate supported by the PSC, won the presidential elections with a widely supported platform of pursuit of military options against the guerrillas.⁶ During his inauguration in August 2002, the FARC launched a grenade and mortar attack in central Bogota resulting in 20 fatalities. The shelling was interpreted as confirmation of FARC's ability to project violence into urban centers despite unprecedented security precautions.

10. President Uribe responded by declaring a 90-day state of emergency and announced an assets tax on the wealthy to provide more resources in the fight against the guerrillas and paramilitaries. The government intends to raise \$780 million by making individuals and companies pay a 1.2 percent tax on assets of over \$60,000. The state of emergency allows President Uribe to legislate by decree and restrict civil rights⁷, although the government said it would not do so unless required. Known as a "state of domestic commotion," the state of emergency was also a response to the FARC's death-threat campaign against the country's mayors and local officials. In addition to more soldiers and police, President Uribe intends to create a network of 100,000 civilian "police auxiliaries" to act as unarmed informers, a tactic he used as a State governor.

11. **FARC:** The FARC-EP, (Revolutionary Armed Forces of Colombia-Army of the People, *Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo*), founded in 1965, has transformed itself to become Colombia's largest and most active guerrilla organization. Rooted in the self-defence forces that were formed in the "Era of Violence", the FARC began as a rural peasant army, adhering to a communist ideology and dominated by the Communist Party. By the time of the collapse of the Soviet Union in 1991, FARC had distanced itself from the Communist Party and had developed support in urban centers by attracting students, intellectuals and workers. Through money obtained by kidnapping, extortion and selling protection to drug traffickers and coca growers, FARC expanded its membership, financial reserves and territorial control. Military and economic motives now overshadowed their political and social agenda that include land ownership issues and political reform. Involvement in illicit cultivation, narco-trafficking and kidnapping brings FARC an estimated US \$500 million per year. Thus FARC is able to project its military capability almost countrywide, with notably increasing activity in urban centers. Their present strength is estimated at 17,000, fighters organized in 7 regional *bloques* and consisting of over 60 *frentes*. The current Commander-Chief of the FARC is Manuel Marulanda Velez, alias "*Tirofijo*" (sureshot). Due to their perceived lack of a commitment to ideological issues and the indiscriminate violence they visit upon civilians, the FARC now have minimal popular support in Colombia.

12. **ELN:** The second largest guerrilla organisation is the ELN (National Liberation Army, *Ejército de Liberación Nacional*), founded in 1964 by university students influenced by the Cuban revolution and, in particular, the theories of Ernesto "Che" Guevara. Reports suggest that internal disputes and military losses have considerably weakened the ELN.⁸ A new leader in the early 1980's, Spanish Priest Manuel Perez, revitalised the organisation by building links with social movements and trade unions in the oil sector as well as by engaging in extortion of foreign oil companies.⁹ Currently led by Nicolas Rodríguez, the ELN consists of an estimated 4,500 fighters, organized in five *bloques*, in 41 *frentes*, mostly present in the

⁶ President Uribe's election slogan was "Big Heart, Strong Hand". The peace talks under the administration of President Pastrana took place in the midst of continuing armed conflict, while - according to press-reports - President Uribe called for a cease-fire, and a halt to "terrorist activities" on the side of the FARC, as a precondition to resume negotiations. The FARC, however, reportedly considers a cease-fire to be the outcome, not the beginning, of new talks with the government.

⁷ The state of emergency provides the government with the power to limit personal movement, impose restrictions on the media, search homes without a warrant and arrest people on suspicion rather than proof they committed a crime.

⁸ Jane's Sentinel Security Assessment, South America, 11, Executive Summary, Jane's Information Group, 24 June 2002. See also, "Colombia's Quest for Peace", pg. 4.

⁹ Ibid.

northern departments of Santander, Norte de Santander, Bolívar, Antioquia, and Arauca. They have traditionally concentrated on attacking and sabotaging oil and mining infrastructure (mainly in Arauca and Norte de Santander) and derive a great part of their finance from extortion and kidnapping, in particular in Antioquia. Although it now proclaims support for a peaceful resolution, progress towards a solution has been halting due in part to ELN violence during negotiations. In early 2002, talks in Havana, Cuba, between the government of President Pastrana and the ELN reached agreement on a timetable for a cease-fire as well as an agenda for more comprehensive talks. It is uncertain whether the new administration will be able to revive and move forward the negotiations, which ceased in June 2002. As their terrorist and criminal activities often affect civilians indiscriminately, like the FARC, the ELN now have negligible popular support.¹⁰

13. Other guerillas organizations: According to the US Department of State,¹¹ the FARC and ELN as well as other smaller groups undertook armed actions in nearly 1,000 of the country's 1,098 municipalities in 2001. The smaller guerrilla groups are more regional in nature, such as the EPL (Ejército Popular de Liberación), Frente Jaime Bateman Cayón, Ejército Revolucionario Guevarista, Ejército Revolucionario Popular and others. Information on the leadership, ideology, and activities of these organisations can be found, *inter alia*, at the United Kingdom Home Office web site, www.ind.homeoffice.gov.uk

14. Paramilitary-self-defense groups¹²: Paramilitary organizations emerged in the early eighties, initially to provide protection to large landowners and drug lords against the guerrillas who had targeted these groups for kidnapping and extortion.¹³ The largest such group, the United Self-Defense Forces of Córdoba and Urabá (ACCU), appeared in the early 1990s and constitute a merger between paramilitaries and groups established by the military to act as death squads.¹⁴ Headed by two brothers trained as death squad leaders¹⁵, Carlos and Fidel Castaño, the ACCU forms the nucleus of the United Self-Defense Forces of Colombia (AUC), an umbrella group led by Carlos Castaño and formed around 1997. Between 1992 and 2001, the AUC grew from 850 to over 8,000 combatants.

15. Using extreme brutality toward civilian populations, the group has "killed, tortured, and threatened civilians suspected of sympathizing with guerillas in an orchestrated campaign to terrorize them into fleeing their homes" in an effort to supplant rebel control of coca growing areas and strategic territory.¹⁶ Like the guerrillas, it has also engaged in kidnapping and extortion. In addition to an established permanent presence throughout northern Colombia, the AUC began making inroads into FARC-controlled coca-growing areas in southern Colombia in the late 1990s. While in November 2001 the AUC proclaimed the inclusion of political and social activities in their agenda, many observers view the paramilitaries as mercenary vigilante forces which in some instances are paid private armies of large landowners or narcotics traffickers.

¹⁰ In a December 2001 Gallup poll less than 3% of Colombians had a favourable opinion of the FARC, ELN's approval rating was almost nil and the paramilitary AUC received almost 10%, as reported in "Colombia's Quest", pg. 9.

¹¹ US Department of State, Colombia Country Report on Human Rights Practices, 2001, pg. 20.

¹² The state institutions prefer the term "*autodefensas*" or "self-defence" forces.

¹³ The growth of paramilitary organizations coincided with the advent of Colombia's drug trade. Wealthy drug traffickers laundered their profits by buying up as much as 2.5 million acres of land in northern Colombia during the 1980s. These new landholders put together private armies to deal with the guerrillas who kidnapped and extorted wealthy ranchers in the area. One of the first, and most feared, was a group founded by the Medellín drug cartel calling itself "Death to Kidnappers" (*Muerte a Secuestradores*, or MAS), active in the Magdalena Medio region of north central Colombia. Colombia's Elusive Quest for Peace, page 4; Political Murder & Reform, in Colombia: The Violence Continues", Americas Watch, April 1992, pg. 15.

¹⁴ Jane's Information Group, Jane's World Insurgency and Terrorism 14, www.janes.com, 25 March 2002.

¹⁵ Ibid.

¹⁶ U.S. Department of State, pg. 2.

16. The paramilitaries are held responsible for generating about half of all internal displacement in Colombia. Their actions are characterized by a high degree of brutality, involving torture and vicious murders (e.g. with chainsaws) and massacres.¹⁷ Typically, the paramilitary enters a community with a list of suspected guerrilla collaborators and conducts summary executions. In a number of cases, killings would occur at random, instilling even greater fear in the population. The mere rumor of a possible incursion by a paramilitary group often suffices to trigger displacement. Since the breakdown of the peace-process in October 2001, it seems the AUC have adjusted their tactics. The number of massacres has decreased, but at the same time the number of selective assassinations and disappearances in areas under their control have increased.¹⁸ The AUC are also the main actor responsible for "social cleansing" (*see further under section II, Groups at risk*). Despite official denouncement of paramilitary activities, they are reported to continue to receive support from the Colombian Public Forces at the field level and are sometimes engaged in battles with guerrilla forces as a surrogate to government intervention.

3. The security and human rights situation

17. Since the late 1990s to date, political violence and the conflict between military, paramilitary and guerilla forces as well as the activities by criminal organizations have increased significantly. The situation is characterized by widespread and massive violations of human rights and humanitarian law with growing numbers of victims among the civilian population.¹⁹ The violence is furthermore rapidly spreading into urban areas.

18. In 2001, the daily average of violations of the right to life reached unprecedented 20 cases per day. According to the Colombian Commission of Jurists (CCJ), between October 2000 and March 2001, 1,500 civilians lost their lives as a direct result of the armed conflict; this is more than double the number of combatants who died during the same period the year before. About half (749) of the victims were killed in massacres, the vast majority by paramilitary forces. Colombia leads the world in kidnapping incidents and also has the highest per capita murder rate.

19. The armed parties (i.e. the guerrilla and paramilitary groups) primarily target persons and communities who are perceived to be supporters, collaborators or a supporting base of an opposing group. Extra-judicial executions took the form of individual and group killings, victims included persons of all ages and status, including children, pregnant women and elderly persons. The paramilitaries during the period January-September 2001 reportedly committed 102 massacres (representing 671 victims) as well as several hundred selective killings.²⁰ There are many reports of collusion of members of the security forces and other State officials in such killings or in subsequent impunity. With regard to criminal convictions of serving and retired military officers indicted for co-operating with paramilitary forces, the record is considered mixed. Criminal proceedings are also reported to be accompanied by threats to witnesses, investigators and judges.

¹⁷ Human rights organisations, such as the Colombian Commission of Jurists (CCJ), define as a massacre the (nearly) simultaneous killing of 3 or more persons outside combat at a single location or at several nearby locations.

¹⁸ The CCJ attributes a total of 1,929 "political" killings and 319 "social cleansing" killings to paramilitary groups in the period from June 2000 to June 2001.

¹⁹ As observed, *inter alia*, in this year's report of the Office of the UN High Commissioner for Human Rights (OHCHR) on the situation in Colombia, violence is increasing and directed particularly against the civilian population, OHCHR, 28 February 2002 (E/CN.4/2002/17).

²⁰ U.S. Department of State, Country Report on Human Rights Practices 2001, Colombia, page 7.

20. Observers suggest that the increasing incidence and intensity of acts of aggression against civilians is part of a deliberate strategy by armed groups to extend their sphere of influence and gain territorial control. Strategic territorial control – in relation to military, economic and development activities, including the narcotics economy – is considered to be at the core of the conflict. Most observers agree that this aspect of the crisis affects the whole territory of Colombia today.

21. Moreover, the violence has affected Colombia's neighbors. Panama, whose army was disbanded after the U.S. invasion in 1989, is at times used as a sanctuary for FARC rebels. Colombian paramilitaries, seeking to deny the guerrillas a haven for rest and rearming, also increased activities in Panama, such as an attack on the Panamanian town of Nazaret where FARC rebels were buying supplies.²¹ FARC and ELN guerrillas are also active on the Venezuelan side of the border, buying weapons and supplies, recruiting peasants, and kidnapping wealthy ranchers. There is evidence of Venezuelan paramilitary forces being established, reportedly with the assistance of their Colombian counterparts, to combat extortion and kidnapping of landowners by guerrillas.²² In March 2001, FARC acknowledged crossing into Peru but has denied establishing a permanent presence.²³ Finally, Colombian paramilitaries cross into Ecuador to attack FARC camps set up within Ecuadorian territory.²⁴ This cross-border presence of Colombia's armed parties diminishes the level of security available to Colombian asylum seekers in neighboring States.

22. The pattern of violence of the armed conflict in Colombia, affecting the lives and security of civilians, includes deliberate attacks on civilian populations, attacks on military and police installations in communities, sieges and armed blockades, kidnappings, extortion and forced recruitment.

23. **Attacks on civilian populations:** Collective threats and killings, and direct attacks against civilian populations are attributable to all non-state actors and occur mainly in disputed and recently conquered areas of Colombia.²⁵ Such attacks can be indiscriminate or deliberate and are intended to intimidate the civilian population perceived as the social base of the opposing group. Displacement is often sparked by the fear that the arrival of one of the armed groups is imminent.

24. **Attacks on military and police installations:** The parties to the conflict carry out often-disproportionate attacks on military targets in communities resulting in civilian loss of life. In one recent example, in May 2002, 117 persons died when gathered in a church in Bojayá, Choco, during a prolonged attack by the FARC. A gas cylinder stuffed with explosives was launched against paramilitary positions within the town, but hit the church instead. The use of such weapons, which are notoriously inaccurate, is a common tactic employed by the FARC.

25. **Communities under siege:** Armed blockades deliberately imposed by irregular armed groups for strategic reasons in certain communities and municipalities, particularly in border areas, lead to restrictions on access to basic goods and services, a decline in nutrition, food shortages and difficulties in access to health care, which has serious consequences for the population most at risk. In other cases, restrictions to the free circulation of goods and

²¹ *War resumes after collapse of Colombian peace process*, Jane's Intelligence Review, April 2002, pg. 12.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ Civilians are intentionally targeted by all factions in the conflict. "Guerrilla organisations continued to pursue strategies that routinely led them to commit abuses against citizens. Their tactics consistently included killings, kidnapping, torture, targeting of civilian populations and installations (including medical facilities), and the forced recruitment of children as young as ten years old." U.S. Department of State, pg. 20.

persons are a by-product of fighting between guerrilla and paramilitary groups. Almost every major road artery in Colombia was closed at some point in 2001.²⁶

26. **Armed clashes between the parties to the conflict and landmines:** In territories disputed by the parties to the conflict, armed clashes jeopardize the life of civilian populations and cause forced displacement. According to the CCJ, between October 2000 and March 2001, 20 civilians died in the middle of armed confrontations (i.e. crossfire) between armed actors. Land mines kill and maim a similar number, affecting in particular children. There are an estimated 130,000 antipersonnel mines, 18,000 of which were laid by the military to defend static positions. An estimated 140 municipalities are affected, with minefields covering approximately 90,000 square miles.²⁷ Thousands of internally displaced persons (IDPs) are unable to return to their homes due to landmines.

27. **Kidnapping and extortion:** One specific feature of the conflict in Colombia is the high rate of kidnappings which, in 2001, reached 3,041 persons, an average of 8 per day. Extortion practices, including ransoms, "war taxes" and other forced payments are commonplace. The main perpetrators reportedly are guerrilla groups (over 60 percent), but increasingly paramilitary organizations are reported to resort to such practices as well. Kidnappings and extortion take place both as a form of persecution to target (perceived) political opponents and to finance political / military activities. Only 10% of kidnappings are attributed to purely common criminal motives and of these FARC often "purchases" kidnap victims from criminal gangs. Minors are also targeted, with victims as young as 2 years old. An estimated 205 minors were reported to be in captivity as of October 2001. Moreover, in the case of the guerrillas, in particular the FARC, victims of kidnapping are often considered human capital, to exchange against captured and imprisoned guerrilla members. The government has long rejected calls for such "humanitarian exchanges" (except on a one-time basis in 2000). As a result, the FARC have conducted a number of high profile kidnappings in order to "raise the stakes". The best known case internationally is that of member of Congress, Ingrid Bettancourt, kidnapped by the FARC while she campaigned for the Presidency in February 2002. She remains in captivity at the date of writing. Kidnap victims are reportedly often tortured by the FARC in captivity while most of those "disappeared" (no ransom demand) by the paramilitaries are either never heard from again or found dead.

28. **Forcible recruitment:** Various international reports highlight that guerrillas and paramilitary groups systematically resort to forced recruitment,²⁸ including of minors. The Colombian government estimates that guerrilla and paramilitary groups have some 6,000 minors as combatants in their ranks. The Ministry of Defense has reported that the number of minors deserting from irregular armed groups had significantly increased in 2001 compared to the previous years (93 in 2001, 71 in 2000, and 29 in 1999). The U.S. Department of State Country Report on Human Rights Practices 2001 stresses that once recruited, child guerrillas are virtual prisoners of their commanders and subject to various forms of abuse. Sexual abuse of girls is a particular problem. Former child guerrillas have testified to rape, mandatory use of intrauterine devices and forced abortions. These same abuses are reported against forcibly recruited women.²⁹ According to press reports, at least one third of the guerrillas are under the age of 18. While in some cases the dividing line between forced and voluntary recruitment might be blurred, it is important to stress that recruitment of children under 15 years is in all cases in contradiction with international law.³⁰

²⁶ Ibid, page 25.

²⁷ U.S. Department of State, pg. 19.

²⁸ See, *inter alia*, U.S. Department of State, pg. 20.

²⁹ OHCHR report on the human rights situation in Colombia of 28 February 2002 (E/CN.4/2002/17), paragraph 128.

³⁰ See Art. 38 of the Convention on the Rights of the Child.

4. The social, economic and humanitarian situation

29. Colombia's working population is estimated to comprise some 18.3 million people (1999 estimates), 46% of whom work in the services sector of the economy, 30% in the rural sector and 24% in industry. The country is faced with very high and growing unemployment rates: Unemployment doubled between 1994 and 2000 affecting some 20% of the work force, mostly women and young people. According to the Economist Intelligence Unit Country Profile, "this trend is explained by a pattern of economic development in which the main engine of growth has been capital-intensive activity, such as oil production, and by a decline in construction since 1995, partly as a result of a clampdown on the drug cartels, which financed much of the construction work in 1992-95. Mounting violence and low agricultural prices have also accelerated rural-to-urban migration, compounding the problem of urban unemployment".

30. Even though Colombia's economy is diverse and relatively advanced, the country is facing serious difficulties that largely result both from the extreme inequality in income distribution and the lack of public security. With regard to the former, economic indicators of the year 2000 show a GDP per capita of \$6,200 together with 55% of the population living below the poverty line. As for the lack of public security, the internally displaced, over 70% of whom are women and children, face extreme poverty as they have lost all their possessions. The ongoing high levels of violence and the growing importance of the so-called "narco-economy" inhibit business confidence and remain a key concern for investors. At the same time, the continuing destruction of the 38-year-old conflict now includes frequent attacks against the country's infrastructure such as electricity networks, bridges and water supplies. Such acts of violence are further damaging the State's capacity to guarantee respect for human rights, including economic, social and cultural rights through the provision of basic services.

5. Internal displacement

31. The phenomenon of forced internal displacement is enormous in Colombia, eroding the social fabric and economy of both rural and urban Colombia and causing impoverishment of those affected. All of Colombia's departments are affected by displacement, except the islands of San Andrés and Providencia. The top-five departments generating displacement are Antioquia, Magdalena, Cauca, Bolívar and Chocó.

32. Rather than a by-product of armed conflict, forcible displacement is a deliberate strategy employed by both guerrillas and paramilitaries and is increasing in frequency.³¹ It is difficult to estimate the number of those displaced, as often those affected do not register and some persons are displaced numerous times. The main sources of information on displacement are the governmental *Red de Solidaridad Social* (RSS) or Social Solidarity Network and the non-governmental organization, CODHES which have both reported an increase in displacement during 2001 in relation to the year before. The government estimates that 275,000 persons were displaced in 2001 while CODHES puts the number of those displaced last year at 347,925. The number of displaced persons since 1996 is estimated to be above 1.3 million persons, 70% of whom are women and children.³²

33. The causes of displacement vary, sometimes leading individuals or families to flee, other times entire communities abandon a settlement together. In order of predominance, the causes of internal displacement are the following: collective threats; armed confrontations- the fear of being caught in the cross-fire; massacres; individualized threats;

³¹ See, United Nations, Addendum to the Report of the Representative of the Secretary-General on internally displaced persons, Profiles in displacement: follow-up mission to Colombia, E/CN/2000/83/Add.1, January 2000.

³² U.S. Department of State, pg. 25.

direct attacks on population centers; and to avoid forced recruitment by illegal armed actors.³³ The *Defensoría del Pueblo* (Ombudsman), in his latest report on internal displacement, furthermore mentions the indiscriminate attacks (mainly by the guerrillas) on civilian installations and infrastructure as a factor causing displacement of communities affected by the economic isolation and hardship caused by these attacks.

34. The vast majority of displaced are from farming communities. The displaced population from the affected communities usually relocate without any transferable assets or ready employment to towns or cities. Recently, however, intra-urban displacement, within the same city (the best known example is Medellín) has increased as a result of the growing "urbanization" of the conflict. This reflects territorial disputes regarding control over certain neighborhoods, forced recruitment by urban militias and growing networks of informants of different armed groups. The country-wide extension of the conflict and the increasing urban presence of armed actors usually leads internally displaced persons to avoid registering with the government and non-governmental entities in order to avoid the notice of one or more of the armed actors present in the area. Moreover, with host communities unable to absorb such large numbers over extended periods, IDPs are stigmatized and suffer discrimination as well as pressure to return. The resulting aversion to registration as an IDP results in a lack of access to the minimal protection and assistance on offer.

35. As discussed below, displacement disproportionately affects Colombia's ethnic minorities: Afro-Colombians in coastal areas and indigenous populations in various parts of the countries (in particular Cauca, Putumayo, Sierra Nevada, Urabá and Chocó). In addition, the coca growing areas of Colombia without exception produce displacement. Apart from economic needs (for lack of viable alternatives), local populations are often pressured by guerrillas, paramilitaries, or drug traffickers to involve themselves in coca cultivation, thereby increasing the risk of repercussions from armed groups (on the accusation of collaborating in the financing of the other), and hence displacement. Displaced persons from these areas are even more stigmatized than other IDPs, and often encounter difficulties receiving humanitarian assistance from the State.³⁴

36. The RSS is the State entity responsible for the co-ordination of activities on behalf of IDPs. Law 387 of 1997 and two regulations provide the legal framework for activities in the areas of prevention, protection and humanitarian assistance to IDPs. While the legal and normative framework on internal displacement in Colombia is exceptional, and based to a large extent on the Guiding Principles on Internal Displacement,³⁵ the actual implementation, even for registered IDPs, lags considerably behind. This gap is in large part due to the disparity between the resources available and the immense numbers of persons affected. Following the registration as IDPs, beneficiaries receive humanitarian emergency assistance for a three-month period, extendable for another three months. However, following this three-month emergency period, the economic and social integration of displaced persons remain unattended in the vast majority of cases.

37. As far as "durable solutions" for IDPs are concerned, in 2001 a mere 10 % of *registered* displaced returned to their places of origin. The displaced thus often settle on the outskirts of large cities in crowded conditions without proper sanitation, and with limited access to health care, education or employment.³⁶ Displaced women and girls are particularly vulnerable to domestic violence, sexual abuse and sexual exploitation. Increasing incidents of malnutrition as well as vulnerability to sexual exploitation are noted with regard to displaced children.³⁷ As socio-economic integration programs are virtually non-existent, there is often

³³ *Red de Solidaridad Social* (RSS) or Social Solidarity Network, January 2002.

³⁴ The RSS does not consider displacement as a result of fumigation as falling within the criteria of Law 387 which governs assistance to IDPs.

³⁵ Guiding Principles on Internal Displacement, extract from the document E/CM.4/1998/53/Add.2, 11 February 1998.

³⁶ According to the Human Rights Ombudsman's Office only 15 % of IDP children had access to school in 2000, while CODHES estimates only 34% of displaced households had access to health care.

³⁷ The US Department of State, page 26.

substantial friction with host communities, sometimes leading local authorities to apply pressure on the displaced to opt for return, even when security conditions are precarious.

38. Regarding protection of IDPs and prevention of internal displacement, progress has been noted in areas such as documentation and registration, but generally speaking concrete results are extremely scarce, in proportion to the magnitude of the problem. Moreover, effective state control is absent in substantial areas of the country,³⁸ rendering "protection" and "prevention" elusive ambitions at best. The Public Forces (army and police) are the only institutions with the competence to respond to situations of impending displacement yet they often refer to a lack of resources or different strategic responsibilities to explain their incapacity to act. Furthermore, the intervention of the Public Forces can lead to heightened security concerns, as upon their subsequent departure the civilian population is left defenseless in the face of repercussions from illegal armed actors for having called in "the enemy".

III. Groups at risk

39. Given the current situation of continued conflict, massive and widespread human rights abuses and violations of international humanitarian law, a large number of Colombians who flee across international borders require international protection. Many Colombians have a well-founded fear of persecution for reasons set out in Article 1 A (2) of the 1951 Geneva Convention and the 1967 Protocol relating to the Status of Refugees, and large numbers of Colombians require international protection because their lives, safety or freedom have been threatened by generalized violence or other circumstances which have seriously disturbed public order.³⁹

40. It is important that decisions on refugee status of Colombian asylum-seekers be taken based on a thorough analysis of all individual circumstances of the case, such as the applicant's personal profile, family, social and ethnic background, his or her membership of or real/perceived collaboration with a particular political or social group as well as his or her activities. Against the background of widespread violations of human rights and international humanitarian law, certain groups of persons can be identified as being more frequently targeted than others. For the evaluation of these groups at risk, reliable and up-to date country of origin information is indispensable.

A. Colombians with a well-founded fear of persecution⁴⁰

1. Introduction

41. According to Article 1 A (2) of the 1951 Convention relating to the Status of Refugees, the term refugee shall apply to any person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, is outside the country of his nationality and is unable, or owing to such fear, unwilling to avail himself of the protection of that country." There are thus four main elements to determine in each individual case: (a) well-founded fear (subjective and objective element), (b) persecution, (c) reasons of race, religion, nationality, membership in a particular social group or political opinion, (d) the presence of the person outside the country of origin.⁴¹

³⁸ Of the 1,098 municipalities in Colombia, 200 are without state security presence. See AFP, 1 August 2002, "Colombian rebels free three-year old daughter of threatened mayor".

³⁹ See, for instance, Conclusion III of the 1984 Cartagena Declaration on Refugees.

⁴⁰ In those countries which have adopted the Cartagena Declaration, these persons would fall within the scope of the Declaration.

⁴¹ For further detailed guidance on the criteria, their interpretation and application, reference is made to the following documents, Handbook on Procedures and Criteria Determining Refugee Status, UNHCR, 1979; UNHCR Notes on Interpreting the Refugee Definition and on Complementary Forms of Protection, IOM/FOM/38/2001 of 1 May 2001; UNHCR Position Paper on "Relocating Internally as a Reasonable Alternative to Seeking Asylum – (The so-called "Internal Flight Alternative" or "Relocation Principle".

42. For a proper interpretation of Article 1, the size of the group that is affected is not relevant. The fact that whole communities may risk or suffer persecution for Convention related reasons does not undermine the legitimacy of any particular claim. In war or conflict situations, persons may be forced to flee on account of a well-founded fear of persecution for Convention reasons; war and violence are themselves often used as instruments of persecution; they are frequently the means chosen by the persecutors to repress or eliminate specific groups, targeted on account of their (imputed) political opinion or other affiliations.⁴² In the context of Colombia, asylum claims referring to generalised violence and insecurity are often lodged by individuals who have survived deliberate attacks, often linked to Convention grounds or indiscriminate violence against civil populations by one of the armed groups, or armed clashes between the armed actors. Other persons have left their community for preventive reasons prior to attacks. Many of the asylum applications made by Colombians that refer to a threat to life, safety or freedom because of generalised violence or massive human rights violations might therefore well fall under the 1951 Convention.

43. With regard to agents of persecution, it is relevant to note that - according to paragraph 65 of the Handbook on Criteria and Procedures for Determining Refugee Status - "persecution is normally related to action by the authorities of a country. It may also emanate from sections of the population that do not respect the standards established by the laws of the country concerned (...). Where serious discriminatory or other offensive acts are committed by the local populace, they can be considered as persecution if they are knowingly tolerated by the authorities, or if the authorities refuse, or prove unable, to offer effective protection." In the current context of Colombia, acts by or attributable to the armed actors outlined above may therefore be considered persecution in the meaning of the refugee definition given the inability of the State to provide protection. The following paragraphs describe profiles of groups of Colombians who could - according to current and available information and assessment by UNHCR and depending on the individual circumstances of their claims - face a risk of persecution on the grounds described in Article 1 A (2) of the 1951 Convention and 1967 Protocol relating to the Status of Refugees.

2. Actual or perceived supporters of parties to the conflict

44. In the context of the extremely polarized situation in Colombia, irregular armed groups target anyone considered a supporter of the opposing group irrespective of whether the collaboration is real or perceived, forced or voluntary. It should be noted that in areas controlled by one of the armed groups, civilians are often obliged to support the group in order to avoid persecution. Often the mere place of residence is enough to arouse serious suspicions on the side of one or other of the armed actors. For example, those who come from one of the five municipalities (Vista Hermosa, Uribe, Macarena and Mesetas in the department Meta and San Vicente del Caguán in Caquetá) which until February 2002 constituted the *Zona de Despeje*, face the serious risk of being linked with the guerrillas.

45. Relatives of members of the parties to the conflict are often targeted by irregular groups, irrespective of their civilian status, on grounds of their kinship and the perception that they have the same political opinion as their relative, that they are informants or simply out of revenge.

46. Individuals who resist forced recruitment or desert guerrilla or paramilitary forces are at risk of suffering persecution by the recruiting group, often on grounds of suspected collaboration with the enemy. The opposing group in turn does not acknowledge the forced nature of recruitment and thus considers that all conscripts hold the political opinion of their recruiter.

⁴² UNHCR's Note "Interpreting Article 1 of the 1951 Convention relating to the Status of Refugees" of April 2001, paragraph 20

47. The guerillas, and to a lesser but increasing extent the paramilitaries, often kidnap and/or extort persons deemed to hold an opposing political opinion. They also use these practices to finance political / military objectives, targeting members of the middle and upper classes, those engaged in business, and others seen as possible sources of funds. Due to the significance of the income derived from ransom and extortion to fund political-military activities, refusal or inability to pay is viewed as an act or indication of political opposition. This is reflected in letters written by paramilitaries demanding payment of a "war tax" and a threat to mark victims as a military target upon failure to pay.⁴³

3. Former members of parties to the conflict

48. Particularly high levels of violence are directed against demobilized/reinserted members of guerrilla groups. Following peace negotiations during 1990-94 approximately 7,000 members of guerrilla groups such as M-19, EPL, *Quintín Lame* and *Corriente de Renovación Socialista* (CRS) received amnesties for political crimes and were granted some economic benefits. Notwithstanding their civilian status, these persons have been considered traitors and collaborators by the armed group they abandoned and/or other guerrilla groups.⁴⁴ Moreover, they have been subject to persecution by paramilitary groups that accuse them of maintaining guerrilla activities. Former members of the security forces (retired officials of police and army, reservists) are also at risk of being considered military targets by guerrillas even after their discharge.

49. Finally, at heightened risk are members of the *Unión Patriótica*, a political movement created in 1985 as a result of a peace-agreement between FARC and government. The peace agreement in question eventually collapsed, but the movement continued. While not necessarily ex-guerrillas, *Unión Patriótica* members were ideologically and politically closely associated with the FARC. Between 1985 and 1990 around 3,000 members were killed. As a result, the Union is no longer politically active. In spite of a government protection programme initiated in 2001, some 100 members were killed in the last two years.

4. Municipal and departmental authorities

50. Threats against local authorities are common and countrywide. The precarious situation of *alcaldes* (mayors), *concejales* (council members) and other municipal authorities is illustrative of the weakness of the state. Roughly one fifth (about 200 out of 1,098) of Colombia's municipalities are without state security presence (i.e. army or police). In many smaller municipalities the limited police presence is no guarantee against threats by illegal armed actors. In the case of the FARC, any State official is automatically seen as representing an oppressive regime against whom all means are justified in their revolutionary struggle, including the kidnapping and killing of their families.⁴⁵ Cases are known in which the FARC dictated municipal spending or levied "taxes" over municipal budgets.

51. In May 2002, the FARC launched a concerted campaign of threats and intimidation against local authorities, as part of a strategy to further undermine State authority and destabilize the government. According to the Ministry of Interior, over 300 mayors⁴⁶ in most departments have received direct threats, and many have gone into hiding or conduct their office from different municipalities. The FARC have issued various statements indicating that all departmental and municipal authorities in the country are targeted. A total of sixty mayors (that is to say, one per month on average) have been killed in Colombia during the last five years.

⁴³ U.S. Department of State, pg. 13.

⁴⁴ See OHCHR report, paragraph 312.

⁴⁵ See press-reports, *inter alia*, AFP, 1 August 2002.

⁴⁶ As at 18 July 2002, and the number is expected to continue to increase.

5. Persons involved in the administration of justice

52. Attorneys, judges, victims, witnesses and other persons who participate in proceedings and investigations related to violations of human rights or humanitarian law, involving members of the public security forces or paramilitary or guerrilla groups, face serious risks.⁴⁷ In all such cases, a well-founded fear of persecution on the basis of imputed political opinion should be considered. Investigations into corruption cases and those involving narcotics groups carry the same risks and in some cases are similarly linked to the 1951 Convention by virtue of the frequent and direct links between such cases and subversive or paramilitary activities. Finally, members of the judiciary face increasing threats from the side of the FARC for the mere fact of being public officials (see above section). In many cases, the individual concerned is not able to avoid persecution simply by quitting his/her function and relocating elsewhere with a different job.

53. The scope and effectiveness of the Attorney-General's protection program for victims, witnesses and others involved in criminal proceedings, and for staff of the Attorney General's Office, is inadequate to protect individuals from threats. Moreover, there are no specific protection programs for judicial officials who do not work for the Attorney General's Office, such as those who work at the municipal level. The lack of effective protection for this and other groups is reflected in the several incidents of the Ministry of the Interior having funded travel outside Colombia for those at risk.

6. Human rights activists

54. A large and varied non-governmental human rights community, characterized by a high degree of organization and coordination and using countrywide information networks, is active in investigating and reporting violations of human rights and international humanitarian law. Given their perceived or imputed "leftist" tendencies, many human rights organizations are stereotyped as being associated with the guerrillas and are subsequently targeted. At least 48 human rights workers were killed or disappeared in the last five years. According to the Colombian Commission of Jurists, in 2001 alone, nine human rights advocates were killed and four human rights workers disappeared. Many others have been forced to flee due to security concerns.⁴⁸ Moreover, in general these organizations advocate a negotiated peace and end to Colombia's internal conflict. In the current political climate, in which a negotiated peace is being eschewed in favor of a military response, the position of human rights activists is becoming more vulnerable with regard to paramilitaries who are increasing both their influence and popular support. This pattern of serious abuses of human rights defenders, including threats, disappearances, killings and forced displacements, mostly but not exclusively at the hands of paramilitaries is confirmed in the March 2002 report of the Special Representative of the UN Secretary General on Human Rights Defenders.⁴⁹

55. Although the government does not generally interfere with the work of human rights NGOs, the US State Department Country Report on Human Rights Practices 2001 in Colombia refers to (unconfirmed) reports of harassment or threats by security forces.⁵⁰ The government has a protection program established within the Ministry of the Interior and the Colombian Intelligence Service (DAS) to protect human rights advocates and labor activists. While the government has made efforts in this regard, the high number of violations indicates

⁴⁷ According to the OHCHR 2002 report on the human rights situation in Colombia, the Solidarity Fund for Judiciary Officials registered 81 attacks on the judiciary, including at least 15 assassinations, 58 threats, one assault, two disappearances and five kidnappings between 1 January and 14 December 2001 (E/CN.4/2002/17, paragraph 254). Also, according to the Supreme Court, judges and judicial officials in 231 municipalities have received threats and have left their jobs as a consequence.

⁴⁸ The US Department of State, page 28.

⁴⁹ E/CN.4/2002/106/Add.2, 28 March 2002.

⁵⁰ The US Department of State, page 28.

the continued heightened risk facing the human rights community and the inability of the government to dedicate adequate resources given the upsurge in threats.⁵¹

7. Trade union leaders

56. Union leaders risk persecution especially at the hands of paramilitary groups, for their "leftist sympathies" or suspected links with the guerrillas. Armed actors view any type of civilian organization in the interest of collective rights with serious suspicion and consider such initiatives as a threat to their influence and control over civilian populations. (See also "Individuals with a high public/community profile"). According to the Special Representative of the UN Secretary General on Human Rights Defenders, the most affected unions are those that represent education, health, municipal and departmental workers.⁵²

57. The 2002 OHCHR report on Colombia emphasizes that threats and vulnerability that accompany union activity indiscriminately affect union leaders and members alike.⁵³ The Special Representative of the Director General of the International Labor Organization (ILO) for cooperation with Colombia considers that there has been "an increase in the number of murdered trade union officials and members".⁵⁴ UNHCHR and ILO attribute the vast majority of killings and attacks to paramilitary groups.⁵⁵

8. Individuals with a high public/community profile

58. Certain individuals with an important public/community profile related to leadership or community involvement such as priests, teachers and IDP leaders, particularly of indigenous and Afro-Colombian communities, are targeted by both the guerrillas and paramilitaries. In general, some leaders emphasize and advocate on behalf of their communities' rights, call for respect of principles of international humanitarian law, and often promote neutrality or impartiality of their community in relation to armed actors. All the above is sufficient to arouse strong suspicions in the eyes of such actors, who normally accuse suspected leaders of collaboration with the opposing group.

59. Asylum cases of indigenous leaders are rare, but should be taken extremely seriously. While official statistics are unavailable, according to various sources, an estimated 102 indigenous leaders have been killed since the beginning of 2001. Indigenous leaders moreover play crucial religious as well as cultural roles in their communities. Thus, asylum is usually viewed as the last resort for indigenous leaders as it means renouncing their position and identity as leader, and breaking with their community. For them to leave their territories and communities has a tremendous impact on the social fabric of their community, and a deeply psychological impact on themselves as well.

60. As regards women leaders, the UN Special Rapporteur on violence against women has reported the following: "women's organizations, especially peasant, indigenous and Afro-Colombian women's organizations, and their leaders, are subject to systematic intimidation and persecuted for the work that they do to defend and improve living conditions for their communities. Members are not the only ones directly affected. Women's children, husbands or partners have also been murdered as a result of the woman's social and political activities.

⁵¹ According to the Centre for Investigations and Popular Research (CINEP) the requests for protection received by the Ministry of Interior and the Ad Hoc Committee of Human Rights Defenders rose in 2001 by 130 percent.

⁵² E/CN.4/2002/106/Add.2, 28 March 2002, paragraph 108.

⁵³ E/CN.4/2002/17 paragraph 291.

⁵⁴ ILO, Third report of the Special Representative of the Director-General for Cooperation with Colombia (GB/281/7/1, pg. 4).

⁵⁵ According to the National Union School (ENS), a total of 184 union activists were killed in 2001, 23 survived attempts on their lives, 203 received death threats, 37 were kidnapped, 12 disappeared and 56 were forcibly displaced. Moreover, according to the Ministry of Labour, 88 union activists were killed during the first six months of 2002.

This is the case of NGOs such as the Women's Popular Organization (Organización Femenina Popular) (OFP), the National Association of Peasant and Indigenous Women of Colombia (Asociación Nacional de Mujeres Campesinas e Indígenas de Colombia) (ANMUCIC) and the Santa Rita Foundation for Education and Promotion (Fundación Santa Rita para la Educación y Promoción) (FUNSAREP). In their effort to gain social and political control of territories under dispute, armed groups target women organizations as a visible obstacle, deeply rooted within the communities, which they try to use for their benefit or alternatively destroy. Women's organisations that do not bow before the interests of armed groups are forced to carry on their activities in permanently unsafe conditions and are increasingly forced to abandon or transform their organizational procedures".⁵⁶

61. IDP leaders face increasing risks, in particular in return communities in Urabá (Northern Antioquia and Chocó), where they have organized themselves in "peace-communities" (*comunidades de paz*). A crucial element of such communities is their proclaimed neutrality. As with the indigenous, this posture has the reverse effect of making such communities, and in particular their leaders, suspect in the eyes of all armed actors. Numerous murders and disappearances of IDP leaders have taken place, such as in late 2001 when two leaders were killed in Urabá. The vulnerability of IDPs has been acknowledged by the Inter-American Court and Commission. Of particular relevance is a series of provisional measures ordered by the Court in relation to the protection of the Community of Peace, San José de Apartadó.

9. Journalists

62. Journalists in all media, at the national, regional and local level, have a key function within the Colombian society insofar as they shape public opinion on the conflict, investigate and denounce corruption and narcotics cases, and expose violations of human rights committed by the parties to the conflict. This role has exposed journalists, who cover stories counter to the interests of guerrillas, paramilitaries, and drug traffickers, to intimidation, threats, kidnapping and murder, primarily by paramilitary groups and guerrillas on grounds of real or imputed political opinion. As a result, journalists and media frequently practice self-censorship with regard to these subjects in order to avoid retaliation.⁵⁷

63. In principle the government respects freedom of the press, and different political views, including anti-government criticism, are expressed by the media in general without fear of government reprisals. There were, however, several threats against journalists reporting on corruption cases involving local officials. The program for the protection of journalists and social commentators set up by the government in 2000 has not proven effective for increasing the security of journalists and media officers.

10. Indigenous persons and Afro-Colombians

64. There has been a manifest increase in violations of the human rights of indigenous and Afro-Colombians, especially in terms of murders, forced disappearances, death threats and displacement in rural areas. The two groups combined amount to an estimated 18% of the total population yet account for one third of the IDPs.⁵⁸ In addition, there are many instances of indigenous persons needing either paramilitary or FARC permission to leave their community, of their being restricted in their freedom of movement due to paramilitary blockades of the community, or of their being accused by guerrillas of being paramilitary

⁵⁶ See Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2001/49, paras 90-91.

⁵⁷ According to the February 2002 OHCHR report on the human rights situation in Colombia (E/CN.4/2002/17) the number of journalists who met a violent death rose from 6 to 9 in 2001, while the number of persons receiving threats increased from 27 to 51 compared to year the 2000.

⁵⁸ U.S. Department of State, pg. 26.

collaborators when returning from urban areas.⁵⁹ The suffering of the displaced indigenous communities is acute given their strong historic, cultural, and religious attachment to their land. Indigenous communities, and in particular their leaders, are often targeted due to their expressed will to maintain neutrality. The isolation and remoteness of indigenous territories render them attractive to armed actors as corridors for arms and drug traffic and for the cultivation of coca and amapola (poppies). Further, while Colombia's natural resources are seen as highly concentrated on indigenous reservations and claimed territories, indigenous land rights, like those of Afro-Colombians, are often without legal title, making them easy to contest upon displacement.

11. Marginalized social groups

65. In areas under strong control by one of the irregular armed groups, serious abuses and murder have been reported against drug-addicts, prostitutes, beggars, street children, and homosexuals. In particular the AUC, but also the guerrillas, label these groups as "socially undesirable". The resulting "social cleansing" campaigns⁶⁰ are often tacitly supported by some segments of the local communities, and as in the case of political murders, are often committed with impunity. In the case of the AUC, this type of action is often accompanied by protection rackets for shop-owners and business people.

B. Colombians in need of international protection on "broader" grounds

66. There are cases where refugee status under the 1951 Convention and the 1967 Protocol may be denied, yet persons might, nevertheless, still be in need of international protection due to the situation of generalised violence and internal conflict. Many states, indeed, do provide an alternative form of prolonged stay in recognition of such protection needs. This is generally understood to cover persons outside their countries who are in need of international protection because of a serious threat to life, liberty or security in the country of origin, as for example those for whom the threat arises solely as a result of the indiscriminate effects of generalised violence or serious public disorder in a conflict situation. The regional refugee instruments in Africa and Latin America⁶¹ specifically state that refugee protection should also encompass this 'broader' category of refugees. In other regions, in the absence of such instruments, States have provided for prolonged stay under their domestic legislation.

67. In the current situation, UNHCR considers Colombians, who are unable to return because of threats to life or security as a result of the indiscriminate effects of generalized violence and public disorder, to be in need of international protection. Given the rising level of violence and the country-wide presence of the guerrilla and paramilitary groups, this may apply to Colombians from any part of the country that is exposed to high levels of conflict, in dispute between various armed groups, and/or in an area in where extra-judicial killings or forced recruitment by armed organizations are reported to take place. Colombians also flee to escape anticipated attacks. With the rapid expansion of the conflict, adjudicators deciding claims must be aware of the current situation in the relevant area, especially with regard to regions not specifically mentioned in this paper. Possible sources for such information include the United Nations High Commissioner for Human Rights, the International Crisis Group, and the various local non-governmental organizations referred to in these guidelines.

⁵⁹ Ibid.

⁶⁰ Ibid, which refers to an increasing number of cases of "social cleansing". pg. 10.

⁶¹ These are the 1969 OAU Convention governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees in Latin America.

IV. Exclusion clauses

68. Given the above described context of serious and widespread violations of humanitarian law and human rights as well as common criminality, it will in some cases be necessary to assess carefully the applicability of the exclusion clauses contained in Article 1 F of the 1951 Convention. This clause concerns the exclusion of any person with respect to whom there are serious reasons for considering that one or more of the following applies :

- a) he/she has committed a crime against peace, a war crime, or a crime against humanity
- b) he/she has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee
- c) he/she has been guilty of acts contrary to the purposes and principles of the United Nations.

69. Violations of international humanitarian law ("war crimes") under paragraph a) include murder or ill-treatment of civilian populations and of prisoners of war, the killing of hostages, or any wanton destruction of cities, towns or villages, or devastation that is not justified by military necessity. Other acts identified as war crimes are "grave breaches" specified in the 1949 Geneva Conventions and Additional Protocol 1, including willful killing, torture or other inhuman treatment, willfully causing great suffering or serious injury to body or health, indiscriminate attacks affecting civilians or those known to be *hors combat*, and forced population transfers.

70. For exclusion to be justified, individual responsibility must be established in relation to a crime covered by Article 1F of the 1951 Convention. A defense to individual responsibility is, for instance, that of duress. This applies where the individual could oppose or disengage from the criminal acts only at risk of grave danger to his or her life, or to the lives of his or her family members. In the context of Colombia, it should be recalled that forced recruitment, including of minors, is a widespread practice of both the guerillas and paramilitaries. Similarly, civilians are often forced to provide material and/or logistical support (i.e. money, food, medicine, information, etc.) to the illegal armed groups, particularly when living in areas considered to be strongholds of these groups. Therefore the possible involuntary nature of these acts must be considered. Moreover, with regard to Article 1F (b), farmers are often compelled by a party to the conflict to engage in coca or poppy cultivation.

71. Finally, it is important to recall that family members of excluded individuals may have their own grounds for refugee status, including based on their relationship to the excludable family member, and thus may warrant international protection.

V. Internal relocation alternative

72. There are circumstances in which an asylum seeker might face a serious risk of persecution (on Convention grounds) in some areas of the country of origin and not in others. Where such circumstances arise, the assessment of the claim requires an examination into the option of possible internal relocation. According to Paragraph 91 of UNHCR's Handbook on Procedures and Criteria Determining Refugee Status "The fear of being persecuted need not always extend to the *whole* territory of the refugee's country of nationality. Thus in ethnic clashes or in cases of grave disturbances involving civil war conditions, persecution of a specific ethnic or national group may occur in only one part of the country. In such situations, a person will not be excluded from refugee status merely because he could have sought refuge in another part of the same country, if under all the circumstances it would not have been reasonable to expect him to do so."

73. Whether or not an internal relocation alternative exists, requires an objective assessment of the situation in parts of the country of origin "considered to be safe". Among other factors to consider are:

- ◆ the existence of risk-free areas
- ◆ the stability of the area and the durability of the safety
- ◆ the accessibility of the area in safety (from within and outside the country)
- ◆ the possibility of living in the area without enduring undue hardship or risk.

74. Set against these criteria, UNHCR generally advises against the application of the notion of a relocation alternative in the context of the current situation in Colombia, which is characterized by:

- ◆ a continuing conflict, which is highly fluid and volatile and is now spreading into urban areas;
- ◆ the inability of the Colombian authorities to fully extend their power and authority in terms of security and the rule of law to significant areas of the country;
- ◆ lack of a functioning and reliable administrative system and judiciary;
- ◆ widespread violations of human rights and international humanitarian law;
- ◆ destruction of socio-economic infrastructure and widespread internal displacement,
- ◆ the fact that illegal armed groups have established effective communication networks and are able to trace and reach targets throughout Colombia.

75. In conclusion, when considering whether fear of persecution or other threats to life or liberty being experienced by Colombians could reasonably and successfully be avoided by moving to other parts in Colombia, decision-makers should take into account all the circumstances of the case against the background of the current situation as outlined above. In addition, it is important to bear in mind the risks inherent in travelling from one area to another, as well as the fact that Colombia hosts large numbers of IDPs living in deplorable conditions in urban and rural areas. Decision-makers are therefore generally advised not to apply the notion of internal relocation alternative when assessing international protection claims in relation to Colombia.

VI. Annex



COLOMBIA MAP

As of October 2001

GIMU / PGDS
Geographic Information and Mapping Unit
Population and Geographic Data Section

