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КОМИССИЯ ПО ПРАВАМ ЧЕЛОВЕКА

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ОРГАНИЗАЦИЯ РАБОТЫ СЕССИИ

**Письмо Постоянного представителя Колумбии при Отделении Организации
Объединенных Наций в Женеве от 21 марта 2005 года на имя Верховного
комиссара Организации Объединенных Наций по правам человека**

**Ответ правительства Колумбии на доклад Верховного комиссара
о положении в области прав человека в Колумбии**

Настоящим имею честь препроводить Ее Превосходительству для целей распространения документ, содержащий ответ правительства Колумбии* на документ E/CN.4/2005/10, озаглавленный "Доклад Верховного комиссара Организации Объединенных Наций по правам человека о положении в области прав человека в Колумбии". Подготовленный колумбийским правительством документ уже был официально представлен в Боготе, и Ее Превосходительство располагает как его оригиналом на испанском языке, так и неофициальным переводом на английский язык.

* Воспроизводится в приложении в том виде, в котором он был получен, только на языках оригинала.

В этой связи, как и в предыдущие годы, мы хотели бы любезно просить Ее Превосходительство, чтобы "Ответ правительства Колумбии" был включен в число документов, рассматриваемых Комиссией по правам человека, не как "Письмо правительства Колумбии", а под названием, которое по достоинству отражало бы его содержание, и мы предложили бы озаглавить его "Ответ правительства Колумбии на доклад Верховного комиссара Организации Объединенных Наций о положении в области прав человека в Колумбии". На наш взгляд, это название обеспечило бы должное признание усилий, приложенных государством и правительством Колумбии при подготовке представляемого нами документа, в котором рассматриваются замечания, включенные в Ваш доклад.

Наконец, мы хотели бы просить, чтобы ответ правительства Колумбии был опубликован на вебсайте Управления Верховного комиссара в кратчайшие возможные сроки. С этой целью мы направляем настоящий документ в электронном виде, а также прилагаем его версию на КД-ПЗУ в порядке облегчения процесса его редактирования.

(Подпись): Клеменсия ФОРЕРО УКРОС
Посол
Постоянный представитель

Annex

DM. 14802/05

BOGOTÁ, 18 MARCH 2005

Excellency,

The Government of Colombia has had an opportunity to study the report you will be submitting to the Commission on Human Rights at its sixty-first session concerning the Office's work in Colombia in the framework of the agreement between the Government of Colombia and yourself.

The Government of Colombia notes with satisfaction and appreciation the fact that you acknowledge in your report the progress made in guaranteeing the exercise of human rights by Colombians. The importance the Government attaches to human rights in Colombia is reflected in the inclusion of the topic in the national development plan, "Towards a community-based State", adopted by the Congress in the form of Act No. 812 of 2003, which lays down targets for the four-year period 2002-2006, and in the adoption of a specific government policy containing nine guiding principles, implementation of which is being coordinated by the office of the Vice President at the express request of the President.

You consider that the implementation of the recommendations, together with the achievement of the objectives set out in the development plan and the application of government policy in this field, will help to ameliorate the human rights situation in Colombia, on the understanding that the implementation of the recommendations is "a process that will take time" and one which calls for precise follow-up and continuous support, as you state in your report.

The Government of Colombia considers that the submission of this report offers Colombia an opportunity to express its views and share its achievements with the international community in a spirit of respect and sincerity. It particularly appreciates any efforts which may be made jointly to promote the realization of human rights in our country.

Ms. Louise Arbour
United Nations High Commissioner for Human Rights
Geneva

Notwithstanding the above, the Government of Colombia has set out in the attached document, in a cordial but emphatic manner, a number of observations concerning the content of the report, which it does not accept as presented. The Government of Colombia would be grateful if this document could be distributed within the Commission on Human Rights together with your report.

The Government of Colombia hopes that the constructive spirit underlying both the report and the Government's reply will be reflected in positive developments in the country's situation in the near future, and will strengthen the cooperative links between the Colombian authorities and the Office of the United Nations High Commissioner for Human Rights, as represented by yourself, through the office in Colombia.

I take this opportunity to convey to Your Excellency the renewed assurances of my highest consideration.

(Original signed)

CAROLINA BARCO
Minister for Foreign Affairs

Attachment: as indicated.



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Annex

EXECUTIVE SUMMARY

The presentation of the Report of the United Nations High Commissioner for Human Rights, prepared at the request of the United States Nations Commission for Human Rights in its 61th period of sessions, allows the State of Colombia the opportunity to express its opinions, and to share its achievements in a respectful and sincere dialogue with the International Community.

The application of the recommendations, along with the achievement of the targets set in the development plan, and the implementation of government policy on the matter, will contribute to improve the Human Rights situation in Colombia, accepting that "the implementation" of the former "is a process which will take time, hence the importance of close follow-up, and constant support", as the Office of the High Commissioner itself has said.

The government of Colombia is pleased to receive the recognition which the High Commissioner's Office makes in its report, regarding progress in guarantees of the human rights of Colombians, such as a reduction in certain indicators of violence, efforts to implement the Recommendations, the strengthening of the Inter-institutional Early Warning Committee, the deployment of the forces of law and order across the country, the destruction of antipersonnel mines held in store, the attention paid to requests for protection by indigenous groups in the CRER, the willingness of senior levels of government to review intelligence files, and the definition of an agreement regarding procedure to do so, the incorporation of the gender perspective in public policy and in statistics, the creation of the Observatory for Gender Affairs, progress in investigations by the Impulse Committee, the reform of the Justice sector - including progress in the implementation of the accusatory system - the creation of the subunit to investigate the connection between public servants and the AUC by the Prosecution Service, the progress made in the concerted preparation of The National Action Plan for Human Rights and International Humanitarian Law, efforts to increase coverage and quality of education, progress in the ratification of international instruments of human rights, and the presentation of other instruments to the Colombian Congress.

In the same manner, the government of Colombia has the following observations to make to the report:



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- In the framework of the Policy of Democratic Security, the Colombian government, through the forces of law and order, has intensified its operations against all the illegal organisations, and the AUC have been pursued with the same rigour as the other violent groups - or indeed with greater rigour - and precise instructions have been given to this effect to the local commanding Officers. The report presents statistics to demonstrate this statement clearly.
- Notwithstanding the foregoing, with this Policy of Democratic Security the government seeks to strengthen institutionality throughout the country, in order to foster opportunities for development with dignity, and to provide security and justice, and at the same time keep the door open to dialogue and reconciliation, for which purpose the government has offered "all illegal armed groups" the opportunity to rejoin civilian life.
- The policy of democratic security has produced effective results, as can be seen from a reduction in the indicators of violence, recognised by the Office of the United Nations High Commissioner for Human Rights.
- The government has appointed the Vice President to manage the inter-institutional coordination for the follow-up to the recommendations made by the Office of United Nations High Commissioner for Human Rights, thus providing a high level of interlocution with the Colombia Office, foreign governments, international organisations, and organisations in civil society, as can be appreciated from the "international coordination and cooperation group for Colombia" held in Cartagena in February.

It should be noted that the Interinstitutional Early Warning Committee has proved to be highly effective with regard to the prevention and protection of communities, evaluating, analysing and verifying all risk reports issued by the Early Warning System of the Office of the People's Defender.

It is also important to note the strengthening of the protection programme of the Ministry of Interior and Justice, particularly with regard to coverage and participation by representatives of the most vulnerable sectors of the population.

Note should also be taken of the downward trend in the number of displaced during the last two years, and of the effort of government, acting through the Social Solidarity Network, to prevent this phenomenon, and to attend to persons affected by it, through the implementation of coordinated programmes and actions on an interinstitutional basis. Also, the Social Solidarity Network presented an action plan to the Constitutional Court in January 2005, in compliance with the Court's decision T-025.



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- There is an unflinching will on the part of the forces of law and order to respect the principles of human rights and international humanitarian law, for which purpose levels of instruction and training in these matters have been strengthened and broadened, and those principles have been able to be applied in practice, as can be shown by a reduction in the number of denunciations against members of those forces for violations of human rights, and offences against international humanitarian law.
- The Colombian State is committed to ensure that violations of human rights committed in its territory be brought to light and punished, and this can be seen in the institutional strengthening of the prosecution Service, with the creation of new sub-units to support the National Human Rights Unit, the increase in number of officials, and their training in topics of human rights and international humanitarian law, in which the international community has played an important part. The result of these efforts can be seen in the advances in investigations for serious violations of humanitarian rights and offences against international humanitarian law, as the report details.
- At the same time, the new Criminal Procedure Code seeks to consolidate the framework of rights and guarantees of the accused and victims, as a way of legitimising democracy, through the adoption of public oral trials, which will make the proceedings speedier, will observe the guarantees of due process, and will be in accordance with international instruments which protect human rights.
- It must be repeated that the military criminal justice system has been restricted in its ambit of application, dealing only with the alleged commission of crimes in the course of activities proper to military service, and in no way, for acts that are violations of fundamental rights, as has been shown in actions and decisions issued by the National Human Rights Unit of the Prosecution Service, in relation to events in which members of the forces of law and order have been compromised.
- The evolution of economic and social indicators presented in this report show the efforts which the government has made to secure economic recovery, and the development of social plans in the areas of education, health, employment and housing, which have had a positive impact on the income of the poorest sectors of the population, in narrowing the gap of disparity, and improving the human development index.
- The Statistical Department DANE has proposed strategic objectives in order to improve the collection of statistical data to make a specific identification of progress, commitments, difficulties and realities of our people, including the gender



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perspective, since it is a government priority to obtain that information in order to guide public policy in favour of all sectors, particularly the most vulnerable.

- The government makes special mention of the pronouncement of the Office of the United Nations High Commissioner for Human Rights in his report, regarding the election of the People's Defender and the appointment of the Director of DANE, since it considers that these pronouncements do not correspond to the spirit of the mandate of the Colombia Office of the High Commissioner.
- The Colombian State will continue to make joint evaluations with the Office of United Nations High Commissioner for Human Rights regarding the scope and mechanisms for the implementation of recommendations, in an open and constructive in environment which will allow the achievement of a common purpose: to secure and protect human rights in Colombia.



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OBSERVATIONS OF THE COLOMBIAN STATE TO THE REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS - 2004

INTRODUCTION

The Colombian State is grateful for the interest aroused by the Report of the Office of the United Nations High Commissioner for Human Rights in Colombia, and the contribution of the International Community to the strengthening of the State of Law and democracy in Colombia and the protection of our people in the midst of a complex national reality.

It is important to note that the actions of the illegal armed groups which harass the population, and the situation of violence in this country have imposed major challenges and difficulties on the work of prevention, protection, guarantees and dissemination of human rights. This has led the Colombian state to reinforce its actions and strategies, directed towards prevention of violations of human rights, to strengthen the struggle against impunity, to obtain adequate reparations for the victims of violence, to encourage effective measures for the application of international humanitarian law, and to rationalise the operation of its institutions.

The relevance that the Government gives to Human Rights is reflected by the inclusion of this topic in the National Development Plan ("towards a community state" adopted by Congress as Law 812 of 2003, setting the targets for the four-year period, 2002-2006., and in the adoption of a specific public policy that contains new guidelines and whose execution is coordinated by the Office of the Vice President, by express delegation of the President.

The presentation of the report made at the request of the United Nations Human Rights Commission at its 60th period of sessions, offers the Colombian State the opportunity to express its opinions and to share its achievements in a respectful and sincere dialogue with the international community.

The application of recommendations, along with the achievement of the targets set in the Development Plan and the execution of a government policy on the matter, will help to improve the human rights situation in Colombia, accepting that to "implement those of the former" is a period which will take time, hence the importance of a precise follow-up, and constant support" as the Office of the High Commissioner in Colombia itself states.

The Government of Colombia is pleased to record the recognition of progress made in the guarantees of exercise of human rights in Colombia, in aspects such as:

- a reduction in indicators of violence
- the effort into the recommendations



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- the continuation of strengthening of the Inter-institutional Early Warning Committee (*CIAT, Comité Interinstitucional de Alertas Tempranas*), for better prevention of mass violations of human rights.
- the deployment of the forces of law and order across the country, which has raised improved levels of protection for persons and different social groups.
- attention to request for protection from the indigenous population at the Risk Regimentation and Evaluation Committee (*CRER, Comité para la Reglamentación y Evaluación del Riesgo*).
- measures taken by the Government to destroy antipersonnel mines in store, in compliance with the Ottawa Convention.
- the presidential order to review intelligence files, as a definition of agreement on procedures for doing so.
- the incorporation of the gender perspective in public policy and in statistics, and the creation of the Observatory for Gender Affairs.
- the progress in Impulse Committee's investigations.
- the reform of the justice sector, including preparations for the implementation of the accusatory system.
- the creation in the Office of the National Prosecutor of a subunit to investigate connections between public servants and illegal armed groups
- the progress in the task of a concerted preparation of the National Action Plan for Human Rights and International Humanitarian Law
- the National action plan in education in human rights
- efforts to strengthen respect for human rights
- the investigation of the death of three persons in Arauca, and the decisions of the Superior Council of the Judicature, and of the Office of the Attorney General in the case of Cajamarca.
- efforts to increase coverage and quality in education
- progress in the ratification of international instruments in human rights, and the presentation of others to the Congress.



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In the same way, the Colombian State pays special attention to the remarks in the report regarding the non-existent commitment of illegal armed groups to human rights and international humanitarian law, the victimisation of the civil society on their part, and their deplorable form of financing, based on extortion, kidnap, and drug trafficking.

The Government of Colombia wishes to make some cordial but emphatic comments on the report, following the same methodological structure presented in OHCHR Report:

I. THE NATIONAL CONTEXT, AND THE EVOLUTION OF INTERNAL ARMED CONFLICT

For the Colombian State, and for its forces of law and order in particular, **the United Self-Defence Forces of Colombia (AUC) are criminal organisations which are being pursued with the same rigour as other violent groups**—or indeed, greater rigour—and therefore the Government, the Ministry of Defence, the Commander-In-Chief of the Armed Forces and the Director of the Police have repeatedly made efforts to suppress any collaboration, complicity, or facilitation of the actions of those groups.

Thus, the statistics of captures and casualties in combat with the United Self-Defence Forces of Colombia (AUC) have shown a constant increase. In the period between March 2000 and July 2002, 1,056 were captured; in 2003, 3,166 (an increase of 133.5%); and in 2004, 4,772 (an increase of 50.7% on the previous year). With regard to casualties in combat, the progression has been similarly on the increase. Between March 2000 and July 2002, they suffered 293 casualties; in 2003, 346 (an increase of 85%) and in 2004, 558 (an increase of 61.3% on the preceding year).

Also, if we compare the figures for casualties in combat and captures among the guerrillas between 2003 and 2004, we can see that the former fell 10%, and the latter increased 6%. It is clear that in 2004 the AUC casualties increased in 61.3% and captures in 50.7%; meanwhile the guerrilla casualties were less than 10% and captures 6%. This fact, shows clearly an important and evident intensity in combats against Self-defence groups.

In relation to the concern of the Office of United Nations High Commissioner for Human Rights, expressed throughout the report, with regard to the ill-named “**mass captures**” and **multiple searches**, the following points should be taken into account:

- The various operations undertaken by the Office of the National Prosecutor across the country, with the support of the judicial police, referring to cases in which persons allegedly linked to the guerrillas have been captured, have been based on a prior interrogation, in accordance with the terms of Article 322 of the Criminal Procedure Code, and in most of such cases, evidence such as the following has been obtained:
 - the testimony of local residents, who have been displaced by the threats of the guerrilla groups, stating that several local inhabitants belong to such organisations
 - declarations of demobilised insurgents from the areas affected by violence, and the presence of guerrillas.



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- documents seized during the search operations, which indicate the alleged participation of certain public servants, and members of the guerrillas in the commission of the crimes investigated.
 - the seizure of weapons and propaganda referring to guerrilla groups.
- The collection of evidential material, and its evaluation and analysis as required by law, harmoniously and comprehensively, in the light of healthy criticism, in accordance with the guiding principles, the rules of judicial experience, and the terms of Article 325 of the Criminal Procedure Code, in most cases in the hands of the Office of the National Prosecutor, has given rise to criminal proceedings, in the terms of Article 329 of the Criminal Procedure Code.
 - Several of the decisions which have given rise to criminal investigations have been the object of controls of legality, and of actions of *habeas corpus*, entered by defence attorneys, in the face of which the courts have confirmed the legality of the proceedings, and the relevance of the actions and decisions of the Office of the National Prosecutor.
 - The actions have received a special attention in terms of the principles of guarantees, and the follow-up of due process, with the presence of defence counsel, and a representative of the Attorney General's Office in the proceedings.

Nonetheless, the Office of the National Prosecutor National Directorate, in compliance with its functions of control and administrative follow-up of investigations, has issued instructions the regional Offices, to the following effect:

- A Prosecutor who receives a report for a criminal investigation, or receives it by distribution, from judicial intelligence or the police, must continue with the investigation until it is completed, as a guarantee of the principles of independence and autonomy.
- A prosecutor responsible for these investigations must personally take evidence or testimony or expanded testimony to support his actions.
- A prosecutor, in addition to examining statements of witnesses, must be concerned to verify their backgrounds. An order has been given that in this kind of process there must be a database included for all witnesses, so that other prosecutors can discover whether the witness has already made a statement in another investigation, and discover value that was assigned to what he had said.
- In cases in which it has been shown that testimony, statements, or intelligence work has been false, the prosecutor has ordered an immediate criminal or disciplinary investigation.

Thus, the National Directorate of the Office of the National Prosecutor effects control and follow-up of the investigations where five or more people are captured, for which purpose a register has been set up for each regional Prosecution Office to record its actions, indicating the evidence, and the basis for the captures.



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At 31 December 2004, 2,405 individuals had been captured, 1,099 *in flagrant*, and 1,265 with warrants, in the course of 263 investigations.

Further, and as part of the administrative control in this area, the Legal Office of the Office of the National Prosecutor has been holding informative workshops in the regional Prosecution Offices, where it has repeatedly concerned itself with the competency, and the legal presumptions used for this type of procedures, and the criminal and disciplinary consequences derived from complaints made to the Office of the National Prosecutor due to possible irregularities in the course of investigations, and the obligation of the Office of the National Prosecutor to initiate actions to repeat against any official who is allegedly responsible, in the terms of Section 90.2 of the Constitution.

With regard to the **legal framework** which the Colombian State has arranged for the **demobilised members of the United Self-Defence Forces of Colombia (AUC)**, this is the same framework which has allowed the individual demobilisation of members of the guerrillas for more than ten years, and has facilitated negotiations which the previous administration conducted with the FARC for more than three years. This legal framework, which has only come to apply to the United Self-Defence Forces of Colombia (AUC), authorises the Executive to determine areas in which warrants for arrest against members of these organisations are suspended, in order to concede or extend a pardon for the crime of belonging to an illegal armed group, or for minor crimes which may be considered as related to that offence (such as the illegal carriage of arms, or the use of military uniforms). These persons are at all events subject to investigation for actions which are subsequently denounced, but obviously, actions which have not been confessed cannot be included in the pardon.

With regard to the demobilised members of armed groups who are being tried, or who have been convicted of atrocious crimes, no legal benefits apply. Cases against such people and must continue on their course, and will end with appropriate punishments for crimes committed.

For greater clarity, with regard to the legal framework which permits the demobilisation of individuals who are part of any illegal group (United Self-Defence Forces of Colombia (AUC), FARC, or the ELN) or who may take the decision to enter into negotiations, a draft bill has been placed before the Congress (Law 782/2002) which allows some legal benefits to be given to those who commit themselves to that process, on conditions defined by the Government.

Those demobilised persons who have no criminal records, but "may have" committed crimes of *laesa humanitas*, remain subject to any denunciation or investigation which may be initiated against the person demobilised, and the decision containing the pardon for belonging to the group, will not have the effect of *res iudicata*, or inhibit the competency of the ordinary courts.

With regard to the **continuation of the cessation of hostilities by the United Self-Defence Forces of Colombia (AUC)**, compliance has admittedly encountered some difficulties - which the Government has made public - but it is clear that it has meant a notorious decrease in the number of crimes attributed to this group, as statistics show. In effect, the number of homicides committed by the United Self-Defence Forces of Colombia (AUC) during the first years of the cessation of hostilities (December 2002-2004) has fallen 69% with regard to the record of the



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same group between December 2000 and November 2002, falling from 1,341 during the former to 414 during the cessation of hostilities.

The same trend is to be found with regard to massacres and kidnaps, comparing the same period, where there has been a reduction of 86% (from 119 to 17) and kidnaps, down 43% (from 510 to 292). It should be noted that the establishment of the concentrations and in Santa Fe de Ralito, has had amongst other effects, the specific objective of completing the cessation of hostilities, a matter in which the cooperation of the MAPP/OAS Mission has been fundamental. In this case it is clear that the active participation of the international community would enable verification of the cessation of hostilities, to which these groups have committed themselves, to be improved.

In relation to **processes of negotiation with the FARC and ELN**, the Government has declared that it is always willing to enter into negotiations provided that these groups agree to the conditions of government policy on the matter. Nonetheless, the Government has maintained its decision to allow approaches and explorations regarding negotiations with these groups through the good offices of friendly governments, such as Mexico, France, and Switzerland.

II. PUBLIC POLICY AND IMPLEMENTATION OF THE RECOMMENDATIONS

The recommendations of the United Nations High Commissioner for Human Rights are closely related to the mandate of the law which approved the National Development Plan, with its content, and with policy lines on the matter.

The Government of President Alvaro Uribe has assigned to the Vice President the mission of leading an inter-institutional coordination for the application and development of policy in this area. Based on knowledge of the text of the recommendations, the Vice President has led the process of application and development, bringing together the State entities which have specific responsibilities in each of them, and making the senior levels of government of the State commit to the adoption of decisions which guarantee their application; and indeed the President himself has given precise instructions to that effect.

The Vice President has regularly reported to different forums on progress in the follow-up of recommendations to the United Nations High Commissioner's Office in Colombia, and to the international community. Likewise, and applying the policy of interlocution, meetings have been held with organisations from civil society, which have been provided with information on the matter.

Finally, on 2, 3 and 4 February 2005, a meeting of the International Coordination and Cooperation Group for Colombia was held in Cartagena, in which there was open and frank dialogue, and the Colombian government and a representative of the G-24 countries¹ made a

¹ G24 is formed by a group of countries and cooperation agencies which, after taking part in the preparation meeting of the International Cooperation and Coordination Group in London in July 2003, has set up an informal and permanent mechanism for coordination and articulation through diplomatic agents accredited in Colombia. G24 has facilitated regular and construction interlocution between those providing the cooperation and the Colombian



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follow-up on the cooperation agenda for Colombia, and on the implementation of recommendations, and other matters of national political importance which are of interest to the friendly countries.

The meeting in Cartagena was attended by some international agencies and representatives of organisations from the civil society and nongovernmental organisations, in addition to the representatives of the G- 24 countries. This was a scenario in which information was provided to those taking part in order to identify progress made in a democratic context, and which has been promoted by the presence institutions and the control bodies, in order to secure respect for the law and human rights throughout the country.

The Government of Colombia considers the accompaniment of the international community to be fundamental to its efforts to strengthen the welfare and security of all its people, and in the struggle against terrorism and unlawful drugs.

1. Prevention and protection

The Colombian State welcomes the remarks referred in the report of the United Nations High Commissioner for Human Rights in relation to the efforts made by the Early Warning System Committee (*CIAT, Comité Interinstitucional de Alertas Tempranas*) as an integral model for attention, prevention and evaluation of the early warning system (SAT), and as an instrument which must continue to be perfected within the framework of an integrated policy not only of the Government, but of all levels that take part in it, including local authorities, the courts, the Office of the National Prosecutor and the Attorney General's Office, including the Office of the Ombudsman itself, as part of the system.

With regard to the **capacity for prevention and protection in CIAT**, it must be explained that each and every risk report issued by the Ombudsman's Early Warning System thoroughly assessed, analysed and verified by each of the institutions which form the Committee, whose decisions or assessments are collegiate.

Based on this process, there is a joint decision depending on the competency of each entity, and based on pre-established criteria, as to whether or not to issue an early warning, or recommendations of a different kind which at all events will always be preventive criteria, in the face of possible risk situations whose occurrence (or lack of occurrence) may mean a direct causal link, and predictable determinations of events. **For the Committee, it is clear that the local authorities will always have to attended to situations reported**, as well as to the recommendations made, which in any case are an imminent important warning on which related follow-up and evaluation is effected.

The foregoing implies that there is no automatic link between the risk report and the issue of an early warning, due to the level of assessment, verification and specifications which the potential risk presupposes. Nonetheless, **for each and every risk report, a series of recommendations**

authorities and a number of representatives of civil society, It has also contributed to the discussion and analysis of international cooperation strategy presented by the Government on 30 January 2004.



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are agreed and sent to mayors, Departmental governors, Commanding Officers at Brigade level, or departmental police commandants, as the case may be, depending on the nature of the situation, with the intention that each, within the framework of its legal competency, may adopt such measures and actions as it considers necessary to prevent mass violations of human rights, and offences against international humanitarian law.

At all events, it must be repeated that absolutely all recommendations made by the Committee are effected after taking account of the fact that the coordination performed by the Committee does not change the structure, competency or line of command of public administration. The objective of the Committee is to optimise the functioning of institutions, and their coordination and effectiveness, and not to create an alternative structure.

Likewise, the subsequent occurrence (or lack of it) of events whose cause may be considered as having been warned in a risk report previously issued by the Office of the Ombudsman, should be evaluated as part of the legal and administrative process by the competent judicial authorities, who are responsible for determining whether there is a causal link or not. Therefore, no direct relationship may be determined between the occurrence of events which eventually may or may not be tied to the risk report with the decisions of the Committee, the recommendations or the alerts, since the proof of this depends on subsequent instances subsequent or external to the Early Warning System, whose conclusions have not yet been established.

Further, it should be noted that the recommendations made by the Committee are not limited to military and police actions; they also include aspects such as those of humanitarian assistance, administrative police measures, the presence of civil institutions to attend to situations described in the risk report, and specific actions of these same institutions and because the impact expected cannot be measured solely in terms of military types of action, but also in many different kinds of action recommended by the Committee.

With regard to **personal bodyguards**², it is important to note that in order to offer a more professional service to the beneficiaries of protection, and in compliance with the recommendations of the external evaluators of the Protection Programme, the Government is working on the consolidation of a specialised group of bodyguards, so that the service can be institutionalised. Nonetheless, while this process is being completed, the security police DAS have issued a series of strict requirements for the selection of bodyguards, and the résumés of candidates presented by the beneficiaries have been evaluated, and those who meet the requirements have been contracted.

The Government has taken several measures to strengthen the Protection Programme, and specifically the attention to members of indigenous communities in CRER; mention should be made of the creation of the committee for regulation and evaluation of risks for ethnic communities, in which indigenous communities and Afro-Colombian communities take part with one representative of each, and the Committee (CRER) has now met on three occasions. Likewise, the organisations of the displaced also have a CRER specifically for themselves, to

² Candidates presented by the protection beneficiaries.



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find out about their situation; that Committee has three representatives from the displaced population from around the country, and it has met on two occasions.

In Decree 4200 of 2004, the “programme for temporary protection for participants in dialogues, negotiations, peace processes and accords” was created. The programme has already had one session. In addition, the decree to regulate the “protection programme for the medical mission” was signed by the Minister of the Interior and Justice and by the Minister of Social Protection, and is currently on the desk of the Minister of Public Finance for his signature, after which it will come into force.

With regard to the **death of indigenous leaders** in particular, those belonging to the Embera Chami and Kankuamos communities, it is important to note that in accordance with the records held by the Minister of the Interior and Justice, the most recent death recorded of any leader of either of these communities was that of Fredy Arias Arias, a leader of the *kankuamo* people, which occurred in August 2004. With regard to the *Embera Chami* in 2004, there was no murder of any leader. Official reports mention the murder of Angel Maria Motato Morales, Jose Libardo Tapasco Bueno and Honorio de Jesus Aricada, who were indigenous individuals belonging to the community of San Juan, and were presumed to have been killed by members of FARC.

With regard to the record of **kidnaps against the *Embera Katio* community**, official reports of 26 May 2004 say that Governor Ariza was kidnapped by the United Self-Defence Forces of Colombia (AUC) in the place known as *Puerto Crucito*, and subsequently released and delivered to the regional Ombudsman of Cordoba. On that humanitarian mission, the Office of the Ombudsman reported that the United Self-Defence Forces of Colombia (AUC) had undertaken to take no new actions against the indigenous communities. Three days later (30 May 2004) five indigenous individuals, belonging to *Alianza de Cabildos Menores de Rio Esmeralda* and *Consejo de Autoridades Tradicionales de los Rios Esmeralda y Manso* were detained by unknown armed men, and the following day were handed back to the traditional indigenous authorities.

With regard to **enforce displacement of persons**, the Government recognises that the problem continues to be difficult, but would stress that its incidence has been reduced. At the end of 2005, the falling trend in the numbers of displaced recorded in 2004, will be maintained (then, it was 25.9% less than 2003). The projection made by the Government of the displaced for the last year is approximately 163,000.

The reason for this is that the displaced population have one year after the event to report its condition in order to be included in the national register. An analysis of the evolution of the register in the years 2001, 2002, and 2003, to establish the average number of people who reported and registered in the same year, shows that 81.3% of those registered declared during the annual period in which the displacement took place, while 18.7% did so in the year following the displacement. The figures indicate that in 2002 there were 358,132 individuals displaced in that year, and 64,845 displaced in the previous year. In 2003, 185,831 displaced reported in the same year, and 33,638 as displaced in 2002.

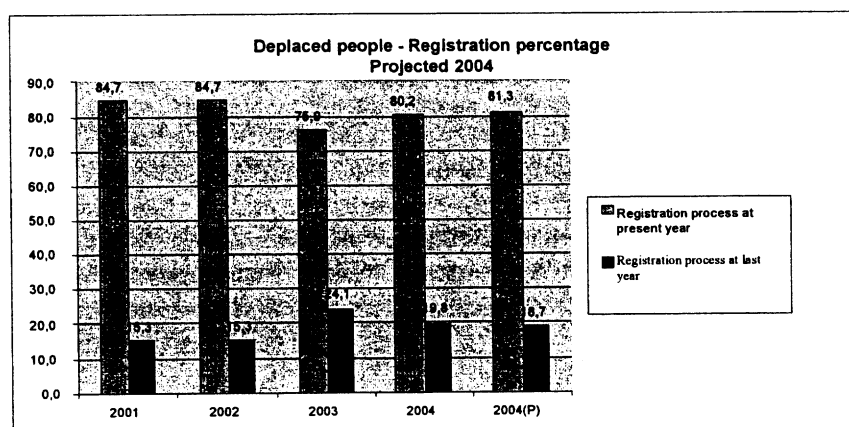


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Although, in absolute terms, the phenomena of displacement continues to be difficult due to the impact caused in the communities -between 1995 and 31 December 2004, the total numbers registered are 1,565,765 - the Government is pleased to note a reduction of 48% in the registration of displaced people in 2003 compared to 2002, and 25.9% in 2004 (projected) compared to 2003.

29.89% of households registered are headed by women, that is to say, the woman heads the household and has no companion registered as part of it. The five departments with the largest number of households headed by women are: Arauca, Magdalena, Valle del Cauca, Nariño and Antioquia.

The Single Registration System shows that 49.7% of the displaced population is aged 0-17, of whom 49.95% are women, and 51.05% are men. 47.82% of the population registered is aged 18-65, and of them, 53.18% are women and 46.82% are men. Finally, the age range of 66 to 98 years covers 3.11% of the population registered, and 48.17% of them are women and 51.83% are men.



With regard to the location of the displaced population, the Government's information shows that 80.55% of the population registered are in 15 of the 32 departments, and 22.42% are today in the five capital cities. Bogotá, Medellín, Santa Marta, Sincelejo and Valledupar. Without ignoring the fact that the problem is still a difficult one, Antioquia, Bolívar, Cesar, Cundinamarca, Putumayo and Valle amongst others, are departments in which the registration of displaced shows an important reduction.

With regard to the 65 frontier municipalities, 20,823 individuals were expelled during 2004, and 15,085 individuals arrived there. In order to implement measures for protection and attention to the population in frontier areas, a process of approaching co-operation has been developed with neighbouring governments and international organisations, in order to respond effectively and in a coordinated manner in the face of emergencies.



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In this context, the Economical and Social Policy Council (*CONPES, Consejo de Política Económica y Social*) Document 3155 has been issued, and agreements have been signed with Ecuador, Panama, Peru and Venezuela. The tripartite or bilateral mechanisms for the treatment of displacement has amongst other things, permitted the voluntary repatriation of 87 persons from Jaqué, Panamá to Juradó, Colombia. Another 27 individuals from the same area of Panamá have returned to the municipalities of Turbo, Riosucio and Ungía. Similarly, CONPES has allowed the plan for sovereignty and social development on the frontiers to be prepared and implemented, introducing actions for protection of economic, social and cultural rights in these communities where those rights have been affected.

In addition to the policy for attention to the displaced, and with the direct leadership of the President, a set of complementary strategies and actions has been deployed with the intention of strengthening civil administration in seven areas of the country, and of providing direct protection to communities at a high risk of displacement. This has been done in order to secure the effective enjoyment of freedom of residents and movement, and promoting a closer relationship between the state and the communities which are directly affected.

In order to attend to the urgent needs in education, health, food security, attention to their children and families, civil records and justice, the Office of the President is leading a series of inter-institutional events at municipal level. Some examples of the activities undertaken during these events are medical attention through consultation and surgery, dental care, and activities in recreation and sports, with psycho-social attention, food assistance and humanitarian assistance, legal advice and documentation of the population, amongst other things. Twenty two inter-institutional sessions have been held in the regions of Middle and Lower Atrato, *Sierra Nevada de Santa Marta*, and in southern Colombia.

Aside from the investments made by each of the ministries and institutions, the Office of the President has executed, promoted and arranged with other state entities the implementation of programmes in the framework of the seven tools of equity in several parts of the country – *Sierra Nevada de Santa Marta, Catatumbo, Arauca*, the southern zone, *Tumaco* and Middle and Lower Atrato in Choco - and these investments have been effected in the building of school dining facilities, construction, the improvement and equipping of schools, the delivery of kits for school children, staffing adjustments, and increases in educational allocations - which refers to the value which the State recognises to the regional administration per pupil enrolled - new places for the subsidised regime in health, the equipping and appointment of personnel for health posts, the delivery of donations, the implementation of the Food Security Programme, and the improvement of roads, amongst other things. The investment in the seven priorities for each of the equity tools has reached a total of Col\$33,598 million (US\$14 million)³, and a further pesos Col\$88,800 million (US\$37.1 million) remains to be executed.

For its part, social investment during 2004 in the five municipalities in which the "Patriot Plan" is concentrated – *San Vicente del Caguán, Cartagena del Chairá, Miraflores Calamar* and *La Macarena* - is Col\$ 12,924 million (US\$5.4 million), and a further Col\$3,769 million (US\$15.7 million) remains to be executed.

³ Exchange rate Dec 31, 2004 (\$US1=Col\$2.389,75)

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Likewise, and in application of Constitutional Court Decision T-025, amongst other actions, the Ministry of Trade, Industry and Tourism has received the sum of Col\$2,000 million (US\$836,908) from the National Planning Department (DNP) to attend to the displaced in the strengthening or creation of business plans, which were approved for 754 individuals, for a total of Col\$743,445,259 (US\$311,097). For 2005, new applications will be invited, for a total of Col\$1,256,554,741 (US\$525,810).

In application of the FINAGRO line of credit for the displaced, a project was approved for *Montes de Maria* for Col\$ 417 million (US\$174,495) for 50 households, one was approved for *Morales* southern Bolivar - for Col\$ 110 million (US\$46,029), for the benefit of 16 families, and one in *Popayán, Cali* and *Jamundi* for Col\$4,500 million (US\$1.8 million), to benefit 300 families.

The following are some other forms of attention to the displaced, including funds invested to attend to them and their benefits:



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USE OF FUNDS	AMOUNT (Col\$ millions)	BENEFICIARIES
Health	\$18,000 (US\$7.5 million)	100% of the displaced population
<i>Prolonged aid and recovery operation</i>	\$10,624 (US\$4.4 million)	176,726 individuals
Micro, Small and Medium enterprise	\$2,000 (US\$836,907)	1,062 households of the displaced
Strengthening of productive units	\$2,907 (US\$1.2 million)	953 individuals
Homes of the displaced	\$417 (US\$174,495)	50 households
Housing	\$5,000 (US\$2.09 million)	1,077 households
	\$100,000 (US\$41.8 million)	14,598 households
Strengthening of educational institutions	\$ 3,478 (US\$1.4 million)	58 educational institutions with infrastructure work of \$ 2,134 million (US\$892,980), classroom equipment for 188 institutions worth \$1,200 million (US\$502,144) and 15 groups formed to apply flexible methods in 15 Departments at a cost of \$144 million (US\$60,257).
Attention to the victims of violence	\$70,000 (US\$29.3 million)	
Emergency humanitarian aid (two minimum monthly salaries)	\$2,500 (US\$1.04 million)	Loss of property or injuries without permanent disability as a consequence of raids or attacks or terrorist incidents, the programme is up to date in payments of this type. 1,267 families.
Humanitarian aid for death or permanent disability (42,29 minimum monthly salaries)	\$ 14,400 (US\$6.02 million)	
Reconstruction of municipalities	\$ 4,145 (US\$1.7 million)	46 social infrastructure works in 32 municipalities
	\$24,599 (US\$10.29 million)	155 new works in 51 municipalities

It is also worth mentioning that the Ministry of Defence has on many occasions had discussions with the Office of the High Commissioner for Human Rights, on matters related to the **independent study for the development of an integrated formation of members of the forces of law and order in human rights and international humanitarian law**, and delivered relevant comments on the content of the proposal to be implemented.



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However, the training of the forces of law and order in the areas of human rights and international humanitarian law occurs when their members enter the appropriate centres of instruction (for Officers and junior Officers) or their incorporation as private soldiers. In all units there is a programme of activities which includes a permanent reinforcement of this knowledge.

2. The internal armed conflict

The humanitarian principles of limitation, distinction, proportionality and protection of the civilian population are fully observed by the forces of law and order, in planning and developing their operations, and in subsequent evaluations. At the same time, there is permanent development of the plan for the integration of humanitarian norms, in operational manuals, and in military and police doctrine.

Statistics National Department (*DANE, Departamento Administrativo Nacional de Estadística*) is currently conducting a survey on the perception of humanitarian law in the forces of law and order, and the results of that survey will be input for a diagnosis, conducted by international experts.

For the Government, it is important to note that the disregard of the principles of international humanitarian law by the illegal armed groups is not a consequence of debate of the characterisation of Colombian violence, but of the decision, on their part, to disregard those principles and norms. Their disregard of those principles is prior to that debate, and independent of it.

3. The State of Law and impunity

With regard to **ILO Convention 182**, it should be remembered that Colombia deposited its ratification instrument on 28 January 2005, and it will therefore come into effect on 28 January 2006, in accordance with the terms of Section 10.3 of that instrument.

With regard to the **reforms of the Minor's Code**, as of 2003, the Family Welfare Institute (*ICBF, Instituto Colombiano de Bienestar Familiar*) has been promoting a draft bill to adapt existing norms, on the basis of the principles of the International Convention on Children's Rights, and this process has had the participation of a number of government and non-government entities, control bodies, international cooperation organisations, the academic sector, and experts in children's affairs. The project was sent to Congress on 27 July 2004, and is now being processed.

The draft bill is addressed to all children, as full subjects of rights, up to the age of 18, and to those who are under 18, but enjoy special measures for state protection, including newborn children, children in infancy, primary school pupils, pre-adolescents and adolescents, without discrimination, and in accordance with universal principles of dignity, material equality, equity and social justice, solidarity, prevalence of rights, higher interest, and participation in matters of interest to them.



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The Attorney General Office for the Defence of Minors and the Family has been following up this draft bill “issuing the law for infants and adolescents, repealing Decree 2737 of 1989 —The Minor’s Code”— and sent two position papers (concepts) to the Senate, the first of them with observations and general and specific proposals, related to the Articles of the Bill, and the second replying to a questionnaire sent by the senators who proposed it, with regard to the criminal responsibility of juveniles.

The Office of the Attorney General said amongst other things that the Bill contained one fundamental intention: to pass from enunciation or legal formality to effective action or materialisation of the rights of boys, girls and adolescents, that is, there is a special emphasis on the focus on the guarantee of rights, by framing recognition and restoration of those rights as part of the integral doctrine of protection.

At the same time, the Office of the Attorney General has drawn attention to the significant contribution in relation to the interaction of social and family structures, by pointing out the shared responsibility between the family, society and the State, defining obligations and levels of action in each instance.

The presentation of the Bill was made for the first debate in December 2004, and included some of the observations and proposals made by the Office of the Attorney General.

With regard to the new **Criminal Procedure Code**, approved by Law 906 of 2004, the changes have two objectives: the consolidation of the framework of rights and guarantees of those accused and of victims, as a form of legitimisation of democracy; the speeding up of conviction or acquittal in the administration of justice; and the acceleration of processes in general, with the adoption of public and oral trials, observing all guarantees of due process, in line with international instruments which protect human rights.

In the new procedural system, cases will be managed through hearings on the application of the principle of orality, which will notably reduce the time taken by each case, and allow the citizens prompt and effective justice. Article 175 of Law 906 establishes that the time which the Prosecution has to make its accusations, and request conclusion or apply the principle of opportunity will be 30 days from the date on which the charges have first been made.

At the same time, the procedure will now require that the preparatory hearing will be held by the trial judge within 30 days following the entry of charges, and the hearing and oral trial will be held within 30 days following the end of the preparatory hearing.

Most of the guiding principles were collected up from the former Criminal Procedure Code (Law 600 of 2000) and other necessary principles, required for the functioning of the new system have been introduced. These include orality, the rights of the victim, concentration, and the ambit of criminal jurisdiction.

Adjustments were made to some existing principles in order to harmonise them even more with the mandates of the Constitution, and with the norms of international law, so that criminal justice



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would satisfy internationally recognised standards terms of the efficiency of the system, and the guarantee of the rights of those on trial.

Legislative Act No. 03 of 2002 established the constitutional basis for the implementation of the accusatory system in Colombia. The Commission created by this norm prepared and presented these new bases for development in Congress, which approved Law 906 of 2004, (the new Criminal Procedure Code), Law 890 of 2004, amending and supplementing the Criminal Code, Law 938 of 2004, adopting the organic statute of the Office of the National Prosecutor and Law 941 of 2005, organising the Public Counsel of Defence National System.

The President, acting under powers contained in transitory Article 4 of Legislative Act No. 3 of 2002, issued Decree 2636 of 2004 —which amends and supplements Law 65 of 1993—, and Decree 2637 of 2004, —which develops and implements the accusatory system in criminal practice and amends a number of Articles of Law 270 of 1996—.

In accordance with the terms of Article 530 of Law 906 of 2004, the new accusatory system began to be used as of 1 January 2005, gradually and successively, beginning in the circuits of Armenia, Bogotá, Manizales and Pereira. The second stage, starting on 1 January 2006, will include the circuits of Bucaramanga, Buga, Cali Medellín, Santa Rosa de Viterbo, Tunja and Yopal. On one January 2007, the new system will be introduced into the circuits of Antioquia, Florencia, Ibagué, Neiva, Pasto, Popayán and Villavicencio.

In the judicial circuits of Baranquilla, Cartagena, Cúcuta, Montería, Quibdó, Pamplona, Riohacha, Santa Marta, Sincelejo and Valledupar, and those to be created in the future, the system will start on 1 January 2008. It is important to note that Article 528 establishes that the Superior Council of the Judicature and the National Prosecutor will commission such studies as may be necessary, and take related decisions for the gradual and successive implementation of the system.

The Government, convinced of the importance of the accusatory system in the interests of prompt and effective criminal justice, and reducing impunity, accompanies institutional efforts being made for its implementation in all judicial circuits in the country, and supports their actions in this regard.

It should be noted that the National Directorate, the regional directors, and the directors of establishments in the Penitentiary System (*INPEC, Instituto Nacional Penitenciario y Carcelario*) do not have the functions of judicial police as of the issue of Decree 2636 of 2004, and the measures which this Decree contains were already provided for in existing legislation: Article 41 of Law 65 of 1993, the Penitentiary and Prison Code (Mixed System) Article 312.5 contains a similar provision. These powers are considered necessary to preserve elements of evidence in the commission of punishable acts inside the prisons, and for the security of those establishments and the protection of the rights of those confined there; and it is also a suitable mechanism to avoid impunity. It should be noted that these functions are *pro tempore*, until the Office of the National Prosecutor arrives on the scene of events, and takes over responsibility for the related investigations.



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At the same time, economic adjustments and staffing changes are being made in INPEC, in order to adapt the institution to the requirements of the accusatory system. Likewise, it should be noted that CONPES authorised the construction of 15 new prisons, to comply with the international standards of infrastructure required to ensure respect for human rights of those deprived of their freedom.

In relation to the matter of the **independence of the Prosecutors**, specifically to the dismissal of certain officials of the National Prosecutor's Office, and the concern of the Office of the United Nations High Commissioner for Human Rights regarding the absence of a career structure in the National Prosecutor in the Office of the National Prosecutor, it should be noted that although not all officials working in the Office of the National Prosecutor form part of its career structure, 13% of judicial administrative and technical Officers do follow it.

In relation to the reliability test, known as the Polygraph, this has been used in the Office of the National Prosecutor for more than seven years as an additional tool for evaluation of employees. The test, now used by a number of State and private entities, has been evaluated internationally, and is considered to be reliable in more than 95% of the cases where it was applied.

The constitutional and legal responsibilities of the National Prosecutor entail the need to adopt relevant mechanisms to secure the reliability of the mission which he must delegate to national-order officials. Therefore, as the Office of the National Prosecutor itself has had occasion to show, in cases to which the report refers, the removal of certain officials was effected for other reasons. These sometimes even refer to situations of corruption in the handling of criminal investigation.

With regard to the **career structure of the Office of the National Prosecutor**, the project for its creation has made important progress in institutional terms since 2003, in which field work was done around the country, concluding with the preparation of a draft bill for that structure. In the first half of 2004, an inter-disciplinary group was appointed to agree on methods, and to form working groups responsible for the design of profiles and determination of functions, generically entrusted to the Office of the National Prosecutor.

Congress is currently studying the bill on the Organic Statute for the Office of the National Prosecutor. This project incorporated the regime of career structure and the principles within it, provisions on the nature of posts, the selection process, competitions, the offer of places, assessment of performance, and withdrawal from the service. The administration of the career structure and its regulation would be the responsibility of the National Administration Commission.

The work of the Office of the National Prosecutor has been centred on the definition of profiles in the areas of the technical investigation units and prosecution Offices, in the specifications and technical and administrative requirements and staffing required for posts, and requirements from a personal, professional and psychological point of view of those who work in these areas.

The Colombia Office of the United Nations High Commissioner for Human Rights is well aware of the progress made in this field. Since as of 22 June 2004, and with reference to the letter of



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understanding signed (by the Director of the Colombia Office and the National Prosecutor) in the matter of support for work on the career structure in which the Office of the National Prosecutor was then engaged, activities began with an expert consultant. The contribution made by the consultant focuses on assistance for a process already started by the service in the definition of employment profiles which meet appropriate criteria to guarantee the permanence of posts and specialisation by areas.

Regulations have been drawn up for the performance evaluation in stages of definition of structure. In the area of the study of regulations and performance evaluation, progress is being made in the definition of performance indicators. This work has also been undertaken jointly with the Colombia Office of the United Nations High Commissioner for Human Rights.

With regard to **impunity**, the Colombia Office places emphasis in its report on the creation of four new Sub-units for human rights in the Office of the National Prosecutor, and the central Sub-unit of the National Human Rights and International Humanitarian Law unit. At the same time, the report urges the National Prosecutor to ensure that those units, in particular the last mentioned, concentrate their efforts on the establishment of links between United Self-Defence Forces of Colombia (AUC) groups and numbers of the forces of law and order, civil officials, and private individuals.

In this regard, the institutional commitment to the strengthening of the National Human Rights and International Humanitarian Law unit is also reflected in the important support provided by international cooperation both from the Office of the United Nations High Commissioner for Human Rights in Colombia, and from friendly countries, in the allocation of qualified administrative and operation officials who have been highly trained and have strong commitment to the institution and the country, whose constant efforts have been focused on the prompt and effective attention to the delicate responsibility of investigating and clarifying serious violations of human rights and offences against international humanitarian law.

This strengthening of the Office of the National Prosecutor has not been limited to an increase in the numbers of prosecutors: there has also been training, and the acquisition of technical equipment for investigation, with the collaboration and assistance of international agencies and friendly governments.

Today, as the Colombia Office of the United Nations High Commissioner for Human Rights is aware from information supplied in October 2004, there are 322 officials from around the country who form the Human Rights Unit. Special prosecutors, technicians, secretaries, judicial assistants, judicial investigators, criminalistics technicians, and investigators and technicians from the National Police and DAS, are seconded to this National Unit.

As stated in the report, Resolution No. 04234 of 1 September 2004 created four additional support units for the National Human Rights and International Humanitarian Law Unit in the cities of Bucaramanga, Cúcuta, Neiva and Villavicencio, which currently have a staff of 44. This figure increases the total number of employees in the Unit to 366, and corresponds to an institutional position which aims to guarantee that evidence will begin to be gathered



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immediately, and that results will be effective in investigations for serious violations of human rights.

The progress made in the investigations for serious violations of human rights, and offences against International Humanitarian Law, can be appreciated from the following results

Investigations:

2,141 cases recorded and 1,469 in active investigations: 450 in instruction, and 1,019 in preliminary investigation, and the remaining 672 correspond to matters with regard to which indictments may have been made, and in the trial stage, or are under appeal, or have been assigned to other units of competency, or have been the object of inhibitory resolutions, suspension, or dismissal.

A total of 208 investigations, 85 in the instruction stage and 123 in preliminary investigation were assigned to the Human Rights and International Humanitarian Law unit in 2004.

Warrants for arrest

585 warrants have been issued, of which 12 involve members of the police, 11 members of the army, one against an employee of DAS, 22 against private individuals, 379 against members of the United Self-Defence Forces of Colombia (AUC), and 160 against members of the guerrilla groups.

Precautionary measures:

662 precautionary measures have been ordered, of which 42 were against members of the armed forces, 21 in the Police, 14 in the Army, 7 in Marines, one to an employee of DAS, 18 against civilians, 395 against United Self-Defence Forces of Colombia (AUC) and 206 against guerrillas.

Indictments

703 individuals were indicted before the specialist criminal courts, 343 being United Self-Defence Forces of Colombia (AUC), 22 the Police, 21 the Army, 29 civilians, 280 guerrillas (FARC, ELN, EPL and ERG), 7 Marines, and 1 of the Office of the National Prosecutor Technical Investigation Division.

Convictions of public servants

In 2004, 6 policemen and 1 member of the army were convicted.

With regard to investigations of army Officers, the National Prosecutor's Office, has a commitment to clear up events which are violations of human rights, and has taken evidence to guarantee not only due process, but also the question for the truth, in order to establish the responsibility of those allegedly compromised, regardless of their positions.



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Further, the unit has, through its subunits, attended to investigations for crimes committed against women, taken up cases such as that of Popular Female Organisation (*OFP, Organización Femenina Popular*) and in general the community of the municipality of *Barrancabermeja* in *Santander*, as a priority, forming several special Impulse Commissions, both for the cases especially assigned to the National Unit, and those being conducted by the Regional Unit in that city.

The basic purpose of the presence in that region of the country is, on the one hand, to press forward with 12 investigations for serious violations of fundamental rights, which are part of universal cases which form the project for the struggle against impunity, and on the other, to perform procedures in connection with 88 investigations handled by the Regional Office in *Bucaramanga*, and 38 more, especially assigned to the National Unit for Human Rights and International Humanitarian Law.

The presence of the Commission facilitated contact with those making denunciations, the victims, and in general the public, which made effective contributions with statements on 670 occasions, thus facilitating also the recognition of persons useful to 7 investigations in line-ups, and further allowed the production of expert reports, inspections, the exhumation of corpses, to be effected with the results, which as noted, refer to several different investigations.

In relation to **investigations in which members of unions or of indigenous communities, or journalists were the victims**, the National Directorate of the Office of the National Prosecutor effects administrative follow-up of investigations in the hands of the Office of the National Prosecutor, and the prosecutors responsible for each case feed the information system for this purpose.

According to the consolidated report of the National Directorate of the Office of the National Prosecutor, at present there are 2,529 investigations, in which the union members are recorded as the victims, their status is as follows: 356 with denial of competency, 50 in the instruction stage, 74 in the trial stage, and 2,045 in preliminary investigation.

In relation to this point, it should be noted that in the context of follow-up to case 1787 being processed before the International Labour Organisation (ILO), with the support of the Regional Office of ILO, and the concurrence of the Ministry of Social Protection and the Office of the Vice President, five workshops have been held - in Bogotá, Cali, Medellín, Bucaramanga and Barranquilla - with the participation of ILO experts, prosecutors, investigators and of the Judicial Police who are responsible for investigations in which the victims are recorded as being union members. These meetings were held in order to create opportunities for interlocution, approach and joint work to search for formulas designed to guarantee the fundamental rights of workers.

In relation to **investigations in which the victims are recorded as being members of indigenous communities**, thus there are a total of 894 investigations, as follows: 313 in instruction stage, 511 in preliminary investigation, 52 in denial of competency, 12 in trial, and 6 sent to military criminal justice.



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The Regional and Specialised Prosecutors across the country, as well as Prosecutors in the National Unit for Human Rights and International Humanitarian Law, agree that most investigations that do not involve a civil party, and amongst other difficulties in the development of the investigations, they point to the lack of collaboration on the part of some members of indigenous communities. Their testimony would be a good starting point for the prosecutors to obtain better information in order to progress and achieve positive results, and indeed identify and individualise all participants in the illegal acts involved.

In this, it is important to note that in the context of follow-up of precautionary measures ordered by Inter-American Commission on Human Rights (ICHR), in June 2003, in favour of the indigenous community *Embera Katio*, an encounter was held in Bogotá between the representatives of the indigenous community *Embera Katio*, the measures petitioners, the Prosecutors of the Human Rights and International Humanitarian Law Unit —responsible for criminal investigations of events which occurred in that indigenous community—, and the IHCR Rappaport for Colombia.

Subsequently, a number of meetings were held with the petitioners in the Office of the National Prosecutor, in order to obtain the collaboration of the victims —members of the councils of *Río Verde* and *Sinú*— but in practice, the correlation of the members of the community has not been obtained, and this would be important for any progress in the matter.

In the case of the indigenous communities *Kankuamo* and *Embera Chami*, the National Unit for Human Rights and International Humanitarian Law, with the support of the presidential Programme for Human Rights, has sent judicial commissions to the scene of events, in order to advance investigations, and in some cases, to secure reallocation of the matter to the Unit.

With regard to the investigations involving victims who were journalists, the National Directorate of the Office of the National Prosecutor says that there are a total of 186 investigations, 152 of them being in the preliminary stage, 20 with an indictment, 4 in the instruction stage, and 10 in trial.

With regard to the concerns of Colombia Office of United Nations High Commissioner for Human Rights that the National Prosecutor should give instructions **for prosecutors not too yield competency in favour of military criminal justice**, it should be noted that the existence of the military criminal jurisdiction should be a guarantee for purposes of application, in relation to the alleged commission of crimes in the course of activities proper to military service, and in no event for acts which constitute violations of fundamental rights, as can be appreciated in the actions and decisions of the National Human Rights Unit, in cases where members of the forces of law and order have been compromised. It is sufficient to mention the cases known *Santo Domingo* (Arauca), *Mapiripán* (Meta), *Cajamarca* (Tolima), amongst others.

The independence of the Seconded Prosecutors is not only a matter for the provisions of law contained in Article 12 of the Criminal Procedure Code, which establishes that independence, but also a matter of practice, where all judicial decisions must reflect the facts which within criminal cases determine full conviction of alleged responsibility, or absence of the same, of any



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citizen and/or State agent, and of those responsible for the violation for violations of human rights, attributable to the guerrillas and United Self-Defence Forces of Colombia (AUC).

In relation to the **institutional strengthening of the Office of the National Prosecutor**, in furtherance of the Letter of Understanding signed by the National Prosecutor and the Director of the Colombia Office of the United Nations High Commissioner for Human Rights, the most important considerations are the following:

- with regard to the witness and victims protection programme, the Office has worked on improvement, analysis and attention to requests for protection made by prosecutors, mostly belonging to the National Unit for Human Rights and International Humanitarian Law.
- the recommendations made by the United Nations High Commissioner for Human Rights Consultant in January 2004 has generated a process of adjustment and strengthening of procedures, designed to improve the processing and study of applications for protection, and the process of assistance for those involved in the programme, both in terms of direct attention, and in cases where relocation is required.
- in terms of budget, in March 2004 the programme budget was increased by Col\$1.500 million (US\$627,680). This may not be a definitive solution to the financial situation of the programme, but it has been an effective contribution to its strength, and has resulted in prompt attention, from the preliminary stages through to the incorporation as such, once the necessary legal procedures have been completed.
- following the observations of the Colombia Office of United Nations High Commissioner for Human Rights, the reception and processing of applications was strengthened, on the basis of an optimisation of the system of data capture, and in the analysis of the origin and nature of the protection. Also, the method suggested open "execution drawing" was adopted, in order to make a more effective and objective assessment of those under threat or at risk.

With regard to the diagnosis of the National Unit for Human Rights and International Humanitarian Law, the Office of the High Commissioner facilitated the work of an expert, in order to conduct a consultancy exercise between 22 August, 2004 and 22 February, 2005. The purpose of the consultancy is to work jointly with the expert in making a diagnosis of the National Unit for Human Rights, similar to the work which is being done in the Impulse Committee for 100 cases, led by the Vice President of the Republic.

The Consultancy has undertaken a number of tasks, such as visits to the various sub-units supporting the National Human Rights Unit as well as interviews with officials of the support units and with institutions which collaborate with them. Additionally, it is important to note that it is in progress a special study in the National Unit for Human Rights, with the following elements: interviews with 70% of personnel, composed of prosecutors and technical staff, analysis of files, surveys of seconded prosecutors, and a survey of social perception, performed by the Statistical National Department DANE:



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With regard to the system situation of human rights in the prisons, the National Economic and Social Policy Council issued document CONPES 3277 of 15 March 2005, providing for an increase in the number of places in the Prison System, increasing its capacity by some 25,000 new places, and committing resources for the future over the next 10 years. This measure should reduce overcrowding to about 20%, which according to documents issued by the Office of the Attorney General, is considered to be "manageable". With regard to the overcrowding of the female prison population, the construction projects for the new prisons have provided for the creation of 2,900 places for women.

Likewise, Decree 2636 of 2004 was issued, to establish electronic surveillance (chips), which will allow that 10,500 convicts to be bounded for this system, reducing in this way, overcrowding by a considerable percentage in places of confinement around the country.

There is permanent coordination and teamwork between the Presidential Programme for Human Rights and International Humanitarian Law and the Prison Administration System INPEC for the latter's needs to be incorporated into the Action Plan.

4. Economic and social policies

Poverty and Inequality

The report of the United Nations High Commissioner for Human Rights refers to poverty inequality indicators, taking only the indicators for 2003, without mentioning the situation for 2002. This does not allow an analysis of the evolution of these indicators overtime, in order to establish the government's performance in this area.

The figures for poverty and indigence calculated by the Planning Department (DNP)⁴ for 2003 show a reduction compared to 2002, when the government took office. In 2003, the poverty index fell to 51.8% compared to 55% in 2002, while the indigence indicator fell to 16.6% from 20.8% in 2002.

When measuring the evolution of poverty and indigence, it has been shown that the economic recovery (which has included an increase in employment and a reduction in unemployment) and social programmes such as Families in Action, have had a positive impact on the income of the poorer groups. Through different programmes to assist the poorest families, amongst which are the Subsidised Regime for Health, and the Subsidy for the Elderly, and other programmes in the field of education, the government is attacking the causes of poverty, and at the same time alleviating its consequences.

The inequity gap is still a wide one, but improved in 2003 compared to 2002. DNP agrees with the figures produced by United Nations Development Programme (UNDP), according to which the poorest 20% of the population receives 2.7% of total income, while the richest 20% receives almost 62%. Nonetheless, it is important to note that although Colombia is a country with a very

⁴ These figures are different from those of the Comptroller General since the Comptroller use a method different from that of DNP for the 2003 calculation ("Evaluation of Social Policy 2003") Therefore the Comptroller's figure for 2003 is not comparable with figures for previous years which were taken from DNP.



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high level of inequality, this improved in 2003, since the previous year only 2.3% of income belonged to the poorest quintile, while the richest quintile received 66%. At the same time, the Gini index improved for 2003: 58.2% compared to 61.8% for 2002.

Despite this progress, the government recognises that these figures for poverty, indigence, and inequality of income are at excessive a high levels, and as part of its commitment to attacking the problems, it has formed a "mission for the design of a strategy to reduce poverty and inequality". This mission will be responsible, amongst other things, for conducting studies on poverty and inequality in order to design long-term strategies, and is composed of members of government and civil society, taking account of the participatory process of the latter.

Education

In pre-school, basic and intermediate education in 2003, 477,598⁵ new places were created in the state schools, and according to the reports of the local education offices, 256,815 additional places were created in 2004. Thus, this government has so far created 734,413 new places, a progress of 49% compared to the target for the four-year period, of increasing enrolments by 1.5 million. This progress is particularly important if it is noted that between 1998 and 2002, a total of 400,000 places was created.

The foregoing, in terms of gross coverage, means that basic and intermediate education cover rose from 82% in 2000 to 85% in 2004, and in higher education from 20.9% to 22.6%.

Further, the evolution of the growth of enrolments shows that in effect, a new dynamic has been introduced in the generation of places. In the period 2002-2003, the growth rate has been a 7.3%, 13 times higher than that recorded between the 2000 and 2001. With this positive trend, at June 2004, 10.5 million children and young people were involved in the education system, and 8.6 million of them were in the state sector.

The achievements in the increase in the number of places are due to progress in the reorganisation of the sector, and the incorporation of additional resources. With the reorganisation, there is a better use of human, technical and financial resources, which modified the pupil/teacher ratio from 26.7 in 2000 to 28.6 in 2003, and 29.3 in 2004.

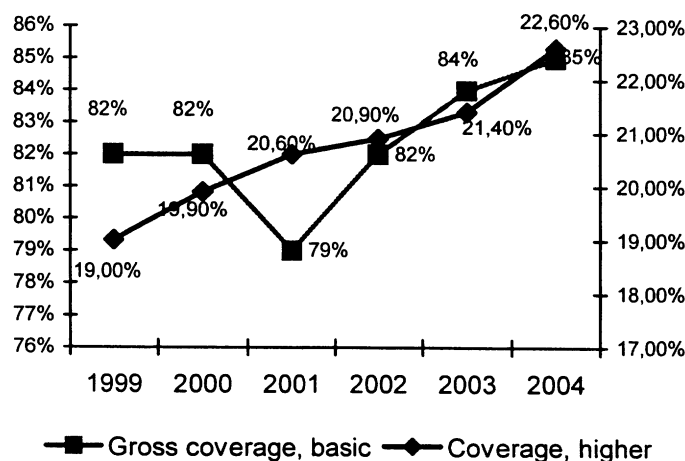
With the additional resources, in particular those from the Royalties Fund (FNR), and the Rural Education Programme of the Ministry of Education, more than 93,000 students have benefited in 2004, and more than 231,000 have benefited since August 2002. At the same time, support has been given to regional governments for infrastructure projects and the equipment of schools (Law 21/82) and programmes for the expansion of coverage for the vulnerable population (indigenous groups, the displaced, the rural population, and handicapped children) with which 87,000 pupils have received benefits in 2004, and more than 187,800 since this Administration took office.

⁵ The growth in enrollments between 2002 and 2003 was 509,987 places: 477,598 new places and 32,389 new registrations of former students.



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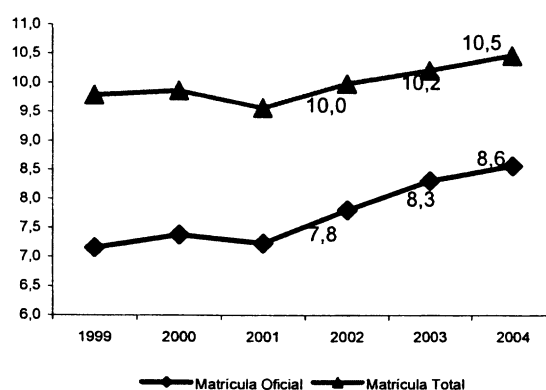
COVERAGE IN BASIC AND HIGHER EDUCATION



Source: Ministry of Education

Enrolments in basic education (million pupils)

With 734,000 new places, the growth in enrolments between 2002 and 2004 shows that in effect, that has been a new dynamic in the generation of places.



Source: Statistics National Department DANE

In the same way, programmes have been implemented to reduce late starters or over-aged children, in order to secure places for boys and girls of normal school age.

In the matter of free education, the Colombian State has regulated the effective application of policy of free education, taking care to preserve certain basic criteria of equity. The State bears all the costs of staff, and additional resources for the operation and quality of education. The law establishes that the families who are in a condition to contribute certain minimum amounts for



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the maintenance or improvement of the school infrastructure should do so. It is the responsibility of regional education authorities to regulate school fees for State school establishments, and to set complementary costs, at all events guaranteeing that the lack of ability to pay is not a reason for exclusion from the system.

During 2005, the Ministry of Education will conduct a study which will obtain preliminary information about the number of programmes which exist in regional terms, about free education in practice, and the number of beneficiaries.

In the area of the adult literacy, 84,100 individuals benefited in 2003, and 68,545 in 2004, which is an advance of 32% of the target for the four-year period. In terms of the illiteracy rate, there has been a fall of 1.7 percentage points for the national total, a result which is principally explained by the inevitable reduction in rural areas, from 22.2% to 17.9%.

Illiteracy among the over 15's

	1997	2003	Variation
National total	9,6	7,9	-1,7
Population centres	5,3	4,7	-0,6
Rural	22,2	18,0	-4,2

Source: Planning National Department DNP

With regard to higher education, the government target is to create 400,000 places during the four-year period. At June 2004, more than 69,000⁶ had been created, giving a total of around 104,000 new places since August 2002. With these new places, the total enrolment (public and private) was more than 1,104,000 pupils.

These results have been obtained in part due to the Institute for Educational Credit and Technical Abroad Studies (*ICETEX, Instituto Colombiano de Crédito Educativo y Estudios Técnicos en el Exterior*) loan programme for students from low income families. During this administration, through the ACCES project, ICETEX has approved 52,303 loans, of which more than 41,000 have been formalised, i.e. 52%, and 41% of the target is for the four-year period respectively. of these loans, 20 614 were granted in 2003 and 26,289 in 2004. In 2005 to date, 5,251 new loans have been approved.

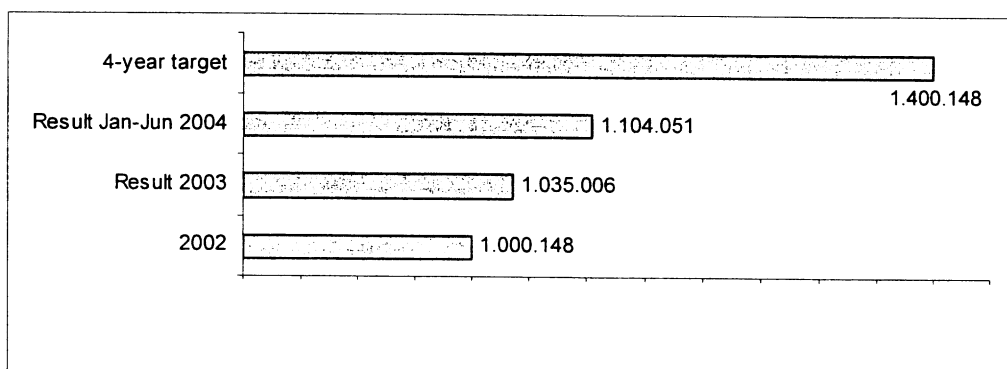
Another of the elements which has contributed to the increase coverage of higher education is the modernisation of the management of higher education institutions. In this area, 43 agreements have been signed between institutions in order to optimise human, physical and financial resources, offering academic programmes which are relevant to the regions.

ENROLMENT IN HIGHER EDUCATION

⁶ 36,809 are new students in higher education institutions and 32,236 to new Apprenticeship National Service (*SENA, Servicio Nacional de Aprendizaje*) students in technical and technological areas.



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Source: Ministry of Education

In relation to quality, the other objective of the educational revolution, one important element has been the introduction of quality testing for more than 2 million students of 5th and 9th grades in the areas of language, mathematics, natural sciences, and civic abilities in 1,098 municipalities. From August 2002 to date, 1.8 million such tests have been applied, 1.3 million of them in 2003.

With regard to the Colombian Institute for Promotion of Higher Education (*ICFES, Instituto Colombiano de Fomento a la Educación Superior*) tests, more than 420,500 students were evaluated in 2003. The results show a favourable trend with improved performance in language and mathematics. As a compliment to the evaluation of students, there were performance evaluations of 30,830 teachers and managers in the sector. These evaluations formed the baseline of quality in education with which the government and educational institutions will be able to direct their planning and improvement processes with verifiable targets, and focus the sector on concrete results.

At the same time, ICFES held 50,900 examinations for higher education quality (ECAES) for students in their final year and graduates from 27 undergraduate programmes in sciences in health sciences, social sciences and human sciences, engineering, architecture, and agronomy. In 2004, ICFES evaluated students of 15 additional basic nuclei of knowledge, in addition to those of 2003, and in 2006, evaluations should cover 63 nuclei.

With regard to the quality of higher education, in the framework of the Quality Assurance System, the National Quality Assurance Commission in Higher Education was created (CONACES) and accreditation of high quality was granted to 113 new programmes during the period of this administration. This brought a total to 238 accredited programmes, which is 40% of the target for the 4-year period.

In relation to the efficiency of the sector, the government has promoted compliance with Law 715 of 2001, and as of 2004, funds for education in the Central Budget will be distributed by pupil served, in accordance with the real comportment of the system, and with criteria of equity. This means that there will be incentives for regional education authorities to orient their efforts in



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order to improve their coverage indicators and quality. Likewise, this government has introduced a system of indicators to make evaluations and comparisons in performance and results of public universities, as the basis for distribution of government transfers among them, in accordance with the comportment of their performance indicators, academic needs, and research requirements.

In regard to science and technology, although there are budget limitations, this Administration has managed to raise the number of researchers per million inhabitants from 125 in 2002 to 180 in 2003, 62% of the target for the four-year period. Further, 148 individuals have received benefits for their doctoral programmes in Colombia, and 84 in Masters and doctoral programmes abroad, and support has been given to 216 young researchers. In addition, and in order to consolidate the scientific community, 809 of the 1,725 registered research groups were recognised.

Amongst other results which deserve mention, there is, on the one hand, the delivery of 25,000 computers to more than 2,500 primary schools and secondary schools in the state sector through the program "computers for education" which has benefited 816.000 pupils, and more than 31.000 teachers during this Administration. On the other, Col\$ 134,702 million (US\$56.3 million) have been placed in loans by FINDETER (*Financiera para el Desarrollo Territorial*), for the improvement of the education into infrastructure, which is 43% of the target set for 2006 of Col\$ 315,000 million (US\$131.8 million). Finally, more than 100.000 individuals were attended to in 2003, and more than 180,000 in 2004, in the national sports and recreation programmes, and 31 sporting infrastructure projects have been performed, out of a total of 135 planned for the four-year period.

Further, as part of the National Libraries Network, 199 libraries were strengthened and equipped in 2003, and 150 more in 2004, which is 70% of the target for the four-year period. In addition, 92 bands were created in 2003, and 97 in 2004, out of the total of 300 which is the target for this Administration. Likewise, 5,009 places were created in 2003, and 5,462 in 2004 in the Music Centres (*Batuta*) for vulnerable and displaced children and young people.

In the area of the efficiency of the education system, the results show that 42 Departmental and Municipal Education Offices have started on reengineering processes, and 41 of them started this in 2004. This represents 42% of the target set for the four-year period, i.e. 100 local education offices.

Employment

In 2004, the average annual unemployment rate was 13.6%: 0.5% down on 2003. Comparing the data for the 4th quarter of 2003 with the same period of 2004, the rate of underemployment fell from 33% to 31.4%, which is a clear reduction in the underemployed population (a reduction of rather more than 400.000 individuals between those two quarters), and is also evidence of a formalisation of the employment market.

The unemployment rate for 2004 was 10.6% for men, and 17.7% for women, which is lower than the level recorded for 2003. One important fact to analyse is that during 2004, the participation



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of the young in the employment market was reduced, since the young have returned to their studies. This has occurred due to the continuous decline in the unemployment rate among heads of households since 2003 —down from 7.7% in 2002 to 6.8% in 2003 and 5.8% in 2004—, with which household incomes have risen.

These results indicate that economic growth has had a favourable effect on the comportment of the employment market, since it has reduced the rate of unemployment, and it has persuaded a group which had to leave the education system during the crisis at the end of the previous decade, to enter the employment market, to return to the education system, since there has been an effect on household income, which allows the education of the young to be sustained. Thus, there were good results in the employment market for 2004. This is a very important fact, if it is noted that the comparison is with 2003, which was also a very good year in terms of employment indicators.

Health

Inequalities in health can be measured from the point of view of increased coverage, access to services, and financial protection in the framework of the model of the health system developed and implemented in Colombia.

From the point of view of coverage, the Government has raised affiliations with a full subsidy is from 11.8 million in 2003 to 13.7 million in 2004. The effective increase was 1.8 million individuals. It should be noted that in 2001, the expansion of the subsidised regime was around 1.6 million, 300,000 in 2002 and in 400,000 2003,.

Further, in 2004, places with partial subsidies were increased by 1.7 million individuals, which gives a final total result of 15.5 million individuals affiliated to the subsidised regime. It can be concluded that the effort in terms of the guarantee of coverage has been really important in 2004.

From the point of view of access, the statistics show that the individuals affiliated to some kind of Social Security for health have a high probability of being attended to than those who do not have insurance.

From the point of view of financial protection, the affiliates of any regime of Health Social Security (with insurance) have greater financial protection, since the expense per patient diminishes significantly for the affiliates, in comparison to non-affiliated.

If indeed the government recognises that there are inequalities in the matter of health, there has been significant progress in reducing that. The Poverty Mission showed that one of the best focused subsidies was that given through the subsidised regime, and this ratifies and validates advances in coverage achieved by quintile of income, based on the results obtained in 2003.

Finally, the government has intervened in the hospital network, in order to improve the efficiency of expenditure, improving management and quality of attention. In 2004, it was invested



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Col\$189,000 million (US\$79.08 million) in 12 departments and 72 hospitals. This situation will contribute to better access for the poor who are not affiliated to health services.

Health goals are basically founded on advances towards the universalisation of coverage: increased efficiency, through the improved use of resources which will guarantee an appropriate provision of health services: advances towards integral health care, from prevention to cure and recovery from sickness: and the achievement of better levels of solidarity, to guarantee the quality of opportunities in order to optimise the state of health of the population, especially the poorest sectors.

In order to advance towards universal coverage, progress must be made with the following strategies:

- Reduction in evasion and avoidance of the contributory regime, through a definitive and single system of registration and collection, and a single Social Security number, as instruments to control contributions to the system.
- Construction and implementation of alternatives for affiliation to the contributory regime or the subsidised regime, for independent workers not in the poorest groups.
- Increase in affiliations to the contributory regime as a consequence of the reduction of informality of the occupied population.

Also, in order to improve the management and efficient use of resources in the health sector, the following strategies must be deepened or implemented:

- Transfer of subsidies from offer to demand: based on the modernisation and restructuring of the public hospitals, it is intended that the capacity of those institutions will be increased, in order to finance the structure of spending based on the sale of services, such that there can be a reallocation of resources to subsidies, which will expand coverage of the subsidised regime.
- Effective contributions from the nation and regional agencies.
- Adjustment and consolidation of regulation and supervision of private agents in the health sector, in the matter of financial conditions and quality of attention.
- Consolidation of the implementation of the integrated information system for health: information is to become a necessary element to improve the efficiency of the health sector, especially taking account of the fact that information in matters of epidemiological profiles, use of services, the unit cost of services amongst other things, is a decisive factor in total spending in health, and thus, essential for the construction and definition of appropriate incentives for the efficient use of the sector.

Housing

In the matter of the rights to housing, it should be noted that during 2004 there was an upswing in the allocation of subsidies by entities involved in the Social Interest Housing policy (VIS) which



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financed 106,000 social interest units (30,000 more than were financed in 2003) with a total investment of close to Col\$1 billion (US\$418.4 million). Also National Housing Fund (FNV, *Fondo Nacional de Vivienda*) allocated 14,600 housing subsidies to families displaced by violence; and 96% of FNV funds are destined for households with incomes lower than the minimum monthly salaries. Ministry of Environment, Housing and Territorial Development, is making efforts to ensure that 100% of households pre-selected for the housing subsidy obtain the additional financing required.

Another important advance was the implementation of the *Findeter Rediscount Line* for housing micro-loans, which has approved limits for Col\$ 275,000 million (US\$115.07 million), through 36 entities, to provide financing for more than 32,000 low-income families. Thus, under an agreement signed by the government with the financial and cooperative sector, the banks and cooperatives disbursed Col\$ 316,000 million (US\$132.23 million) in 2004, for Type 1 and Type 2 VIS.

These government measures have had a positive impact on the activities of Social Interest Housing Construction. According to DANE information, the area licensed for this sector of the market increased by 12% in 2004, and the area of housing for social housing increased 7% during the 3rd quarter compared to the same period in 2003.

Statistics with a gender focus

On the occasion of the commemoration of the 10th anniversary of the approval of the Beijing Declaration and Action Platform for Women, DANE has proposed strategic first-order objectives, in order to identify specific advances, commitments, difficulties and realities which will make the situation of Colombian women more visible.

DANE is aware of the importance of this issue, both in the world of social sciences, and in the area of public policy, and has started work on the development of statistical systems with a gender focus, with the sole object of monitoring the situation of women compared to that of men. This work will produce reliable and useful information for planning processes, and in the design of public policy and the management of development programmes.

The Gender Programme which is currently being developed by DANE aims to consolidate work which has been done jointly with other State entities, of making the issue of statistics more visible with a focus on gender, transversely, through the production and analysis of statistics and indicators which will enable policies with a gender content to be formulated, implemented and evaluated.

In this context, DANE has made its first analysis of five statistical products, with an emphasis on this focus. They were: the ongoing household survey (2000-2003) in which the central emphasis was the gap in salaries and discrimination against women in the employment market; the quality of life survey (2003) which placed emphasis on men and women heads-of-household; the municipality of Soacha experimental census (2003) which analysed the structure of households and displacement caused by armed conflict; and the census of street people in Bogotá and Medellín (2001 and 2002), in which work was done to compare the two cities. These results



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appear in the publication of DANE-UNDP "The gender perspective: an approach based on DANE statistics".

With this type of work, DANE seeks to obtain valuable information regarding economic, social and cultural conditions of the population, starting with the theme of statistics with a gender focus. The government considers that it is essential to have an information system that will allow the collection, systematisation, definition and construction of gender indicators in order to make analyses and inferences on the information collected, and detailed work must be done as a tool for public policy, which will assist social and productive sectors, the academic world, civil society, and the community in general.

Therefore, and considering that the information is not only necessary in order to speed up and improve procedures, but also that it has important strategic value in the process of decision-making and the monitoring of public policy, the decision was taken to incorporate the gender focus into the 2005 General Census, which will begin in May 2005, and will enable trends to be measured and appreciated in matters which represents typical concerns of society.

In addition to being an opportunity to count the population, it will also serve to determine conditions of quality of life, and how it has evolved in the exercise of such vital tasks as gender equity, through three questions which will allow work to be done in this field: female heads of household, rural woman, and sexual health.

5. The promotion of a culture of human rights

The Ministry of Education, as the senior institution in the education sector, has been participating in the Technical Committee formed to orientate and provide follow-up for a project of preparatory assistance, led by the Office of the Ombudsman with co-operation funds from UNDP. With the technical assistance of the Colombia Office of the United Nations commissioner for human rights, support has been given to consultants to deliver a first version of the National plan for education in human rights, and a draft proposal for guidelines in teaching techniques. Special mention must be made of the technical support of the Office of the United Nations High Commissioner human rights, in particular for the formulation of the proposed plan.

In the first six months of 2005, there should be a review and adjustment of the proposal for the National Plan and pedagogical aspects, and in the second half, the Ministry of Education expects to initiate the implementation of a pilot activity to validate and adjust the pedagogical proposal with some five regional entities, in order to produce a programme of education in human rights for formal education, articulated in the framework of the plan of civic abilities, which is being disseminated and implemented across the country, and is supported by the formation of the subjects of rights, in accordance within the areas of competency of the Ministry of Education, and with the sector.

The Office of the Vice President has also been taking part in this process and proposes to call on public and private institutions, and nongovernmental organisations and organisations from civil society to set targets, and specify resources and commitments for the implementation of the plan.



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6. Advice and technical cooperation from the Colombia Office of the United Nations High Commissioner for Human Rights

The State as a whole has been making good use of the capacities, knowledge and experience of the Colombia Office of The United Nations High Commissioner for Human Rights. Institutions such as Congress, the Office of the National Prosecutor, the Office of The Attorney General, the Office of the Ombudsman, and several government entities have enjoyed the benefits of technical and financial cooperation from that Office.

II. THE SITUATION OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

One objective of the Observatory of the Presidential Programme For Human Rights And International Humanitarian Law is to form a public system of public information system of violations of human rights and offences against international humanitarian law. Another objective is to supply the government and society in general with accurate and prompt information on the human rights situation in Colombia, by Department, Municipality, sex, persons responsible, age, and activity of the victims.

The conceptual definition of the variables is born of the definition established for them in international or internal norms, or is adopted from the primary source of information.

With regard to the variables of torture and forced disappearance, both have been covered in the annual human rights report for 2004. At present, the Observatory of the Presidential Programme For Human Rights And International Humanitarian Law, of the Office of the Vice President, is in process of building up databases, and has created a system of contrasted sources (SFC) from victims of torture and forced disappearance, which has so far collected information from the daily bulletins of DAS, the press log book of the Observatory, and cases recorded in the magazine *Noche y Niebla* of CINEP⁷. In cases of torture, record 234 incidents from January to October 2004, and 235 for the same period of 2003. In relation to forced disappearance, the record between January and October totals 184 cases, 27% less than those for the same period of 2003.

With regard to extra-judicial execution, the Observatory is also constructing a database which includes this variable. It is hoped that there will be an embryo database in about six months. The definition of this form of violence is being taken from international instruments in order to set it up.

At present, the Observatory makes monthly records of the following variables, with the level of detail provided above: homicides, homicides by vulnerable groups — teachers, union leaders, members of indigenous communities, local officials and journalists— kidnaps, accidents from antipersonnel mines, attacks on public infrastructure (offences against international humanitarian law), massacres, and forced displacement. In addition, it considers the intensity of armed

⁷ Human Rights Non-governmental Organisation



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confrontation, including actions such as: hijacks on the roads, ambushes, acts of terrorism, harassment, raids on villages, attacks on premises and combat.

IV. RECOMMENDATIONS 2005

The State will, in conjunction with the Office of the United Nations High Commissioner for Human Rights, examine the scope and mechanisms to evaluate and implement the Recommendations, and will make its observations in due course. The Recommendations required a shared analysis in order to facilitate work on them.

The Colombian State understands the process of preparation of the Recommendations, as well as the OHCHR's spirit in their formulation, but appeals to an understanding of its active role in their analysis and adoption.

Also, the State will continue with the process of public evaluation with organisations and sectors of civil society interesting in the implementation of the Recommendations and in the human rights situation in Colombia.

This review will be made in a constructive, broad, and open spirit, and as part of a quest for the common purpose of securing guarantees and protections of rights for all persons in Colombia. The international community may be sure of the will, the commitment, and the decision to guarantee rights and freedoms in Colombia, and of the gratitude of the Colombian people to those who sincerely accompany them in this purpose.