NATIONS
UNIES

E

Conseil économique
et social

Distr.
GÉNÉRALE

E/CN.4/2006/G/11
27 mars 2006

FRANÇAIS
Original: ESPAGNOL et ANGLAIS

COMMISSION DES DROITS DE L'HOMME
Soixante-deuxième session
Point 3 de l'ordre du jour provisoire

ORGANISATION DES TRAVAUX DE LA SESSION

Lettre datée du 20 mars 2006, adressée à la Haut-Commissaire des Nations Unies aux droits de l'homme par la Représentante permanente de la Colombie auprès de l'Office des Nations Unies à Genève

J'ai l'honneur de vous faire tenir ci-joint, pour transmission à la Commission des droits de l'homme à sa soixante-deuxième session, la réponse* du Gouvernement colombien au document portant la cote E/CN.4/2006/9, daté du 20 janvier 2006, reproduisant le Rapport de la Haut-Commissaire des Nations Unies aux droits de l'homme sur la situation des droits de l'homme en Colombie.

L'Ambassadrice,
Représentante permanente
(*Signé*) Clemencia **Forero Ucros**

* Reproduite en annexe telle qu'elle a été reçue, dans les langues originales seulement.

GE.06-12022 (F) 040406 050406

Annex

OBSERVATIONS OF THE COLOMBIAN STATE TO THE REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS - 2005

EXECUTIVE SUMMARY

---

1. Presentation

The Colombian government thanks the United Nations High Commissioner for Human Rights and its office in Colombia for the preparation and presentation of the Report on the situation of Human Rights and International Humanitarian Law in Colombia during 2005, in accordance with its mandate; but regrets that it has made the Report public unilaterally, and before discussing it with the government, as has been a tradition since the first report was prepared in 1998.

The government considers the recognition which appears in the Report is positive, in relation to the progress in protection, implementation of recommendations, the quest for peace, the passage of framework laws, the ratification of international treaties the formulation of the National Plan for Human Rights Education, in the midst of adverse conditions caused by the illegal armed groups. It finds that the considerations regarding the presence of the army and the police across the country are equally positive, as an element that guarantee security and the rights of Colombians.

The report also recognizes greater observance of jurisprudence on the restrictive interpretation of military immunity, and the decision of the Colombian Constitutional Court which declared a provision of the new Criminal Procedure Code unconstitutional, in permitting the Prosecution Service to make arrests without a court order, in exceptional cases.

The government also draws attention to the condemnation of the constant disregard and violation of humanitarian law by the illegal armed groups.

2. The situation in Colombia, and the evolution of the conflict

With regard to the points in the Report of the High Commissioner, the government considers that the following points should be raised:

- The legislative process of Law 975 (the Law of Justice and Peace). The government stresses that this process took place in a context of broader debate, in which spokesmen for Colombian civil society took part; and that

the law seeks to harmonize the interests of peace with the rights to truth, justice and reparation of victims, as broad sectors of the international community have recognized.

- The political debate with regard to the Constitutional reform which introduced the possibility of reelection of a President for an immediate second term. It should be explained that the reform does not require the reelection of the current President, as a reading of the Report might imply, but it takes up a custom adopted in many democracies to give continuity to the performance of an administration which the electorate consider to be positive.

- The increase in attacks by the FARC on the civil population, and particularly on local government officials, with total disregard for humanitarian law.

- The negotiations with self-defence groups. If indeed, these negotiations had their problems, as the Report indicates, no mention is made of the positive fact that 10.179 men have laid down their arms in 2005, and 22.290 since talks began, and that therefore there has been a reduction in the capacity of these groups to commit acts of aggression against the population in general, and to make progress towards the achievement of peace for all Colombians.

- Decisions, in furtherance of government policy, to explore the possibilities of negotiations with the ELN.

- Action was taken against drug-trafficking. The government wishes to draw attention to the fact, contrary to the terms of the Report, that the results of these actions have been considered by the United Nations Office on Drugs and Crime in Colombia as "one of the largest continuous reductions in the world in recent history".

3. The situation of human rights and international humanitarian law

3.1. The situation of Human Rights

The government shares and draws attention to the appreciation contained in the Report regarding the fact that "serious violations do not form part of a deliberate State policy". It repeats that the application of the Democratic Security Policy and its components in the area of Human Rights and International Humanitarian Law - in the prevention of violations, protection for vulnerable sectors, attention to victims, the struggle against impunity for serious violations of Human Rights, and the generation of a culture of respect - has succeeded in reversing the trend of

deterioration of the principal indicators for the fundamental rights of Colombians, as can be seen in the Report. This can be appreciated in the chart below, which compares the situations between 2002 and 2005. Therefore, the persistence of a situation which the Report accepts as difficult cannot be described as a result of "the lack of both for recognition of the problems by the government, and of sufficiently relevant actions on the part of the authorities, which impedes correction of the difficult situation. In this way, certain practices of violation have become patterns of conduct."

EVOLUTION OF THE PRINCIPAL HUMAN RIGHTS INDICATORS AND OPERATIONAL RESULTS OF THE FORCES OF LAW AND ORDER

	2002	2003	2004	2005	Variation o the perio
Murders	28.837	23.523	20.210	18.111	-37,20%
No of Massacre victims	680	504	263	252	-62,94%
No of Massacres	115	94	46	48	-58,26%
Murders of union leaders	99	47	42	14	-85,86%
Murders of (former) Majors	12	9	15	7	-41,67%
Murders of councillors	80	75	18	26	-67,50%
Murders of members of indigen communities	196	163	85	49	-75,00%
Murders of Unionized teachers	97	54	47	27	-72,16%
Murders of non-unionized teach	N.D.	N.D.	20	16	
Murders of journalists	11	7	3	2	-81,82%
Kidnaps	2.885	2.122	1.440	800	-72,27%
Forced displacement	424.153	220.189	162.109	141.266	-66,69%
No of Events with antipersonne mines and unexploded ammuni	948	1.391	1.855	1.422	50,00%
No of wounded by antipersonne mines and unexploded ammuni	487	556	668	738	51,54%
Deaths caused by with antipersonnel mines and unexploded ammunition	142	170	206	280	97,18%
Attacks on villages	32	5	4	5	-84,38%
Attacks on communications tow	62	19	2	4	-93,55%

	2002	2003	2004	2005	Variation o the perio
Attacks on transmission towers	483	329	127	226	-53,21%
Attacks on bridges	100	33	7	16	-84,00%
Attacks on highways	248	113	134	79	-68,15%
Attacks on water supplies	12	3	1	0	-100,00%
Acts of Terrorism	1.645	1.257	724	611	-62,86%
Demobilizations from self-defen groups		694	1.269	1.105	
Guerrillas demobilized	1.412	1.844	1.703	1.463	3,61%
Combat casualties among self-defence groups	187	346	558	322	72,19%
Members of self-defence group captured	1.356	3.166	4.836	2.967	118,81%
Guerrilla combat casualties	1.690	1.919	1.962	1.870	10,65%
Guerrillas captured	3.763	6.967	6.266	5.126	36,22%

Source: Processed by the Human Rights and International Humanitarian law Observatory.

In relation to the evaluations made by the Report with regard to the effects of the cessation of hostilities with the self-defence group in the area of Human Rights, the government considers it relevant to quote the Report of the OEA Mission on the evaluation of the cessation of hostilities. That report states that "*in those zones where the armed structures have been disbanded, there has been a substantial decrease in indicators of violence. This shows the importance of demobilisations in achieving compliance with the cessation of hostilities, and supports the statement which the Mission has repeatedly made in relation to the concentration and demobilisation of troops as being the only way to verify compliance with the cessation of hostilities.*"

3.1.1. The exercise of civil and political rights

The President of the Republic, and the high command of the armed forces and the police, have given clear and constant instructions for all their members to perform their duties in observance of the Constitution and the law. At the same time, and following the decision of the Constitutional Court, the military criminal justice system refers alleged violations of Human Rights to the ordinary courts.

In relation to arbitrary detention and searches and violations of due process, the Prosecution Service, through its National Directorate, maintains control and follow-

up of investigations in which five or more persons are arrested.

In relation to the struggle against impunity for violations of Human Rights, it should be noted that in 2005, by order of the Human Rights Unit of the Prosecution Service, eight army officers, nine junior officers and two professional soldiers were suspended from duty. Further, the Office of the Procurator General dismissed one captain and three junior officers from the army, and these decisions were promptly implemented by the high command, through administrative acts. It cannot be ignored (although the Report does so) that a policy to struggle against impunity for serious violations of Human Rights has been adopted by the Special Committee for the Intensification of Investigations of cases of serious violations of Human Rights.

It should also be clarified, in response to statements made in the Report, that members of the self-defence groups who have been the beneficiaries of a pardon, or a decision to terminate their cases, or cessation of proceedings for political crimes or related crimes by virtue of Law 782/2002, are not thereby relieved of criminal responsibility accruing to them from other punishable conduct in which they have taken part. This responsibility is examined by the procedure provided in Law 975/2005, or that provided in laws in force at the time the conduct was committed, if the requirements of Law 975 are not met and that law is not applicable.

With regard to the information in the Report on the violation of freedom of expression, and the threats and risks faced by communicators, the government points to a reduction in the murder of journalists by 81.8% between 2002 and 2005; to the existence of a Risk Evaluation Committee for journalists, in the context of the protection programs; and to the permanent exercise of criticism by the media, as evidence of the freedom of expression. The foregoing does not ignore the risks and threats of the illegal armed groups of which journalists are the victims.

3.1.2. The exercise of economic, social and cultural rights

Poverty and disparity. The government has achieved positive results in reducing poverty and indigence, and as part of its commitment to combat these problems, it has formed a mission for the design of a strategy to reduce poverty and disparity. The poverty index in Colombia currently stands at 49.2%, which is indeed high, but represents a reduction of 8.2 percentage points during this government, and the percentage of those below the indigenous line has fallen by six percentage points.

Disparities have also been reduced, the Gini index for 2005 is at 55.3%, which is lower than the level of 57.4% recorded in 1996.

Employment and economic growth. According to DANE official statistics, the total national unemployment rate was 11.7% average for the year, and 10.4% for December. This means an increase of 494,000 in the numbers of employed, and a reduction of 361,000 in the numbers of unemployed, in comparison to 2004. The rate of underemployment has fallen to .seven percentage points compared to

2002.

Between 2002 and 2005, on average between January and September, the number of jobs created was 1.35 million, of which 58% were created for labourers or employees. In the course of the present administration, some COP 9.7 billion in loans have been placed, of which COP 4.4 billion were in the agricultural sector, and COP 5.4 billion in the urban-SME sector.

Education. 350.602 new places were created in 2005. Since 2003, more than one million places have been created, and 457,187 vulnerable pupils have been inserted into the system (those from indigenous communities, the displaced and rural populations, and handicapped children). In 2005, more than 150,530 young people and adults received services, bringing the total to more than 300,000 since the beginning of 2003.

In 2005, 926 projects were financed in 73 regional entities for a total value of COP 235,000 million, for the expansion of educational infrastructure through funds from Law 21/1982; the regional development fund FINDETER placed loan funds for COP 30,530 million.

Health. In 2005, the total coverage in affiliation (in contributory, special and subsidised regimes) was 68.8%, and therefore the 31.2% of the population not included in these regimes is a population which has been engaged in the system.

The processes of reorganisation and redesign of the service provider networks have been developed to improve access, quality and efficiency in the provision of services as a function of system users.

Housing. The institutions involved in the social housing policy have allocated a total of 227,894 subsidies and 51,324 loans between August 2002 and October 2005. Thus, during the present administration, support has been given to finance and construct 279,218 social housing units (70% of the overall target) with an investment of COP 2.7 billion.

Through the housing finance fund Fonvivienda, 17,781 subsidies have been allocated for the displaced (20% of the total), 8,979 subsidies for the victims of natural disasters, and 1,661 to the victims of terrorist attack. Within the program for ownership of property, the government has delivered 24.881 deeds in urban areas, and is in the process of allocating 18.000 subsidies for processes of legalisation of title.

3.2. Overview of International Humanitarian Law.

The government draws attention to the recognition which the Report gives to the persistence of serious breaches of International Humanitarian Law by the illegal armed groups, particularly FARC, and which mostly affect the civil population. It also highlights the reference made to the commission of terrorist acts by these organisations.

The Report recognises the difficulties arising in the process of demobilising the

self-defence groups, especially with regard to compliance with the cessation of hostilities; but it repeats the importance of this process to the extent that it contributes to a significant reduction in the use of weapons against Colombians, and a favourable evolution of the Human Rights situation in areas in which the self-defence groups operated prior to demobilisation.

The government considers that the Report's presentation of the actions of the forces of law and order, limited strictly to cases of violations of Human Rights, might lead to a mistaken reading of the general comportment of those forces. The recovery of territory through an intensification of offensive operations, their presence in all municipalities, protection for society and the electricity and economic infrastructure, together with a reduction in the number of complaints received by the Office of the People's Defender regarding violations of International Humanitarian Law, are all part of the context too, and would lead to a different reading than the Report might suggest. However, some of the denunciations, especially those referring to sexual violence against women, do not have even the minimum support required to conduct an investigation of the facts.

4. Challenges in the face of demobilisation and the legal framework.

A legal framework has been promulgated as part of objective to secure peace; this legislation is in accordance with international norms on Human Rights and International Humanitarian Law, with regard to the rights of victims, without ignoring the rights of those accused, and at the same time providing the stability required to advance peace processes successfully with members of the illegal armed groups. Therefore, as a complement to Law 782/2002, which extended the validity of Law 418/1997, Law 975/2005 was issued, for application to the members of illegal armed groups who do not qualify for the benefits established in Law 782.

Law 975/2005, also known as the Law of Justice and Peace, is intended to refer to the demobilisation of those involved in the commission of serious crimes. It has an exceptional nature, since it is not a law for times of normality, but a law to encourage a cessation of the violence caused by the illegal armed groups. It should be noted that, in harmony with the mandate of the Constitution and international instruments, the application of this law does not include the legal benefits provided for in Law 782/2002, including a pardon. Instead, there is the position of alternative sanctions, consisting in effective deprivation of freedom for 5-8 years, depending on the contribution effectively made to national peace.

Those who take recourse to Law 975/2005 may have access to the benefits of the same, subject to their efforts and collaboration in the interests of winning national peace. In addition, for the application of those benefits, consideration must be given to the gravity of the crimes committed and the effectiveness of the cooperation offered to the clarification of events, thus maintaining the balance between two higher values (Article 2, the Purposes of the State, and Article 22, the Right to Peace), enshrined in the Constitution.

The government must submit a list of candidates for access to the procedures of the Law of Justice and Peace to the Prosecution Service, for relevant investigations to be made. It is the responsibility of the appeal court of the judicial district to impose the related penalties.

For the clarification of historical truths, Law 975/2005 provides a number of alternatives: it establishes the creation of the National Commission for Reparations and Reconciliation, it requires that processes advanced within the framework of that law will not exclude the future application of other non-judicial mechanisms for reconstruction of the truth, and contains a duty to preserve records of historical memories, including the causes, developments and consequences of the actions of illegal armed groups.

In relation to the victims, the Law of Justice and Peace presents a broad definition of their characteristics. In addition, Regulatory Decree 4760 states that victims include those who have suffered from forced displacement are due to punishable conduct committed by members of the illegal armed groups. The victims may play an active part in the proceedings provided for in Law 975/2005, contributing evidence, requesting information, cooperating with judicial authorities, and being notified of and disputing decisions adopted in such cases; in short, they may take part throughout the criminal process.

At the same time, protection is provided to the intimacy and safety of victims by the Prosecution Service, and the Judicial Procurators for Justice and Peace are required to ensure that the competent authorities provide appropriate attention to the special needs of women, children and adolescents, and to the handicapped or elderly who take part in a case, and for the recognition of victims of punishable conduct which violates freedom, integrity and sexual formation.

It should be noted that the regulatory Decree also conditions access to the legal benefits in the Law of Justice and Peace to total cessation of such conduct in the cases of forced disappearance, kidnap, forced recruitment, the taking of hostages and other crimes of successive execution, either by providing information on the whereabouts of the victims, or releasing the victims of kidnap or forced recruitment.

Verification of the cessation of hostilities

- The State has taken comprehensive measures to enforce the cessation of hostilities in all parts of the country. So, among the requirements of Law 975 for eligibility of individual or collective demobilisation, there is the cessation of all unlawful activities, and any hostile comportment is considered to be unlawful. In other words, the law does not apply to those who violate the cessation of hostilities. In addition, any crime committed after the effective date of the Law of Justice and Peace in the context of a violation of the cease-fire, will be judged in the terms of ordinary criminal justice, and not under Law 975/2005.

- With regard to executive and judicial measures, the government has

expressed its energetic rejection of those who have acted against the cessation of hostilities from the benefits offered in legal process and its political will to exclude them.

Paramilitarism

With regard to the territorial control which, according to the High Commissioner's report, the self-defence groups exercise over national territory, the government draws attention to two important points which have not been evaluated by the Report. One is a reduction in the incidence of crime in the areas cleared by the demobilisation of self-defence blocks, and the other is the constant series of attacks made by the forces of law and order against the structures of those groups.

With regard to the first point, in areas where demobilisations have taken place there has been a reduction in displacement, other armed illegal groups have not re-occupied the areas, and there have been no collective murders or kidnaps. Nonetheless, some individual murders have been reported in Antioquia, and in the cities of Bogota, Cali and Medellin, and there have been some kidnaps and cases of extortion which, although fewer in number, have in some cases been significant.

With regard to military operations against members of the self-defence groups, there were 3,166 of them captured and 346 casualties inflicted in combat in 2003, 4,836 captured and 558 casualties in 2004, and 2,967 captured and 322 casualties in 2005.

Minors disengaged from the conflict

With regard to minors disengaged, it should be noted that, contrary to the statement of the High Commissioner's Report that the number of minors demobilised is not known, the programme for attention to children and adolescents disengaged from irregular armed groups between November 1999 and December 2005 has attended to 2,685 minors under 18, and there is information classified by gender, age, surrender of capture, and the group to which they belonged.

5. The situation of especially-vulnerable groups

In this area, the government wishes to highlight the statement in the Report which recognises the "persistent indifference to humanitarian principles" on the part of the illegal armed groups, affecting the Human Rights of especially vulnerable sectors.

Although the government recognises that there is still much to be done to achieve the full validity of Human Rights for all Colombians, it wishes to draw attention to the following facts, which are in contrast to some of the appreciations of the Report:

- The positive evolution of indicators of Human Rights which show, as this document has repeated, that there has been protection for Human Rights Defenders, and preventive action has been taken to avoid violations of their rights. In effect, and in accordance with information processed by the Human Rights and International Humanitarian Law Observatory of the Presidential Human Rights and International Humanitarian Law programme, for the period 2002-2005, the decrease in homicides, detailed by vulnerable groups was as follows: 85.86%, for union leaders; 46.1 5% in Majors and former Majors; 67.5% in municipal councillors; 75.5 1% of indigenous communities; 72.1 6% of unionised teachers, and 81.8 1% in journalists. At the same time, the number of kidnaps recorded in 2005 was a reduction of 72.27% in comparison to figures for 2002.

- The mass media campaign "**Defend the Human Rights Defender**" and "**Human Rights, the best thing to do, DO IT FOR YOURSELF DO IT FOR EVERYONE**", which seeks to contribute to the strengthening of collective awareness of the importance of the legal, legitimate and necessary work which Human Rights Defenders perform in our society, and to the duty which we all have to join with them and support them against the actions of illegal armed groups.

- Circular 05/2005, from the Director of the Civil Service Department DAFP, addressed to all national, regional and local public servants, for the "verification of actions in prevention and improvement of the defence and protection of Human Rights by public servants".

- The adoption and implementation of the "comprehensive National Plan for attention to the displaced", approved by Decree in February 2005, the engagement of organisations of the displaced in national and regional working groups to discuss its execution, the significant increase in funds allocated to the needs of the displaced, and the formation of working groups to prevent displacement, along with increases in the processes of voluntary return.

- The implementation, with the support of international cooperation, of the project to attend to communities at risk in 12 regions.

- The identification, diagnosis and measures for special attention to ethnic groups under threat of extinction.

- Approaches to the formulation of concerted public policy on this matter, with the indigenous organisations

- Progress in the application of recommendations of the international

community to attend to the situation of vulnerability of the prison population

- Special attention to minors disengaged from the conflict, and to government action to protect children's rights by ICBF

- The issue of Law 985/2005, adopting measures to combat the white slave trade, and providing for attention and protection to victims.

- The adoption of the "affirmative action plan" of the Presidential Advisory Office for Women's Equity, which focuses action on low-income women, particularly heads of household, and encourages broad, direct and independent participation by women's organisations in various forms of consultation and concertation, in the framework of the promotion and protection of the Human Rights of women.

6. Public policy, and the implementation of recommendations

The Colombian government has constantly stated that the issue of Human Rights and International Humanitarian Law forms part of its principal concerns; that it has defined objectives in its Development Plan for 2002-2006, addressing prevention, and the dissemination of Human Rights and the protection of the same, and to comply with international commitments in this field; and, with the coordination of the Vice-President, it is executing policy guidelines which were made explicit and public since this government took office.

To a great extent, attention to the recommendations of the United Nations High Commissioner for Human Rights has been advanced by application of the guidelines mentioned, and, since 2004, follow up and implementation has been undertaken with the participation of the international community and organisations which represent civil society in the application of the consensus of London and Cartagena regarding international cooperation. The topic of recommendations has been defined as one of the four primary considerations with regard to the cooperation referred to, and in this respect regular reports are made to the follow-up commission of the consensus.

The government wishes to stress that in compliance with one of the Recommendations, it has prepared and presented to the international community, civil society, and the Colombia office of the United Nations High Commissioner for Human Rights, a schedule for implementation in 2005, and has reported on progress made in compliance.

The government understands the progressive nature of some of these Recommendations, and continues to make efforts to overcome the obstacles to implementation.

Mention should also be made of the fact that at least one of the Recommendations for 2006 has already been completed. As mentioned before, the Committee for the Intensification of Investigations of cases of serious violations of Human Rights has prepared a policy for the struggle against impunity, and this has recently been issued in a CONPES document.

Detailed information on each of the Recommendations is included in the text of the Considerations.

PRESENTATION

1. The Colombian State thanks the United Nations High Commissioner for Human Rights for the preparation and presentation of the annual report on the situation of Human Rights in Colombia during the year 2005. The progress recognised in the Report is the result of the application of the policy of democratic security, and of major institutional effort directed at the principal purposes enshrined in our Constitution, and in the international commitments assumed by the State.

2. However, the government of Colombia regrets that on this occasion, the Office of the High Commissioner has made its report public unilaterally and in advance, thus breaking a practice uninterrupted since the presentation of the first report in 1998, a practice which encouraged a prior exchange of views on content. The simultaneous publication of the Report and of the government's reply to it had previously allowed considerations on content to be expanded in parallel, and with due balance.

3. The Report highlights that the High Commissioner has taken into account the difficulties faced as a result of the actions of organised illegal armed groups against the civil population. At the same time, the Report records some of the efforts of the government to implement recommendations made by the High Commissioner in previous years, particularly those referring to the quest for peace through dialogue, in harmony with the political will of the government; the adoption of laws in the framework of thorough public debate; the ratification of international treaties; and progress in the preparation of the National Plan for Human Rights Education.

4. The report also recognises the financial strengthening of the protection programme of the Ministry of the Interior with funds from the central budget, and the adoption of special and urgent measures to protect the target population.

5. The report also records the performance of the forces of law and order in keeping the military initiative, and in maintaining a permanent presence in the major population centres and on the highways; and the work of the Air Force, which has taken a current of risks which the civil population might run when planning its operations.

6. The report also recognises the greater observance of jurisprudence on the restrictive interpretation of military immunity, and the decision of the Constitutional Court which declared a provision made in the new Criminal Procedure Code as unconstitutional, for allowing the Prosecution Service to make arrests in exceptional circumstances without court order.

7. Finally, there are numerous mentions of the failure of the illegal armed groups to implement recommendations made by the High Commissioner, or their commitment to the cessation of hostilities, and the Report states that drug trafficking, kidnapping and extortion are their main sources of funds.

8. Despite the foregoing, and taking account of the fact that some statements and evaluations made by the Report are presented and grouped together without reference to a historical context in which events occurred, and which do not articulate processes or policies of the government, the government wishes to express the following considerations with regard to the content of the Report.

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

---

9. The legislative process which was conducted in the Colombian Congress to approve Law 975/2005 was fully in accordance with the mandate of the Constitution and the law for the passage of this type of legislation.

10. At the same time, the initiative was the subject of major debates, involving different sectors of civil society and representatives of the international community, such as the public hearing held on 1 March 2005 in Congress, attended by the United Nations Commissioner for Human Rights, and distinguished representatives of civil society and the non-governmental organisations, amongst others. A constant topic of interest in the debates was the right of victims to truth, justice and reparations.

11. The legislature, exercising its powers to structure, design and determine criminal policy, applied them to Law 975/2005, with no other effect than to make the values and principles of the Constitution effective in obtaining and consolidating peaceful coexistence, and the validity of a just order (Article 2, Constitution).

12. In conclusion, the government wishes to make it clear that Law 975/2005 respects the mandate of the Constitution and the principles of international law, such as the rights to truth, justice and reparations for victims, at the same time as aiming to secure peace, one of the prime purposes of political organisation, and a supreme good without which people cannot enjoy their fundamental rights to the full.

13. With respect to the remarks by the Report on unlawful crops and drug-trafficking, the government shares the appreciation that these are the most important means of funding the activities of the illegal armed groups, and therefore continues to implement its policy to eradicate the crops and to combat drug-trafficking, using various different mechanisms to do so.

14. If the figures in this regard are presented in the correct context, the results have been expressly described as being "one of the largest continuous reductions in the world in recent history ", in the words of the United Nations Office on Drugs and Crime in Colombia.

15. The government has given priority to manual eradication in National Parks. For this purpose, the mobile manual eradication groups (GME) were formed, and during their first year of work, they cleared a world record of 31,285 hectares.

16. There are today more than 60 such groups in full activity, 34 of them in the La Macarena National Park, 12 on the frontier with Ecuador in the rural area of the municipalities of Tumacio and Llorente, five in Otanche, Boyaca, and 10 in the rural area of Balboa, Department of Cauca. The work of these groups will be continued through 2006, in order to achieve the target of 40,000 hectares cleared.

17. The police and the army also secure the areas in which the eradication groups are moving forward, and provide them with protection.

18. With regard to the occupation of rural properties by indigenous communities in the Department of Cauca, the commission created by the government to attend to this situation made a joint report with the representatives and leaders of the indigenous organisations in relation to compliance with the accords signed in 1991, with the conclusion that to date, 9,047 hectares had been acquired, and that a further 6,615 hectares were pending acquisition in order to achieve full compliance.

19. As a conclusion, a note of agreement was signed which highlighted the incorporation of COP 10,000 million into the annual budget for 2006 presented to the Colombian Congress, to be executed by the Ministry of the Interior and Justice (Ethnic Department), to implement the El Nilo accord, with a similar sum provided for fiscal 2007.

20. At the same time, it was noted that this total of COP 20,000 million would be increased by COP1, 320 million, budgeted for 2006, and now in execution by common agreement with the Indigenous Regional Council of Cauca (CRIC), to be used to acquire 777 hectares of land identified and presented by the association of indigenous councils of northern Cauca (ACIN) to the Ministry of Interior and Justice (Ethnic Department). The government, in conjunction with the departmental administration and the organisations in the indigenous communities, is engaged in permanent work designed to find solutions to problems of land raised by those communities.

II. THE SITUATION OF HUMAN RIGHTS, AND INTERNATIONAL HUMANITARIAN LAW

a. Conceptual definitions

21. With regard to the statement that "several violations and infringements are crimes of *laesa humanitas* or war crimes, and should be judged by the International Criminal Court", the government considers that it should make clear that it understands and accepts the existence of the International Criminal Court as in instance which is complementary to national jurisdictions, and that in Colombia the crimes provided for in its statute have been specified and defined, and there is a willingness on the part of the State to try those who are responsible for committing such offences.

22. It should be noted in respect of crimes of *laesa humanitas*, that in accordance with Article 7 of the Statute of Rome, these crimes are those which are committed as part of a generalised and systematic attack against a civil population, and with knowledge of that attack. With respect to the Colombian state, as the Commissioner's office also notes in the Report "... Serious violations are not part of a State policy...". Likewise, with regard to war crimes which may be within the cognizance of the court, according to Article 8 of the Statute, these are offences committed as part of a plan or policy, or part of the large-scale commission of such crimes, and, naturally, this is not the case in Colombia.

23. Further, in the particular case of Colombia, the terms of Article 124 of the Statute of Rome were adopted, in accordance with which the Court would not exercise competency over war crimes for seven years as of the moment of ratification of the treaty by the Colombian state.

b. The situation of Human Rights

24. The Colombian government shares and highlights the appreciation of the Report with regard to the fact that "serious violations do not form part of a deliberate policy of the State". The government repeats that the application of its policy of democratic security, and its components in the area of Human Rights and International Humanitarian Law - the prevention of violations, the protection of vulnerable sectors, attention to victims, the struggle against impunity in serious violations of Human Rights, and the generation of a culture of respect - have succeeded in reversing the trend in which the main indicators of the fundamental rights of Colombia were deteriorating, and this is made clear in the Report. This can also be appreciated in the chart which compares the situation between 2002 and 2005. Therefore, the persistence of a situation which the Report accepts as being "difficult" cannot be described as the result of ***"a lack both of full recognition of the problem on the part of the government, and of actions sufficiently relevant on the part of the authorities, which have prevented this difficult situation from being set right. Thus, certain practices of violation have become patterns of conduct".***

25. The policy of respect for Human Rights in the Colombian state, with an experience of more than 50 years, is reflected not only in the signature of international treaties, and in participation in the meetings which prepare and draft them, in particular the various Interamerican Conventions on Human Rights, but also in efforts to define and implement programmes for training, promotion and protection of those rights, to which Colombia has allocated substantial financial, technical and human resources.

EVOLUTION OF THE PRINCIPAL INDICATORS OF HUMAN RIGHTS, AND OPERATIONAL RESULTS OF THE FORCES OF LAW AND ORDER.

	2002	2003	2004	2005	Variation ove period
Murders	28.837	23.523	20.210	18.111	-37,20%
No of Massacre victims	680	504	263	252	-62,94%
No of Massacres	115	94	46	48	-58,26%
Murders of union leaders	99	47	42	14	-85,86%
Murders of (former) Majors	12	9	15	7	-41,67%
Murders of councillors	80	75	18	26	-67,50%
Murders of members of indigen communities	196	163	85	49	-75,00%
Murders of Unionized teachers	97	54	47	27	-72,16%
Murders of non-unionized teach	N.D.	N.D.	20	16	
Murders of journalists	11	7	3	2	-81,82%
Kidnaps	2.885	2.122	1.440	800	-72,27%
Forced displacement	424.153	220.189	162.109	141.266	-66,69%
No of Events with antipersonnel mines and unexploded ammunit	948	1.391	1.855	1.422	50,00%
No of wounded by antipersonne mines and unexploded ammunit	487	556	668	738	51,54%
Deaths caused by with antipers mines and unexploded ammunit	142	170	206	280	97,18%

	2002	2003	2004	2005	Variation over period
Attacks on villages	32	5	4	5	-84,38%
Attacks on communications tow	62	19	2	4	-93,55%
Attacks on transmission towers	483	329	127	226	-53,21%
Attacks on bridges	100	33	7	16	-84,00%
Attacks on highways	248	113	134	79	-68,15%
Attacks on water supplies	12	3	1	0	-100,00%
Acts of Terrorism	1.645	1.257	724	611	-62,86%
Demobilizations from self-defen groups		694	1.269	1.105	
Guerrillas demobilized	1.412	1.844	1.703	1.463	3,61%
Combat casualties among self-defence groups	187	346	558	322	72,19%
Members of self-defence groups captured	1.356	3.166	4.836	2.967	118,81%
Guerrilla combat casualties	1.690	1.919	1.962	1.870	10,65%
Guerrillas captured	3.763	6.967	6.266	5.126	36,22%

Source: Processed by the Human Rights and International Humanitarian law Observatory

26. Similarly, the Human Rights programme for the protection of individuals obtained an increase in funding and in the number of persons protected during this last year, as an indication of the interest on the part of the Colombian government to restore the humanitarian situation with major efforts; nonetheless, the government recognises that will the multiplicity of actors and causes which come together in a situation of violence, it will find it difficult to achieve a final solution to the problem.

27. With regard to the progress in demobilisation of the illegal-self-defects groups, the government shares the statement made in the Report regarding the reduction in violence in some areas in which demobilisations have taken place.

28. The government has been emphatic in its condemnation and rejection of violations of the cessation of hostilities by these groups, and, being aware of the problems arising, agreed with the Secretary General of the OAS., in an agreement signed in 2004, that the Mission for Permanent Accompaniment to the Peace

Proposal (MAPP/OAS.) would be responsible for the verification of the cessation of hostilities.

29. In its most recent quarterly report, the Mission does indicate that the problem of violations of the cessation of hostilities continues to be an obstacle to the normal advance of the peace process, but at the same time, it notes a substantial improvement in compliance with the commitment to the cessation of hostilities in areas which were formerly controlled by the demobilisation of blocks of the illegal self-defects groups. In this regard, it states

" Contrary to what happens in the zones mentioned above, in which there are active armed structures of the illegal self-defence groups, in those zones where the armed structures have been disbanded, there has been a substantial decrease in indicators of violence. This shows the importance of demobilisations in achieving compliance with the cessation of hostilities, and supports the statement which the Mission has repeatedly made in relation to the concentration and demobilisation of troops as being the only way to verify compliance with the cessation of hostilities."

- *According to official figures supplied by the forces of law and order, in the 19 municipal districts in Norte de Santander where the Catatumbo block of the self-defence groups was operating, there was an average of 64 murders a month in the last quarter of 2004, and 31.75 per month in the first quarter of 2005. As other indicators of the disbanding of the military structure of the Catatumbo block, we can mention: 1) in this same region, elections are being held for Majors, with the participation of several candidates from different political organisations, an event which did not occur prior to demobilisation; 2) a gradual approach by citizens to the administration of justice. Today, people are again making denunciations, in their own name and without fear, of criminal conduct which it was formerly impossible to denounce, through fear of reprisals from the illegal self-defence groups.*

- *With regard to the demobilisation of the Calima block, despite the difficult general situation of public order in the Department of Valle, in the 12 municipal districts where this block was operating, the average murder rate fell from 112 per month in the last quarter of 2004 to 83.4 per month in the first quarter of 2005.*

- *In Uraba, the scene of the first mass demobilisation, both the police and the observatories of crime agree in reporting a substantial reduction in criminal offences in general, and in murder in particular. Thus, the monthly average fell from 12.86 in the last quarter of 2004, to 6.67 in the first quarter of 2005.*

30. With regard to alleged violations which particularly affect members of the indigenous and Afro Colombian communities, social leaders and political figures, Human Rights Defenders, peasant farmers, women and children, as well as local public servants and particular local councillors and journalists and persons detained, mention must be made of activities and programmes planned and implemented in the field of Human Rights, and addressed to ethnic groups, as follows:

- *Interinstitutional intervention events*

31. The government focused on several different regions, which have been attended to by a number of national, regional and local institutions whose objective is to provide integrated attention to groups which are vulnerable in terms of economic, social and cultural rights.

32. For this purpose, a number of events have been programmed by the Centre for the Coordination of Integrated Action of the Office of the President, and accompanied by the Ministry of Interior and Justice, and have been held with the following communities attending:

- Sierra Nevada de Santa Marta - Kankuamo indigenous communities (3 missions) Koguis (2 missions) and Wiwa (1 mission)
- Catatumbo. Baris (1 mission)
- Norte del Cauca: Paeces, 1 mission
- Middle and Lower Putumayo:. Cofanes and Siones (1 mission)
- Upper Sinu, Embera Katios (1 mission)
- Lower Atrato: Afrocolombian communities (1 mission)

- *Preparation of Human Rights action plans*

33. In coordination with the Presidential Programme for Human Rights and International Humanitarian Law and the Ministry of the Interior and Justice, the ethnic component of the Human Rights action plans of the departments of Guainia, Arauca, Guaviare, Cesar, Guajira, Magdalena, Cauca, Nariño, Valle, Choco, Risaralda, Caldas and Tolima after consultation with regional and local civil and military authorities and ethnic groups.

- *Project for attention to communities at risk*

34. In relation to attention for communities at risk, work which has been performed through a joint project between the Ministry of Interior and Justice, the Social Solidarity Network, the Presidential Programme for Human Rights and International Humanitarian Law, the Office of the People's Defender and the Office of the Procurator General has included the following activities:

- A process of risk evaluation of the target communities in the context of their territories, with regional and local authorities, during June, July and August 2005, in order to propose strategies for prevention and protection in the field of Human Rights.

- In June, July and August 2005, the preparation of a methodological framework and a model for intra- and Inter- institutional articulation, for national regional and local effort in the prevention and protection of Human

Rights.

- *Organisational strengthening in black communities*

35. In 2003, workshops for organisational strengthening were held in Bogota, Cauca and Nariño. In 2004, such workshops were held in Nariño. Valle del Cauca, Risaralda, Sucre and Caldas, and in 2005, in Santander, Putumayo and San Andres. In total, 598 leaders received training.

- *Encouragement for the use of administrative acts for the benefit of ethnic groups.*

36. During the period of office of this administration, regulations in favour of the black communities have been issued for Articles 56 and 57 of Law 70/93, and Decrees 3050/2002 and 1523/2003. The following draft regulations have been prepared: Article 131 and 134 of the Mining Code; Chapter 4 of Law 70/93; Articles 52 and 55 of Law 70/93; and subrogation of Decrees 1627/96 and 2248/95.

37. At the same time, administrative agreements were prepared with the development authorities of Cauca, Valle del Cauca, Uraba and Choco, in order to promote consultation with the community councils for the proposed regulation of Articles 131 and 134 of the Mining Code, and Chapter 5 of Law 70/93.

38. For the indigenous communities, draft regulations of Law 715/2001, the General System of Participations, Law 691/2001 on the Social Security System, Articles 131,121 and 134 of the Mining Code (indigenous mining zones and black community mining zones) were drawn up and presented for the consideration of negotiating groups.

- *Public policy for black communities*

39. The planning document, CONPES3210/2004 "Policy for affirmative action for the Afro Colombian or black population" was approved, and is now receiving follow-up.

40. During this administration, the ethnic component has been incorporated into several planning document (such as CONPES 3238/2003 "Strategies for departmental strengthening"; CONPES 3274/2004, "Support programme for the national environmental system, SINA-II "; CONPES 3276/2004, "Census of housing and population"; and CONPES 078/2004, "Programme for social action addressed at to the elderly".

41. At the same time, specific accords have been signed, such as the consultation on policy for the eradication of unlawful crops with the indigenous organisation of the Colombian Amazon, and the agreement with the black community of the Rio Cacarica basin.

42. In implementation of Decree 200/2003, for the dissemination of the rights of black communities, a compendium of legislation on the rights of these communities has been designed and published.

- *The dynamics of negotiations with ethnic groups*

43. As part of the arrangements for negotiation and consultation with indigenous groups in 2004, there were two sessions of the Standing Consultation Group and of the National Commission for Human Rights. In 2005, the Standing Group for consultation with indigenous peoples and organisations met on three occasions, to discuss proposal for the regulation of Article 83 of Law 715/2001, and draft regulations for Articles 131,121 and 134 of the Mining Code. In the final plenary session, it was agreed that there would be a joint preparation of public policy for the indigenous peoples, and that this would be advanced in 2006.

44. The departmental consultations with black communities were held in Antioquia in 2002; in 2003, these consultations were also held in Cauca, Caldas. Risaralda and Antioquia. In 2004, there was high-level consultation with black communities and departmental consultations in Nariño, Valle del Cauca, Antioquia, Santander, Cauca and Choco; in 2005, there were 19 departmental consultation sessions for the black communities in Risaralda, Putumayo (3) , Santander, Antioquia, to disseminate the free-trade agreement (12) and in Bogota.

45. In order to establish differential policies for affirmative action in Human Rights for ethnic groups, through the arrangements made for concertation with the indigenous peoples and black communities, the document "Strategy in Human Rights for Ethnic Groups" was presented in 2004, to be discussed and approved at such sessions. In 2005, the government repeated the need to make progress in this area, and succeeded in obtaining a document with the reply of the indigenous organisations, which it hopes to be able to negotiate an agreement in 2006.

1.1. The exercise of civil and political rights

46. Although the High Commissioner's Report mentions that some progress in the situation of Human Rights, this recognition is timid in terms of the results obtained.

47. With regard to the concerns expressed in the Report in relation to arbitrary detention and searches, and of violations of due process (paragraphs 34, 37), the action taken by the high command of the Armed Forces and the police to ensure that their members act with full observance of the Constitution and the law has

been expressed in the following documents, which reflect their permanent interest in the matter:

- Strategic guidelines by the high command
- Instruction 050-110202, of the high command of the police, addressed to departmental commanders and Metropolitan police forces
- Instruction 290 of 17 September 2002, of the high command of the police regarding "respect for Human Rights and International Humanitarian Law, and the exercise of rights and freedoms in a special public order situation"
- Instruction 056 of 27 February 2002, on "Treatment and comportment with persons of the same name".
- Instruction 137 of April 2002 of the high command of the police "repeating measures for the defence of Human Rights"
- Circular 78/6 of the high command of the Armed Forces of 17 August 2004, with "Recommendations on the handling of Human Rights cases and/or violations of International Humanitarian Law".
- Circular 7249 of 28 Mar 2005 of the high command of the Armed Forces, with "instructions for the implementation of the agreement between the government and CICR"
- Circular 7379 of 20 May 2005 of the high command of the Armed Forces, offering "Observations on Human Rights and/or International Humanitarian Law cases"
- Circular 1165 of 16 June 2005 of the Navy, on "Comportment of Navy personnel in the matter of Human Rights"
- Circular 7456 of 22 June 2005 of the high command of the Armed Forces, on the "... Comportment of the Armed Forces with regard to the observance of humanitarian norms and the prevention of conduct which may generate violations..."
- Circular 1244 of 28 June 2005 of the Navy, on "Guidelines for the response to complaints and claims related to alleged violations or infractions of Human Rights and International Humanitarian Law derived from Navy operations "
- Circular 2108 of 25 July 2005 of the Air Force, on "the capture and retention of persons"

48. The forces of law and order provided support and security for the Prosecution Service in its implementation of these procedures.

49. At the same time, the Prosecution Service National Directorate effects control and follow-up of investigations in which five or more persons are captured. For this, a database has been formed to include the evidence which underlies such actions. The National Directorate provided instructions to the various regional offices, to ensure that officials ordering procedures of searches or arrests, on an individual or joint basis, should continue with their investigation through to completion.

50. In cases in which it has been found that investigations or procedures were based on testimony which was subsequently shown to be false, provided by witnesses or informers, but which in principle served as the basis for the decision, the order has been given for the immediate issue of copies of the case files for

investigation for the crime of false testimony.

51. With regard to the importance of the principle that the investigation of Human Rights violations committed by members of the forces of law and order should be conducted by the ordinary courts and not by the military criminal courts (Paragraph 41) in accordance with international standards, and internal regulations, it should be noted that the decisions adopted by the Office of the Procurator in the course of disciplinary investigations against members of the forces of law and order are being attended to.

52. With regard to the principles of due process and the presumption of innocence (Paragraphs 38 and 40) suspension will only be in order when instructed by competent authorities as a consequence of criminal or disciplinary procedures.

53. In compliance with the orders of the Constitutional Court, the military criminal courts send cases investigated for alleged violations of Human Rights to the ordinary courts.

54. With regard to collaboration on the forces of law and order, the Procurator, in a letter addressed to the Vice President of the Republic, has certified as follows:

> *"...In the investigations pursued by this Office, with regard to alleged violations of Human Rights and International Humanitarian Law by members of the armed forces, there has been respect, willingness, co-operation and commitment by members of those forces in the course of such investigations, and there has been no evidence of any intention to obstruct disciplinary functions."*

FORCE	Jan Apr 18/05
PRELIMINARY ENQUIRY	
Army	112
Navy	15
Air Force	1
DISCIPLINARY INVESTIGATION	
Army	40
Navy	2
Air Force	0

INDICTMENT	
Army	6
Navy	5
Air Force	0

55. Further, during 2005 the Office of the Procurator General dismissed a captain and three junior officers from the Armed Forces, and these decisions were promptly implemented by the high command of the respective forces with appropriate administrative acts.

55. The Military Criminal Courts respect and obey the orders of the Constitutional Court, and the terms of the Constitution and the Military Criminal Code, with regard to competency to investigate conduct for possible violation of Human Rights. Army personnel suspended by order of the Human Rights Unit of the Prosecution Service have been as follows:

YEAR	OFFICERS	UNDER-OFFICERS	PROFESSIONAL SOLDIERS
2002	2 Lieutenants	1 Corporal	2
2003	1 Lieutenant Colonel 1 Major 2 Captains 2 Lieutenants	1 Sergeant 3 Lance Sgts 1 Sgt 2 1 Corporal	
2004	1 Major	1 Sargento Segundo	
2005	4 Majors 3 Captains 1 Lieutenants	1 Lance Sgt 3 Sgt 2 2 Corporals 2 Cpl 2 1 Cpl 3	2

56. With regard to the special powers, these are used to order the dismissal from active service of those who show lack of operational efficacy, or individual comportment to the detriment of the ethical codes of the Armed Forces, or suspicion of corruption or reasonable doubt with regard to alleged violations of Human Rights or violations of the norms of International Humanitarian Law. It should be noted that all decisions taken are not a conviction of criminal or disciplinary responsibility, since the competent authorities act in such cases; and it is clarified that the authorities maintain the power to act in relation to complaints, indications or evidence of conduct which violates criminal or disciplinary regulations, with regard to any member of the forces of law and order.

57. In relation to information contained in the Report regarding the violation of freedom of expression and threats and risks faced by communicators, the government places it on record that the number of murders of journalists has fallen 81.8% between 2002 and 2005; there is a Risk Evaluation Committee for journalists, as part of the protection programmes; and there is a permanent exercise of criticism by the media, as evidence of freedom of expression. This, without ignoring the risks and threats to which journalists are subjected by the illegal armed groups.

Impunity, and violations of due process

58. In response to the statement in the Report that "*another factor of impunity has been the application of Law 782 and its Decree 128/2003, which provides legal benefits, including pardons for the demobilised*", and the denunciation that "*in many cases, the benefits were granted without coherent action by the Prosecution Service to investigate and secure the right to truth, justice and reparations on the part of the victims of the persons who became beneficiaries*", it is important to note that the Colombian State, has placed its greatest priority in the achievement of national peace; for this purpose, it has adopted a series of measures in criminal policy designed to secure that purpose, amongst which of the demobilisation and reinsertion of the members of illegal armed groups, and the disbanding of all the organisations to which they belong, the investigation, trial and punishment of those responsible for the most serious crimes, the guarantee of the rights of victims to truth, justice and reparations, and the provision of protection of the rights of process to those implicated.

59. The promulgation of Law 975/2005 falls within this objective, **and the law contains special mechanisms for the achievement of peace. It is also exceptional, because it is not a law passed for times of normality, but in order to encourage the cessation of the violence caused by the illegal armed groups**. Thus, the objective of benefits or procedures contained in the "Law of Justice and Peace" was specified by the legislature in Article 1, as follows: "The object of this law is to facilitate the processes of peace and individual or collective reincorporation into civil life by members of the illegal armed groups, guaranteeing rights of victims to truth, justice and reparations."

60. The law considers that in order to achieve the objective of peace, there has to be an appropriate, balanced legal framework which would satisfy the norms of international Human Rights law, and International Humanitarian Law, respecting the rights of victims without permitting the rights of those accused, and which would have the same time provide the necessary stability to pursue the peace process with members of the illegal armed groups successfully. As a result of this approach, and as a complement to Law 782/2002 —which extended the validity of Law 418/1997— and its regulatory Decrees, Law 975/2005 was issued for the members of the illegal armed groups who were not able to enjoy the benefits established in the previous measure.

61. Those who demobilised in the context of Law 782/2002 and its related regulations, are those involved in the commission of political and related crimes, and therefore, once the requirements of law have been met and the appropriate actions and verifications have been completed by the competent authorities, they will be granted the legal benefits provided for - a pardon, conclusion of investigations, cessation of proceedings, and a resolution to terminate the case. These persons who are benefiting from the law, are subject to a process of demobilisation and reincorporation into civil life regulated by Decree 128/2002, and they commit themselves to meeting a series of obligations. Further, the State, through institutions committed to this national purpose, has adopted a set of measures to protect the physical integrity of these persons and their families, and to attend to their needs in order to secure their human dignity, as is appropriate to the framework of the social state of law which applies in Colombia.

62. In addition, the authorities engage in permanent follow-up of the activities of those at demobilised, and if they return to their criminal ways, or engage in other kinds of punishable conduct, the benefit is immediately revoked and the outright for their political crimes and for the new crime.

63. With regard to those demobilised in the context of Law 975/2005, it should be noted that in accordance with the Colombian Constitution and international instruments, the legal benefits offered by Law 782/2002 are not in order. Therefore, the law instead establishes the imposition of on alternative penalty of between five and eight years imprisonment, depending on the effective value of the contribution made to national peace.

64. The imposition of the alternative penalty removes any trace of impunity, but at the same time allows those demobilised to satisfy the requirements of truth, justice and reparations, and to explain other circumstances in which they committed their crimes, and then to deliver any assets illegally acquired, and to desist from any interference with the free exercise of political rights, with the demobilisation and disbanding of the groups of which they formed part, and only then may they have access to the legal benefit; and the benefit is not freely available, since it depends on the efforts and collaboration provided for the achievement of national peace. Thus, a balance is maintained between these two higher values —Articles 2 and 22 of the Constitution—.

65. The possibility of access to the benefits provided for in Law 975/2005, and the rationality and proportionality of the alternative penalty provided, must be analysed in this context, and not as some form of expiation, which would obstruct the achievement of the conditions required for demobilisation and disbanding of the illegal armed groups and their reinsertion into society, guaranteeing rights of truth, justice and reparations accruing to the victims. Far from implying impunity, the provision of the benefit of the alternative penalty makes it possible for the most serious crimes committed by these groups not to go unpunished, while clarifying the material truth, and achieving the reparation of the victims, and providing appropriate protection to society, avoiding greater ills[1].

66. In the light of respect for the rights of victims to truth, justice and reparations, the reasonableness and proportionality of the alternative penalty should be analysed as a measure proper to the transitional justice required to achieve peace as an essential presupposition of the consolidation of the Social State of Law, so that with that alternative penalty, there is encouragement for the trial and effective punishment of the members of those groups. Far from implying impunity, the provision of the alternative penalty increases the probability that these atrocious crimes committed by such groups will not remain unpunished, and that society will

---

[1] In the debate on the Standing Joint Commissions for the drafting of Law 211/2005, the following was said: "But returning to reality, if it is indeed true, therefore the figure of alternative penalties exists, and the purpose of the alternative penalty is to establish justice, but a justice which will be acceptable both for the victims and for the perpetrators". Alternative penalties imply the application of effective penalties which do not exclude the principal penalties, for the effects of which the crimes of *laesa humanitas* are duly punished, should be recognized, and that reparations and consequences should be derived from it, but it should not be an impediment to the achievement of peace, since in countries such as Colombia unfortunately conflicts have been pursued with systematic and systemic violations of International Humanitarian Law and Human Rights by all armed actors; and if we do not take consideration of this type of attitude, we will never arrive at a worthwhile peace process. This international limiting factor, combined with the realism of our society, has led us to conceive this project which we believe to be balanced, we consider to be effective, and we hold to be useful and possible, and we need to make it stronger,; it could be totally fair, and legally watertight, and anything you like, but it would have no part in the achievement of peace. It contains three fundamental principles, mentioned here in passing but yet mentioned, which are the principles of universality, balance and effectiveness. The principle of universality, tangentially mentioned here by some previous speakers is that which shall apply to all peace processes from now onwards, with any political group, excuse me, illegal armed group. And Mr Frühling was very explicit here, with the people of the United Nations, when a week ago he said it and I repeat it, after a question which we asked him, that from now on that could be no peace process with any illegal group which did not contain what he calls the "balanced package of penalties, reparations, truth, defense of victims, but at the same time obviously, efficacy, so that these armed groups tend to see the efficacy as an incentive to take part in the peace process". First debate in Joint Commissions I, of draft Law 211/2005, speech by the Honorable Representative Roberto Camacho-Weverberg. Gaceta del Congress 200 o0f 22 April 2005, p.32)

In the proposals report for the second debate of draft Law 211/2005, Senate, the following was said "likewise, within the rights and context of the victims, we include the right to truth, which is also part of the objectives of this Bill, since we need not only to know the realities of the punishable conduct which have harmed juridical goods, but also we need a historical reconstruction of events, and the contribution of information which will indicate the whereabouts of the members of the families of those victims. In addition to the right to truth, as noted, there is the right to justice, which is materialized in a correlative duty of the State to administer justice by deploying its entire judicial apparatus in order to impart an appropriate solution as seen through the eyes of what is called "restorative justice". This is a battle-standard of the contemporary postulates of logic for victims" Gaceta del Congress 221 p. 3)

be protected, and worse and worse ills will be avoided.

67. With regard to impunity, it should be said that in accordance with the definition adopted in the "set of principles for the protection and promotion of Human Rights through the struggle against impunity" of 1998 "by impunity, we understand the non-existence, *de facto* or *de lege,* of criminal responsibility by the perpetrators of violations of Human Rights, and civil, administrative or disciplinary responsibility, because they escape all investigations, designed to inculcate, detain, or try, and in the event of being found guilty, convict, including the payment of indemnity for damages caused to their victims." [2]

68. In accordance with this definition, in Law 975/2005, there is no place for impunity, since in accordance with the rules of international law and the Constitution, there is no room for mechanisms such as pardon or amnesty, and on the contrary, provision is made for the application of and effective punishment of imprisonment, and the obligation to make reparations on the part of the person responsible.

69. Further, Decree 4760/2005 details conditions for which punishable conduct of the members of illegal organisations who have demobilised can be investigated and tried by the procedure indicated in Law 975/2005. It should be noticed that, in any event, if the application of that law is not in order, there is no impunity either, since the ordinary procedure of the law in force at the time of the commission of those crimes would then apply.

70. At the same time, it is clarified that the members of such groups who have benefited from a pardon, a resolution terminating proceedings, or a cessation of trial for political and related crimes under Law 782/2002, are not therefore relieved of any criminal responsibility which may accrue to them due to other punishable conduct in which they may have engaged. This responsibility is made effective through the procedures of Law 975/2000, or the ordinary law in force at the time of commission of such acts, where the required of the special law are not met and the special law is therefore not applicable.

71. One aspect to note is the provision contained in Article 4 of the Decree which establishes, in accordance with the terms of Article 325 of Law 600/2000, a reasonable term for the preliminary actions to be taken by the Prosecution Service prior to receiving a "free statement". This time of up to six months allows investigation and verification to be undertaken, and cross-reference to be made to information which would without doubt be of benefit to the higher goods of justice and of the rights of victims to truth, justice and reparations.

72. In respect of the cases mentioned in Schedule III, the Prosecution Service permanently supplies the Office of the United Nations High Commissioner for Human Rights in Colombia, with information on the status of investigations, and it regrets that the efforts of prosecutors as part of the drive to push investigations forward, have not been recognised in the Report. Nonetheless, some information relevant to such situations is attached to this document.

---

[2] E/CN.4/sub 2/1997/20/Rev.1 "Set of principles for the protection and promotion of human rights through the struggle against impunity", Geneva, 1997

1.2. The exercise of economic, social and cultural rights.

73. The government of Colombia implements a public policy to provide proper attention to the economic, social and cultural the rights of Colombians, which can be summarised in the so-called "Seven tools of equity". The next section shows the results of this policy, to allow an appreciation of the dimensions of the efforts made, since they are efforts which are not sufficiently recognised in the Report.

✦ Poverty and inequity

74. The government has achieved positive results in reducing poverty and indigence —also known as extreme poverty— but it recognises that the figures for poverty, indigence and disparities in income are at excessively high levels. Within its commitment to attack these problems, it has formed a mission to design a strategy to reduce poverty and disparity (MERPD).

75. Amongst its other tasks, this Mission is responsible for conducting studies on poverty and disparity which will lead to the design of State - not government - strategies for the longer term (15 years), considering that poverty and disparity are phenomena which are predominantly structural in nature, and cannot be reduced in the short term. The Mission is formed by members of government and civil society —taking account of a participatory process—, which has been implemented by forums in several regions of the country. The purpose of these forums is to increase regional awareness of the themes of poverty and disparity, and to obtain feedback for the Mission regarding the specific problems of Departments and regions. So far, there have been forums in Antioquia; in Cesar with the participation of representatives of the Departments of Magdalena and Guajira; in Bolivar with the participation of representatives of Sucre, Atlantico and Cordoba, and one forum in the city of Buenaventura.

76. The new estimates of the incidence of poverty and incidents in Colombia calculated by the Mission show that important progress has been made in the eradication of poverty and indigence, especially in urban zones where some 75% of the population live.

77. The government agrees that the poverty situation continues to be very serious. Nonetheless, it stresses that important progress has been made in this area. Today, for the first time since comparative data have been available (1996) the National Poverty Index is below 50%. 49.2% of Colombians are classified as 'poor', equivalent to 21,952,952 individuals (data for 2005, calculation by the Mission).

78. As the table below shows, the percentage of those below the poverty line in national terms has fallen by a total of 8.2% during the current administration, and the percentage of those below the indigence line is now [illegible]% lower than in 2002. A great deal of the progress made against poverty is to be evidenced in urban zones,

where poverty fell 7.9%, while at the same time the reduction in poverty of 6.9% in rural areas is no mean achievement. (Nonetheless, in recent years there has been stagnation in this reduction; rural poverty fell 12.2% between 2002 and 2003, and then rose 5.3% in 2005) [3]

79. In the matter of indigence, progress has been more rapid in rural areas (except for the stagnation in the last year), since the index fell 7.4% between 2002 and 2005, compared to 5.3% in urban zones (see table "Estimates of poverty and indigence, 2002-2005).

80. The government shares the view that among the poor, those who are particularly affected by their condition are children and the ethnic groups, and women (particularly rural women.)

81. The estimated percentage of persons affected by poverty and indigence has aroused major debate in academic and political circles. The Mission, formed in response to an increase in poverty which occurred during the crisis at the end of the 1990s, has worked with the statistical bureau DANE to produce a number of estimates of the indicators for poverty and indigence. The levels of poverty resulting from this are different (they are also different if they are estimated in terms of expenses, or income, or if calculated before and after subsidies). But whatever the methodology, the trends are the same: decline (1996-1999); temporary reduction (2000-2001); new aggravation (2002) and fresh reduction (2003)

Estimates of poverty and indigence 2002-2005[4]

	National	Urban	Rural
% below the poverty line			
2002	57,0	50,2	75,1
2003	50,7	46,3	62,9
2004	52,7	47,3	67,5

[3] It should be noted that such strong swings may partly be due to problems of sampling in the continuous household survey in rural areas. More importantly, the long-term trend in poverty and rural indigence has been downward, but nonetheless there has been a worrying stagnation in recent years.

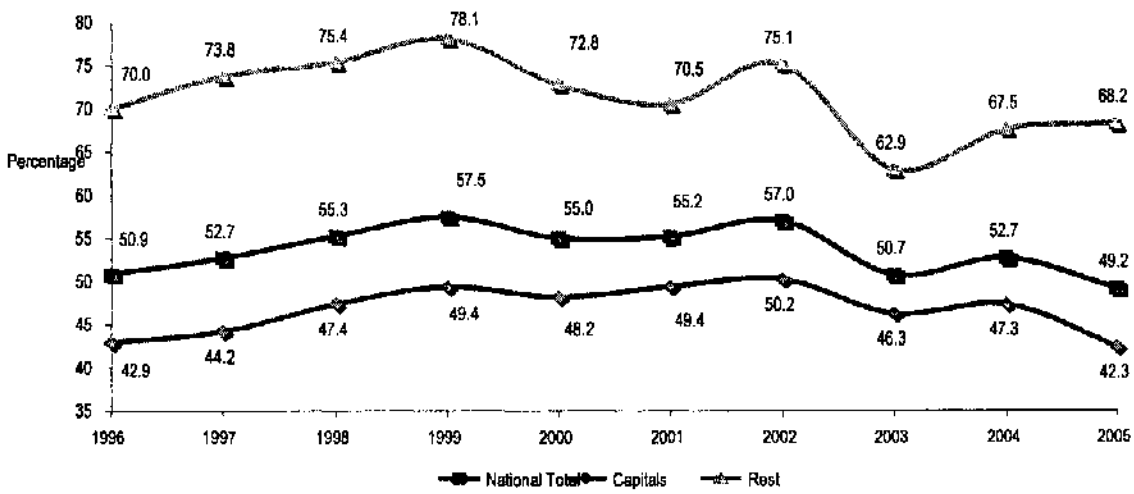
[4] Estimates for 2002-2004 have been adjusted from those already published by the Mission taking account of the facts that: a) DANE published its final national accounts for 2002 (previously, "adjustments to national accounts" were made using provisional 2002 figures), b) new GDP growth figures for 2003 are now available (4.11% instead of 4.27%)

2005[5]	49,2	42,3	68,2
% below the indigence line			
2002	20,7	15,5	34,9
2003	15,8	12,6	24,6
2004	17,4	13,7	27,6
2005 (5)	14,7	10,2	27,5

Due to discussions about method, which are still raging among the experts, and the complexity of the process of calculation, estimates of poverty not only prone to error and distortion, but also they arouse mistrust in the public. For this reason, the Mission has recommended to DANE that a special group be formed to take measurements of poverty and to appoint a high-level advisory commission (composed of local and foreign academics, and representatives of the government) responsible for advising and supervising them.

82. Colombia continues to be a country with wide disparities, but at the same time the indicators for poverty and indigence have fallen, and disparity has also fallen since the deterioration of the economic situation and crisis at the end of the 1990s. The Gini indicator, although still high, improved between 2002-2005, and today (2005) at 55.3%, it is lower than in 1996 (57.4%).

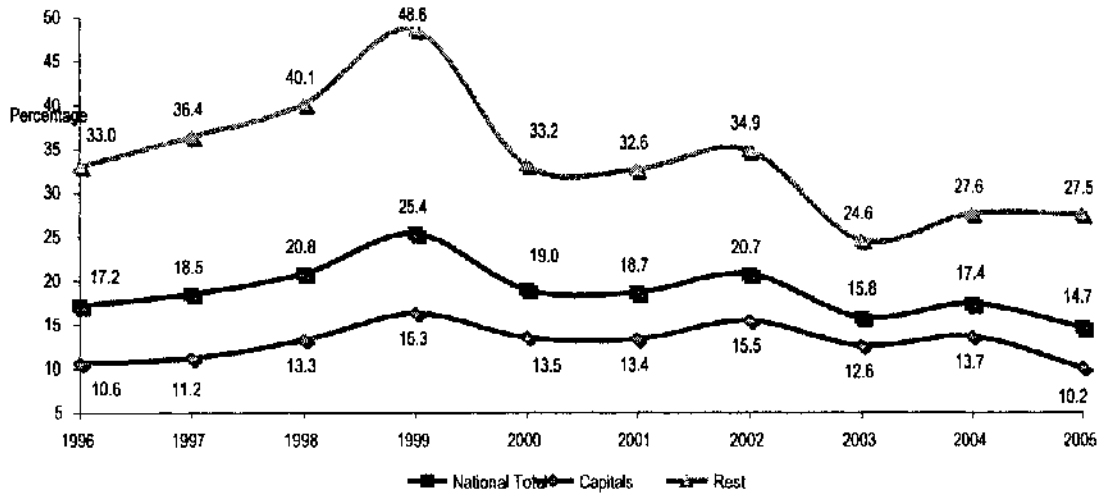
Percentage below the poverty line, 1996-2005



[5] For the purposes of the "adjustment to national accounts", the basis is the level of growth estimated by DANE for the first 3 quarters of 2005 vs. the first 3 quarters of 2004: 5.1%.

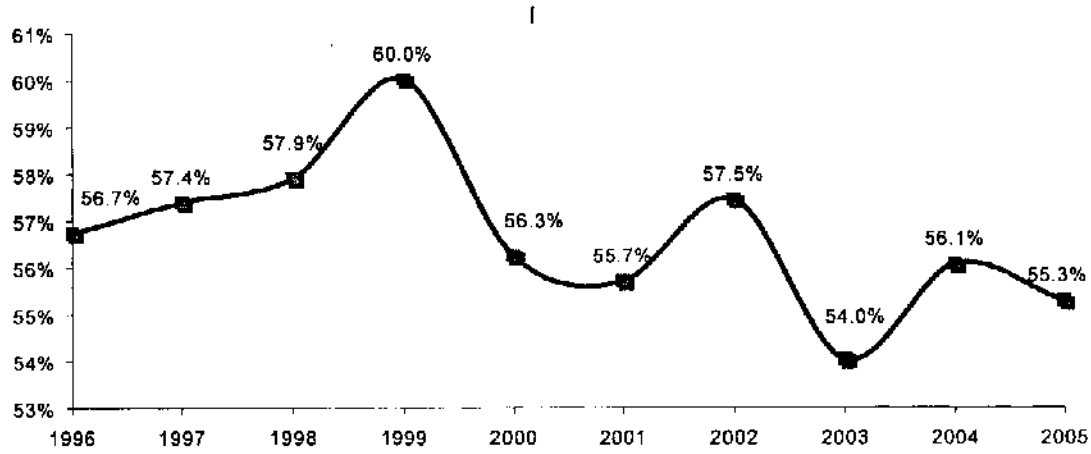
Source: MERPD, based on DANE – ENH and ECH.

Percentage below the indigence line, 1996-2005



Source: MERPD, based on DANE – ENH and ECH.

Gini index, national total



Source: MERPD, based on DANE – ENH and ECH.

83. The government has made significant progress in the struggle against poverty, which is a multi dimensional phenomenon, and has short- and long-term causes. For example, the main fluctuations in short-term poverty are due to specific

conditions of the economic cycle. But additionally, in the longer term, poverty responds to structural conditions in society. These conditions refer to the structure of opportunities which a society offers so that its members may develop their capacities: education, health, sanitation, secure employment, pensions, etc. Also, the economy and society offers mutual feedback, and mutual synergy. Thus, social and economic development should be understood to be different nuclei of a single process, and should be conceived in an integrated and coherent fashion.

84. Thus, policy must take account of all factors underlying poverty. In this sense, this Administration's development plan is designed to attack each of the sources of poverty. In the short term, it will be necessary to correct the pace of growth, as an essential condition of reducing poverty levels now to be seen. In addition, a series of programmes have been designed and implemented to reduce the perverse effects of the recession on the most vulnerable population, which may have negative effects, not only in the short term, but also in the long term. At the same time, policies have been designed to attack the structural aspect of poverty and disparity in the long-term, to improve the opportunities of each and every Colombian.

85. The challenges which the government faces in constructing a fairer society are the following:

a) Increasing access to education, health, and basic services and Social Security
b) increased efficiency in social spending, so that higher allocations will produce better results;
c) improved focus for social spending, so that resources reach those who need them most; and
d) Consolidation of the system of social protection so that economic crisis will not completely compromise the future chances of the most vulnerable groups.

86. At the end of the day, the principal objective of the government is to create conditions for economic growth to take place simultaneously with social progress.

- **Employment and economic growth**

87. According to the official figures of DANE the unemployment rate was 11.7% annual average nationwide, and 10.4% for December. This result implies 494,000 new jobs, and a reduction of 361,000 in the ranks of the unemployed compared to 2004. In addition, this performance in unemployment indicates a reduction of 3.9 percentage points compared to the rate for 2002. With information for the first three quarters of 2005, the difference in the unemployment rate between men and women is 6.9%, while for 2002, it was 7.3 1%. The existence of this difference in unemployment between men and women is empirical evidence observed in almost all economies around the world.

88. In addition, the rate of underemployment, remaining at a similar level to 2004, has in fact reduced by 2.7 percentage points compared to 2002. It should be noted that the indicator of underemployment measures the subjective conditions in accordance with full employment, since the construction of the indicator appreciates whether the individual is content with the hours which he works, the remuneration which he receives, and the skills required to perform that work.

89. To the extent that economic conditions improve, which can be observed in the Colombian economy, the perception of working people varies, and makes them want to improve their current employment conditions. Therefore, the existence of under-employment may produce a relevant indicator to measure the conditions of the employment market, it is also influenced by a subjective perception on the part of employees which varies in times of economic prosperity, since workers also increase their expectations of income, without implying any real deterioration in their work activities.

90. The government's development strategy, contained in the development plan "Towards a Community State" contains a series of integrated measures to combat the problem of unemployment. First, the proposal is to achieve greater levels of economic growth as the only way of securing a firm basis for the generation of stable and well-paid employment.

91. Second, the development plan sets out the need to create a new structure of opportunities so that the benefits of economic growth will reach those most in need. This is contained in the "Seven tools of social equity". This has been the government's priority route towards the consolidation of the system of social protection which will articulate the provision of state social services consistently, promptly and effectively.

92. For the government, it is imperative to design and implement programmes to encourage the generation of employment, and to reduce the adverse impact of unemployment on the most vulnerable sectors. For this purpose, four priority programmes were set forth in the development plan, within the legal framework of Law 789/2002. These are programmes for employment and protection for unemployment, support and direct support for employment, the strengthening of the national training service SENA, and an updating of employment law.

93. As a central point of the programme for employment and protection against unemployment, the fund for the promotion of employment and protection against unemployment (FONEDE) was created and implemented, as being responsible for managing the funds which each family cooperative (CCF) receives from payroll taxes, in order to provide unemployment subsidy and funds for micro-loans and training for the unemployed. The following were the allocations of these funds from FONEDE in 2004 and 2005.

FONEDE		
	Funds Allocated 2004	Funds allocated (Aug-2005)
	COP000000	COP000000
Microloans	9,530	2,833
Unemployment subsidy		
CVC [2]	26,643	23,353
SVC	8,472	23,390
Training	16,356	15,098
Subtotal [1]	61,001	64,674

1 Excluding overheads (5% of Fonede)

2 CVC: Linked to Family Compensation Funds; SVC: Not linked to Family Compensation Funds

Fuente: Superintendencia de Subsidio Familiar

94. In addition, it became necessary to start a process of redesigning this strategy for protection of the unemployed through a transformation to an integrated system which includes the granting of a cash subsidy, and business or employment training, accompanied by mechanisms for credit and business advice for those who decide to set up their own businesses.

95. Law 789/2002 introduced a series of measures into employment law, such as the extension of the ordinary working day, a reduction in marginal labour costs on Sundays and public holidays, a flexible working day, and changes to the curve of indemnities. This encouraged the generation of employment, in particular good-quality employment.

96. In particular, it was expected that in the first two years (2003-2004) there would be an incentive to generate employment, with 318,000 new jobs as a result of the reforms. But there was no clarity with regard to the dynamics of the generation of those jobs, that is to say, how many would be generated in 2003, and how many in 2004. In 2003, the employment market began to recover strongly, in comparison to the preceding years.

97. Between 2002-2005, in the first three quarters, an average of 1.35 million new jobs had been created, of which 58% were created for labourers or employees, which were positions considered as being those of the highest quality. In addition, with the changes in employment seen in the main population centres, 32.3% of new jobs occurred in businesses employing 11 or more employees, that is to say, in medium and large businesses, which is exactly where it was expected that the effects of the updating of employment law would take effect.

98. Like employment, access to financial resources is also beyond the reach of the poor, and affects their condition of poverty. Therefore, programmes for loans and micro-loans have been encouraged as a tool to reduce poverty. During this government's period of office, some COP9.7 billion had been placed in loans, and

COP4.4 billion of this has been lent to the agricultural sector, and COP 5.4 billion to urban SMEs.

✦ Education

99. With respect to the figure given in the Report, that there are 1.6 million children outside the education system, this does not coincide with the information from the National Household Survey of 2005. According to the survey, there are 1.37 million children outside the education system, that is, 12% of the population aged 5 - 17. Based on the same source of information, basic education coverage is 91%, being 94% in urban areas, and 84% in rural areas.

100. In this regard, it should be noted that the policy to extend coverage, based on a reorganisation of the sector, the incorporation of resources, and greater efficiency in the use of human and physical resources, has helped to create 350,602 new places in schools for 2005. Thus, since 2003, more than one million school places have been created.

New places created for basic and intermediate education

SOURCE: SIGOB

Year	2003	2004	2005	TOTAL
New places	477.598	256.815	350.602	1.085.015

101. The extension of coverage has taken the vulnerable sectors into account - the indigenous, the displaced, the rural population and handicapped children - and since 2003, 457,187 vulnerable pupils have become part of the education system.

New vulnerable pupils	100.659	81.662	274.866	457.187

SOURCE: SIGOB

102. Another important consideration in the policy to increase coverage has been the investment in physical infrastructure by the Ministry of Education, using funds under Law 21/1982. These funds are allocated to regional entities who present projects for the construction of infrastructure to increase the number of school places. In 2005, this led to the financing of 926 projects in 73 regional agencies, for a total value of COP235.000 million.

103. At the same time, the development agency FINDETER placed loans for COP 30,530 million, to finance projects for education infrastructure.

104. Other actions implemented to promote educational services for a larger number of inhabitants is the literacy programme for the young and adults, using flexible methods. More than 150.530 people benefited from this service in 2005, thus making a total of more than 300,000 beneficiaries since the scheme began in 2003.

105. Finally, the efforts to increase coverage had been complemented with an increase in the pupil-teacher ratio, which rose from 28.6 in 2003 to 29.48 in 2005.

106. In relation to desertion, the Report says that rates are falling among men and women alike. The most recent data available, from the C-600 education census shows this clearly:

Desertion rates by gender

Year	Men	Women	TOTAL
2002	7,85%	6,57%	7,21%
2003	7,32%	6,15%	6,74%

Source: Calculations SE-DDS-DNP based on C-600

107. With regard to repetition of grades, Decree to 30/2002, regarding curriculum, evaluation, the passing of annual grades and the evaluation of institutions, says that repetition must not affect more than 5% of pupils. This legal initiative was supported by the fact that repetition does not effectively solve learning problems, but does contribute to the phenomenon of desertion, because students take failure as a punishment.

108. Thus, government action seeks to provide an educational service to a greater number of people, in parallel with a reduction in the existing breach between urban and rural areas.

- **Health**

109. The Social Security system of health guarantees attention to all, by attending to (i) the contributory regime (for those with capacity to pay), (ii) special regimes, and finally (iii) the subsidised regime, in which the government guarantees a mandatory health plan for the poorest sectors. In 2005, total coverage in affiliation was 68.8%, such that the 31.2% of the population not included in these regimes is

also engaged in the system. Nonetheless, as affiliation to the subsidised regime moves forward, and the contributory regime is strengthened, the unaffiliated population has the possibility of access to health services by the contracts made by regional entities with health providers in public and private sectors.

110. The process of reorganisation and redesign of the service providing networks has been developed in order to improve access, quality and effectiveness in the provision of the services as a function of users of the system. Therefore, in the pursuit of this process, there has been a noticeable improvement in the financial sustainability, effectiveness and productivity of the health service providers, which were the object of intervention.

111. Here, it cannot be considered that a greater number of hospital beds implies greater productivity or care, unless those beds are used. Thus, in 1999, the occupation of beds in high-complexity hospitals (Level 3) was 84%, and in intermediate (Level 2) hospitals, 64%. But in 2004, occupation increased to 88.4% and 77.5% respectively. At the same time, the number of surgical operations effected has risen by 1.4% between 2002 and 2004, in high complexity (level 3) hospitals, and by 7.96% in the intermediate hospitals, which is an indicator of greater productivity.

✦ Housing

112. The institutions which form part of the social-interest housing policy have allocated a total of 227,894 subsidies, and 51,324 loans between August 2002 and October 2005. Thus, during this government's period of office, financial support has been secured for the construction of 279,218 social-interest housing units (70% of the overall target), with an investment of COP 2.7 billion.

113. The funds for the urban social-interest housing programme are executed by Fonvivienda, and are distributed to the regions through a methodology defined as a function of the population of each department, and by indicators of unsatisfied basic needs[6]. The allocation of funds respects regional coefficients, and is executed in accordance with a formula which favours homes classified as being most vulnerable[7].

114. It should be noted that in the course of this government's period of office, 17,781 subsidies have been allocated by Fonvivienda to the displaced population (20% of the total), 8,979 subsidies for the victims of natural disasters, and 1,661 subsidies for the victims of terrorist attack. At the same time, within the property registration programme, the government has delivered 24.881 title deeds in urban areas, and is in the process of allocating 18,000 subsidies to validate other legal titles.

---

[6] Decree 975/2004

[7] The formula favours larger households headed by women living in greater poverty and those that make more family efforts through programmed savings (Decree 975/2004)

Progress in Social Housing Policy

Entidad	Target	Progress to Oct/05			Target 2005	
	No.	No.	%	Inversión	No.	Investment
SFV:						
Fonvivienda	120.270	84.203	70%	581.561	30.000	240.000
CCF	168.536	94.012	56%	592.596	42.000	290.000
Banco Agrario	55.400	33.642	61%	148.248	9.000	46.000
CPVM	14.588	16.037	110%	232.140	4.000	58.000
Créditos						
FNA	37.206	23.743	64%	650.742	14.000	350.000
Findeter and others	4.000	27.581	690%	543.199	8.000	180.000
Total	400.000	279.218	70%	2.748.485	107.000	1.164.283

FONVIVIENDA disbursements by type

Programmes	Aug 2002- Aug 2005		%
	No.	Value	
1. Ordinary funds	29.578	211.786	36%
2. Regional effort	16.345	116.552	20%
3. National fund	5.813	43.852	8%
4. Displaced	17.781	116.239	20%
5. Terrorist attack	1.661	11.104	2%
6. Natural disaster	8.979	54.299	9%
7.Other*	4.046	27.728	5%
Total	84.203	581.561	100%

Source: Fonvivienda

115. Amongst the achievements of the programme executed by Fonvivienda

during this administration, there are the following:

- Adjustments to the formula for assessment and amounts of family subsidy for housing have improved the focalisation of funds. So, the number of houses allocated subsidy for Type-1 housing rose from 85% in 1999-2002 to 95% in 2004. This reflects a better focalisation of the family subsidies for lower-income housing (0-1 monthly minimum salaries), which represent 76% of homes benefited in 2004.
-
- Measures adopted by this administration have extended coverage of the subsidy programme (38% in total). Thus, the process has allowed 22,000 additional subsidies to be made in 2003 and 2004, and in 2005 it is estimated that a further 15,000 homes will benefit from the subsidy.

116. Finally, the following is a table showing the application of the "Seven tools of equity" used for social reactivation.

THE SEVEN TOOLS OF EQUITY AND SOCIAL REACTIVATION[8]

DESCRIPTION	BASE LINE 2002	PROGRESS 2003	PROGRESS 2004	VAR. 2002-2003*	PROGRESS 2005	VAR. 2004-2005*	ACCUM GOVERNMENT
1. EDUCATIONAL REVOLUTION							
Coverage							
New basic and intermediate places	347.372	477.598	256.815	-46,20%	350.602	36,50%	1.085.015
New higher education places	22.905	34.858	69.045	98,10%	107.986	56,40%	211.899
Icetex Acces loans(formalized)	-	21.080	20.307	-3,70%	17.814	-12,30%	59.201
Icetex Acces loans (approved)	-	26.014	26.289	1,1,%	22.261		74.564
Contracted education	-	-	-	0,00%	115.698		115.698
Contracted education- funds ($ million)	-	-	-	0,00%	78.414		78.414
Quality							
Saber tests	703.924	3.062.860	171.846	-94,40%	5.063.855	2846,70%	8.298.561

[8] (*) Data at 31 August 2005. Records of SUR are dynamic and annual figures may vary from one form of measurement to another (currently: monthly measurement)
SOURCE: PRESIDENT'S COMMUNICATIONS OFFICE

DESCRIPTION	BASE LINE 2002	PROGRESS 2003	PROGRESS 2004	VAR. 2002-2003*	PROGRESS 2005	VAR. 2004-2005*	ACCUM GOVERNMENT
Accredited programs ICFES (Accum.)	168	224	275	22,80%	374	36,00%	374
Technical training							
Youth in Action (graduates)	12.682	28.687	18.098	-36,90%	21.271	17,50%	99.916
Professional formation (trained)	1.142.798	2.263.382	2.694.799	31,00%	3.853.352	30,00%	3.853.352
Libraries							
Facilities	73	199	150	-24,60%	234	56,00%	583
Bands							
Creation and strengthening	-	92	97	5,40%	58	-40,20%	247
Maintenance of Children Conductors	470	5.009	5.462	9,00%	22.106	304,70%	22.106
Coldeportes and Fonade							
Cofinanced sports and recreation infrastructure projects	20	26	63	142,30%	34	-46,00%	128
Cofinanced projects managed by Fonade (projects)		3	14	366,7%	3		20
Cofinanced projects - managed by Fonade (resources)		3.584	57.602	1507,20%	17.204		78.390
2. SOCIAL PROTECTION							
Employment							
Unemployment (December 2005)	15,60	12,30	12,10	(-3,4) puntos	10,40	(-1,7) puntos	10,40
Subsidised regime							
New affiliates (includes partial subsidy)	381.292	1.123.658	3.685.527	228,00%	3.025.286	-17,90%	7.834.471
Contributory Regime							
New affiliates	87.257	639.738	1.052.049	64,40%	434.255	-58,70%	2.126.042
Pensions							
Total contributing affiliates	5.020.059	5.217.451	5.290.385	1,40%	5.691.262	7,60%	5.691.262
Promotion of employment							

DESCRIPTION	BASE LINE 2002	PROGRESS 2003	PROGRESS 2004	VAR. 2002-2003*	PROGRESS 2005	VAR. 2004-2005*	ACCUM GOVERNMENT
Apprentices placed	33.428	72.087	42.653	3,00%	75.494	1,70%	255.183
Incubation System (SNIE)	-	22	9	-59,10%	3	-66,70%	34
No. of businesses cretaed by SNIE	-	288	255	-11,50%	258	1,20%	801
Protection for the unemployed							
Unemployment subsidies	-	18.247	65.462	258,80%	112.294	71,50%	196.003
Loans for women							
Heads of household benefiting	720	1.806	265	-85,30%	714		3.370
Displaced							
Average No of families displaced per month	7.722	4.150	3.490	-15,90%	2.846	-18,40%	N.A.
Families returning	4.382	7.786	5.290	-37,10%	8.385	58,50%	24
Households displaced per year	92.667	49.802	41.875	-15,90%	34.154	-1840,00%	N.A.
NUTRITION PLAN							
Families in action							
Families benefited by last payment	320.434	337.337	328.455	-2,60%	406.229	23,70%	406.229
Nutrition							
Toddler breakfasts	78.152	322.052	517.598	60,70%	1.006.074	94,40%	1.006.074
No of children in school diners	2.229.687	2.498.679	2.650.732	6,10%	2.630.371	-0,80%	2.630.371
Children in ICBF Welfare Homes	956.061	954.088	957.126	0,30%	952.850	-0,40%	952.850
The elderly							
Cash subsidies	-	35.182	138.835	294,60%	189.719	36,70%	189.719
3. SOLIDARITY							
Regional public network							
Solidarity businesses established	-	341	379	11,10%	252	-33,50%	972

DESCRIPTION	BASE LINE 2002	PROGRESS 2003	PROGRESS 2004	VAR. 2002-2003*	PROGRESS 2005	VAR. 2004-2005*	ACCUM GOVERNMENT
Solidarity Microbusinesses for public services, formed or being formed	-	37	21	-43,20%	29	38,10%	87
Community mothers							
Mothers undergoing induction into cooperative practices	400	9.246	16.188	75,10%	8.788	-45,70%	34.622
4. SOCIAL MANAGEMENT OF RURAL LIFE							
Productive activity							
Total area down to crops (hectares)	4.207.882	4.387.406	4.661.240	6,20%	4.717.088	1,20%	4.717.088
New cultivated land (hectares)	-	179.524	273.834	52,50%	55.848	-79,61%	509.206
Rural housing							
Social interest housing subsidies (Banco Agrario)	9.650	9.370	14.979	59,90%	12.711	-15,10%	37.060
Forest ranger families							
Families benefiting	-	11.385	19.024	67,10%	33.594	76,60%	33.594
5. HOUSEHOLD PUBLIC SERVICES							
Grid electricity							
Grid coverage	88,36%	89,60%	91,75%	2,20%	91,85%	0,10%	91,85%
Biannual telephony plan							
New lines installed (First Biennial plan)	-	18.531	1.130	-93,90%	N.A.	N.A.	19.661
Replacements (First biennial planl)	-	23.246	897	-96,20%	N.A.	N.A.	24.323
6. A COUNTRY OF OWNERS							
Urban hosuing							
Subsidies and loans for social-interest housing (Fonvivienda, CCF, CPVM, FNA, Findeter)	63.358	61.162	93.987	53,70%	110.608	17,70%	289.805
Loans and microloans for social interest housing – Findeter	-	-	67	100,00%	5.420	7989,60%	5.487

DESCRIPTION	BASE LINE 2002	PROGRESS 2003	PROGRESS 2004	VAR. 2002-2003*	PROGRESS 2005	VAR. 2004-2005*	ACCUM GOVERNMENT
SME development							
Loan allocations to microbusinesses (Bancoldex)	101,8	163,3	261,4	60,10%	298,2	14,10%	775,4
Loans to microbusinesses - Banks-NGO Agreement	144,5	568,4	665,6	17,10%	637,5	-4,20%	2.016,0
Total loans allocated to microbusinesses (IFI-Bancoldex, Convenio Mincomercio-Banca-ONG´s, Finagro and foundations)	513,1	1.314,7	1.845,6	40,40%	1.792,1	-2,90%	5.328,5
Cofinancing funds Fomiypime	14,1	25,0	2,9	-88,40%	18,0	522,00%	55,9
7. QUALITY OF RURAL LIFE							
Water supplies and basic sanitation							
New urban beneficiaries - water supplies	22.695.935	704.570	1.519.877	115,70%	786.183	-48,30%	3.010.630
New urban beneficiaries - sewerage	20.366.800	630.290	2.209.375	250,50%	906.194	-59,00%	3.745.859
New urban beneficiaries - sanitation	15.252.130	589.365	2.843.722	382,50%	971.667	-65,80%	4.404.754
Paving of roads							
Km paved/improved	475,0	459,1	557,7	21,50%	407,8	-26,90%	1.740,5
Transmilenio - Bogotá							
Km built	3,90	7,81	9,12	16,80%	13,4	47,30%	32,8

1.3. Overview of International Humanitarian Law

117. The government shares the view of the High Commissioner that "there was evident persistence of serious violations by the illegal armed groups, in particular FARC-EP and the illegal self-defence groups", and "total disregard and disrespect for humanitarian duties by the guerrillas, in particular FARC-EP..."

118. The government also wishes to highlight the efforts which, in the process of a policy of dialogue and peace, it has implemented within each of the illegal armed organisations.

- **Progress and problems with the guerrillas**

The situation with ELN

119. Contacts have been made with the ELN in Havana, Cuba, to explore the possibility of advancing a negotiating process, within the framework of government policy. The spokesmen for the ELN include Antonio Garcia and Francisco Galan, to whom the President of the Republic has given safe-conduct guarantees. Representatives of the group of countries accompanying the process, Switzerland, Spain and Norway, with Cuba as the host country, have also taken part. The presence of the international community, as a witness, has allowed a certain stability to be established to the talks, opening out an avenue to continue work on the design of the process, and the construction of an agenda for it.

The situation with FARC

120. The following are the most important considerations:

- This group is a permanent violator of International Humanitarian Law, and ignores it completely, as the Report notes.
- Recently, army Major Julian Ernesto Guevara-Castro died after seven years of being held captive by the FARC. They conditioned delivery of the corpse to the family on government acceptance of their proposal for humanitarian exchange.
- They have made no positive pronunciation on the proposals made by Spain and Switzerland.
- FARC continue to make indiscriminate attacks on the civilian population, as recently occurred in a bus in the country district of El Diamante, Department of Caqueta, where they shot at the passengers and tried to set them on fire; and with the murder of municipal councillors in River, Department of Huila.

- **Demobilisation of the self-defence groups (AUC)**

121. Mention should be made of certain aspects and results of this process:

- There has been a reduction in the incidence of crime in areas in which there has been demobilisation
- Those areas have not been occupied by other in regular groups
- There have been no activities to re-sow cocoa-leaf in areas such as Catatumbo, where the demobilisation of the Bloque Catatumbo took place
- Government attacks on the illegal self-defence groups continue. In 2005, 2,967 members of those groups were captured, and 222 were killed.

122. In relation to the Law of Justice and Peace, it is surprising that the Report does not clearly frame this act within the relevant objective of securing peace and reconciliation. Also, the government does not share the statement that the Law of Justice and Peace is not compatible with international principles. It is worth remembering that the principles which the international community has applied up to now in this matter are not a single or a definitive body of rules. Despite this, Colombian legislation has been able to adopt as many of such principles as it can, and in an innovative form, in relation to experiences in the hemisphere and elsewhere in the world, attending to the specific characteristics of the situation in Colombia.

123. The Law of Justice and Peace is not (unlike the impression that one might obtain from the Report) the only instrument to disband organised illegal armed groups, and networks of organised crime related to them. It should be mentioned that the Prosecution Service has conducted major investigations which have played a decisive role in disbanding such groups, through investigations of money-laundering (which is an offense in the Colombian Criminal Code), and through the law for the extinction of ownership, amongst other tools.

124. For example, in recent days a key member of an organised criminal network, a businesswoman who managing gambling activities in local lotteries on the Caribbean coast, was captured in the course of an investigation for money-laundering. (It should also be noted that this investigation was conducted by the Prosecution Service Investigation Division, and that the organisation chart of the Prosecution Service contains women who have been promoted to senior posts as a result of their knowledge and successful experience in conducting investigations).

125. With regard to the electoral process, it should be noted that the various parties and movements have carefully selected their candidates, and have taken decisions not to include some potential ones.

126. At the same time, the Office of the Procurator has disqualified 16 candidates for Congress. Their disqualifications arise from disciplinary sanctions which would prevent them from holding public office for a defined time, from convictions for crimes, and from fiscal processes conducted by the office of the Comptroller General.

127. The Constitution states that a person who has at any time been convicted of a crime by the courts may not be a member of Congress. This is a cause for the loss of investiture. So, electoral rules prohibit those who are the subject of disqualifications derived from criminal, disciplinary or fiscal processes from entering their names as candidates for any elected position.

- **The forces of law and order**

128. The Office of the High Commissioner continues to make generic associations of the conduct of the illegal self-defence groups with the violations of Human

Rights, that is to say, with conduct which compromises the responsibility of the State, by action of its agents, or with their acquiescence. There is an evident tendency to associate the conduct of the illegal acts of self- defence groups with the responsibility of the forces of law and order.

129. The government considers that the presentation made in the Report with regard to the actions of the forces of law and order, restricted solely to cases of violations of Human Rights, might lead to a mistaken reading of their general conduct. The recovery of territory through more offensive operations, their presence in all the municipal districts throughout the country, the protection of society and of the electricity and economic infrastructure, combined with a reduction in the complaints made to the Office of the People's Defender on the grounds of violations of International Humanitarian Law —all of them are part of the context too— suggest a different reading than might be derived from the Report. Especially, since some of the denunciations, particularly those referring to sexual violence against women, do not have the minimum support required to justify an investigation of the facts.

130. One matter of particular concern is an accusation made against the army, originating in denunciations not corroborated by the High Commissioner's Office, with regard to sexual violence against women, especially in group incidents, involving indigenous communities. This denunciation was made publicly and irresponsibly by one indigenous leader, who referred to almost 100 indigenous women being raped by the army, but this was never confirmed to the Prosecution Service or any other investigating agency. At the appropriate time, the Ministry of Defence made a written request for accurate information about cases, units, or specific places which might provide material for an investigation, but that information never arrived; nonetheless, these unratified statements were given total credit by the High Commissioner's Office, and will now be disseminated to all countries around the world, causing irreparable damage to the image of the army, which has no opportunity to defend itself, or to enjoy due process.

131. It is also a matter of concern that the Report insists that there has been no progress in the effective disbanding of self-defence structures, because, when such a statement is presented in an isolated form, and then included as a Recommendation, it leads to the conclusion that there has been no political will on the part of the government in this matter. This statement should have been made with the additional mention of recognition of the operating results in relation to these groups, the policy of zero tolerance with them, the capture of some of their leaders, the dismantling of their sources of finance, etc, and particularly, the degree of difficulty which has been experienced in inserting them into civilian life: and the progress which has been made despite this difficulty.

III. CHALLENGES WITH REGARD TO DEMOBILISATION, AND THE LEGAL FRAMEWORK

132. In order to achieve peace in Colombia, a legal framework has been drawn up in accordance with international norms on Human Rights and International Humanitarian Law, with respect to the rights of victims, without ignoring the rights of the accused, and of the same time, providing the stability required to make successful product progress in peace processes with members of the illegal armed groups. So, in complement to Law 782/2002, which extended of the validity of Law 418/1997, Law 975/2005 was issued for the members of the illegal armed groups who were not qualified to receive the benefits established in Law 782.

133. Law 975/2005, also known as the Law of Justice and Peace, is designed to cover the demobilisation of individuals involved in the commission of serious crimes. It is of an exceptional nature, since it is not a law for times of normality but it is designed to encourage the cessation of violence caused by the illegal armed groups. It is important to note that, in harmony with the Constitution and in international instruments, the application of this law does not offer the legal benefits provided in Law 782/2002, including pardon. Instead, it establishes that the imposition of alternative penalties, consisting of effective deprivation of freedom for between 5 and eight years, depending on how effective the contribution made to national peace has been.

134. Those who resort to Law 975/2005 may have access to the benefits of the same, subject to efforts to collaborate with the attempt to obtain peace. In addition, the application of benefits should take account of the gravity of crimes committed, and the effective collaboration provided in the clarification of events, thus maintaining a balance between two higher values (Article 2, Purposes of the State, and Article 22, the Right to Peace) of the Colombian Constitution.

135. The government is required to present a list of those proposed for access to the procedures of the Law of Justice and Peace to the Prosecution Service, for relevant investigation. The appeal courts of the judicial districts are responsible for imposing the related penalties.

136. For the purpose of clarifications of historical truths, Law 975/2005 offers a number of provisions; and it establishes the creation of the National Commission for Reparations and Reconciliation (CNRR), and requires that processes undertaken in the framework of this law will not prevent future application of other mechanisms of a non-judicial nature to reconstruct the truth; and it contains a duty to conserve records that reflect historical memory, including the causes, development and consequences of the action of illegal armed groups.

137. With regard to the victims, the Law of Justice and Peace offers a wide definition of their condition. Further, Regulatory Decree 4760 states that victims include those who have suffered forced displacement due to the punishable conduct of the illegal armed groups. Victims may actively intervene in the process provided for in Law 975/2005, providing evidence, requesting information, cooperating with the judicial authorities, and being notified of and challenging decisions adopted in such processes; and in sum, they may take part in all stages of criminal proceedings.

138. Equally, the law establishes a protection for intimacy, and the safety of victims in the hands of the Prosecution Service, and enjoins the Judicial Procurators for Justice and Peace to ensure that the competent authorities provide appropriate attention to the special needs of women, children, adolescents, the handicapped, and the elderly who take part in the process, and for the recognition of victims of punishable conduct which has threatened their freedom, integrity, or sexual formation.

139. The Regulatory Decree also conditions access to these legal benefits in the Law of Justice and Peace to a complete cessation of the commission of such conduct in the cases of forced displacement, kidnap, forced recruitment, the taking of hostages and other successive crimes of execution, either by giving information with regard to the whereabouts of victims, or releasing the victims of kidnap or forced recruitment.

140. In addition - and very contrary to the statement of the High Commissioner's Report that it is not known how many minors have demobilised, the government of Colombia would first like to mention the treatment given to the minors, which is not known as demobilisation, but disengagement. Thus, in the framework of the programme for attention to children and adolescents disengaged from the irregular armed groups, between November 1999 and December 2005, attention has been given to 2,685 minors under 18; 10 in 1999;100 in 2000; 196 in 2001,394 in 2002, 775 in 2003, 684 in 2004, and 526 in 2005[9]. Of the 526 minors delivered to the family welfare Institute ICBF in 2005, 277 came from the self-defence groups, 1 76 from FARC, 68 from ELN, 4 from EPL and one from ERP.

141. Demobilisations are classified as either voluntary surrender, for a total of 2,055 (76.5 4%) or as captures, a total of 630 (23.46%) between 1999 and December 2005.

142. With regard to the gender of these minors, there were 1,984 boys, and 701 girls, of whom 1,331 belonged to the FARC, 933 to the self-defence groups, 339 to the ELN, 44 to other groups (ERG, EPL-ERP, urban militias), and 38 without contact.

143. The age of the demobilised minors ranged from 11 to 18 years, there having been 1,050 of them under 17, and 778 under 16.

144. In complement, account should be taken of the following points:

- *Verification of the cessation of hostilities*

145. The State has taken comprehensive measures to enforce the cessation of hostilities in all parts of the country, as follows:

---

[9] 1999-31 December 2005

- In terms of regulation: among the requirements which the Law of Guarantees has for the eligibility of demobilisation for individuals and collective groups, there is the cessation of all unlawful activities, and hostile comportment is considered to be unlawful. In other words, the law is inapplicable to those who violate the cessation of hostilities.

- In addition, any crime committed after the effective date of the Law of Justice and Peace in the context of a violation of the cease-fire, will be tried in terms of ordinary criminal law, by the ordinary courts, and not under Law 975/2005.

- With regard to executive and judicial actions, the government has expressed its energetic rejection, and its political will to impose sanctions on those who act against the cessation of hostilities and to exclude them from the benefits of the law. One example of this is the situation of Mr Diego Fernando Murillo Bejarano aka Don Berna, who was a member of the negotiating table during the first half of 2005. Nonetheless, according to information from the Prosecution Service, Mr Murillo was the intellectual author of the murder of Orlando Benitez, a member of the departmental assembly of the Department of Cordoba, his sister and their driver, on 10 April 2005. Therefore, an order for his arrest was made effective, and he is currently in the maximum-security prison in Itagui. At the same time, eight other members of the self-defence groups were arrested for these events.

- *Among the objectives of the Law of Justice and Peace is the clarification of historical truths*

146. Article 50 of Law 975/2005 calls for the creation of the National Commission for Reparations and Reconciliation[10], which includes delegates of the Executive in its membership, along with the Office of the Procurator, five public figures including women, and representatives of associations of victims of the conflict. The Commission was installed by the President of the Republic on 4 October 2005, and is a currently engaged in a public invitation for the election of representatives of the victims, in order to comply with the full structure proposed by the law.

147. The Commission convinced that without truth neither justice, nor reparation nor reconciliation is possible, has studied policies for truth, justice and reparations

---

[10] Composed of the Vice President of the Republic or his delegate, as chairman, the Procurator General or his delegate, the Minister of Interior and Justice or his delegate, the Minister of Finance or his delegate, the People's Defender, two representatives of the organizations of victims, and the Director of the Social Solidarity Network, who will provide the secretariat services. The President of the Republic will name five public figures, of whom at least two will be women, to be members of the commission".

from transitional justice systems applied in other countries around the world, analysing Colombian experience and different attempts to overcome the conflict. All this will allow work to be done in the reconstruction of the truth in terms of fact and history, guaranteeing the active participation of victims in the clarification of judicial events.

148. Within the regulations of which the real problem the real willingness to achieve this purpose is based, we find:

- Section 7.3 of the Law of Justice and Peace, "processes undertaken as of the effective date of this law will not prevent the future application of other non-judicial mechanisms for the reconstruction of the truth".
- Articles 57-59 make it a duty to preserve records containing the historic memories of the State to reflect the history, causes, and development and consequences of the action of illegal armed groups.

149. The foregoing has enabled the Commission to propose an Action Plan, provided for in the framework to achieve its objectives.

- *Protection of victims*

150. Decree 4760/2005 provides flexible recognition of the situation of victims. Additionally, it determined that victims include those who have suffered from forced displacement due to publishable conduct committed by members of the illegal armed groups. This means that the right to reparations is within the reach of victims.

151. The Decree indicates that victims may play an active part in the process provided for in Law 975/2005: they may provide evidence, request information, cooperate with judicial authorities, be served notices of decisions and challenge them[11]. And, by virtue of referral to ordinary criminal process in Article 37 of the

---

[11] The following aspects will be taken into account, amongst others. Victims will be allowed to receive, throughout the process, dignified human treatment, and the Prosecution Service will ensure that their intimacy and safety is protected; they will have the right to be heard, and enabled to provide evidence, and to receive, since first contact with the judicial authorities, information which is relevant to the protection of their interests, and to be aware of the truth of events which form the circumstances of the publishable conduct of which they have been the victims; they have the right to free legal assistance from a translator or interpreter if they are not conversant with the official language, or if they are not able to perceive language through their organs of their senses; and they may be assisted by a lawyer of their choice, or failing that by a public defender, without prejudice to their right to intervene directly throughout the process; the Judicial Procurator of Justice and Peace will ensure that the competent authorities will provide appropriate attention to the special needs of women, children and adolescents, and the disabled or the elderly who take part in processes of investigation and trial of those responsible for the punishable conduct of those to whom Law 975/2005 applies, and the recognition of victims of the punishable conduct which has affected their freedom, integrity and sexual formation, and will advance the action is required for such purposes, and have the right to be informed as to the final decision adopted by the judicial authorities competent to try the case, on the occasion of an investigation and trial under Law 975/2005, and to dispute decisions which affect them.

law, it is concluded that victims may intervene throughout the criminal proceedings also.

152. It should be emphasised that the Decree also conditions access to legal benefits of the Law of Justice and Peace by members of the illegal armed groups, to a total cessation of their conduct in the event of forced disappearance, kidnap, forced recruitment, the taking of hostages and other crimes of successive execution, by giving information about the whereabouts of their victims, or releasing them in the case of kidnap or forced recruitment.

153. The payment of reparations ordered as a result of a judgement may be made for account of those convicted, or through the victims reparation fund, created by this law, whose resources are formed of the assets delivered by members of the illegal armed groups, funds from the central national budget, and donations in cash or in kind. This will be administered by the Presidential Advisor for Social Action and International Cooperation, who will assign sufficient funds for the Commission to operate. At the same time, Regional Commissions for the restoration of assets may be appointed. Victims may at all events resort to the civil courts to enforce reparations.

154. Thus, the provisions of Law 975/2005 offer the conclusion that the Colombian State is in full compliance with its duties to the international community, to guarantee the Human Rights of persons resident in Colombia, since the authorities of the Republic, in observance of the mandate of Article 2 of the Colombian Constitution, have taken relevant measures to ensure on the one hand that the members of the organised armed groups are disbanded, and that the groups are dismantled for the furtherance of peaceful coexistence and the prevalence of a just order in accordance with the terms of Article 22 of that Constitution; and on the other hand, they take measures to punish them for crimes committed, applying sentences of imprisonment, in ensuring compliance with strict requirements provided for in that law with full guarantees of the rights of the victims to truth, justice and reparations, and the respect for the rights of the accused to due process.

Paramilitarism:

155. With regard to territorial control, noted by the High Commissioner's report, as exercised by the self-defence groups over national territory, the government must make two important points of which account has not been taken. First, the Decrees in the incidence of crime in the areas cleared by the demobilised groups and second, the ongoing offensives of the forces of law and order against the self-defence structures.

156. With regard to the first point, according to the analysis made by the office of the High Commissioner for Peace, in areas where demobilisation processes have taken place there has been a reduction in figures for displacement; those areas have not been re-occupied by other illegal groups, and there have been no murders or collective kidnaps.

157. Nonetheless, during the months of September and October, 2005, there have been individual murders in the Department of Antioquia, with a stable figure of some 20-23 incidents; in Bogota and Cali, the averages are 125 and 146, respectively; Medellin shows a significant reduction, of 24% from 114 to 90 victims, and Tolima reports a single case in October. With regard to individual kidnaps, in September there were two incidents in Antioquia, in Bogota, three and in Cali, one; and in Medellin, one. In October, statistics show one case in blank and to in Bogota, a fall of 33% for Bogota in particular.

158. With regard to extortion practised on the inhabitants of areas cleared by demobilisation processes, during September there were 27 cases in Bogota, 12 in Cali and 8 in Medellin. In October, the numbers were 8, 2 and 7 respectively - a reduction of 19%,10%, and 1%.

159. Further, in the same zones, it can be seen that action for the strengthening and permanent presence of the State has begun, with the provision of schools, police stations, and the development of social programmes etc. One example of this is the reinforcement in security matters, with a total of 230 policemen in municipalities and rural areas of El Dos and Uraba, in the Department of Antioquia; in Valle del Cauca, in the municipality of Galicia; and in Norte de Santander, in Guamalito, District of Ocaña, where blocks of the self-defence groups have demobilised.

160. At the same time, it is important to take account of the permanent engagement of a group of six junior officers in the police in various Reference Centres around the country, to accompany the process of re-incorporation of those members of the self-defence groups who have demobilised. The role of the police goes beyond simple security, since they provide talks on civic coexistence, the prevention of alcoholism and drug addiction, and they provide sessions in recreation and integration between those reinserted, their families, and various institutions of the State.

161. Further, there have been no cases in which the self-defence groups (or any other illegal armed group) have returned to reoccupy zones cleared.

162. In particular, this is the case of the demobilisation of the Catatumbo, in which using a novel technology, it was established that there has been no re-sowing of coca leaf, and that a large part of the former coca-growing land is still abandoned. The commitment of the self-defence groups to dismantle their drug-trafficking activities in the zone where they operated has been correctly discharged. An evaluation of the public order situation subsequent to demobilisation of this self-defence block (10 December 2004) to date (2005), shows that there were 510 crimes committed, throughout the Department. Seven of them are attributable to demobilised members of the self-defence groups, that is, 1.47%. In addition, there is a reduction of 40% in murders committed in the month of January in the Department, compared with January of the previous year.

163. Finally, in the areas cleared by the demobilised blocks, drugs have been confiscated in the departments of Cordoba and Norte de Santander, with 11 kg in each department; in Uraba, 7 kg, and in Tolima, 9kg. Police operations have achieved the destruction of four processing laboratories for drugs in Cauca, and

170 hectares of unlawful crops have been eradicated in Cordoba; 30 hectares in Choco, 4 in Boyaca, 5 in Cauca, and 5 in Uraba.[12] (12)

164. With regard to army operations against self-defence groups, in 2003 there were 3,166 individuals captured, and 346 casualties; in 2004, 4,836 were captured, and there were 558 casualties, and in 2005, 2,067 were captured, and there were 322 casualties.

IV. THE SITUATION OF ESPECIALLY VULNERABLE GROUPS

165. The government has acted through all its institutions and organs of control to implement programmes and projects to overcome any violation of the human rights of populations at risk.

166. With regard to the protection of the Human Rights Defenders, it should be noted that Presidential Directive 007/1999 regulated the support, action and cooperation of the State with Human Rights organisations, considering that the policy for the respect for and the promotion and guarantee of human rights and the application of International Humanitarian Law has made the commitment to protect Human Rights Defenders a priority area of action, and given its importance among the elements of control of actions of the State and of private parties.

167. At the same time, Section 28.53 of the Disciplinary Code indicates that it is "a very serious offence" "to disobey orders and instructions contained in Presidential directive is whose object is the promotion of Human Rights and the application of International Humanitarian Law". In this context, the Office of the Procurator General is empowered to investigate public servants who failed to observe the terms of that directive.

168. The Office of the Procurator, following the recommendations made by the United Nations High Commissioner for Human Rights, is conducting an analysis of the scope and problems encountered in a typical adaptation of the provision of the Disciplinary Code which would allow it to evaluate the relevance of issuing a directive to guarantee its practical effectiveness.

169. As a complement to the foregoing, on 1 December 2005, the Ministry of Interior and Justice, with the technical and financial support of USAID, launched a communications strategy to protect and promote the respect for Human Rights Defenders. The strategy was entitled as "Defend the Human Rights Defender", and "Human Rights, the best plan, do it for yourself, do it for everyone", and its aim, as the Ministry of the Interior stated, was to contribute to the strengthening of collective awareness of the importance of the legal, legitimate and necessary work of Human Rights Defenders in our society, and to the duty which we all have to rally round them and support them in the face of actions by the illegal armed groups.

---

[12] September-October 2005

170. The strategy is composed of television commercials, radio spots, posters, hoardings, and radio programmes which place importance on the work of the Human Rights Defenders, as related to the defence and materialisation of fundamental freedoms and guarantees of society, and that, in the last analysis, a threat against one of them implies an attack on the community as a whole.

171. With regard to indigenous communities, the Ethnics Department of the Ministry of Interior and Justice, in coordination with other government institutions, has been advancing action in the area of Human Rights during 2005, to mitigate and prevent situations in which the human rights of communities at risk might be jeopardised, as mentioned earlier.

172. With regard to the protection of these communities, the Ministry of Defence has developed a line of action with the government's Defence and Democratic Security policy, seeking to protect the public, and issuing Circular 2064/2003 to strengthen a policy to promote and protect individual and collective rights of these communities.

173. In order to comply with this Circular, the high command of the armed forces has issued Standing Directive 800-07/2003, to strengthen the policy for the promotion and protection of human rights of indigenous communities and other ethnic minorities, and to ensure that during the execution of military operations in their territories, their constitutional, ethnic and legal rights are respected, and their environment is preserved.

174. With regard to the situation of **women**, in terms of equality in aspects of disparity in incomes, employment, participation, health, poverty, prostitution, and white-slave trading, it is important to mention that the Colombian state has a long record of commitment to women, which is reflected in the following actions promoted by different institutions of the State to contribute to peace and development:

175. The programmes[13] which are part of the tools of social equity on generating an impact in the empowerment of women, the indigenous communities, the population suffering from displacement, he will population, the victims of violence and the disabled, thus breaking the vicious circle of poverty and its reproduction from generation to generation.

176. With regard to the problem of the white-slave trade, on 26 August 2005, Law 985/2005 was issued adopting measures to combat this trade, with regulations for the attention and protection of its victims. This law seeks to prevent, protect and assist the actual and potential victims of this crime, whether resident in Colombia or abroad.

177. The law provides for the formation of an Interinstitutional Committee for the Struggle against the White-Slave Trade[14], a consultative body of the government,

---

[13] Statistics of the results obtained in these actions do not always contain discrimination of gender.

[14] Formerly called the " Interinstitutional Committee for the Struggle against the Traffic in Women, Girls and Boys," created by Decree 1974/1996).

and coordinator of actions taken by the Colombian State through the national strategy for the struggle against the white-slave trade.

178. In addition, Colombia works jointly with the IMO to provide assistance to the victims of the white slave trade through accompaniment of their return, and the provision of psychological and medical support for them to rejoin ordinary society.

179. Finally, the State recalls that in the framework of the mandates of the current development plan, in Law 823/2003 and Decree 519/03, the Presidential Adviser for Women's Equity prepared and implemented a policy for "Women, the Builders of Peace and Development", articulated through various programmes and strategies with policies for social reactivation and democratic security.

180. The Presidential Adviser for Women's Equity gave a priority to the following areas, which have proved to provide positive results: Employment and business development; Education and culture; Violence against women; Political participation; and Institutional strengthening. In each area, the Adviser has been implementing a series of programmes, projects or strategies jointly with public and private entities of all kinds, to promote the prominence of woman, and to help correct imbalances with regard to relationships and the opportunities for development, in which women are at a disadvantage compared to men.

181. The affirmative action plan of the Presidential Adviser for Women's Equity is a response to the need for a proposal to build for social and gender equity. It focuses action among the low-income women, particularly those who are heads of household, and encourages a wider, more direct and independent participation of women's organisations in a number of forums for consultation and concertation, and builds its activities around the promotion and protection of the human rights of women.

182. Government policy to combat terrorist organisations is based on the defence of democracy, and one of its cornerstones is a respect for **the freedom of expression**. Therefore, the action of the State is designed to create conditions of peace and security which allow the public, and in particular communications professionals, to practise their professions freely.

183. In relation to the terms of the Report, it must be made clear that government policy in no way supports at the activities indicated in the Report; on the contrary, it defends the institution of freedom of expression so that all may express their opinions. Democratic security has had success in the reactivation of the economy, the free movement of individuals, and in particular in the exercise of the freedom of expression and information. This freedom, addressed to the defence of democracy, has an immediate benefit in the recovery of confidence, and this enables the individual to express his opinions and ideas without fear of reprisal.

184. To the extent that of the government has recovered political control, the present climate of tranquillity has made it effectively possible for communicators

and the media to resume work, and to regain confidence, because they know that the State enforces respect for the free exercise of their activities.

185. In Colombia, freedom of opinion and expression is enshrined in the Constitution. In harmony with the basic principles of democracy and the State of law, there are guarantees that all citizens have "the freedom to express and to disseminate their thoughts and opinions, to inform and to receive true and impartial information, and to found mass media. These are free, and have a social responsibility. The right to rectification on conditions of equity is guaranteed. There will be no censorship" (Article 20, Constitution).

186. The Constitution gives the State the function of arranging and controlling the electromagnetic spectrum, which is held to be a "public, inalienable and imprescriptible good", so that there may be access to it on conditions of equity and objectivity. As Article 75 of the Constitution says, "in order to guarantee for pluralism in information and competition, the State will intervene by mandate of the law in order to avoid monopolistic practices in the use of the spectrum".

187. Colombia is a world leader in the awarding of licences to operate community radio services, for the benefit of a large number of social organisations throughout the country. Today, there are a total of 415 broadcasting stations, and in 2004, a new round of bids was opened in 440 municipalities, for the award of new licences.

188. Among the types of organisation selected to provide community radio services, there are, in particular, the associations, cooperatives, foundations, community action boards, religious entities, educational bodies, ecological groups, juvenile interests, the indigenous communities, cooperation, sporting interests, commercial interests, parents and the promoters of arts and crafts.

189. The regulation of telecommunications also contains a series of very important provisions designed to enforce the social responsibilities of those who operate concessions. Telecommunications must be responsibly used to contribute to the defence of democracy and the promotion of the participation in of all Colombians in the life of the nation, and it is a guarantee of human dignity and other fundamental rights enshrined in the Constitution, to ensure peaceful coexistence.

190. The media are constantly engaged in activities for professional improvement and ethical commitment, to secure quality of information, to train journalists, to improve their conditions of employment, to check the reliability of their sources and to promote investigation. As evidence of this, there is the project for a document on journalistic quality signed by 12 directors of the printed media in 2004, in the framework of the seminar "Information Quality" in relation to the armed conflict in Colombia, in which they agreed to promote discussions on journalistic ethics for coverage of the armed conflict, without losing the autonomy or independence of each of the media.

191. Considering that "self-censorship" is a subjective criterion, and not a measurable one, to state -as the High Commissioner's Report does - that the reduction in the number of attacks against journalists is the result of such self-censorship, caused by a fear to make denunciations, is to deny the effectiveness on all fronts of the policy of democratic security. As evidence of the exercise **of**

freedom of expression, there is the daily content of press articles, in which journalists write or pronounce on a wide range of matters affecting the life of the nation [15](15)

192. Further, the percentage variation in the reduction of murders of journalists between January and February-2004 and the same two months of 2005 was 30 3%.

193. With regard to the situation of the **local authorities**, specifically situations of homicide and threats to mayors, former mayors and councillors, the number of cases in the first two months of 2005 fell 43% compared to the same period of 2004. Among councillors, the reduction was 41%.

194. In the case of **the persons remanded in custody**, the prison administration by INPEC adopted measures to secure a reduction in the high levels of overcrowding, especially in places such as Wing 4 of Villehermosa prison in Cali, and 230 inmates have been transferred to other places of confinement in the western region, and Wing 1 has been remodelled.

195. In order to proceed to the relocation of transfer of inmates who are elderly or disabled to Wing 8, of the Villahermosa prison, currently held in Wing 5, the present administration has planned to transfer them after providing funds to adapt the infrastructure required for a dignified existence. Arrangements have been made to find a budget from local and departmental authorities.

196. In compliance with the directives of the senior management of the prison administration, isolation was eliminated as a disciplinary measure for inmates at the Villahermosa jail in Cali.

197. Another example of progress is the presence of a psychiatrist in the mental health unit of places of confinement, and the appointment of a doctor to be on call at night for emergencies. Further, in coordination with the Medical Auditor of the regional authority, a doctor and a nurse have been appointed to attend to police stations, working in shifts to obtain greater coverage of medical attention and to provide medicines. Inmates who were suffering from some impairment of their health were made a priority for transfer to the Villahermosa jail.

198. In order to secure dignified and appropriate treatment, and better care for the mentally ill, there is today a permanent psychiatrist who undertakes evaluations and consultations among inmates referred to him by the prison doctor. For this purpose, there is the support of a nursing assistant, who makes daily deliveries of medicines ordered. Further, the Ministry of Social Protection makes a regular evaluation of the inmates, to determine which of them should be sent to the psychiatric hospital at Valle San Isidro.

199. In the face of the measures adopted to ensure that procedures for personal searches and reviews, especially for the visits of women and girls, meet international standards, the procedures approved by the senior management of the

---

[15] Press article

prison service INPEC have been observed, especially after Decision T-848 of the Constitutional Court. Two Boss Ranger metal-detector chairs and six Garrett manual metal detectors are now functioning. There are also provisions for six units of the custody and surveillance group, qualified to work with dogs, who form part of the first ring of security before entering the search room, where the metal detectors and the guard units are located.

200. There is an agreement, established with the Valle University Hospital, for the provision of the following services:

- specialised outpatient consultation
- surgery, to levels 1,2, 3 and 4
- diagnostic examination
- hospitalisation

201. This has helped to speed up medical attention, and minimises the number of surgical operations. Thus, all surgery pending is performed, in accordance with the quotas assigned by that hospital.

202. There have been vaccination campaigns against influenza, measles and German measles, and health campaigns in general, and oral health. There have been campaigns to promote and prevent diabetes, hypertension, tuberculosis, and sexually transmitted diseases; talks on mental health; campaigns for regular fumigation, and the extermination of rats and the vaccination of dogs.

203. Within the framework of the agreement between Villa Colombia clinic and the public health office, optometry appointments have been made, and lenses supplied; electrocardiograms have been taken, and there have been surgical operations performed with special emphasis on the elderly, and inmates suffering from hernia.

204. There was also a campaign with the *Pastoral Penitenciaria* programme members in coordination with the Office for Treatment and Development, with consultations in general medicine, dentistry, and the donation of medicines. On this last point, it should be mentioned that medicines are being supplied to inmates with chronic conditions such as diabetes, hypertension, dyslipidemias and tuberculosis, and patients with AIDS, through a high-cost illness policy.

205. In order to ensure that paediatric attention is received, and that there is adequate nutrition for children under three who live with their mothers as inmates in the Buen Pastor jail, especially on days when the children are not in the hands of the nursery team, the prison administration has taken measures as required to secure medical attention for children under three, at the Cali women's prison.

206. This has been achieved by the appointment of a GP, a process supported by services in an agreement with the Valle University Hospital, and with constant communication with the Luis H Garces Health Centre, with whom the social-family survey was taken for inclusion of beneficiaries under the health subsidy scheme.

207. With regard to the allocation of food to children, this is the responsibility of ICBF, who send a weekly despatch in accordance with the food requirement established. Under an agreement signed with Profamilia, there are guarantees of regular gynaecological care for the inmates of the Buen Pastor jail, through a preliminary evaluation by the GP, who refers special cases to the specialists, and provides support in cytology and consultations in general.

V. FOLLOW-UP AND IMPLEMENTATION OF THE RECOMMENDATIONS OF THE HIGH COMMISSIONER.

---

208. First, it should be noted that through the Commission for Follow-up of the London-Cartagena process, there has been follow-up and implementation of these recommendations. The Commission is formed by representatives of the government, represented by a number of Colombian organisations, civil society, through the Colombian Federation of NGOs, the Catholic church Pastoral Social, the Confederation of Sector Associations, the National Planning Council, the Federation of Municipalities, spokesman of business foundations, international NGOs-DIAL and PODEC; and two representatives of the alliance of social and related organisations; and the international community, through the so-called Troika (formed by the acting President of G-24, the former President and the next President), and other members of the international community. In addition, the United Nations is represented by the resident Director of UNDP, and the Director of the Office of the United Nations High Commission for Human Rights in Colombia.

209. For 2005, and based on the agenda agreed, the Commission held quarterly meetings. The frequency of meetings was due to a request made by the Chairman of G-24 in order to secure the presence of high-level officials, and to be sure that significant progress would be made at each meeting. Finally, three meetings were held, on 22 July, 2 November and 6 December 2005, and a schedule of work has been decided for the first half of 2006.

210. In June, 2005, the government delivered the schedule for implementation to the Office of the High Commissioner for Human Rights, and under the leadership of the Presidential Programme for Human Rights and International Humanitarian Law, a document was prepared recording the progress made, and this was shared with the High Commissioner's Office in Colombia.

211. Despite this, it is important to make the following points with regard to the analysis included in the Report, in relation to the implementation of recommendations.

a. Prevention and protection

212. (...) So far, the recommendation to introduce sanctions for public servants who do not respond to alerts issued by the early warning system CIAT has not been implemented".

213. With regard to the "introduction of sanctions for failure to respond to alerts issued", we would again remind the Office of the High Commissioner that the recommendations and early warnings issued in the context of CIAT seek to promote the coordinated action of the civil, military and police authorities competent for the situation across the country, in accordance with the nature of events, and the context of the situation. At all events, the recommendations and alerts are always preventive criteria in the face of potential situations of risk, and the occurrence of subsequent criminal activities or violations does not necessarily imply a direct or causal relationship with the general context of the risk reports of the Office of the People's Defender.

214. Nonetheless, and recognising the possibility that the situation proposed might arise, its verification and investigation is the responsibility of the competent judicial and administrative authorities, in particular the Office of the Procurator General. The Procurator, under Title 10, Chapter 2, Articles 277 and 278 of the Constitution, and according to the terms of the Disciplinary Code, is responsible for the preferential exercise of disciplinary power, that is, to exercise the higher supervision of the official conduct of those who perform certain public functions, implementing related investigations, and imposing sanctions as required by the law.

215. In this regard, during 2005, the Ministry of Interior and Justice (in relation to the CIAT Secretariat) attended to a request made by the Office of the Procurator, and provided information related to the functioning and procedures of the Committee, in particular recommendations and alerts issued, and the authorities to which they were addressed. Therefore, the institution has full knowledge of the matter. *"... The system of early warnings (SAT) of the Office of the People's Defender continues to depend almost entirely on international cooperation:*

BUDGET ALLOCATIONS 2002 - 2006						
(COP millions)						
OFFICE OF THE PEOPLE'S DEFENDER						
ITEM	Appropriated 2002	Appropriated 2003	Appropriated 2004	Appropriated 2005	Appropriated 2006	TOTAL
	(1)	(2)	(3)	(4)	(5)	
Personnel	15.891,7	16.340,6	17.455,8	20.259,9	25.618,1	95.566,1
General Expenses	3.055,9	2.905,3	3.111,0	5.176,8	5.153,6	19.402,6
Transfers	26.307,7	25.044,5	24.156,5	36.674,0	52.105,4	164.288,1
TOTAL Operating						

expense	**45.255,3**	**44.290,4**	**44.723,3**	**62.110,7**	**82.877,1**	**279.256,8**
Investment	500,0	634,8	690,4	2.468,2	3.100,5	7.393,9
TOTAL BUDGET	**45.755,3**	**44.925,2**	**45.413,7**	**64.578,9**	**85.977,6**	**286.650,7**

216. *"(...) Nonetheless, the instruction to sanction breaches of Presidential Directives regarding the work of defenders, as stipulated in Section 48.53 of the Code, has not been included".*

217. The Directorate of the Civil Service Department DAFP, as Chairman of the Advisory Council on Internal Control, requested all Heads of Internal Control at national and regional level, to ensure that their prevention and improvement actions included the defence and protection of human rights by all public servants. This was intended to give preferential application to sections 48.5-48.10 of the Disciplinary Code, contained in Law 734/2002.

218. *"(...) The High Commissioner takes note that certain urgent and special measures have been initiated in favour of two of the 12 indigenous communities at risk of extinction, as referred to the by the High Commissioner in the previous report. No measures have been reported for prevention and protection, or diagnosis of the high-risk conditions, of the 10 remaining communities. We note the lack of adoption of an integrated public policy on this matter, to provide urgent attention to these communities."*

219. The measures adopted have been specified earlier in this document

220. *"(...) there is no information on the presentation of plans for territorial presence by the Office of the People's Defender and the Office of the Procurator General to strengthen their presence in the country".*

221. The Office of the Procurator will be present in places with indigenous and Afro-Colombian populations, in the implementation of project processed through the Cooperation Department of the Canadian Embassy, which will help to provide effective materialisation of the right to full reparations and restitution for the indigenous and Afro-Colombian peoples, in the context of the application of the Law of Justice and Peace.

222. *"(...) With regard to a review of intelligence files of the Ministry of Defence related to Human Rights Defenders, no concrete progress has been recorded. This, despite the effort and commitment of the Office of the Procurator General. To date, the Ministry has not provided the identification of criteria and parameters used to record the information, the length of time for which it would be kept, and other matters."*

223. During 2005, according to Executive Quarterly Report No. 1, on verification of military intelligence files of the Armed Forces, it was found that the database and

files recording the information of the commanding officers of department D2-EMC of the Army, Navy and the Air Force, had no files of persons or organisations engaged in the defence of human rights, or of International Humanitarian Law, or union leaders.

224. The Procurator appointed delegate procurators for prevention in human rights and for the Office of the Procurator General to accompany this process of review. Its direct participation has not been active, until "a preliminary study of observations, complaints and denunciations from social organisations concerned about the matter have been effected."

225. In March, the Procurator General requested the following information: criteria used to support incorporation into data intelligence databases of the following records: criteria which those responsible for databases apply to remit information to judicial authorities; the time during which the files of intelligence records are kept; description of the security systems which protect the databases containing intelligence files.

226. In May, the Procurator requested explanation regarding the participation of Procurators appointed to pursue the consolidation of this process. The police reported the criteria for recording and administering files and databases of the intelligence service. The Minister of Defence explained the situation with regard to the participation of Procurators, to the Procurator General.

227. In August, the Head of Joint Military Intelligence and Counterintelligence reported that for the level of the strategic installations, no intelligence notes existed on NGOs or Human Rights Defenders. He found it healthy that the institution enjoyed the preventive action of the Procurators delegated. At the same time, the Minister of Defence informed the Procurator of the formal aspects of intelligence files.

228. In September, 2005, there was a meeting at the Ministry of Defence of the Procurators delegated, the Head of Joint Intelligence and Counterintelligence, the head of the area of intelligence production of the police, and other officials in the Ministry of Defence. The meeting formed a working group to pursue the study of criteria applying to intelligence activity. All the participants at the meeting expressed their satisfaction at the results achieved during the session, which represented knowledge and more solid interlocution.

229. Finally, on 24 January 2006, there was a working meeting on the following subjects: a more detailed study on aspects related to intelligence activities, in relation to the concept of "battle orders".

230. *"(...) The Armed Forces, in operations to recover control of territory and to combat the illegal armed groups, have sometimes ignored humanitarian principles of limitation, distinction, proportionality, and protection of the civil population.*

231. The training schools of the forces of law and order include Human Rights and International Humanitarian Law in their training curricula. At the same time, members of the forces receive specialised training during their military or police career. The forces of law and order respect the principles of International

Humanitarian Law, and notable advances have been made by those forces in the plan to integrate International Humanitarian Law into operating manuals and doctrine. It is expected that, with the materialisation and implementation of the recommendations of the independent study agreed in furtherance of the preceding recommendation, there will be significant improvements in this area.

232. *"(...) The High Commissioner notes that the Colombian state has not considered the possibility of lifting its reservation to Article 124 of the Statute of Rome, referring to war crimes."*

233. Nonetheless, this is a sovereign decision of the Colombian State, and it is permanently under review in terms of the circumstances which led to the decision to enter the reservation. The decision to withdraw the reservation or not is subject to the development and results of policy designed to obtain peace in Colombia.

234. In this regard, it should be mentioned that the Colombian State has an important legislative structure which allows it to investigate and sanction those responsible for violations of Human Rights and breaches of International Humanitarian Law. At the same time, Colombia is a party to a series of international instruments in this area, and this is evidence of its traditional adhesion to the values and principles of contemporary international law.

235. *"(...) The High Commissioner notes the approval of Law 975/2005, which sets up the legal framework or the reinsertion of members of illegal armed groups. For those who have committed serious crimes, and meet certain requirements, the law provides for the concession of judicial benefits, in particular the reduction of sentences of imprisonment to a period of 5-8 years. Although certain observations made by the Office of the High Commissioner in Colombia were incorporated, the law does not satisfy the essential elements to be compatible with international obligations and avoid impunity. It does not include appropriate officials to make the contributions of demobilised individuals effective in guaranteeing the rights of victims to truth, justice and reparation. Nor does it a sufficient attention to the particular situation of women and children, and of ethnic minorities."*

236. Information regarding the Law of Justice and Peace has already been considered in detail in this report.

237. *"(...) With regard to the struggle against impunity, this office was informed of progress in certain processes related to the special committee to intensify investigations of violations of Human Rights and breaches of International Humanitarian Law. These referred mainly to the issue of warrants for arrest, and indictments. There remains concern for the low number of judgments handed down, and the lack of effectiveness in establishing the responsibilities of State agents. During the year, the committee did not meet to examine progress made, or the results of investigations. The committee focused on analysis of the proposal which led to the adoption of a document of public policy in the struggle against impunity. It is to be hoped that the policy will adopt an integrated focus, considering structural and specific factors of impunity."*

The Committee for Intensification of Investigations

238. Through actions to intensify investigations, there has been success in countering the stagnation affecting most cases of violations of Human Rights and breaches of International Humanitarian Law, selected by the Special Committee.

239. As evidence of this, the National Human Rights and International Humanitarian Law Unit of the Prosecution Service, in reports made up to December 2005, covering the period from October 2003 to December 2005, offers the following results:

- 132 cases had been intensified, through 129 individual commissions
- A total of 96 individuals were convicted
- A total of 47 resolutions were issued to order the preventive detention of 120 individuals. This reflects the fact that on 47 occasions the prosecutors find it necessary, appropriate and proportional to deprive those allegedly responsible of their freedom, in order to guarantee their appearance, or the preservation of evidence, or the protection of the community, in particular of victims.
- A total of 137 individuals were indicted, which indicates that on that number of occasions the prosecutors found that there was the evidence necessary to send those allegedly responsible for trial.
- The 132 commissions were effected in 26 departments. 21 of them Antioquia 15 in Valle del Cauca, 9 in Cauca, and 9 in Norte de Santander.

240. Further, and up to June 2005, the Offices of the Procurator General responsible for the investigation of Human Rights violations and breaches of International Humanitarian Law financed a total of 27 commissions, intensifying the investigation into 23 cases. Of these, 12 were disciplinary matters, 11 were special agencies of the procurator's office, engaged in criminal investigations.

241. The results of this intensification were as follows:

- 47% of the cases selected by the Committee were filed, and 90% of these were filed for lack of merit, and the remaining 10% due to prescription of disciplinary action.
- Of the total files considered,72% were intensified during preliminary investigation, and 28% during disciplinary investigation
- 14% of processes included by the Committee were already closed by the time they were selected
- 24% of cases financed by the Committee have been the object of judgements, and 82% of them have led to sanctions, and 18% to acquittals.
- Of the total judgements, 29% entered the project in the stage of preliminary inquiry, 27% in the stage of disciplinary investigation, and 44% of the stage of indictment, or evidence on behalf of the accused.
- 11.4% of cases selected by the Committee are still in progress, 12.5% in

preliminary enquiries, 37.5% in the opening of investigations, 12.5% in indictment, and 12.5% in referral of final pleadings.

Project of the struggle against impunity

242. The Project for the Struggle against Impunity developed and commissioned diagnostic studies on these determining factors for impunity due to violations of Human Rights and breaches of International Humanitarian Law. There was a focus on the understanding of the obstacles which the bodies responsible for investigation and sanction of these cases are facing in attempts to clarify events. These studies are:

- Survey for the institutional strengthening of the National Human Rights and International Humanitarian Law Unit, made in conjunction with the United Nations High Commissioner for Human Rights in Colombia, with the technical advisory services of the statistical department DANE, August 2004 to May 2005

- Survey for the institutional strengthening of criminal jurisdiction of Special Courts, made with the advisory services of the DANE, February 2005

- Updating of the diagnosis of the Office of the Procurator General in matters of Human Rights. July 2005.

243. In addition, on 22 November 2005, the Special Committee for Intensification of Investigations approved the policy document, and ordered its issue in the form of a "CONPES document".

244. This document was based on observations, recommendations and proposals which the entities which had taken part in the Committee had made in relation to three preliminary versions which were presented on 16 December 2004, 29 April 2005, and 19 May 2005.

245. The document starts by identifying a total of 17 factors associated with the problem of impunity in cases of Human Rights violations, and breaches of International Humanitarian Law, and these can be grouped into four main problem areas: a) institutional and organisational development; b) resource management, particularly the development of human resources; c) attention for victims and witnesses; and d) specific operating conditions for investigations and sanctions. .

246. Based on this diagnosis, a general objective of for the policy was established. It was to overcome obstacles that prevented or hampered the clarification of cases of Human Rights violations and breaches of International Humanitarian Law, the sanction of those responsible, and reparations to victims. 17 specific objectives were defined, in articulation around the four strategic lines, whose denomination corresponds to those of the problem areas.

247. These structural elements were the basis for proceeding to identify specific

interventions by the Colombian State in the medium and long term.

248. The document provides for a strategy for the execution, follow up and evaluation which starts from the need for a joint definition of relevant interventions, of the instruments needed to identify levels of achievement, and the means through which the products and impacts desired can be obtained. The strategy of the project facilitates the identification of projects and the execution of some of them. At the same time, it acts as an agent for the coordination of activities in execution by beneficiary entities, it provides a technical secretariat for the working group responsible for follow up, and it conducts evaluations.

249. The CONPES document referred to was adopted at a meeting held on Monday, 6 March 2006.

250. *"(...) The High Commissioner notes that there are several sets of instructions and circulars from the authorities of the forces of law and order regarding captures and other aspects of Human Rights and International Humanitarian Law. Despite this, there has been no information about any sanction against those responsible. It continues to be urgent to hold a review of the concept of fragrancy, in order to avoid the abusive interpretations and applications given to it today.*

251. *"(...) There was no information as to whether the Ministry of Defence had applied Article 164 of Law 836/2003, which provides for the suspension from the service as a preventive measure in the case of serious violations of Human Rights. The military criminal justice system continues to take improper responsibility for investigations of violations of Human Rights attributed to members of the forces of law and order. In several cases, prosecutors have given cases which they should be investigating into the hands of the military justice system, or they have failed to claim their competency to conduct such cases. The majority of conflicts of competency were resolved by the Superior Council of the Judicature in favour of common immunity, thus accepting the jurisprudence related to the Constitution, and the recommendation of the High Commissioner."*

252. This information appears in Chapter 2 on the situation of Human Rights and International Humanitarian Law.

253. *"(...) there is a persistent refusal by the prison authorities (INPEC) to accept that there are situations in the prisons which impair or threaten the fundamental rights of persons deprived of their freedom. The education programme for the National Pentientiary Training School, presented by this Office in the framework of cooperation, has not yet been formalised. The incorporation of Human Rights into practices and regulations for prison establishments remains pending. Despite the official pronouncements of INPEC, the results of the implementation of recommendations of the co-operative project of the Colombia office are still precarious.*

254. The senior management of the prison service INPEC has not been ignorant of the situation of Human Rights of persons deprived of their freedom in the 139 places of confinement around Colombia. In this sense, and at their own initiative, they have followed Presidential directives with regard to public policy on Human Rights, and have signed an agreement with the Office of the United Nations High

Commissioner for Human Rights in Colombia, in which it was agreed that there would be a preliminary study and subsequent implementation of eight general recommendations, and of particular recommendations for seven pilot places of confinement.

255. Equally, and as a result of the technical assistance made available by the High Commissioner's Office, the Human Rights group has been strengthened, and they in turn have held six workshops in the framework of this agreement, and 12 workshops and the framework of the UNDP-Col 0035 agreement with the Ministry of Interior and Justice, allowing the incorporation of national and international norms regarding Human Rights, with a team of 18 formers, and more than 1800 administrative officials from the prison guard service have received training. This training facilitated the tools and materials required for the correct application and follow up of a change in institutional culture, and of the functions of the penitentiary system.

256. At the same time, in the National Penitentiary Training School "Enrique Low Murtra", the formation of programmes for formation, confrontation, promotion and updating have been strengthened through the incorporation of Human Rights across all disciplines, and of this means that in effect the academic curriculum has taken account of the recommendations made by the Office of the High Commissioner. At present, and through the agreement UNDP-COL0035, it has been possible to contract a consultant as instructor in the review and approval of the institutional education plan (PEI), for which it seeks to obtain the approval of the Ministry of Education for the school to be qualified as an establishment of higher education. At the same time, another international consultant has been contracted, to be responsible for the preparation of documents to promote the sustainability and project activities to strengthen the National Penitentiary training school and to foster learning about international experiences applicable to Colombian situations. This consultant will start work shortly.

257. In relation to the Internal Regulations, at the initiative of the Director of the service, an interdisciplinary working team has been formed, including personnel from senior management, the administration, and the guard service, selected for their institutional experience. Their fundamental objective during six weeks´ work was concentrated in the preparation of draft internal regulations, and this was referred to the office of the High Commissioner for comment. At present, and based on the comments made by the High Commissioner's office, since December 2005 the Director of INPEC has been holding regular meetings, in order to make necessary adjustments to the matter in hand.

258. Further, with regard to the incorporation of procedures for personal searches, and penitentiary techniques, isolation, and measures for regulation and national and international jurisprudence in the matter of Human Rights, the following actions had been taken:

1. *Personal searches.* Design and execution of a plan of activities by the INPEC director, to comply with Decision T-848, defining responsibilities for the different areas of organisation, at national level.

Decision T-848 and the circular referring to search procedures was disseminated. Metal detector arches, manual metal detectors, and scanner seats were provided, with capital and operational budgets which totalled COP 773,178.000, detailed as follows:

Investment: Bogota (Modelo, La Picota,) Ibague, Cali, Cucuta and Medellin.

Operating: Manizales (men/women), Cali (women) Cartagena (men).

Materials and supplies: COP80.000 million, for the acquisition of personnel badges for the guard- service and the preparation of posters to illustrate the search system for visitors and inmates.

The following opinions were taken into account in preparing the procedures:

- Procurator General, 07/06/04
- People's Defender, 28/09/04
- Prosecution Service, 17/11/04
- Office of the High Commissioner 21/09/05
- INPEC Human Rights Group, 03/10/05
- Decision T-848,2005
- Memorandum 71100 PL-848 of 30/11/05 remitting procedures to regional prison authorities for dissemination, and implementation by the 139 places of confinement.
- A special group of dog handling teams, created at national level

The following circulars and resolutions were issued to implement the actions:

- Circular 023 of 04/05/04, systems for searching persons deprived of their freedom and visitors to places of confinement
- Circular 041 of 14/09/05, system of searches, based on decision might team-848 of 16/08/05, procedures approved by the planning office for the searches of visitors and inmates
- Order 014 of 31/10/05, approval for the transfer of investment and operating funds, public tender 24, 15/11/05
- Resolution 5957 of 05/10/05, procedure for the use and wearing of uniforms, and EBI card (investment statistics card)
- Resolution 6290 of 19/10/05, cancelling some operating procedures, and approving and adopting general procedures
- Resolution 7500 of 30/11/05, clarifying Resolution 6290 of 19/10/05.

2. *Isolation*. Design and preparation of a manual for use by security units and units of special attention (isolation) in places of confinement, under Resolution 7468 of 29/11/05

Publication in the INPEC webpage of the Human Rights bulletin on good potential practices, No. 2, November 2005, entitled "Aa new look at security and special attention units"-Isolation.

3. *Penitentiary techniques.* Meeting with officials of the National Pentitentiary training school, and of senior management, to review the manual.

Updating of the manual, guaranteeing the respect for Human Rights of those are deprived of their freedom, satisfying national and international criteria on the matter. This is in the process of dissemination and publication.

Officer formation programmes

258. In order to incorporate the pedagogical proposal for Human Rights into programs of formation, complementation and promotion of prison service personnel, in the framework of the cooperation and technical assistance of the Office of the High Commissioner and INPEC, there are 18 instructors in Human Rights, who in the first half of 2005 trained 207 officers in six workshops, given at each of the INPEC regional offices.

259. In the framework of the UNDP-COL 0035 agreement (Human Resources Division of the Ministry of Interior and Justice) during the second half of 2005 training was given to 642 officials with the support of the Office of the Procurator and the Office of the People's Defender. The programme consists of: preliminary principles, the protection of the Human Rights of persons deprived of their freedom, the use of force, procedure for admission, isolation, contract with the outside world, procedures for searches, equality and respect for diversity, and; and in these last workshops, the role of the control bodies has been included. In letter of 7101-DIG.-GDH.-1227 of 10/11/05, a report of training activities was made to the Human Rights Division of the Ministry of Interior and Justice.

260. Publication of a list of basic documents on the protection of Human Rights for those deprived of their freedom, and "2000 CD", compiling regulations and doctrine regarding the protection of their Human Rights, and an interactive course in Human Rights for the penitentiary system. At all training sessions, the CD, the list and the interactive course were delivered, and the course was made a pre-requisite for attending courses for promotion, or the admission of officials to administrative posts, or posts in the guard service.

261. Once interviews and a selection procedure have been completed to choose an international consultant for Human Rights, the intention is to complete and present the report of the Colombian penitentiary system, with comments to define its strengths, weaknesses, opportunities and threats.

262. The project for the training of public officials on the rights of indigenous peoples, with the HEMERA foundation, and the support of the Presidential Human Rights programme. The subject is developed in five models, which are: The indigenous peoples and cultures in Colombia; the State, democracy and responsibility; legal pluralism and multiculturality; the Human Rights of indigenous

peoples and the International Humanitarian Law of indigenous peoples. Execution will be effected in Medellin, Quibdo, Monteria, Popayan, Pasto, Ibague, Manizales, Valledupar and Santa Marta.

263. Finally, the government finds it disconcerting that despite the institutional efforts made by INPEC, and other is interinstitutional efforts, results have been classified as "precarious", since senior management of INPEC has redoubled its efforts, and has given a systematic and coordinated response, within the financial possibilities available, to the various requirements of the Recommendations. The greatest recognition which has been obtained from this has been through the testimony of the inmates themselves, who say that they appreciate the work done.

264. *"(...) More than one year after its creation by the Prosecution Service, the special subunits for the investigation of links between public servants and illegal armed groups have not defined their nature, functions, or criteria of competency. Nor has it obtained the funds which it needs to act. Therefore, the subunits have not taken up any cases. For its part, the Prosecution Service has not modified the structure of the prosecutors seconded to the forces of law and order and other security agencies, in order to guarantee greater independence, and to avoid the situation in which they are physically located inside the premises of those institutions."*

265. Through resolution No. 0-4749 of 4 October 2004, the special subunits for the investigation of links between public servants and illegal armed groups, formed by Resolution 000700 of 30 November that year, was created.

266. Four prosecutors from Bogota were appointed to be responsible for the sub-unit, along with the 13 prosecutors from support units

267. A working group was created, including representatives of the Office of the High Commissioner for Human Rights, and the National Human Rights and International Humanitarian Law Unit. This working group has met regularly, and on 2 October 2005 presented a confidential report of its activities, in which it highlighted the need to map investigations in which links between public servants and illegal armed groups have been established or presumed.

268. So, in October 2005, a final version was approved for the survey instrument to be used to collect up information in all the offices of the Human Rights and International Humanitarian Law Unit. In addition, prosecutors were given precise instructions on how to complete them, in order to start the survey.

269. It should be noted that the working group considered it absolutely necessary to have this map in order to prepare document in which it could define the criteria for the selection of cases, the working methodology, and the most appropriate structure for the functioning of the sub-unit, with support of a documented exploration of the matter.

270. *"(...) This office takes note of the issue of a Circular of May 2005 from the high command of the army, which repeats the importance of issuing orders designed to break any link between members of the army and the self-defence groups. There is no information regarding the observance of the Circular. No*

significant progress has been recorded with regard to be effected dismantling of self-defence group structures"

271. The President of the Republic has constantly given instructions to members of the forces of law and order that they should take decisive action against the self-defence groups which have not agreed to negotiate. For example, at the graduation ceremony for police lieutenants on 6 September, he said that "*this government is giving an example in the struggle against the paramilitaries, with more than 1,400 casualties inflicted. This government has progressed from rhetoric in condemning paramilitaries on, to practical effectiveness to dismantle it, and to make those organisations disband.*"

272. Then again, on 7 June, at a promotion ceremony for the army, he said that "*...our security policy has two objectives: one, to free Colombians from the nightmare and torture of these groups, an objective which seeks to free this country of drug-trafficking, guerrillas and paramilitaries; and there is a second objective to our security policy, to demobilise all paramilitary and guerrilla organisations*".

273. The instructions of the President, the Minister of Defence, and of senior military and police authorities have been clear with regard to any connivance between seven public servants and the illegal self-defence groups.

274. "*(...) Inequity and generalised poverty continue to be the principal challenges of the State with regard to its policies on economic, social and cultural rights. The disparity not only occurs between rich and poor, but also between urban and rural, and between men and women and between regions and Departments. Disparity also affects the indigenous and Afro-Colombian communities. It is noted that economic disparity continues to be very wide. It is evident that public policy is insufficiently effective to reduce it. There has been no notable progress in this regard.*"

275. "*(...) the poverty situation has not improved. More than half the population continues to be poor. This means that more than 20 million Colombians live in circumstances in which their rights are not guaranteed. It is evident that a greater effort is needed on the part of the State to begin to provide a constructive challenge to poverty. In 2004, the government created the Poverty Mission as part of National Planning Department. Nonetheless, the various sectors engaged in this matter have still not reached an agreement on the methods required to measure poverty.*"

276. "*(...) According to official statistics, national unemployment has fallen in recent years, while an underemployment continues to be very high (more than 30%). Public policy in the matter has not succeeded in creating new and stable employment of quality. There is a persistent disparity between men and women in employment.*"

277. "*(...) at national level, there was a small increase in the number of literate people. Illiteracy fell 8% in 2002, and 7% in 2004. But in the poorest levels or sectors, there was an increase in illiteracy from 4% in 1993 to 6% in 2003. There was a notable increase in places in the State schools, but the recommendation to*

provide universal and free primary education continues to be unsatisfied."

278. *"(...) In the matter of health, there is an increase in the number of persons affiliated to the subsidised and contributory regimes. Nonetheless, the number of persons excluded from the benefits of Social Security in health is very high (more than 30%). There is evidently a major challenge with regard to access to health."*

279. *"(...) the deficit in the construction of low-cost housing has increased for the lowest-income sectors. The State does not have a public policy designed to guarantee the rights to housing. The existing subsidy for the housing sector continues to benefit the stronger economic strata first and foremost."*

280. *"(...) In March 2005, approval was given to CONPES 91, which contains Colombia's commitments to the millennium development objectives, and this is a positive fact. Nonetheless, so far specific results of insufficient, particularly in the areas of poverty, free education, maternal mortality, and other aspects of gender equity. During the year, the government presented a discussion document,* "Visión Colombia 2019", *which compiles public policy projected through to that year, the bicentenary of Colombia's independence. The document does not fully incorporate the commitments acquired by the State with regard to the millennium development objectives. This is the case, for example, of matters such as the eradication of hunger, free primary education, gender equity, and aspects related to sexual and reproductive health".*

281. This information is summarised in the section on achievements in economic, social and cultural rights.

282. *"(...) The High Commissioner notes that greater effort is needed to institutionalise stable opportunities for interlocution between the government and Human Rights Defender organisations. The agenda for meetings agreed between the authorities and civil society to promote ongoing constructive dialogue was not complied with. Meetings generally dealt with specific problems or matters to be attended to. The Ministry of the Interior and the Vice-President have developed some opportunities for discussion at regional level in order to incorporate Human Rights and International Humanitarian Law into development product plans and Departmental and municipal level. Nonetheless, the absence of a comprehensive policy has limited the effectiveness of these in initiatives."*

283. In furtherance of the policy to prevent violations of Human Rights, work was done in 30 of the 32 Departments and in the capitals of each department, to incorporate the theme of Human Rights and International Humanitarian Law into development plans presented by governors and mayors. These matters were effectively introduced, and the plans were approved by the Departmental assemblies and municipal councils. Subsequently, 27 action plans were drawn up for Departments, and 186 for the municipalities. The two processes were pursued with the permanent participation of organisations from civil society, Human Rights defenders, and defenders of peace, thus applying government policy for interlocution and institutionalisation.

284. The execution of the Action Plans referred to at departmental and municipal level has required permanent interlocution with Human Rights and peace

organisations, and their permanent participation in processes of training and dissemination of human rights; and the engagement of groups of adolescents and children from schools into these processes.

285. The process of concerted preparation of the National Action Plan for Human Rights and International Humanitarian Law has maintained a constant relationship with Human Rights Defender organisations at national level.

286. At national and regional levels, the interlocution has been developed through meetings with various authorities, in order to discuss specific matters of interest to the organisations.

287. There has been permanent and institutionalised interlocution of the Human Rights Defender organisations and civil society in various scenarios, such as the Risk Evaluation Committees, the Committee for the Human Rights of Workers, the Search Committee for the Disappeared, the Committee for Threatened Teachers, and the Departmental Committees for the Medical Mission.

288. *"(...) With regard to the National Human Rights Action Plan, the expected degree of progress was not made. During the first months of year, there were working meetings between the government, some civil-society organisations, and the High Commissioner's Office in Colombia. These meetings were interrupted in May. The Commissioner offered her good offices to overcome certain differences. Towards the end of the year, dialogue was resumed, and the issue was widened to other sectors of society."*

289. In the first place, it is important to mention that the national Human Rights and International Humanitarian Law Action Plan was compiled to include international recommendations on these matters for each of the issues provided for, so that they would serve as inputs in the preparation of diagnoses and in the definition of strategies to be developed. Negotiations for agreement on preparation of the plan started a first stage in institutions of the State, within the technical group of the Intersectorial Commission for Human Rights, and the result was a proposal for the structure of topics and methods for reaching an agreement with civil society. Inter-institutional work has continued, with the support of National Planning Department and the Office of the People's Defender, with experts in different areas, as defined by the Action Plan.

290. With regard to concerted agreement with organisations in civil society, meetings continued this year with the Alliance of Social and Related Organisations, the Europe and United States Colombia coordination, the Colombian Development Platform, Human Rights and democracy ("the Platforms"), and most of these meetings were accompanied by the Office of the United Nations High Commissioner for Human Rights. The meetings -seven in total- were held in the framework of the National Action Plan (diagnosis, consultation and participation of civil society). The meetings, at the request of the Platforms, reviewed the situation of implementations of recommendations made by the office of the High Commissioner in 2004. At the same time, between March and May, and then again in November 2005, meetings were held to define mechanisms of participation and consultation with the three Platforms referred to, and this process has yet to be completed.

291. In November 2005, a first meeting was held with the participants in the London-Cartagena consensus, in order to broaden the process of consultation in the Action Plan, by engaging other organisations of civil society in its construction, and this exercise began with organisations which had taken part in other forums of discussion of Human Rights, that is, and those who took part in the consensus.

292. A meeting was held with the Intersectorial Commission Technical Group, arranged to present a report on the situation of the process of structuring the Action Plan, and make progress in decision-making with regard to participation and leadership, government and state entities. The institutions forming the technical group of the Intersectorial Human Rights Commission will set up the schedule of activities which will allow a concerted preparation of the National Action Plan.

293. At the same time, working meetings have been held with the Colombian Episcopal Conference, and the National Planning Council, with the intention of agreeing on mechanisms which will favour the greatest possible participation by civil society at Departmental and Municipal levels. The intention is to develop the same procedure with the Colombian Confederation of NGOs, and the university association ASCUN, in order to deepen interlocution with the academic sector, as organised by ASCUN.

294. With regard to gender focus, work has been done on a proposal with the Presidential Adviser for Women's Equity, in which the focus is transversal to all the issues proposed, and the struggle against discrimination against women is considered as a specific issue. The first form of consultation was prepared, in relation to the issue of gender in the Action Plan as a whole, and of the subject of Woman, in Route 3: the struggle against discrimination and the affirmation of identity. The form was applied to organisations of women members of the initiative of Women for Peace (WFP), and women participants in encounters organised by the Advisory Office for Women's Equity.

295. *"(...) Mention should be made of the progress achieved in preparing a plan of education in Human Rights, promoted by the Ministry of Education and the Office of the People's Defender. The plan remains to be adopted by the Ministry, and inter-institutional agreements to make it viable remain pending. The government has said that the plan will be completed and published in July 2006.*

296. *"(...) The Office of the People's Defender and the Ministry of Education have completed a draft of the National Plan for Education in Human Rights, to be validated with a number of institutions and sectors committed to the issue. Within the framework of the plan, the Ministry of Education will start implementation of a pilot project in the first half of 2006, for education for the public and the exercise of Human Rights in the Departments of Bolivar, Boyacá, Cordoba, Guaviare and Huila with the public sector secondary schools."*

297. *"(...) The High Commissioner notes that progress have not been made in preparing a State statistical system which will provide adequate coverage of Human Rights violations and breaches of International Humanitarian Law. The government reported initial contacts between some State agencies with the intention of preparing a working plan. This would be designed to develop a single information system on certain aspects of the Human Rights and International*

Humanitarian Law situation. In the Vice-President's Human Rights Observatory, extra-judicial executions and arbitrary detentions are not recorded, nor are certain kinds of breach of International Humanitarian Law."

298. In the context of compliance with the Recommendation, the programme for Human Rights-International Humanitarian Law Observatory proceeded to contact the Ministry of Defence, and the Office of the Procurator General and the Prosecution Service, the Office of the People's Defender and the statistical bureau DANE, in order to establish the variables used by each of them.

299. Two meetings were held, on 26 July and 10 August, 2005 with the Ministry of Defence, the army and the police, and it was agreed that unified figures would be presented on indiscriminate attacks, and that monthly working meetings would be held to make progress in the organisation and systematisation of information.

300. In addition, each of the above entities proceeded to make a presentation of its own information system, and the last of those presentations was made on 9 and 10 November 2005 by the Prosecution Service and DANE. At the end of the year, information is still pending on the information systems used by the Office of the Procurator and the Office of the People's Defender, and the construction of a chart for the course to be followed regarding their respective information systems is also pending.

301. Following the presentation of a report on economic, social and cultural rights, made by the Human Rights Observatory, it was agreed that a working group would be formed by the Office of the Procurator, DANE, National Planning Department, the Office of the People's Defender, and the Office of the Comptroller General, the Ministry of Social Protection, the Ministry of Education and the Ministry of Environment, to construct indicators to be used by all these entities. Initially, these would refer to education and health. In this framework, the inter-institutional working group on education and health indicators was officially installed on 4 November 2005. The group met again on 19 December, and it was agreed to define the focus, rights and vulnerable sectors which would be the object of follow-up by the group. Further, it was decided to expand the group to include of the Ministry of Agriculture, ICBF, and *Acción Social.*

REPLY TO SCHEDULE III

IMPORTANT CASES OF VIOLATIONS OF HUMAN RIGHTS AND BREACHES OF INTERNATIONAL HUMANITARIAN LAW

I. HUMAN RIGHTS

The report, and its Schedule III, make mention of several denunciations, which do not individualise cases. It is therefore very difficult to provide replies to each of these cases, where complete information is not available.

With regard to individual cases, we can inform as follows:

11. There were several death threats, particularly against Human Rights Defenders, and the President of Colectivo de Abogados José Alvear-Restrepo. In this regard, Mrs Soraya Gutierrez-Arguello has a scheme of protection allocated to her by the Colombian government, and the technical, financial and human resources are fully funded by the Human Rights division of the Ministry of Interior and Justice. These measures have been approved by the Committee for Regulation and Evaluation of Risk, in the Programme for the Protection of Human Rights Defenders, for some years. The scheme of protection is composed of one armoured 4x4, four-door vehicle, with a trustworthy bodyguard.

35. The impunity which has been enjoyed in most cases affecting the community of San José de Apartadó and the stigmatisation of the authorities against several of its members has helped to make the risk situation more permanent. During 2005, there was a massacre in February with the death of eight members of the community, four of them children, in the rural districts of Mulatos Medio and La Resbalosa; and another member died in November. The judicial authorities are investigating authorship of these deeds, which have been attributed by some people in the community to members of Counter-Guerrilla Battalion 33, in Brigade 17.

The Prosecution Service has reported that the Prosecutor coordinating the unit seconded to the criminal courts of Apartadó is undertaking a an investigation under Ref: 8600, "crime to be established", for events occurring between 19 February and 3 May 2005. The person making the denunciation is Mr. Javier Giraldo-Moreno.

At the same time, the Prosecutor responsible for the case indicates that the proceedings are at the instruction stage, and that orders were issued to verify the occurrence of the events, and to individualise and identify those responsible for the crime, and to determine what type of punishable conduct was committed"...

According to information supplied by the Human Rights and International Humanitarian Law unit of the Prosecution Service, on 24 February an interdisciplinary group of State officials travelled to Apartado in order to clarify the details of the massacre which allegedly took place between 20 and 21 February 2005,. The group was composed of officers of the Prosecution Service, the Procurator's Office, the Office of the People's Defender, and the Judicial Police Investigation Division.

The group of prosecutors and officials from the Procurator's Office who initially managed the case held just a few statements made by relatives of the victims. In addition, a judicial inspection was conducted of the scenes of events (the rural districts of Mulatos Medio in San José de Apartadó, and the rural district of La Resbalosa in the municipality of Tierralta) with experts from the Central Office of the Investigation Division. As it left the district of San José de Apartadó on 2 March 2005, the Commission was attacked by rifle and mortar fire, which led to the death of one of the policemen who was providing security services to the Commission, and two other policemen and a special prosecutor were wounded. The National Human Rights and International Humanitarian Law unit of the

Prosecution Service also reports that although on several occasions its delegates have visited this district of San José de Apartado, they have not obtained any cooperation from the community, since according to community leaders, they will not make any statement or provide any cooperation with the justice system for the time being.

The Human Rights and International Humanitarian Law unit of the Prosecution Service has made judicial inspections of Brigades 11 and 17, in Monteria, Cordoba and Carepa, and Division I of the army, based in Santa Marta, in the operations offices of the brigades mentioned, and the Intelligence Office of Brigade 17. In addition, statements have been taken from some officers, junior officers and professional soldiers in Brigade 17. This unit has also investigated weapons possibly used in these events.

Despite all this action, the investigation of these events, referred to in Casefile 3138, remains at the instruction stage, although all the material related to the location of troops and the operations in the area has been delivered to the control authorities (the Prosecution Service, the Office of the Procurator and the Office of the People's Defender) in order to facilitate the work of discovering those responsible for these crimes as soon as possible. Even then, and unfortunately, the inhabitants of the community of San José de Apartadó have been forbidden to make statements or to provide evidence which would allow any precise clarification regarding those responsible for these crimes. Therefore, the investigation of these events still lacks statements made by members of the community which could establish the events and the identity of the possible material and intellectual authors. It is a notorious fact that leading members of the community are still claiming by electronic mail that they have witnesses to the events, but they do not say who they are, they do not present them, and these leaders themselves do not make any statements to the competent authorities.

It should be noted that in accordance with Section 95.7 of the Constitution, it is the duty of every person and citizen to collaborate with the proper functioning of the administration of justice. In this, the Prosecution Service has repeated its request for the witnesses claimed by the community to come forward and collaborate. Despite their insistence, no testimony has been contributed to help progress in the investigation.

In this regard, the government of Colombia cannot ignore the fact that there are cases in which the public are relieved from reporting to the authorities with regard to the commission of possible acts, or eventualities which might entail a serious risk to the person who intervenes in the case, or to his family. And that in such cases, the Colombian State has the obligation to provide the necessary means of protection to ensure that the fundamental rights of the person intervening in the case are exercised.

Therefore, and in order to comply with the duty of the State as guarantor for the individuals whose fundamental rights are perhaps jeopardised by an intervention in a criminal case, the Prosecution Service has implemented its programme for the protection of the victims, witnesses and participants in cases of this kind. The programme is available to all members of the community who decide to make denunciations or statements regarding crimes, and in particular the circumstances

of time, place and manner in which the death of the persons mentioned may have taken place.

In addition, and in order to find a solution to the silence on the part of the community in relation to the investigation, the Prosecution Service has acted through its Human Rights and International Humanitarian Law unit and the International Affairs Division, to establish contact with members of NGOs concerned with Human Rights, in order to strengthen links and communications with the community. Likewise, working meetings held in the context of the encounter of 1 June 2005 with members of the international community, representatives of civil society, human rights defenders, and American congressmen', they insisted in obtaining the cooperation of those taking part in order to secure contact with the community, and drive the investigation forward to establish the responsibility and authorship of these serious offences.

For its part, the Office of the Procurator General reported on 20 November 2005 that in the light of events which happened in February 2005, an investigation had been opened under Ref. No. 009-118150/2005 by the Special Investigation Unit, to which all documentation had been forwarded.

42. The right to freedom of opinion and expression. There have been reports of violations of the right to freedom of opinion, freedom of expression and freedom of information, through death threats and arbitrary detentions against journalists and social communicators. Examples of this are the cases of journalists Daniel Coronell, Holman Morris and Carlos Lozano, who received funeral wreaths and threats in May. Coronell, the director of the TV news programme *Noticiero Uno* and feature writer for the magazine *Semana* was forced to leave the country, after his disclosure that a politician was behind the death threats to himself and his family.

From the time that the threats were produced, the government, together with the Prosecution Service, took action to protect and investigate them. All these measures have been agreed with the journalists Morris, Coronell and Lozano.

The specialist protection afforded to these individuals has been extended to their immediate families, taking account of the serious risk that they run in the pursuit of their professional activities.

The government has made a public pronouncement, through the President of the Republic, announcing its rejection of this type of action, and recognising the worth of these journalists in the context of Colombian democracy. The communiqué was published in the webpage of the Office of the President.

Finally, the President held a meeting with the three journalists threatened, and with a group of senior colleagues from state institutions and civil society organisations engaged in protection, ratified the measures adopted on behalf of these individuals, and made it clear that the government wished to protect and support them.

II. INTERNATIONAL HUMANITARIAN LAW

G. Child victims of the armed conflict

75. Children continue to appear among the principal victims of armed conflict, particularly as victims of antipersonnel mines and unexploded ammunition, recruitment, displacement, homicide, and sexual violence.

With regard to the demobilisation of minors recruited by the illegal armed groups[16] in the context of the programme for attention to children and adolescents disengaged from the regular armed groups, between November 1999 and December 2005, 2,685 children under 18 have been attended to: 10 in 1999, 100 in 2000, 196 in 2001, 394 in 2002, 775 in 2003, 684 in 2004, and 526 in 2005[17].

Of the 526 minors delivered to ICBF in 2005, 277 came from the self-defence groups, 176 from FARC, 68 from ELN, 4 from EPL, and 1 from ERP.

According to the above, 277 children have been delivered by the demobilised self-defence groups.

Since 1999, ICBF has been implementing its programme for attention to children and adolescents disengaged from a regular armed groups, and its object has been to contribute to action to support the process of conservation of projects for the future of demobilised children, in the context of guarantees of rights, and the construction of citizenship and democracy. The focus has been on insertion into society, with an emphasis on the preparation of the children for a social and productive life. There are three areas of action: prevention of recruitment, attention to the disengaged, and follow-up and accompaniment of the process:

- In the area of prevention, the intention is to identify and intervene in factors which encourage the engagement of children to join the illegal armed groups, through the promotion of activities in free time, education, nutrition, the encouragement of psychosocial care, etc. These programmes are currently being implemented in the Departments of Huila, Santander, Antioquia, Cesar, Cauca, Valle del Cauca and Tolima.

- The programme for the care of minors disengaged from irregular groups has two modes: the first is institutional, in which the children are served through temporary homes, centres of specialised attention, and juvenile houses; and in the second mode, the children are attended to in a "tutor-home".

With regard to gender perspectives, children and adolescent girls are provided with attention which gives them empowerment, and a restatement of their rights in the framework of equity, butt also offers actions of a pedagogical nature which seek to

---

[16] Source: ICBF report for the Office of the UN High Commissioner for Human Rights and the ICBF Office for attention to Disengaged Adolescents
[17] 1999 to December 2006

increase their self-esteem, their self-image, and power of decision over their own bodies, with an emphasis on sexual and reproductive health.

- Programme follow-up. ICBF is responsible for providing specialised protection and permanent coordination with the related authorities of the State responsible for security. There is centralized control over the number of places in the programme, there is restriction of access to technical equipment and personnel, and there is control over interviews and audiovisuals made of the children.

Nonetheless, there are shortcomings in the follow-up of the young people discharged from the programme, since their restoration to their families implies the creation of conditions for meeting the family in question, and those families live in zones of conflict, which creates displacement for them, and therefore communication with the minor is lost.

- - - - -