

COLOMBIA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Colombia is a constitutional, multiparty republic. In June 2010 voters elected Juan Manuel Santos president in elections that observers considered free and fair. Security forces reported to civilian authorities. Although significantly fewer than in past years, there were instances in which elements of the security forces acted independently of civilian control.

The most serious human rights problems were impunity, an inefficient judiciary, corruption, and societal discrimination. Impunity and an inefficient justice system subject to intimidation limited the state's ability to prosecute effectively individuals accused of human rights abuses and to bring to trial former members of paramilitary groups. The availability of drug-trafficking revenue often exacerbated corruption. Societal discrimination against indigenous persons and Afro-Colombians at times restricted the ability of these groups to exercise their rights.

Other problems included extrajudicial killings, insubordinate military collaboration with members of illegal armed groups, forced disappearances, overcrowded and insecure prisons, harassment of human rights groups and activists, violence against women and girls, trafficking in persons, and illegal child labor.

The government continued efforts, including increasing resources for the Prosecutor General's Office, to prosecute and punish officials, including members of the security services, who committed abuses, but some impunity persisted.

Illegal armed groups--including the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and organized crime groups that contained some former paramilitary members--committed numerous abuses, including the following: political killings; killings of members of the public security forces and local officials; widespread use of land mines and improvised explosive devices (IEDs); kidnappings and forced disappearances; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; widespread recruitment and use of child soldiers; attacks against human rights activists; violence against women, including rape and forced abortions; and killings, harassment, and intimidation of teachers and trade unionists. Illegal armed groups continued to be responsible for most instances of forced displacement in the country.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

Political and unlawful killings remained a very serious problem, and there were several reports that members of the security forces committed extrajudicial killings during the internal armed conflict (see section 1.g.). There continued to be fewer reports of military officials presenting civilians as killed in combat than in 2008 or 2009, when several hundred such fatalities occurred.

Through September the Prosecutor General's Office registered one new case of an alleged extrajudicial killing. Coordination Colombia, Europe, United States (CCEEU), a local human rights nongovernmental organization (NGO), reported at least 19 incidents of extrajudicial executions by state security forces and excessive police violence against civilians through December. Most victims were caught in the cross fire during confrontations between the army or police and illegal armed groups. In several cases military officials stated they believed an individual was fighting on behalf of the FARC, while community members claimed the victim had not been a combatant. CCEEU and other NGOs considered organized criminal gangs to be a continuation of paramilitary groups and attributed some reports of human rights violations committed by these groups to the government. The government acknowledged that some former paramilitary members were active in organized criminal gangs but noted the gangs lacked the unified command structure and ideological agenda that defined the former United Self-Defense Forces of Colombia (AUC). The NGOs also included killings by these groups in their definition of "unlawful killings" (see section 1.g.).

According to CCEEU, on February 20, in Apartado, Antioquia, army officers killed a civilian, Marlobe David Sanchez, and falsely presented her as a FARC guerrilla killed in combat (see section 1.g.).

The Prosecutor General's Office in Popayan continued to investigate the case of Anderson Dagua, a member of the Nasa ethnic group, who was killed during a firefight between the army's Third Brigade and the FARC in Caloto, Cauca, in January 2011. Concurrently the army filed charges with the Human Rights Unit of the Prosecutor General's Office against the FARC's sixth front.

The Prosecutor General's Office continued to investigate the case of Humberto Peroza Wampiare, a local indigenous leader of the Hitnu people. The NGO Center for Popular Research and Education (CINEP) reported that in June 2011 members

of the army's 18th Brigade shot and killed him. Although originally assigned to the military justice system, the case was prioritized and reassigned to the Human Rights Unit of the Prosecutor General's Office in the civilian justice system, where it was in the preliminary stage of investigation at the end of November.

On September 25, a Bogota judge sentenced army lieutenant Raul Munoz Linares to 60 years of prison for the rape of a 14-year-old girl and subsequent killing of the girl and two other children in Arauca in 2010. In the same verdict, the judge ordered an investigation of a general and a colonel for their alleged responsibility in omitting information at the beginning of the investigation of Munoz Linares.

Some members of government security forces, including enlisted personnel, noncommissioned officers, and senior officials, were accused of collaborating with or tolerating the activities of organized criminal gangs, which included some former paramilitary members. Such collaboration, in violation of orders from the president and military high command, may have facilitated unlawful killings or other crimes. For example, on September 5, retired army general Pauselino Latorre received a sentence of 13 years' imprisonment for conspiracy and drug-trafficking activities while on active duty. Taking advantage of his position in the army, Latorre was part of a money-laundering ring associated with drug traffickers. He registered as the legal representative and business partner of several companies owned by known traffickers.

The Corps of Technical Investigators, which are civilian authorities under the Prosecutor General's Office, typically investigated deaths committed by security forces when there were allegations of foul play. In some cases the first responders were members of the national police, who then investigated the death. Through September authorities arrested 91 members of the military in relation to extrajudicial killings, the majority of which occurred prior to 2012. Investigations of past killings proceeded, albeit slowly. The Prosecutor General's Office reported that as of November 13, it had obtained convictions in 192 cases involving 589 military personnel and 13 members of the police for extrajudicial executions since 2000. Some high-profile cases against military personnel resulted in convictions or were reopened in large part due to testimony obtained through the Justice and Peace process. For example, in June authorities arrested army captain Mauricio Zambrano Castro and placed him under investigation, along with retired army general Francisco Rene Pedraza and retired colonel Tony Alberto Vargas Petecua, for the April 2001 killings of 24 persons, forced disappearance of 10 others, and forced displacement of almost 1,900 persons, an incident known as the El Naya massacre. The investigation continued at year's end. For the same massacre,

under the justice and peace process, 80 former members of paramilitary groups were awaiting sentencing at year's end.

According to the NGO Landmine Monitor, nongovernmental actors, particularly the FARC and ELN, planted new IEDs and land mines (see section 1.g.).

Guerrillas, notably the FARC and ELN, committed unlawful killings. Organized criminal groups that included some former members of paramilitary groups committed numerous political and unlawful killings, primarily in areas under dispute with guerrillas or without a strong government presence (see section 1.g.).

CINEP reported that on March 23, in the area of Curvarado and Jiguamiando, located in the Uraba region of Choco Department, land restitution leader Manuel Ruiz and his son Samir were kidnapped at a roadblock, allegedly set up by members of a criminal armed group operating in the region. Manuel and his son were found dead five days later, each in a different rural area of the municipality of Mutata. Manuel Ruiz was part of a group of local citizens supporting the Ministry of Interior to carry out the census of displaced persons. On March 27, the case was assigned to a specialized prosecutor who began an investigation, developing a criminal profile, and conducting interviews. At year's end the investigation continued. Following the killing, 36 persons related to Ruiz's land restitution claims received protection from the National Protection Unit (NPU).

b. Disappearance

Forced disappearances, many of them politically motivated, continued to occur. As of September 30, the National Search Commission had documented more than 75,000 disappearances since the decades-long internal conflict began, including 18,730 that were registered as forced disappearances, with 14,367 found alive and 2,927 found dead. According to the commission, between January 1 and September 30, 9,388 individuals were registered as disappeared, including 1,337 registered as alleged forced disappearances. Not all disappearances registered during the year occurred in 2012; some were registered years after the actual disappearance.

The Displaced and Disappeared Persons Unit of the Prosecutor General's Office, created in late 2010, had 32 prosecutors, 37 prosecutorial and judicial assistants, and two investigators from the national judicial police, all of whom were responsible for investigating and prosecuting more than 29,467 cases of suspected forced disappearance and forced displacement. Since the founding of the unit, the

Prosecutor General's Office charged 58 individuals with engaging in forced disappearance: 32 were members of the army, 24 of the AUC, and two of the FARC. The Prosecutor General's Office obtained convictions in 13 cases, resulting in the incarceration of 16 individuals. Through September the Displaced and Disappeared Persons Unit recovered 182 missing persons--132 were recovered alive and 50 were found dead. The unit received 50 requests to employ "urgent action mechanisms" in the search for missing persons. Of those, 31 were in process, 14 were recovered alive, and five were found dead.

The FARC, ELN, organized criminal gangs, and common criminals continued to kidnap persons, both for ransom and for political reasons (see section 1.g.).

The Unified Action Groups for Personal Liberty--military and police entities formed to combat kidnapping and extortion--and other security forces elements freed more than 48 hostages during the year. The government reported that at least nine kidnapping victims died in captivity in the first 10 months of the year, compared with 24 between January and October 2011. During that period eight kidnapping victims escaped from their captors, 19 were released due to pressure from the military, and 96 were released by their captors.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the law prohibits such practices, there were reports that the police, military personnel, and prison guards sometimes mistreated and tortured detainees. Members of the military and police accused of torture generally were tried in civilian rather than military courts. CINEP asserted that through October government security forces were involved in eight incidents of torture, compared with 12 in the first six months of 2011. The Prosecutor General's Office charged 15 members of the security forces (seven police and eight military members) with torture; not all of the cases occurred during the year. The Prosecutor General's Office reported three convictions of members of the armed forces and three convictions of members of illegal armed groups in cases of torture through November.

CINEP reported that illegal armed groups were responsible for at least six cases of torture through October, while in 11 other cases, CINEP was not able to identify the responsible party.

According to CINEP, in the Sumapaz region on January 10, army troops in Cundinamarca tortured and killed Victor Manuel Hilarion Palacios, a well-known peasant leader. The case was assigned to a specialized prosecutor in the Human Rights Unit, and the investigation continued at year's end.

According to CINEP, on February 7, police officers Carlos Augusto Diaz and Carlos Danilo Posada, assigned to the Metropolitan Police of Bogota, set fire to a 15-year-old boy sleeping under a bridge in northwestern Bogota, causing him serious injuries that ultimately resulted in his death. The Prosecutor General's Office investigated this case and brought it to trial, but a judge in the 33rd Penal Circuit Court suspended the trial after the defense attorney requested that the case be tried in the military justice system. At year's end the case was awaiting a Superior Judicial Council decision on the proper jurisdiction.

Prison and Detention Center Conditions

With the exception of new facilities, prisons and detention centers were overcrowded, lacked reasonable sanitation, and provided poor health care and nutrition to detainees. Poor training of officials remained a problem throughout the prison system.

Physical Conditions: The municipal jails and 142 national prisons had a designed capacity of 75,676 individuals, but these facilities were 48 percent over capacity. At year's end there were 111,979 prisoners and detainees--103,501 men and 8,478 women. Overcrowding existed in men's as well as women's prisons; of the eight women's prisons, seven were over capacity. The National Prison Institute (INPEC) operates the national prisons and oversees the jails.

The law prohibits holding pretrial detainees with convicted prisoners, although this sometimes occurred. Authorities did not hold juvenile detainees and prisoners with adults but permitted children younger than three years old to stay in prisons with their mothers.

The Prosecutor General's Office continued to investigate allegations that some prison guards routinely used excessive force and treated inmates brutally. It reported that through October it had registered 89 investigations (both active and inactive) implicating 159 guards. It reached one disciplinary verdict during the year. In addition INPEC's Internal Affairs Office investigated 47 reports of physical abuse and one case of sexual abuse. Between January and September, there were 143 prison deaths, 14 related to fighting among inmates.

INPEC's Office of Foreign Relations, diplomatic observers who routinely visited the prisons, and prisoners reported a decline in prisoner health due to a severe shortage of medical staff, slow action on both routine and emergency medical treatment, and miscommunication between INPEC and CAPRECOM, a government-subsidized health-care provider that managed and administered medical services throughout the penitentiary system. In June CAPRECOM informed the Ministry of Justice that it could no longer provide adequate services to the prison population, due to lack of institutional capability. Subsequently, INPEC assigned oversight of CAPRECOM's services to INPEC's administrative entity, the Prison and Jail Services Unit. Although INPEC provided new staff, funds, and space to the unit for this purpose, the Inspector General's Office reported that significant changes to the delivery of health services to prisoners were not possible without new action from Congress authorizing such changes and additional funds. INPEC convened a working group of lawmakers, INPEC officials, and representatives from the Ministries of Justice, Finance, and Health to address the problem, and on December 6, the government authorized INPEC to hire regional health-care providers to replace CAPRECOM and improve health services to inmates. INPEC started the process in December but had not finalized the hiring of regional health-care providers by year's end.

Many prisoners continued to face difficulties receiving adequate medical care. During a routine visit to Jamundi Prison near Cali, one of the largest maximum-security prisons, a diplomatic representative witnessed an inmate faint due to respiratory distress. Although it occurred during normal working hours, guards and other inmates were unable to locate the CAPRECOM staff. The delay in locating the proper attendants was due mostly to cumbersome administrative processes. In another prison a male HIV-positive inmate did not receive medical attention or receive retroviral medications for a period of six months. A female prisoner in urgent need of a mammogram was unable to receive the exam for more than six months. The government recognized that women's prisons lacked gynecologists and that prisons where children stayed with their parents did not have pediatricians on staff. Despite improvements to medical facilities, problems with a lack of human resources and delays in administrative processes resulted in civil disobedience, hunger strikes, and a large number of formal complaints filed by inmates.

Nutrition and water quality were deficient and contributed to the overall poor health of many inmates. Inmates complained that meals were of inadequate quantity and quality and were served at irregular times throughout the day. INPEC

implemented a nutritional plan to provide meals that meet national standards and administered a water quality review during the year.

INPEC's physical plant was in poor repair. The Inspector General's Office noted that some facilities had poor ventilation and overtaxed sanitary systems. Prisoners in some high-altitude facilities complained of inadequate blankets and clothing, while prisoners in tropical facilities complained that overcrowding and insufficient ventilation caused high temperatures in prison cells. Many prisoners slept without mattresses on floors, while others shared cots in overcrowded cells. One inmate detained in Barranquilla reported sewage seeping through his cell's ceiling.

NGOs and the press reported that high-level military officers continued to enjoy privileged detention conditions.

Administration: INPEC used a centrally managed electronic database with regular updates, and each prison also had its own local database. However, foreign diplomatic observers often found that the information in both systems was not well coordinated, resulting in delays in locating foreign detainees. Authorities regularly used alternative sentencing such as house arrest for nonviolent offenders to alleviate overcrowding.

Authorities permitted prisoners religious observance. Some vegetarian and Muslim inmates reported difficulty receiving meals according to their needs. Prisoners had reasonable access to visitors and generally could submit complaints to judicial authorities and request investigations of inhumane conditions. Prisoners also were able to request that third parties from local NGOs or government entities, such as the Ombudsman's Office, represent them in legal matters and aid them in seeking investigation of prison conditions. Although authorities investigated complaints, some prisoners asserted that the investigations were slow and the results not accessible to the public.

Monitoring: The government permitted independent monitoring of prison conditions by local and international human rights groups. INPEC required a three-day notice before granting consular access. Some NGOs complained that authorities denied them access to visit prisoners without adequate explanation.

The FARC and ELN continued to deny the International Committee of the Red Cross (ICRC) access to police and military hostages.

Improvements: In January INPEC funded programs to fumigate prisons (to control the insect and rodent populations) and improve water quality in all of its centers. In May it implemented new sanitary protocols to identify and correct sanitary deficiencies and increased the amount of resources for solid waste removal.

The government continued a pilot program with local universities and other organizations to develop distance-learning programs with major universities in the country. It also began a study on ways to increase the use of alternative sentencing to alleviate overcrowding in prisons.

d. Arbitrary Arrest or Detention

Although the law prohibits arbitrary arrest and detention, there were allegations that authorities detained citizens arbitrarily. According to CINEP, there were 31 cases of such arbitrary detentions in the first half of the year.

Role of the Police and Security Apparatus

The Colombian National Police (CNP) is responsible for internal law enforcement and is under the jurisdiction of the Ministry of Defense. The CNP shares law enforcement duties with the Prosecutor General's Corps of Technical Investigators (CTI). In addition to its responsibility to defend the country against external threats, the army shares limited responsibility for law enforcement and maintenance of order within the country. For example, military units sometimes provided logistical support and security for criminal investigators to collect evidence in high-conflict or remote areas. The government continued to expand education and training of the armed forces in human rights and international humanitarian law.

The Prosecutor General's Office is the main entity responsible for investigating human rights abuses that security forces committed during the year and in previous years. Of these abuses, extrajudicial killings were the highest profile and most controversial. The Prosecutor General's Office registered one new case of an alleged extrajudicial killing during the year. Through November 589 members of the armed forces and 13 members of the national police had been convicted for such homicides. A total of 753 additional armed forces personnel had been arrested and were awaiting trial for extrajudicial executions, all of which occurred before 2012. The government made considerable improvements in investigating and trying abuses, but claims of impunity for security force members continued to be widespread. This was due in some cases to obstruction of justice, a lack of

resources for investigations and protection for witnesses and investigators, delay tactics by defense attorneys, the judiciary's failure to exert appropriate controls over dockets and case progress, and inadequate coordination among government entities that sometimes caused periods of incarceration to end, thereby resulting in a defendant's release from jail before trial.

Although many human rights groups continued to criticize the Prosecutor General's Office for indicting low-ranking military personnel while avoiding investigations of higher-ranking commanders, the prosecutor general obtained an important conviction in the case of retired brigadier general Rito Alejo Del Rio, who was found guilty of collaborating with paramilitary forces in 1997 during their offensive into the Uraba region, resulting in the killing of Marino Lopez Mena, a rural community leader. The court sentenced Del Rio to 26 years' incarceration.

According to the government, during the year the Ministry of Defense relieved from duty one noncommissioned officer of the armed forces for inefficiency, unethical conduct, corruption, and other causes. Since 2000 authorities retired at least 1,734 members of the army and 1,792 members of the national police for these reasons.

Arrest Procedures and Treatment While in Detention

Police apprehended suspects with warrants issued by prosecutors based on probable cause, but a warrant is not required to arrest criminals caught in the act or fleeing the scene of a crime. Members of the armed forces detained members of illegal armed groups captured in combat but were not authorized to execute arrest warrants. CTI members who accompanied military units could issue such warrants. Authorities must bring detained persons before a judge within 36 hours to determine the validity of the detention, bring formal charges within 30 days, and start a trial within 90 days of the initial detention. Bail is available for all except serious crimes such as murder, rebellion, or narcotics trafficking. Public defenders contracted by the Office of the Ombudsman assisted indigent defendants. Authorities granted detainees prompt access to legal counsel and family as provided for by law. In general authorities respected these rights.

Arbitrary Arrest: The government and prominent local NGOs frequently disagreed on what constituted "arbitrary detention." While the government characterized detentions based on compliance with legal requirements, NGOs applied other criteria in defining "arbitrary detention," such as arrests based on tips from informants about persons linked to guerrilla activities, detentions by members of

the security forces without a judicial order, detentions based on administrative authority, detentions during military operations or at roadblocks, large-scale detentions, and detentions of persons while they were “exercising their fundamental rights.” Prominent human rights NGOs complained that the government arbitrarily detained dozens of persons, particularly community leaders, labor activists, and human rights defenders. CINEP reported that security forces arbitrarily detained 31 persons through June 30.

From May 16 to August 14, the Prosecutor General’s Office detained Sigifredo Lopez, a former member of the legislature of Valle del Cauca Department, who was kidnapped by FARC guerrillas at the department’s legislative assembly building along with 10 other hostages and held from 2002 to 2009. Lopez was the only survivor of that kidnapping. Although authorities never brought formal charges in the case, Judicial Police investigators and the Prosecutor General’s Office originally explained his pretrial detention by accusing him of supporting the FARC’s kidnapping operation, staging his own kidnapping, and orchestrating the killing of his 10 fellow captives. In August the Prosecutor General’s Office admitted that its witnesses’ testimony was not credible and that it had been a mistake to detain him. The prosecutor general ordered his release and, along with CNP’s Judicial Police investigators, issued an apology. The Prosecutor General’s Office investigation into the prosecutor’s actions continued at year’s end.

Pretrial Detention: The Superior Judicial Council reported that the civilian judicial system suffered from a significant backlog of cases, which led to large numbers of pretrial detainees. Implementation of the oral accusatory system, enacted throughout the criminal justice system in 2008, significantly lessened the delays and eliminated the secrecy that encumbered the previous system. However, a large backlog of cases from the previous system remained. The failure of many local military commanders and jail supervisors to keep mandatory detention records or follow notification procedures made accounting for all detainees difficult. The percentage of the detainee population in pretrial detention was 30.4, and the average length of time detainees spent in pretrial detention was 10.6 months. In some cases detainees were released without a trial because they had already served more than a third of the maximum sentence that corresponded to their charges.

Civil society groups complained that authorities subjected some community leaders to extended pretrial detention. Minister of Justice Ruth Stella Correa indicated during an October radio interview that there were approximately 40,000 persons in pretrial detention who might be innocent.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. However, much of the judicial system was overburdened and inefficient, and it was also hindered by subornation and intimidation of judges, prosecutors, and witnesses.

Judicial authorities were subjected to threats and acts of violence. Although the Prosecutor General's Office had a witness protection program for criminal cases, those who did not enter the program remained vulnerable to intimidation, and many refused to testify.

The military justice system may investigate and prosecute active-duty military and police personnel for crimes "related to acts of military service." A constitutional reform enacted in late December further defines the jurisdiction of military and civilian courts for crimes allegedly committed by military and police personnel by listing seven human rights violations that must be tried exclusively in civilian courts: torture, extrajudicial killings, forced displacement, sexual violence, crimes against humanity, genocide, and forced disappearance. The amendment stipulates that all other violations of international humanitarian law (war crimes) are to be tried exclusively in military courts and requires the military and civilian justice systems to decide on the proper jurisdiction of pending cases within one year of the amendment's enactment.

The reform also provides for the creation of a Court of Guarantees and a Technical Commission to resolve jurisdictional questions. (These two bodies are to begin work after the passage of a separate statutory law.) This constitutional reform was preceded by the 1997 and 2000 Constitutional Court rulings, the American Convention on Human Rights, and two 2012 Inter-American Court of Human Rights rulings, which stipulate that all human rights violations should fall within civilian jurisdiction. NGOs and international human rights organizations disagreed with the government about whether the December reform could later be interpreted in such a way as to allow some human rights crimes to be tried in military courts. In addition domestic NGOs and international human rights organizations pointed out that the constitutional reform named a narrower subset of human rights crimes to be transferred to the civilian jurisdiction than had been named by the 2000 Constitutional Court decision. The government stated that previous decisions by the Constitutional Court upheld the precedent of sending to civilian courts cases involving human rights violations not related to military service and indicated that the statutory law would clarify any remaining ambiguities.

The military justice reform amendment establishes a legal defense fund, administered by the Ministry of Defense, to provide for the defense of military personnel and police in both civilian and military courts. It stipulates that accused members of the armed forces are to be held at military facilities for both pretrial detention and postconviction detention, and it mandates that existing cases expressly excluded from the military justice system are to continue to be tried in civilian courts. Finally, it calls for the creation of implementing legislation (a statutory law and an “ordinary law”) to regulate in further detail the provisions outlined in the amendment.

Authorities transferred 101 homicide cases from the military to the civilian justice system through August. In a December 29 interview, Attorney General Montealegre indicated that 552 other cases continued in the military justice system. Many cases were transferred as part of a plan in which officials from the military justice system and the Prosecutor General’s Office met regularly to analyze cases to agree on those to be transferred without being referred to a lengthy, higher-level review by the Superior Judicial Council. The military penal code specifically excludes civilians from military jurisdiction, and civilian courts must try retired military and police personnel, although military courts are responsible for service-related acts committed prior to their retirement.

The military penal code denies commanders the power to impose military justice discipline and extends legal protection to service members who refuse to obey orders to commit human rights abuses. The army has discretionary authority to dismiss personnel implicated in human rights abuses.

The Prosecutor General’s Office is responsible for investigations and prosecutions of criminal offenses. Its Human Rights Unit, which includes 13 satellite offices, specializes in investigating human rights crimes, and its 126 specialized prosecutors were handling 6,320 active cases at the end of October.

The Inspector General’s Office investigates allegations of misconduct by public employees, including members of the state security forces. The Inspector General’s Office referred all cases of human rights violations it received to the Prosecutor General Office’s Human Rights Unit. As of October the Inspector General’s Office had opened 207 disciplinary processes against members of the armed forces and police for human rights offenses and resolved 25 processes, including some from previous years. Of these, 15 resulted in judgments against the accused, and 10 resulted in acquittals.

Trial Procedures

Under the accusatorial criminal procedure code implemented in 2008, the prosecutor presents an accusation and evidence before an impartial judge at an oral, public trial. The defendant is presumed innocent until proven guilty beyond a reasonable doubt and has the right to confront the evidence against him at trial, present his own evidence, and communicate with an attorney of choice (or have one provided at public expense). Defendants have adequate time and facilities to prepare their defense. No juries are involved. Crimes committed before implementation of the 2008 code are processed under the prior written inquisitorial system in which the prosecutor is an investigating magistrate who investigates, determines evidence, and makes a finding of guilt or innocence. The “trial” consists of the presentation of evidence and finding of guilt or innocence to a judge for ratification or rejection.

In the military justice system, military judges preside over courts-martial without juries. Counsel may represent the accused and call witnesses, but most fact finding takes place during the investigative stage. Military trial judges issue rulings within eight days of a court-martial hearing. Representatives of the civilian Inspector General’s Office are required to be present at courts-martial.

Criminal procedure within the military justice system includes elements of the inquisitorial and accusatorial systems. Defendants are considered innocent until proven guilty and have the right to timely consultation with counsel. A constitutional amendment passed the last week of the year provides for the military court system to develop a legal defense fund to provide legal defense for members of the military and police accused of a crime in either the civilian or the military justice systems. The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Political Prisoners and Detainees

The government declared that it did not hold political prisoners. Authorities held a few members of human rights advocacy groups on charges of conspiracy, rebellion, or terrorism, which the groups described as harassment tactics by the government against human rights advocates (see section 5). According to INPEC there were 3,361 detainees accused or convicted of rebellion or aiding and abetting insurgence; 2,076 of them had been sentenced and 1,285 were in pretrial detention. The government provided the ICRC regular access to these prisoners.

Civil Judicial Procedures and Remedies

Citizens can sue a state agent or entity in the Administrative Court of Litigation for damages resulting from a human rights violation. Although critics complained of delays in the process, the court generally was considered impartial and effective. Individuals or organizations may appeal decisions to the Inter-American Court of Human Rights.

Regional Human Rights Court Decisions

During the year the Inter-American Court of Human Rights issued two binding decisions against the country. By year's end the government had not fully complied with the decisions but generally acknowledged its duty to do so.

Property Restitution

The Victims' and Land Restitution Law (Victims' Law) continued to provide assistance and reparations to persons, including victims of the state. The Administrative Department for Social Prosperity (DPS) handled issues related to victims, poverty, consolidation, historical memory, and protection of children and adolescents. The Victims' Unit of the DPS has the governmental lead on attention to victims. The Restitution Unit, a newly established semiautonomous entity in the Ministry of Agriculture, is responsible for restituting land to displaced victims of conflict. The government planned to restitute property to 360,000 families within 10 years.

From January to May, the government established 17 land restitution units and established a vetting process for claims, whereby the victim compiles a narrative of his/her displacement, after which government personnel make a site visit to verify the claim. The claim then is submitted to a court, which has four months to make a decision. By year's end more than 27,000 victims had come forward to reclaim 4.9 million acres. Through September 14, authorities had conducted land studies in 40 zones, 13 departments, and 36 municipalities. More than 2,000 claims, corresponding to 148,000 acres, fell within the government's target areas for restitution and went into active review. By the end of November, 353 claims had moved forward to the judicial process, and courts had handed down 20 decisions.

According to the Ethnic Affairs Office of the Special Administrative Unit for the Management and Restitution of Stripped Land, the unit had received 271

applications for restitution from people self-identified as Afro-Colombian and 196 applications from those self-identified as indigenous, pertaining to more than 40,000 acres of land. The unit hosted a series of workshops for representatives from Afro-Colombian community councils and organizations to raise awareness of restitution procedures for Afro-Colombian and indigenous communities. These workshops helped identify cases of territorial dispossession in the area. As of October 24, the unit had held workshops in the cities of Tumaco, Cali, Pretoria, Apartado, Cartagena, and Valledupar. It planned workshops for Guapi, Barrancabermeja, and Popayan. Focus areas of the plan included Antioquia, Bolivar, Cesar, Choco, and Magdalena.

For many small landowners, formal land titling remained a daunting process. Without full and documented legal title, farmers are more vulnerable to displacement. Government agencies and human rights groups estimated that illegal groups, including guerrillas, seized between 1.1 and 2.7 million acres of land from small landowners during the decades-long conflict. Paramilitary groups and the FARC stole nearly 80 percent of the land, only a small fraction of which the government reclaimed after the demobilization of the AUC in 2006.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected the law; however, there were some allegations of exceptions. Government authorities generally need a judicial order to intercept mail or monitor telephone conversations, including in prisons. However, government intelligence agencies investigating terrorist organizations sometimes monitored telephone conversations without judicial authorization, although evidence obtained in such a manner could not be used in court.

At year's end a 2009 CTI investigation continued into allegations that the dismantled Administrative Department of Security (DAS) had engaged in illegal surveillance of high court magistrates, journalists, human rights organizations and activists, opposition leaders, and the vice presidency. Additionally the Inspector General's Office opened a disciplinary investigation that implicated 14 DAS employees; on February 16, it reached a judgment against nine of those implicated while absolving the other five. Press reports and court documents indicated that authorities designed DAS surveillance to prepare prosecutions against their targets and disrupt human rights groups' activities. Surveillance included physical monitoring of individuals and their families, intercepting telephone calls and e-mails, and collecting personal and financial data.

On June 8, a court found Luz Marina Rodriguez, former DAS general director of operations, and Bernardo Murillo, former head of the DAS anticorruption unit, guilty of breach of public duty and sentenced them each to six years in prison for their participation in the DAS illegal surveillance case.

On July 16, the government charged former DAS director Jorge Aurelio Noguera Cotes with conspiracy, abuse of power, illicit violation of communications, and illicit use of equipment for his participation in the DAS illegal surveillance case. Noguera was already serving a prison sentence of 25 years for his links with paramilitary groups.

On September 7, members of the accusations commission of the House of Representatives requested a formal investigation into former president Alvaro Uribe Velez for his involvement in the DAS illegal surveillance case. At year's end the investigation had not begun.

On September 18, the Supreme Court of Justice postponed the trial of Maria del Pilar Hurtado, former DAS director (2007-08), and Bernardo Moreno, private secretary to former president Uribe, for their involvement in the DAS illegal surveillance case. The trial resumed in November and continued at year's end. In November 2010 Hurtado had been granted political asylum in Panama while the prosecutor general was in the process of filing illegal wiretapping charges against her. A judge issued a warrant for her arrest in May 2011, and the government formally requested Hurtado's extradition in December 2011, but the request was pending at the end of the year. In 2010 the Inspector General's Office concluded a separate disciplinary investigation, which resulted in Hurtado being barred from public service for a period of 10 years.

An October 2011 decree dismantled the DAS and created the National Intelligence Directorate (NID), which is responsible for intelligence but does not have arrest authority. As of October the NID had contracted 206 of the 599 employees it planned to hire. Of these, 17 were former DAS officials.

NGOs continued to accuse domestic intelligence or security entities of spying on lawyers or human rights defenders, threatening them, and breaking into their homes to steal information. For example, on September 17, Ivan Cepeda, member of the Chamber of Representatives and founder of the NGO Movement for Victims of the State, claimed that there was a national police order to intercept his

communications due to his accusations against high-level police and military officers who he alleged had been involved in paramilitary activity.

The government continued to use voluntary civilian informants to identify terrorists, report terrorist activities, and gather information on criminal gangs. Some national and international human rights groups criticized this practice as subject to abuse and a threat to privacy and other civil liberties. The government maintained that the practice was in accordance with the “principle of solidarity” outlined in the constitution and that the payment to such informants was strictly regulated by the Comptroller General’s Office.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

The country’s decades-long internal armed conflict involving government forces and two terrorist guerrilla groups (FARC and ELN) continued. The government began formal peace negotiations with the FARC in October. The conflict and narcotics trafficking were the central causes of multiple abuses.

Guerrilla group members continued to demobilize. At the end of October, according to the Ministry of Defense, 840 members of guerrilla groups had demobilized, compared with approximately 1,300 during the same period in 2011, a 36 percent reduction in demobilizations. The Organization of American States (OAS) verified all stages of demobilization and reintegration into society of former combatants from the guerrilla and paramilitary groups.

The Ministry of Defense continued to implement an agreement with the Office of the UN High Commissioner for Human Rights (OHCHR) to monitor seven of the ministry’s 15 measures to improve adherence to human rights. The ministry participated in a nationwide series of human rights forums, which were organized by the Presidential Program on Human Rights. The Legal Framework for Peace, a law setting up guidelines for peace talks between the government and the guerrilla groups, was to serve as a transitional justice bill should peace talks be successful. The law allows for commuting sentences in exchange for testimony and also allows the judiciary to prioritize cases involving those most responsible for the worst crimes.

Killings: Security forces were implicated in alleged unlawful killings. CINEP reported that there were eight such killings during the first six months of the year, compared with five in the same period of 2011. The Human Rights Unit of Prosecutor General’s Office reported that as of November it was pursuing 1,726

cases of extrajudicial killings by the armed forces that had occurred since 1985. A large number of the reported cases involved army members. As of November the Prosecutor General's Office had obtained convictions of 543 accused members of the security forces. During the first 10 months of the year, the prosecutor general won convictions against 70 members of the security forces accused of extrajudicial killings, including two majors, three captains, four lieutenants, five sublieutenants, eight sergeants, seven corporals, and 41 lower-ranking soldiers.

According to the OHCHR and the Presidential Program for Human Rights, there continued to be fewer reports of military officials presenting civilians as killed in combat than in 2008 or 2009, when several hundred fatalities were reported. The Prosecutor General's Human Rights Unit reported it opened one new case of extrajudicial killing alleged to have occurred during the year. CCEEU reported 15 extrajudicial killings by military members and four by police during the year. For example, CCEEU reported that on February 20, in Apartado, Antioquia, army officers killed the civilian Marlobe David Sanchez, a 21-year-old single mother who suffered from physical deformities. Her family claimed that she had no affiliation with the FARC, but the army reported her as a FARC guerrilla killed in combat. At year's end no information was available regarding the status of the investigation in this case.

At year's end at least 10 other legal cases involving 14 victims associated with the 2008 Soacha extrajudicial killings scandal were pending in courts in Bogota, Cucuta, and Bucaramanga.

Guerrilla groups were also responsible for unlawful killings of government security forces and civilians. On January 21, FARC guerrillas employed a bomb concealed on a live horse to attack a passing patrol, killing one soldier and wounding two others. On February 3, FARC guerrillas detonated a motorcycle bomb in front of a police station in the city of Tumaco, Narino Department, killing 11 police officers and wounding more than 70 police and civilians. On March 9, a FARC ambush in the department of Arauca resulted in the deaths of 11 army soldiers patrolling the area. On April 7, on the road between Quibdo, Choco Department, and Medellin, Antioquia Department, FARC guerrillas placed a false emergency call summoning army assistance; when the soldiers arrived, the FARC ambushed the unit, killing seven and wounding two others.

In many areas of the country, the FARC and ELN worked together to attack government forces or demobilized paramilitary members; in other areas they

fought each other. Various courts convicted members of the FARC secretariat in absentia on charges including aggravated homicide.

The FARC killed persons it suspected of collaborating with government authorities or rival drug-trafficking groups. The CNP reported that through September the FARC had killed at least 163 civilians. For example, on January 28, FARC forces in the department of Antioquia killed two civilians and then ambushed CNP forces that attempted to respond and investigate the crime.

All guerrilla groups killed some kidnapping victims.

Abductions: FARC and ELN guerrillas continued to take hostages for ransom and for political reasons. The FARC also held prominent citizens and security force members to use as pawns in prisoner exchanges. The government reported that guerrillas kidnapped 33 persons (17 by the FARC and 16 by the ELN) during the year.

The CNP estimated that the FARC committed 15 kidnappings from January to July, compared with 60 alleged kidnappings in the same period in 2011. The FARC released some kidnapping victims. For example, the FARC released 10 long-held military and police hostages on April 3, claiming the hostages were the last ones in FARC captivity. However, on April 28, the FARC abducted Romeo Langlois, a freelance foreign journalist from France 24, when he was caught in the cross fire between the FARC and a military unit with which he was embedded. The FARC released him about a month later. Three foreign oil workers and their Colombian translator were released from captivity on November 22. The Ministry of Defense confirmed the FARC was responsible for their kidnapping, which occurred in San Vicente del Caguan, Caqueta Department, in June 2011. Several victims' groups demanded that the FARC provide the whereabouts for hundreds of police officials, soldiers, and civilians still considered missing. The NGO Nueva Esperanza, for example, claimed that there were 720 individuals last known to have been in FARC custody.

Courts convicted some FARC members for kidnappings. For example, on November 27, Alberto Caceres Macon (El Piloso) received a sentence of 40 years for crimes including the 1999 kidnapping and subsequent murder of foreign nationals Terence Freitas, Ingrid Washinowatok, and Larry Gay Lahe, who had been working to organize indigenous groups.

Physical Abuse, Punishment, and Torture: The Presidential Program of Comprehensive Action Against Anti-Personnel Mines declared in a preliminary report that IEDs, deployed primarily by the FARC and ELN, caused 75 deaths and 404 injuries during the year, approximately a 12 percent decrease in such incidents from 2011. An estimated 53 percent of IED victims during the year were military personnel. IEDs killed or injured at least 65 children during the year. Several human rights NGOs stated that the FARC charged civilian families for the replacement cost of the land mines and IEDs when innocent family members accidentally set them off. The International Campaign to Ban Land Mines declared that the FARC continued to be the largest individual user of land mines and IEDs and that the ELN also continued to use land mines and IEDs. Government humanitarian demining brigades cleared more than 2.8 million square feet and destroyed 169 land mines, IEDs, and unexploded munitions by year's end. The government also began the accreditation process for three civilian organizations to engage in demining activities. The certification process continued at year's end.

There also were numerous reports that FARC and ELN guerrillas mistreated civilians and prisoners, as well as injured and sick persons.

Child Soldiers: The recruitment and use of children by illegal armed groups was widespread. The FARC and ELN groups routinely engaged in forced recruitment of persons under 18 years of age and voluntary recruitment of persons under 15. In August the Colombian Family Welfare Institute (ICBF) published the results of a four-year study on child recruitment, which concluded that 52.3 percent of ELN combatants and 50.1 percent of FARC combatants were recruited as children. The average age of children recruited into these armed groups was 12 years. In 2010 UNICEF estimated the number of children participating in illegal armed groups ranged from 10,000 to 13,000. The ICBF stated that it was impossible to know how many children were serving as soldiers for the FARC but reported that more than 5,000 children had demobilized from illegal armed groups between 1999 and September 2012. The FARC reportedly used children to fight, recruit other children to act as spies, gather intelligence, serve as sex slaves, and provide logistical support.

The penalty for leaders of armed groups who use child soldiers is life imprisonment. The Prosecutor General's Office reported that through November it had not opened any investigations related to charges of using children in the armed conflict. The government agreed to the International Criminal Court's penalty for child recruitment when it ratified the Rome Statute in 2002 but delayed application

of the law to provide an incentive to all illegal groups, especially the FARC, to free recruited children. The delay remained in effect at year's end.

International organizations continued to identify recruitment of indigenous youth by illegal armed groups as a serious concern. The FARC continued to issue warnings to indigenous communities outlining a policy to conduct child recruitment and warning recipients not to challenge it.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Other Conflict-related Abuses: Guerrilla groups and organized criminal groups prevented or limited the delivery of food and medicines to towns and regions in contested drug-trafficking corridors, straining local economies and increasing forced displacement.

Guerrillas routinely used civilians to shield combatant forces and forcibly displaced peasants to clear key drug and weapons transit routes in strategic zones and remove individuals who collaborated with the government or organized criminal gangs, which included paramilitary members who refused to demobilize. Guerrillas also imposed de facto blockades of communities in regions where they had significant influence. For example, international organizations reported many incidents in which illegal armed groups forcibly recruited indigenous people or forced them to collaborate, restricted their freedom of movement, and blockaded their communities. During the year the UN Permanent Forum on Indigenous Issues received reports of rape, forced recruitment, use of minors as informants, and other abuses in the context of conflict.

Organized criminal gangs and FARC and ELN guerrillas routinely interfered with the right to privacy. These groups forcibly entered private homes, monitored private communications, and engaged in forced displacement and conscription. There were numerous credible reports of compulsory abortions. Organized criminal groups also continued to displace civilians residing along key drug and weapon transit corridors (see section 2.d.).

International organizations reported that systemic sexual violence against women and girls by some armed actors persisted (see section 6, Women). Human rights NGOs Sisma Mujer, Amnesty International, and others reported that sexual violence remained one of the main tools used by armed actors to force

displacement. The standing orders of the FARC, which had large numbers of female combatants, prohibited pregnancies among its troops.

There also were reports that the FARC, the ELN, and other armed actors engaged in extraction and cross-border trade in conflict minerals, which contributed to abuses by providing funding for weapons and by prompting rebels to forcibly displace residents in order to clear mining areas.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights in practice. However, violence and harassment, as well as the criminalization of libel, served to inhibit freedom of the press.

Violence and Harassment: According to the NGO Foundation for Press Freedom (FLIP), there were 158 incidents of violence and harassment against journalists, compared with 135 in 2011, although FLIP noted that many might have gone unreported in the most dangerous areas. FLIP reported 84 incidents of threats, some of them aimed at more than one journalist at the same time. FLIP reported that seven journalists were detained, 31 were physically attacked, and 24 were victims of harassment or intimidation due to their reporting.

The Human Rights Unit of the Prosecutor General's Office was investigating 113 individuals involved in 35 active cases of crimes against journalists. At year's end the unit had won 17 convictions of 36 perpetrators.

According to FLIP, during the year one journalist was killed, Guillermo Quiroz, who died on November 27 after one week in intensive care. Quiroz suffered multiple injuries after falling from a CNP truck in San Pedro, Sucre. According to press reports, police officers arrested Quiroz after he argued with them after they stopped him for driving a motorcycle without proper documentation. Quiroz, for reasons that remained under investigation, fell from the truck and suffered fractures to his skull and body. Before he lost consciousness, Quiroz said he had been verbally and physically attacked and was thrown from the moving vehicle during his struggle with the officers. The case was under investigation at year's end.

The Prosecutor General's Office reported that through November it had opened 39 investigations in which the victims were journalists and that it had obtained convictions against 10 individuals. The office initiated two trials in landmark cases. On July 4, authorities indicted Jose Miguel Narvaez (a former DAS official) for his alleged planning of the 1999 killing of journalist Jaime Garzon, who had also served as a member of the Bogota City Council and as mayor of the Sumapaz locality of Bogota and had allegedly initiated peace talks with the FARC. Narvaez was working as a consultant to high-ranking military officials at the time of the killing. On October 5, the Prosecutor General's Office issued an international arrest warrant against retired colonel Jorge Eliecer Plazas Acevedo, former intelligence commander of the army's 13th Brigade, for his participation in the same crime. Plazas Acevedo has been a fugitive since he escaped from a military prison in Bogota after being charged in two 2003 kidnapping cases. A court martial sentenced Plazas Acevedo to 40 years in prison for kidnapping and killing an Israeli national and an additional 27 years for kidnapping a local entrepreneur. According to charges filed by the Prosecutor General's Office, Narvaez and Plazas Acevedo planned the killing of Jose Garzon, which was then ordered by former paramilitary leader Carlos Castano and executed by members of Medellin's La Terraza gang. Authorities continued to hold Narvaez in pretrial detention, and investigations continued at year's end.

In August authorities arrested Jorge Luis Alonso for his alleged participation in the 2005 murder of politician and journalist Rafael Enrique Prins. At year's end the trial had not begun.

On September 17, authorities indicted Ferney Tapasco, leader of the Liberal Party in the department of Caldas, for ordering the 2002 killing of Orlando Sierra, a senior journalist and deputy editor of *La Patria*, the main newspaper in the city of Manizales. Sierra had accused Tapasco of corruption in his weekly column. The trial began in September but was suspended; it resumed in October before being suspended again because of a nationwide judicial strike. The trial had not concluded by year's end.

In February a court in Santa Marta sentenced Edgar Ariel Cordoba, member of a former paramilitary organization, to 24 years and two months in prison and a fine of 842 million pesos (\$468,000) for the 2001 murder of journalist Alvaro Alonso Escobar.

Through September FLIP reported that nine persons were brought to trial in four prominent cases, including the Rafael Enrique Prins and Orlando Sierra cases. The

latest report issued during the year by the Prosecutor General's Office on the murder of journalists listed 21 cases of violence against journalists under investigation.

FLIP reported that the Ministry of Interior allotted at least 7 percent of its annual budget to the protection of threatened journalists, totaling approximately \$13.7 billion pesos (seven million dollars). By May seven journalists were receiving protection from the government's new National Protection Unit. In September a total of at least 91 journalists were in the protection program.

Censorship or Content Restrictions: While the government did not censor journalists, many journalists avoided discussing or pursuing certain matters due to fear of being sued under libel laws or of being attacked, according to a 2011 FLIP report. The report added that while nonstate violence was the main reason for self-censorship, a high degree of impunity for those who committed aggressions against journalists was also a factor. Additionally, according to a report by Proyecto Antonio Narino, which examines the state of freedom of expression and access to public information, the response of the judicial sector to assaults and killings of journalists was very poor.

Libel Laws/National Security: Laws against slander or libel are included in the criminal code, but there is no specific legislation for slander against public officials. While the government did not specifically use these laws to keep the media from criticizing government policies or public officials, political candidates, business people, and the Supreme Court of Justice sued journalists for expressing their opinions, alleging defamation or libel.

In February a high court rejected an appeal and confirmed the sentence against Luis Agustin Gonzalez, director of the *Cundinamarca Democratica de Fusagasuga* newspaper. In 2011 Gonzalez received a sentence of 18 months in prison for slander and libel of former governor and senator Maria Leonor Serrano de Camargo in 2008.

In February prominent businessman Carlos Mattos sued Oscar Collazos, journalist for the daily newspaper *El Tiempo*, for a June 2011 editorial in which Collazos ridiculed Mattos and made reference to Mattos's ways of making himself and his fortune known. Mattos claimed this was a case of libel, and Collazos appealed to FLIP for legal assistance, alleging harassment by Mattos. Later in the same month, the two parties settled out of court.

On August 22, the Supreme Court of Justice sued two persons for libel--Cecilia Orozco, a daily newspaper *El Espectador* journalist who wrote an open editorial criticizing the court, and *Semana* magazine's Maria Jimena Duzan, who wrote in similar terms on the same topic. Due to the widespread support the two received from media outlets and opinion makers in the country's main cities, the court withdrew its charges.

Nongovernmental Impact: Members of illegal armed groups sought to inhibit freedom of expression by intimidating, threatening, kidnapping, and killing journalists. National and international NGOs reported that local media representatives regularly practiced self-censorship because of threats of violence from these groups.

For example, in September the Prosecutor General's Office charged three alleged former members of paramilitary groups--Mario Jaimes Mejia (alias El Panadero), Jesus Emiro Pereira (alias (Huevoepisca), and Alejandro Cardenas (alias JJ)--with the aggravated kidnapping, torture, and rape of journalist Jineth Bedoya. The abuse occurred during Bedoya's visit in 2000 to Bogota's maximum security prison to investigate alleged arms trafficking involving state officials and paramilitary groups. During the year the Prosecutor General's Office preliminarily characterized the violations as crimes against humanity, which, if accepted by the court, would effectively eliminate the statute of limitations and also make the defendants eligible for maximum sentences, even though they had arranged to receive reduced sentences through the Justice and Peace process. The decision further ordered preventive detention of all defendants, although all three were already in prison pursuant to the Justice and Peace Law. Bedoya requested that her case be transferred to the prosecutor general's special unit for crimes against personal freedom for prioritized processing, but this had not occurred by year's end. Bedoya's cases in both the Inter-American Commission of Human Rights and domestic criminal courts continued.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. In 2011, according to the International Telecommunication Union, 23 percent of households had Internet access, and 40 percent of the population used the Internet.

In April Congress passed Act 1520, which regulates copyright and intellectual property. However, the Constitutional Court later declared it unconstitutional on grounds that Congress had not complied with established procedural norms when approving the legislation. This law, known in its previous version as Ley Lleras, was meant to protect copyrights and intellectual property and to address Internet piracy. It generated strong debate in the media and academia. Congress can bring the act up for discussion again, although it must follow recommendations made by the court, including on articles 13 and 14, which banned “broadcasting through the Internet by land, cable, or satellite of television signals” without permission from the owner of the copyright for the signal or its contents. The court considered this a violation of the right to access information freely.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. However, there was evidence that guerrillas maintained a presence on many university campuses to generate political support for their respective causes and undermine support for their enemies through both violent and nonviolent means. According to press reports, some of the computers the Prosecutor General’s Office seized from guerrilla leaders included evidence that pointed to the FARC’s involvement in universities.

On September 26, the CNP captured seven alleged FARC members who had infiltrated universities and other educational institutions around the country. According to national police commander General Jose Roberto Leon-Riano, one of the suspects was involved in the death of police officer Jose Libardo Martinez-Rojas, which occurred during the August 31 demonstration at Cali’s Universidad del Valle.

The CNP suspected that FARC members infiltrated the November 2011 student marches and were investigating at year’s end. In March three students from the Universidad Pedagogica in Bogota died while handling explosives. Police believed the students were part of student movements created by the FARC. At year’s end prosecutors had not determined whether the students were directly involved with the group.

Organized criminal gangs and FARC and ELN guerrillas killed, threatened, and displaced educators and their families for political and financial reasons, often because teachers represented the only government presence in the remote areas where the killings occurred. On September 19, educator Osman Florez Vergara

was killed in Sahagun, Cordoba. Press reports indicated that he had received death threats, allegedly for defending his sister against extortion attempts by a criminal gang. The investigation into his death continued at year's end.

According to the Colombian Federation of Educators, there were 14 educators killed between January and December 10, compared with 22 in 2011. Since 2000 the federation has registered 446 cases of educators killed. Threats and harassment caused many educators and students to adopt lower profiles and avoid discussing controversial topics.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Freedom of association was limited in practice by threats and acts of violence committed by illegal armed groups against NGOs, indigenous groups, and labor unions (see section 1.g.). There were reports that riot police used excessive force to break up demonstrations. The Union Portuaria, a port-workers' union, reported that members of the CNP's antiriot division clashed with protesters on August 29 at Buenaventura Port Society, where 500 workers were striking during union negotiations. They claimed that five workers were injured and three arrested. Labor rights groups alleged that there was no formal police response. The Ministry of Labor conducted dialogues with the parties, which ultimately achieved an end to the strike and a continuation of labor negotiations.

Although the government does not prohibit membership in most political organizations, membership in organizations that espoused or carried out acts of violence, such as the FARC, ELN, and paramilitary groups, was illegal.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and while the government generally respected these rights in

practice, there were exceptions. Military operations and occupation of certain rural areas restricted freedom of movement in conflict areas.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In-country Movement: There were no government restrictions of movement within the country; however, organized criminal gangs and FARC and ELN guerrillas continued to establish illegal checkpoints on rural highways. According to NGO sources, during the first six months of the year, illegal checkpoints increased 200 percent compared with the same period in 2011, from 16 to 48. The departments of Norte de Santander, Narino, Meta, Cauca, Antioquia, and Arauca were particularly affected. International organizations also reported that illegal armed groups confined rural communities through roadblocks, curfews, car bombs at egress routes, and IEDs in areas where narcotics cultivation and trafficking persisted.

Exile: The law prohibits forced exile, and the government did not employ it. However, many persons went into self-imposed exile because of threats from organized criminal gangs and FARC and ELN guerrillas.

Internally Displaced Persons (IDPs)

The armed conflict, especially in remote areas, was the major cause of internal displacement. The government, international organizations, and civil society identified various factors driving displacement, including threats and physical, psychological, and sexual violence by illegal armed groups against civilian populations, particularly women and girls; competition and armed confrontation between and within illegal armed groups for resources and territorial control; confrontations between security forces, guerrillas, and organized criminal gangs; and forced recruitment of children or threats of forced recruitment. Some NGOs asserted that counternarcotics efforts, illegal mining, and large-scale economic projects in rural areas also contributed to displacement.

The Victims' Unit mandated by the 2011 Land and Victims' Law began operations in January as the new government entity responsible for assisting and providing reparations to victims, including IDPs. During the year the government updated the estimated budget for implementation of the law to 54.9 trillion pesos

(approximately \$31 billion) over 10 years, a 50 percent increase over the original estimate.

According to numbers provided by the government, the Victims' Unit received 73,790 petitions for IDP status through December 31. Of these, 66,634 were included in the registry, and of those included, 51,546 were related to displacements that occurred during the year. Victims' Unit statistics showed that new displacements primarily occurred in areas where narcotics cultivation and trafficking persisted, especially where guerrilla groups and organized criminal gangs were present.

The government has registered an accumulated total of 4.8 million persons displaced since 1997 (including those displaced in years before the registration system was established). A 2008 court order requires the government to include displacements from all previous years in the national registry. Because of the continuing nature of the conflict and cumulative nature of government IDP registrations, the country continued to have one of the largest populations of registered IDPs in the world.

The government's national registry included registered IDPs whose applications for recognition had been accepted under defined criteria, while the NGO Consultancy for Human Rights and Displacement (CODHES) estimated new displacements based on information from the media, civil society, and fieldwork. CODHES also included as IDPs an undetermined number of coca and opium poppy producers who migrated in response to governmental drug eradication efforts, as well as those who migrated due to poor economic conditions and food insecurity resulting from the armed conflict.

During the year the Victims' Unit worked to consolidate more than 40 databases for victims into the Single Victims Registry as mandated by the Victims' Law. Despite slow improvements in the government registration system, displaced persons experienced significant delays in receiving responses to their displacement claims, initially as a result of delays in the establishment of validation criteria for claims and then as a result of a large backlog of claims built up over several months at the beginning of the year. International organizations and NGOs remained concerned about underregistration of IDPs and the slow institutional response to displacement. CODHES cited the government's denial of many registrations, lack of access to the registration system in some areas, and fear of retaliation from illegal armed groups as obstacles to full registration. Government policy provides for an appeals process in the case of refusals.

The FARC, ELN, and organized criminal gangs continued to use force, intimidation, and disinformation to discourage IDPs from registering with the government. Guerrilla agents sometimes forced local leaders and community members to demonstrate against illicit crop eradication efforts and sometimes forced communities to displace as a form of coerced protest against eradication. International organizations and civil society expressed concern over urban displacement caused by violence stemming from territorial disputes between criminal gangs, some of which had links to larger criminal and narcotics trafficking groups.

According to Victims' Unit statistics, through September the government registered 3,653 persons as intraurban IDPs. The Victims' Unit cited threats, recruitment by illegal armed groups, homicides, and physical and sexual violence as the primary causes of intraurban displacement.

During the year the government registered 567 new IDPs who identified themselves as indigenous and 8,505 who identified themselves as Afro-Colombian. Indigenous persons constituted 1.1 percent and Afro-Colombians 16.5 percent of new IDPs registered by the government. The government reported that indigenous people made up 3.4 percent and Afro-Colombians 10 percent of the total IDP population. The ICRC and UNHCR reported that indigenous and Afro-Colombian groups were disproportionately affected by displacement in some departments.

The National Indigenous Organization of Colombia estimated the number of displaced indigenous persons to be much higher than indicated by government reports, since many indigenous persons did not have adequate access to registration locations due to geographic remoteness, language barriers, or unfamiliarity with the national registration system.

The local NGO Association of Internally Displaced Afro-Colombians (AFRODES) stated that threats and violence against Afro-Colombian leaders and communities continued to cause high levels of forced displacement, especially in the Pacific Coast region. AFRODES and other local NGOs also repeatedly expressed concern that large-scale economic projects, such as agriculture and mining, contributed to displacement in their communities.

The government, international humanitarian assistance organizations, and civil society groups observed that mass displacements continued. Preliminary figures from the government indicated 19 mass displacement events affecting 3,312

persons during the year. CODHES reported at least 130 mass displacement events affecting more than 43,000 persons during the year. According to the Victims' Unit, preliminary analysis indicated that the departments with the highest numbers of IDPs from mass displacements in the year were Antioquia, Cauca, Caqueta, and Choco.

CODHES also reported that two land-rights leaders were killed during the year, bringing the number of such leaders killed since 2002 to 56. On December 1, masked men fired seven shots and killed Miller Angulo, an Afro-Colombian activist who was a leader of AFRODES and a leader of a community land claim process, in Tumaco, Narino Department. The regional office of the prosecutor general in Tumaco opened an investigation, which was in the preliminary stage at year's end. Twenty-two other AFRODES leaders said they received threats similar to those Angulo received before his killing. They believed they were also in danger and applied to the government for protective measures, which were under consideration by a joint government and civil society committee at year's end.

Assistance to registered IDPs was delivered through the Victims' Unit, the ICBF, the Ministry of Social Protection, and other governmental ministries and agencies. During the year the Victims' Unit budgeted approximately 564 billion pesos (approximately \$317 million) for direct IDP assistance. The Victim's Unit, which is under DPS authority, also coordinated the return of approximately 17,000 displaced households during the year.

International organizations and NGOs maintained that the quality of programs providing emergency assistance, housing, and income generation needed strengthening. CODHES estimated that more than half of displaced women were not registered and therefore not receiving any emergency assistance.

A specialized unit of the Prosecutor General's Office, established through an agreement with the government's former social agency, Accion Social (which was replaced by DPS), the Prosecutor General's Office, and the CNP investigated and prosecuted cases of forced displacement and disappearances. During the year the unit received 98 new cases for investigation.

Several international organizations, international NGOs, and domestic nonprofit groups, including the International Organization for Migration, World Food Program, ICRC, and Colombian Red Cross, coordinated with the government to provide emergency relief and long-term assistance to displaced populations.

The Victims' Unit and other government agencies improved response to mass displacement events throughout the year and were assisted by international organizations such as the ICRC. International organizations and civil society reported that a continuing lack of local capacity to accept registrations in high-displacement areas often delayed by several weeks or months assistance to persons displaced individually or in smaller groups. Humanitarian organizations attributed the delays to a variety of reasons, including the lack of personnel, declaration forms, and training. Intense fighting and insecurity in conflict zones, including areas in the departments of Antioquia, Cauca, and Narino, sometimes delayed national and international aid organizations from accessing newly displaced populations.

Despite several government initiatives to enhance IDP access to services and awareness of their rights, many IDPs continued to live in poverty with unhygienic conditions and limited access to health care, education, or employment. In 2004 the Constitutional Court ordered the government to reformulate its IDP programs and policies, including improving the registration system. Since then the court issued more than 250 follow-up decisions, some addressing specific issues such as gender, persons with disabilities, and ethnic minorities, and others analyzing specific policy components such as land and housing.

Displaced persons also sought protection across international borders due to the internal armed conflict. The UNHCR stated in its 2011 *Global Trends* report, released in June, that Colombia was the country of origin for 113,005 refugees and 42,569 asylum seekers, the majority in Ecuador, Venezuela, Costa Rica, and Panama. The governments of Colombia and Ecuador continued to meet throughout the year regarding the situation of Colombian refugees in Ecuador, and in August Foreign Minister Maria Angela Holguin announced a program to assist Colombian refugees in Ecuador who returned to Colombia. Support offered during the year included income generation programs and assistance in registering for government of Colombia assistance programs.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government reserved the right to determine eligibility for asylum based upon its own assessment of the nature of an applicant's claim. According to the government, it approved 52 applications of the 890 applications for refugee status since 2006. The majority of those who had presented applications abandoned them

and left before a refugee status determination was completed. As of September the government had received 63 applications for refugee status; by year's end none were approved, 33 were rejected, and the others were pending. According to the government, 52 recognized refugees resided in the country. The government also reported an increase in the smuggling of migrants from outside the region, primarily from Asia and East Africa, en route to the United States and Canada. The government regularly provided access to the asylum process for such persons who requested international protection; however, nearly all abandoned their applications and continued on the migration route before a refugee status determination was completed.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic and generally free and fair elections based on nearly universal suffrage. Active-duty members of the armed forces and police may neither vote nor participate in the political process. Civilian public employees are eligible to vote, although they may participate in partisan politics only during the four months immediately preceding a national election.

Elections and Political Participation

Recent Elections: In October 2011 the government held elections for local positions including governors, departmental representatives, mayors, and municipal councilors. The Electoral Observation Mission (MOE), an independent election-monitoring NGO, reported that between February 2011 and election day, of the approximately 102,000 candidates for local office, 41 were killed, 23 were attacked, seven were kidnapped, and 88 were threatened, for a total of 159 incidents of "political violence," compared with 149 during the previous local elections in 2007.

According to the NGO New Rainbow Foundation, electoral fraud remained a serious concern. The NGO reported that parties supported candidates with questionable financial ties and paid voters to register and vote in municipalities in which they were not resident. The foundation claimed that all parties' rosters included candidates with questionable ties. The MOE estimated that 600,000 people registered to vote in precincts where they were not legally resident. The government took steps to reduce fraud, introducing a new finance tool to ensure

transparency of campaign funds, disqualifying candidates with pending criminal investigations, and canceling the national identification cards of voters who could not demonstrate residence or employment in the municipality where they registered to vote.

Following the election, on November 27, two men shot and killed Eladio Yascual Imbaquin, the MOE regional coordinator in Putumayo. The Prosecutor General's Office continued to investigate the case at year's end.

In June 2010 Juan Manuel Santos won a four-year term as president in elections that the OAS electoral observation mission considered generally free and fair. The OAS mission noted that the 2010 elections involved the lowest levels of violence in 30 years.

Political Parties: Political parties could operate without restrictions or outside interference. The Liberal and Conservative parties previously dominated politics. The 2010 election of U Party candidate Juan Manuel Santos as president and the second-place showing of Antanas Mockus of the newly established Green Party reflected a continued widening of the political arena. Seven political parties and eight political movements from across the political spectrum were represented in Congress, with the largest representation being from the center-right U Party.

Organized criminal gangs and the FARC threatened and killed government officials (see section 1.g.). According to the National Federation of Municipal Councils, five municipal council members were killed through September, compared with seven in the same period in 2011.

Some local officials resigned because of threats from the FARC. As of October the National Protection Unit, under the Ministry of Interior, had provided protection to 280 mayors, 103 members of departmental congresses, 1,437 council members, six judges, 14 municipal human rights officers known as "personeros," and 27 other public officials related to national human rights policies. Decree 1225 of 2012 stipulated that the CNP's protection program and the NPU would assume shared responsibility for protecting municipal and district mayors in the future.

Participation of Women and Minorities: The law requires that women comprise at least 30 percent of appointed government posts and that the government report to Congress each year the percentage of women in high-level government positions. There were 16 women in the 102-member Senate and 20 women in the 165-

member House of Representatives. There were five women in the 16-member cabinet and four on the 23-member Supreme Court. In January 2011 the country's first female prosecutor general was sworn in; however, she resigned on March 2 after her appointment by the Supreme Court was invalidated by the Council of State due to irregularities in the process.

In the 2011 municipal elections, with the enactment of the Law of Quotas, 108 female mayors were elected, which corresponded to 9.8 percent of the country's mayors; 1,875 councilwomen were elected, corresponding to 17 percent of all municipal council members. Compared with the 2007 municipal elections, this was an increase of 2.5 percent in the number of women in municipal governments.

Two indigenous senators and two indigenous members of the House of Representatives occupied seats reserved for indigenous persons. There were no indigenous persons in the cabinet or on any of the high courts.

Eleven Afro-Colombians served in Congress. There were nine self-identified Afro-Colombian members of the House of Representatives--seven elected and two in seats reserved for Afro-Colombians. Although there were no seats reserved for Afro-Colombians in the Senate, there were two Afro-Colombian senators. Two Afro-Colombians served as deputy magistrates on the Constitutional Court. There were no Afro-Colombian cabinet ministers.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively; however, officials sometimes engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that government corruption was a serious problem. Drug-trafficking revenues exacerbated corruption.

On October 5, a court found Blanca Jazmin Becerra guilty of leading a criminal fraud scheme against the Bureau of Taxes and Customs and sentenced her to 26 years in prison, the harshest sentence ever handed down in a corruption case in the country. The fraud, which exceeded 50 billion pesos (approximately \$28.3 million), involved the use of shell companies to request refunds of taxes through false documents. The court also sentenced and fined Sandra Rojas, Jose Garzon, and Maria Segura.

The trial of Ivan Moreno Rojas, a former senator charged in 2011 with responsibility for contracting irregularities associated with public works in Bogota, where Moreno's brother served as mayor, continued at year's end.

At year's end Samuel Moreno Rojas, the former mayor of Bogota, charged in June 2011 with failing to fulfill his public duty and for contracting irregularities, remained in detention as his trial continued. During the year his defense lawyers requested his liberty, arguing that the timeframe for him to be officially charged had passed; however, the judge denied this request, indicating that the delay was due to the defense lawyers who had requested several postponements to analyze the evidence against him. In December the Prosecutor General's Office issued an arrest warrant for a defense lawyer involved in the case, on grounds that he was constantly absent from court proceedings and thereby delaying the administration of justice. The Inspector General's Office ended its disciplinary investigation with a judgment that it would bar the former mayor from holding public office for a period of 12 months.

Investigations into a 2009 corruption scandal involving inappropriate use of the Agriculture Ministry's irrigation and drainage loan program continued during the year. The Supreme Court sentenced some of the accused officials to several months in prison and fined some family members of ministry officials who had received subsidies from the program. The trial continued at year's end with decisions pending for several more defendants.

A special investigative unit of the Supreme Court of Justice, which examined members of congress and senior government officials, reported that during the year the unit opened investigations involving 113 sitting or former senators, resulting in two acquittals, nine convictions, 101 cases closed for lack of evidence, and one case closed for having exceeded the statute of limitations. In addition the unit opened investigations involving 180 current or former members of congress, resulting in six convictions, 171 cases closed for lack of evidence, and three cases closed for having exceeded the statute of limitations. The unit also opened investigations involving five current or former governors, resulting in two convictions, one case closed for lack of evidence, and two cases closed for having exceeded the statute of limitations. Under laws 600 and 906, the Prosecutor General's Office investigated inspectors, comptrollers, and other high officials. At year's end the prosecutor general had a total of 1,393 cases registered under the two laws. The majority of these cases were under investigation or in preliminary stages of prosecution, but 12 had gone to trial by year's end.

The primary government body to design and enforce policies against corruption is the Presidential Program for Modernization, Efficiency, Transparency, and Combating Corruption, led by the anticorruption czar. The primary government institution that investigates and prosecutes corruption is the Prosecutor General's Office, but Congress plays an investigative role in cases in which high government officials are involved.

By law public officials must file annual financial disclosure forms with the tax authority. This information is not public. The law states that persons who intend to hold public office or work as contractors for the state for more than three months shall submit a statement of assets and income, as well as information on their private economic activity. Public officials must submit an annual update of this information before the last day of February, but they are not required to file periodically when changes occur in their holdings during the year or when they enter and leave office. The law does not address assets and income of spouses and dependent children. The Administrative Department of Public Service is in charge of preparing the required forms, and the human resources chief in each entity is responsible for verifying the information submitted. Congress maintained a Web site on which members of Congress could voluntarily post their financial information.

The law provides for public access to government information, and the government generally provided this access in practice. While there are no prohibitive fees to access government information, there were reports that some low-level officials insisted on bribes to expedite access to information. In June Congress passed a statutory bill on Transparency and the Right to Access Public Information, establishing procedures for the exercise of these rights and identifying a narrow list of exceptions, including cases related to national security, international affairs, criminal proceedings, and the privacy of public officials and private individuals. The law requires public entities to provide information proactively and in a reasonably short timeframe, and it allows them to use diverse communication strategies and channels. The law includes sanctions for noncompliance and appeal mechanisms for disclosure denials. The Public Ministry, made up of the Inspector General's Office, the Human Rights Ombudsman's Office, and municipal offices for the defense of human rights (personarias), is in charge of ensuring effective compliance with this law.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the government and local human rights groups often differed in their evaluations and analyses of the human rights situation, government officials often were cooperative and responsive to groups' views. NGOs reported receiving criticism from high-level officials, including members of previous administrations, suggesting that some NGOs were linked to guerrilla groups, which put them at risk of retaliation by organized criminal gangs. While most NGOs noted a more positive, conciliatory tone from the government in the past two years, some also said that the government arbitrarily arrested and detained some human rights activists, particularly in high-conflict areas. NGOs claimed that the Prosecutor General's Office had pursued numerous unfounded judicial cases against legitimate human rights defenders with the purpose of discrediting their work. The government charged that some human rights activists engaged in activities that supported terrorism (see section 1.e.).

President Santos, Vice President Garzon, and other senior government officials continued to make public statements in support of human rights defenders during the year. As of August the NPU's 215 billion peso (\$110 million) protection program had provided protection to a total of 11,200 individuals, including 8,500 who were transferred from the previous protection program administered by the Ministry of Interior. Among the NPU's protected persons were 1,452 human rights activists.

According to the NGO Somos Defensores (We Are Defenders), 29 human rights activists were killed and 81 threatened during the first half of the year. Somos Defensores reported that the departments most affected by these attacks were Cauca, Santander, Narino, and Valle del Cauca. CODHES and Somos Defensores reported a rising trend of attacks against female leaders of the IDP population and activists seeking land restitution.

Several NGOs reported receiving threats in the form of e-mails, mail, telephone calls, obituaries, and objects related to death, such as coffins and funeral bouquets. According to the OHCHR, reports of threats continued to increase during the year. The government condemned the threats and called on the Prosecutor General's Office to investigate them, although some activists claimed that the government did not take their threats seriously. The Prosecutor General's Office investigated 42 cases of threats against human rights defenders during the year (28 by the Human Rights Unit and 14 by other units). None of the investigations had resulted in a conviction at year's end.

The government continued to meet with representatives of the OHCHR, local NGOs, and the diplomatic corps to discuss steps it had taken to comply with OHCHR recommendations to improve human rights practices. While acknowledging progress on several recommendations, the OHCHR and local NGOs reported that the government had not fully implemented all of them by year's end.

Government Human Rights Bodies: The ombudsman is independent, submits an annual report to the House of Representatives, and has responsibility for providing for the promotion and exercise of human rights. According to human rights groups, the Ombudsman's Office was underfunded, which limited its ability to monitor violations effectively. Members of the ombudsman's regional offices reported threats from illegal armed groups via pamphlets, e-mails, and violent actions.

The National System for Human Rights and International Humanitarian Law, which is coordinated by a commission of 11 senior government officials and led by the vice president, designs, implements, and evaluates the government's human rights and international humanitarian law policies. The Presidential Program for Human Rights, which operates under the authority of the vice president, coordinates national human rights policy and actions taken by government entities to promote or protect human rights. The program publishes regional, national, and thematic reports on human rights topics. During the year the Presidential Program for Human Rights, managed by the Vice President's Office, held public forums in 26 departments and a national-level forum in Bogota to address human rights concerns and formulate policies to solve them. Representatives of local, regional, and national government participated, as well as civil society groups and international observers. The Presidential Program published the findings and recommendations from all 26 forums in a report that was distributed at the national conference, which was attended by President Santos, Vice President Garzon, and several cabinet level officials, all of whom spoke of the need to protect human rights defenders and pledged support to strengthen human rights.

Both the Senate and House of Representatives had human rights committees, which serve solely as forums for discussion of human rights issues.

Implementation of the 2005 Justice and Peace Law (JPL) continued. The Justice and Peace Unit in the Prosecutor General's Office is responsible for the required investigation and prosecution of demobilized persons, and an interagency

commission on Justice and Peace coordinates its implementation. During the year 24 new persons were presented as eligible for participation in the Justice and Peace process, including reduced sentences if they complied with the terms of the JPL. All of these were former paramilitary members, but none were designated as commanders. Authorities took the testimony of more than 1,374 individuals, in which the Prosecutor General's Office identified 524 crimes and 5,578 victims. At year's end the Prosecutor General's Office had registered 406,186 victims, including 33,312 who registered between January and November. Between January and October, the government exhumed 316 mass graves involving the remains of 936 persons. During the year the government identified 48 remains, and by the end of October it returned 179 remains (including some found and identified in previous years) to family members. Testimony from voluntary confessions also triggered investigations of politicians, military members, major agricultural producers, and government officials' past ties to paramilitary forces. Some of the investigations resulted in prosecutions and convictions.

Application of the JPL continued to face many challenges, including the status of thousands of former paramilitary members who remained in legal limbo due to resource and capacity constraints at the Prosecutor General's Office, and there was little land or money confiscated from former paramilitary leaders. There were 14 convictions of former paramilitary leaders following the law's implementation in 2005, four in 2012.

Since 2009 the government's Program of Administrative Reparations paid approximately 1.2 trillion pesos (\$612 million) in reparations to victims of illegal armed groups. By the end of August, the Victim Protection Program under the Ministry of Interior added 43 victims involved in the Justice and Peace process to those under its protection. This brought the number of persons protected under the Justice and Peace provisions to 361. As part of institutional reforms, the government allowed the mandate of the National Commission for Reparation and Reconciliation, including the Historical Memory Group, to expire. As provided by a 2010 law, the government was working to establish a limited version of a truth commission. The Victims' Law provides for the establishment and institutionalization of formal archives and a Center for Historical Memory for collecting oral testimony and material documentation concerning violations of international human rights norms and law and for directing construction of the National Museum of Memory in consultation with victims.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Although the law specifically prohibits discrimination based on race, gender, disability, language, sexual orientation or gender identity, or social status, in practice many of these prohibitions were not enforced.

Women

Rape and Domestic Violence: Although prohibited by law, rape, including spousal rape, remained a serious problem. The law provides for sentences ranging from eight to 30 years' imprisonment for violent sexual assault. For acts of spousal sexual violence, the law mandates prison sentences of six months to two years and denies probation or bail to offenders who disobey restraining orders. There was no comprehensive or consolidated database on the incidence of sexual violence, but NGO groups claimed that rape continued to be underreported to authorities.

The National Institute for Legal Medicine and Forensic Science, part of the Prosecutor General's Office, compiled numbers for sex crimes in the capital city through October, but at year's end it had not compiled data for sex crimes nationwide. Its report on Bogota indicated that between January and October, there were 3,343 new cases of sex crimes, which included 584 cases of rape, 460 for sexual assault and 293 committed against "persons unable to resist," such as children and people with disabilities. However, the institute indicated that many cases went unreported. Members of illegal groups, former paramilitary members, and guerrillas raped and sexually abused women and children.

Prosecution rates for rape have historically been low. Through October the Prosecutor General's Office had opened 12,781 new investigations for sexual crimes--743 resulted in formal charges, 386 of were in trial at year's end, 39 resulted in convictions during the year, 1,021 were closed without decisions, and the rest were in pretrial investigation. In addition the Prosecutor General's Office reported that it opened 30 disciplinary investigations through October of military and police personnel charged with sex crimes.

In September the Prosecutor General's Office charged three alleged former members of paramilitary groups with the 2000 aggravated kidnapping, torture, and rape of journalist Jineth Bedoya (see section 2.a.).

Although prohibited by law, domestic violence, including spousal abuse, remained a serious problem. A law passed during the year allows prosecution of a case against domestic violence offenders even when the victim does not testify, as long as there is another witness. Judicial authorities may remove an abuser from the

household and require therapy. The law provides for both fines and prison time if the abuser causes grave harm or the abuse is recurrent; however, authorities did not impose fines. A new law passed during the year augments both jail time and fines if the crime involved causes “transitory physical disfigurement,” such as the increasingly common acid attacks, where an attacker throws acid into the victim’s face. Bogota city council member Olga Rubio, a victims’ advocate, said there were an estimated 100 such assaults in the first seven months of the year.

For example, in May the government charged Jorge Alberto Ramos Cruz, Marta Lucia Ortiz, and Andres Garzon Yeison with throwing acid on the face of a female relative and stealing her jewelry. The three were linked to at least 19 other cases, which included charges of aggravated assault and sexual abuse. According to a police spokesperson, the three deliberately targeted women and shop owners and used the acid to terrorize their victims. The investigation into the three suspects continued at year’s end.

The Prosecutor General’s Office reported opening 32,934 new investigations for cases of domestic violence through November. The law requires the government to provide victims of domestic violence with immediate protection from further physical or psychological abuse. The ICBF provided safe houses and counseling for some women and children who were victims of domestic violence, but its services could not meet the magnitude of the problem. In addition to fulfilling traditional family counseling functions, ICBF family ombudsmen handled domestic violence cases.

Female Genital Mutilation/Cutting (FGM/C): Several indigenous groups reportedly practiced FGM. No accurate statistics existed regarding this practice (see section 6, Children).

Sexual Harassment: The law provides measures to discourage and punish harassment at the workplace, such as sexual harassment, verbal abuse or derision, aggression, and discrimination. Nonetheless, sexual harassment remained a pervasive and underreported problem.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of children and the information and means to do so free from discrimination. Women and men had access to contraception, skilled attendance during childbirth, prenatal care, and obstetric care. According to UN data, in the period from 1990 to 2010, the maternal mortality rate was 92 deaths per 100,000 live births.

Illegal armed groups continued to force women to have abortions. Female combatants who demobilized from the FARC reported that women in the FARC were repeatedly forced to have abortions, with most experiencing between one and seven abortions. The Prosecutor General's Office reported that it had opened seven new investigations in cases of forced abortion through November. Under the Justice and Peace process, a former FARC commander known as Karina confessed that she personally performed forced abortions, which the FARC regularly employed to enforce its internal ban on pregnancy.

Discrimination: Although women enjoy the same legal rights as men, serious discrimination against women persisted. Women faced hiring discrimination, were affected disproportionately by unemployment, and received salaries that generally were not commensurate with their education and experience. According to government statistics, 45 percent of working-age women participated in the labor force. According to reliable estimates, women were paid on average 56 percent of the average wages of their male counterparts, whereas the country's National Administrative Department of Statistics reported that women earned an average of 20 percent less than their male counterparts.

The president's adviser for equality of women has primary responsibility for combating discrimination against women, although advocacy groups reported that the office remained seriously underfunded. In September the government unveiled the first national gender policy as part of a campaign to highlight women's rights. The campaign sought to reduce discrimination against women, reduce violence against women, especially displaced women, and establish government policies to respond better to women who are victims of violence.

In November the Ministry of Defense announced a new protocol for managing cases of sexual violence and harassment involving members of the military. The Prosecutor General's Office reported that through November it had 34 active investigations in cases of alleged sexual violence by members of the security forces, four of which the Human Rights Unit was handling.

Children

Birth Registration: Citizenship is derived by birth within the country's territory. Most births were registered immediately following birth. If a birth is not registered within one month, parents can be fined and denied public services.

Child Abuse: Child abuse was a serious problem. The National Institute for Legal Medicine and Forensic Sciences reported 9,826 cases of child abuse through September. The ICBF reported 2,345 cases of sexual abuse against children through August. The Prosecutor General's Office reported that 54 percent of the investigations it had opened during the year for sex crimes involved sexual abuse of children, most of whom were under age 14 (the minimum age of consent). On July 10, the ICBF held a conference on sexual abuse, including sexual abuse of children; more than 300 persons who study the issue, professionals who work directly with victims, and representatives of victims' associations participated.

Child Marriage: Marriage is legal at age 18; however, boys over age 14 and girls over age 12 may marry with the consent of their parents. According to UNICEF, 23 percent of women ages 20-24 were married or in a civil union before age 18.

Harmful Traditional Practices: Several indigenous groups reportedly practiced FGM/C. No accurate statistics existed for this practice, which falls into Type I and IV, according to the World Health Organization's classification system. Government efforts to prevent FGM/C included achieving a continuing commitment from the sizable Embera-Chami indigenous group to renounce the practice beginning in 2011. The tribe's commitment continued in 2012. In October the ICBF, in coordination with the UN Population Fund, agreed to continue supporting a consulting project on FGM/C with indigenous peoples. The project goal is to eradicate harmful practices to life and health of indigenous girls and women nationwide, with an emphasis in the departments of Risaralda and Choco. Also during the year the government encouraged dialogue with representatives of indigenous communities, including the Regional Indigenous Council of Risaralda, to persuade them to abandon the practice of FGM/C.

Sexual Exploitation of Children: Sexual exploitation of children remained a problem. The law defines sexual exploitation of a minor as "directly or through a third party, requesting or demanding performance of carnal or sexual acts with a person under 18 years, through payment or promise of payment in cash, kind or compensation of any nature," and it carries a penalty of 14 to 25 years in prison. Encouraging or forcing a minor into prostitution carries a penalty ranging from two to eight years in prison and a fine. The law prohibits pornography using children under age 18 and stipulates a penalty of 10 to 20 years in prison and a fine. The minimum age of consensual sex is 14. The penalty for sexual activity with a child under age 14 ranges from two to 10 years in prison. According to the ICBF, through September there were 415 reports of minors engaging in independent or forced prostitution and 31 of child pornography. The ICBF identified 680 children

and adolescents through September exploited in commercial sexual activities, and through August it assisted 3,448 children victimized by sexual violence, including sexual exploitation, with psychosocial, medical, and legal support. The law authorizes the government to confiscate profits from hotels and other establishments where minors are sexually exploited. However, the Prosecutor General's Office received no cases under this law during the year.

With leadership from the Ministry of Commerce, Industry, and Tourism, the ICBF and the CNP developed a national strategy for the prevention of sexual exploitation of children and adolescents in the context of travel and tourism. The awareness campaign was based on technical assistance through workshops and forums. During the year the NGO Fundacion Renacer, along with local authorities and UNICEF, certified more than 40 hotels and other tourism establishments nationwide that are committed to combating sexual exploitation of children and adolescents. The hotels were located mainly in the cities of Bogota and Cartagena and in the coffee-producing region, which is another major tourist destination.

Child Soldiers: Guerrillas continued the practice of forcibly recruiting and using children as soldiers, including indigenous children (see section 1.g.). According to the UN, illegal armed groups killed or threatened children with death on suspicion of being informants for the military.

Infanticide or Infanticide of Children with Disabilities: The National Institute of Legal Medicine and Forensic Science reported that 913 minors were killed during the year but did not track cases of infanticide specifically or whether the victims were disabled.

Displaced Children: The ICBF reported that more than 88 percent of the displaced population served by ICBF programs were children.

International Child Abduction: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.htm as well as country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

The Jewish community had an estimated 5,000 members. There were limited, isolated reports of anti-Semitic acts, including spray-painted graffiti on a stone menorah in Bogota.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to public buildings, air travel and other transportation, access to health care, or the provision of other state services. However, Somos Defensores and other NGO groups claimed these laws were seldom enforced in practice. No law mandates access to information and telecommunications for persons with disabilities. The Presidential Program for Human Rights is responsible for protecting the rights of persons with disabilities.

The constitution establishes education as a fundamental right. Although children with disabilities attend school at all levels, advocates noted that the vast majority of teachers and schools were neither trained nor equipped to successfully educate children with disabilities. Advocacy groups also said that children with disabilities entered the education system later and dropped out of it at higher rates than children without disabilities. The NGO Fundacion Saldarriaga Concha reported that 33 percent of children with disabilities between ages five and 14 and 58.3 percent between 15 and 19 did not attend school. Advocates also noted that children with disabilities were more vulnerable to sexual and other forms of abuse and that citizens with disabilities were hampered in their ability to vote and participate in civic affairs due to lack of adequate transportation or adequate access to voting facilities in numerous locations throughout the country.

National/Racial/Ethnic Minorities

According to the 2005 national census, approximately 4.5 million persons, or 10 percent of the country's population, described themselves as of African descent. A 2011 UN report estimated that Afro-Colombians composed 15 to 20 percent of the population, while human rights groups and Afro-Colombian organizations estimated the proportion to be 20 to 25 percent. Afro-Colombians are entitled to all constitutional rights and protections, but they faced significant economic and

social discrimination. According to the UN report, 46 percent of the country's population lived below the poverty rate, but in Choco, the department with the highest percentage of Afro-Colombian residents, 71 percent of residents lived below the poverty line (41 percent in extreme poverty). Choco continued to experience the lowest per capita level of social investment and ranked last in terms of infrastructure, education, and health. Maternal mortality in Choco was four times higher than the national average. It also continued to experience some of the country's worst political violence, as organized criminal gangs and FARC and ELN guerrillas struggled for control of the department's drug- and weapons-smuggling corridor (see section 1.g.). The UN report further explained that in Narino, another department with a high percentage of Afro-Colombians, illiteracy rates were six times higher than the national average.

In 2010 the government approved a policy to promote equal opportunity for black, Afro-Colombian, Palenquera, and Raizal populations. (Palenquera populations along some parts of the Caribbean coast, Raizal populations in the San Andres archipelago, and blacks and Afro-Colombians are Colombians of African descent who self-identify slightly differently based on their unique linguistic and cultural heritages.) In July the government launched the Observatory Against Racism and Discrimination, which aims to monitor the use of specialized approaches in public policies for ethnic minorities, conduct studies on racism and discrimination, and make recommendations to other public entities regarding the promotion of equal opportunities. In November the Ministry of Interior selected 20 proposals for productive and self-sustaining projects presented by Afro-Colombian communities to receive technical advice and financial resources from the government. During the year 128 of the 171 community councils (of Afro-descendants, Palenqueras, and Raizales) received government training in governance and knowledge of their rights, gender, and leadership renewal. The government also formed a working committee on Afro-descendant issues with other members of the Andean Community of Nations and created a binational ethnic affairs committee with Ecuador.

A 2011 antidiscrimination law imposes a penalty of one to three years in prison or a fine of approximately 5.3 million to eight million pesos (\$3,000 to \$4,500). It also adds a chapter on discrimination to the penal code that includes not only racism but discrimination based on ethnic origin, religion, nationality, political ideology, sex, and sexual orientation. Through November the government reported that authorities had charged two persons under the antidiscrimination law.

Indigenous People

The constitution and laws give special recognition to the fundamental rights of indigenous people, who compose approximately 3.4 percent of the population, and require that the government consult beforehand with indigenous groups regarding governmental actions that could affect them.

The law accords indigenous groups perpetual rights to their ancestral lands, but the demarcation of those lands was often disputed between indigenous groups, neighboring landowners, and the government. Traditional indigenous groups operated 826 reservations, accounting for 30 percent of the country's territory, with officials selected according to indigenous traditions. However, many indigenous communities had no legal title to lands they claimed, and illegal armed groups often violently contested indigenous land ownership. Through its land restitution and formalization "shock plan," by year's end the government had restored 10,738 plots of land to indigenous communities, encompassing more than 444,800 acres; 8,113 plots of land to Afro-Colombian communities, covering 459,600 acres; and 32,181 plots to individuals, covering approximately 2.47 million acres.

The law provides for special criminal and civil jurisdictions within indigenous territories based on traditional community laws. Proceedings in these jurisdictions were subject to manipulation and often rendered punishments more lenient than those imposed by regular civilian courts.

Some indigenous groups continued to argue that they were not able to participate adequately in decisions affecting their lands. Indigenous leaders complained of the occasional presence of government security forces on indigenous reservations and asked that the government consult with indigenous authorities prior to taking military action against illegal armed groups operating in or around such areas and before building roads or other public works on or near their lands. The constitution provides for this "prior consultation" mechanism for indigenous communities, but it does not require the government to obtain the consent of those communities in all cases. In July and August the Constitutional Court issued decisions ordering the military to remove some permanent buildings from a small part of a larger military base that was found to encroach on indigenous land in the department of Guaviare belonging to the Jiw indigenous tribe. The court permitted the remainder of the military base to remain intact.

The government stated that for security reasons it could not provide advance notice of most military operations and that it consulted with indigenous leaders when possible before entering land held by the communities. The law permits the

presence of government security forces on indigenous lands, but Defense Ministry directives instruct security forces to respect the integrity of indigenous communities, particularly during military and police operations.

Despite special legal protections and government assistance programs, indigenous people continued to suffer discrimination and often lived on the margins of society. The indigenous people were the country's poorest population and had the highest age-specific mortality rates. Indigenous women tended to face triple discrimination on the basis of gender, ethnicity, and reduced economic status. As of November the Prosecutor General's Office reported 10 active investigations of military members accused of violating the rights, culture, or customs of indigenous groups.

The National Indigenous Organization of Colombia reported that through September there were 78 homicides of indigenous people, compared with 118 reported in 2011.

On August 12, FARC gunmen allegedly shot and killed Lisandro Tenorio, a traditional healer of the Nasa tribe. The government's investigation continued at year's end but named no suspects.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. Nevertheless, despite government measures to increase the rights and protection of lesbian, gay, bisexual, and transgender (LGBT) persons, there were reports of abuse and discrimination.

Colombia Diversa, an NGO focused on addressing violence and discrimination due to sexual orientation, issued a preliminary report of at least 28 killings through November due to prejudice regarding sexual orientation or gender identity.

Colombia Diversa also reported cases of police abuse against persons due to their sexual orientation, with the majority of complaints coming from transgender individuals. According to LGBT NGOs, these attacks frequently occurred, but victims did not pursue cases due to fear of retaliation. NGOs also reported several cases of threats against human rights defenders working on LGBT issues as well as a high level of impunity for crimes against members of the LGBT community.

Such organizations partially attributed impunity levels to failure of the Prosecutor General's Office to distinguish and follow crimes against the LGBT community effectively.

Members of the transgender community cited barriers to public services when health-care providers or members of the police refused to accept government-issued identification with transgender individuals' names and photos.

NGOs claimed that discrimination in prisons against persons due to their sexual orientation or gender identity remained a problem. In addition there were instances where authorities denied medical services for transgender individuals. Pursuant to a 2011 Constitutional Court order, INPEC conducted training for staff at seven prison facilities and for the inmate population at 12 facilities.

In response to a 2011 Constitutional Court ruling that the Ministry of Interior, Ombudsman's Office, and Inspector General's Office collaborate to create a national public policy framework on LGBT rights, those entities met with academics and research groups to identify the issues and proposals for the national public policy framework and held hearings at a national level on the subject. The Ministry of Interior's LGBT unit contracted a group that included three academics, three activists, and three professionals in the human sciences to draft a national framework on LGBT issues. The group delivered a draft to the corresponding ministries in November that was awaiting approval and implementation at year's end.

In addition, on September 15, the Ministry of Interior's Office of Indigenous and Minority Affairs formed a working group for urgent cases, with participation by the Prosecutor General's Office and Ministry of Defense. This group formulates public policies, informs civil society about human rights vulnerabilities, follows up with state institutions on cases of crimes committed against members of the LGBT community, including cases of police abuse and failure to protect, and defines protocols and action plans for responding to those vulnerabilities. The group collaborated with the LGBT population to identify the most pressing problems and the best strategies to generate a culture of respect for their human rights. The group also worked on identifying hate crimes. For its first project, the working group focused on the department of Atlantico, which had seen a rise in threats and denouncements of violence against LGBT persons. Beginning in May members of the working group initiated visits to the department and defined a series of commitments and mechanisms to reduce discrimination and physical violence against the LGBT community. The working group opened forums for dialogue

between civil society, police, and the Prosecutor General's Office and distributed guides to the LGBT community about how to access justice.

The ministry put into place a public information campaign on LGBT rights through national and regional television networks during the year. It also included specific provisions for the LGBT community in the development plans for 27 departmental capitals and 25 departments.

Other Societal Violence or Discrimination

There were no confirmed reports of societal violence or discrimination towards persons with HIV/AIDS or other groups not covered above, including religious groups.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutes, allows workers to form and join unions, conduct legal strikes, and bargain collectively, and it prohibits antiunion discrimination. The law places some restrictions on forming and joining a union, particularly for workers in indirect contracting situations (although legal ambiguities also allow some indirectly contracted workers to form unions). The law prohibits members of the armed forces and police from forming or joining unions. The labor code provides for automatic recognition of unions that obtain 25 signatures from potential members and that comply with a registration process.

The law does not permit members of some public sector unions, armed forces, police, and persons performing "essential public services" to strike. The government published a summary of doctrine, case law, and jurisprudence that narrowed the definition of essential services for use by labor inspectors and the judiciary in 2011, although some members of the labor community criticized this document as continuing to lean toward an overly broad definition. Before conducting a strike, unions must follow prescribed legal procedures, including entering into a conversation period with the employer, presenting a list of demands, and gaining majority approval in the union for a strike. The law limits strikes to periods of contract negotiations or collective bargaining and allows employers to fire trade unionists who participate in strikes or work stoppages determined to be illegal by the courts.

On May 24, the government passed Decree 1092, which gives public sector employees the right to bargain collectively, including on their salaries, but stipulates that local and departmental level public sector workers are restrained to the salary limits set in agreements at the national level. The decree placed additional collective bargaining restrictions on some working conditions such as organizational structure and certain administrative procedures.

The law permits associated workers' cooperatives (CTAs) as well as collective pacts. Under collective pacts employers may negotiate accords on pay and labor conditions with groups of workers in workplaces where no union is present or where a union represents less than one-third of employees. Law and regulations prohibit the use of CTAs and collective pacts to undermine the right to organize and bargain collectively, including by extending better conditions to nonunion workers in such pacts. CTAs must register with the government and provide compensation at least equivalent to the minimum wage and the same health and retirement benefits normally offered to directly hired employees.

The government instituted legal reforms in 2011, including narrowing the scope of legal uses of CTAs and prohibiting the misuse of CTAs. Maximum penalties for violation are 5,000 minimum monthly wages, or 2.6 billion pesos (approximately \$1.3 million). The law also stipulates that repeat offenders misusing CTAs or other labor relationships will receive the maximum penalty and could be subject to losing their legal status to operate altogether. Employers who engage in antiunion practices may be penalized with up to five years' imprisonment. Prohibited practices include impeding workers' right to legally strike, meet, or otherwise associate, and extending better conditions to members of collective pacts than those in unions.

The government generally enforced applicable laws, but a lack of inspectors trained in the most recent laws at the local level, as well as an overburdened judicial system, inhibited speedy and consistent application. As part of its commitments under the 2011 Colombia Action Plan related to Labor Rights (Labor Action Plan), the government continued to take steps to increase the effective enforcement of freedom of association and collective bargaining, including the targeted labor inspections by the Ministry of Labor in five sectors: palm oil, sugar, ports, mines, and cut flowers.

The Ministry of Labor continued to build its technical capacity in several areas, including inspection procedures to enforce the new regulations on CTAs and other forms of third-party contracting. In April the ministry finalized inspection

guidance to assist its inspectors in using and applying Decree 2025 of 2011 regarding labor intermediation. The guide provides inspectors with a list of suggested documents, indicators, and interview questions for workers and employers for the inspection and investigation of alleged Decree 2025 violations, including those related to the contracting out of permanent core functions. However, by year's end inspectors largely had not been trained on the use of this aspect of the inspection guide.

The government has the authority to fine labor rights violators. In a December 17 letter from the minister of labor to the Congressional Monitoring Committee, he stated that 10,324 jobs in the sugar and port sectors in Valle del Cauca had been formalized. The Ministry of Labor reported conducting 2,103 investigations and imposing 228 penalties and fines during the year. Total fines on CTAs and pre-CTAs amounted to 11.8 billion pesos (\$6.6 million). The government also inspected temporary service agencies and assigned 100 additional full-time judicial police investigators to support prosecutors who cover criminal cases involving unionists. In July the government passed Law 1562, and the Ministry of Labor created a Special Investigations Unit with the power to investigate and sanction in any jurisdiction. The Ministry of Labor's Department of Investigation, Monitoring, Control, and Territorial Management decides on a case-by-case basis whether it will assign the Special Investigations Unit or the regional inspectors to investigate certain sites.

The government worked closely with the International Labor Organization (ILO) to develop a comprehensive plan for the ILO to provide additional technical assistance to the Ministry of Labor, and an expanded ILO presence began operating in the country at year's end. The ministry continued to employ a telephone- and Internet-based complaint mechanism to report alleged labor violations. However, labor groups expressed concern that the two systems did not provide an option to track progress on cases.

A 2011 directive from the Prosecutor General's Office requires the judicial police, the CTI, and prosecutors investigating criminal cases to determine during the initial phase of an investigation whether a victim was an active or retired union member or was actively engaged in union formation and organization. The Human Rights Unit of the Prosecutor General's Office undertook training with homicide units in Cali, Medellin, and Bogota on managing crime scenes of these labor cases to avoid losing valuable evidence. It can take several months to transfer cases from regional field offices of the Prosecutor General's Office to the Human Rights Unit and its labor subunit.

The government continued to include in its protection program labor activists, persons who are engaged in efforts to form a union, and former unionists under threat because of their past activities. As of August the NPU provided protection to 11,200 at-risk individuals, of whom 1,282 were trade union leaders or members (others protected included journalists, human rights advocates, and social leaders). The Ministry of Education managed a separate protection (transfer) program for educators, the majority of whom were union members. Between January 1 and August 31, the NPU received 557 petitions for protection of union leaders or members. After the NPU conducted risk assessments, it classified 130 of those cases as having an “extraordinary threat” and provided them protection measures. The processing time before individuals received benefits under the protection program averaged 55 days, with cases passing through the risk analysis stage in the first 30 days. The NPU devoted approximately 10 percent of its budget to the protection of union leaders and members. Following a study of gasoline usage of similar armored vehicles by international organizations and foreign embassies operating in the country, the NPU lowered the fuel allowance for their armored car program for extraordinary threat cases. Labor unionists under this protection scheme stated that the lower allowance restricted their freedom of movement and the ability to do their jobs as labor organizers. The NPU responded that the allowances were in line with usage by other organizations.

By year’s end the labor subunit of the Prosecutor General’s Office had obtained 314 convictions of at least 599 individuals for violent acts against trade unionists since the unit was founded in 2006. The office assigned the labor subunit 61 new cases during the year, bringing its total number of active cases to 991 at year’s end. The majority of those cases remained under investigation or were in the preliminary stages of the prosecutorial process.

Violence, threats, harassment, and other practices against trade unionists continued to affect the exercise of the right to freedom of association and collective bargaining. Unions were generally independent of the government and political parties.

Violence and discrimination against union members discouraged some workers from joining and engaging in union activities. The Presidential Program for Human Rights reported that 10 trade unionists (not including unionized teachers) were killed during the year; the National Union School (ENS), a labor rights NGO and think tank, reported that 16 trade unionists (not including unionized teachers) were killed in the same period. During the year the ENS changed its methodology

for reporting and stopped including killings of unionized educators. The ENS and government figures differed because of different definitions of trade union membership and attributions of homicide motives.

On March 25, Miguel Angel Mallama, a founding member of the Union of Workers and Public Employees of Jamundi Township (Sintraxamundi) was killed. Created on January 2, Sintraxamundi had been facing a labor dispute. Following the creation of the union, 43 workers were fired, including Mallama. After his killing the union president Yennifer Andrea Ceballos and treasurer Augusto Cesar Lugo received threats. In June the NPU began providing protection to Ceballos, including two bodyguards, armored vehicle, a cell phone, and a bulletproof vest.

The ENS and other labor groups also stated that focusing on killings alone masked the true nature and scope of the antiunion violence. Labor groups noted that in some regions nonlethal violations were on the rise. The ENS reported 535 violations for the year; in addition to the 16 reported homicides, there were 353 death threats, seven nonlethal attacks, four disappearances, 20 arbitrary detentions, 89 cases of forced displacement, 42 cases of harassment, two cases of torture, two cases of illegal raids, and no kidnappings.

Teachers continued to make up the largest percentage of union members and constituted the largest percentage of victims of violence by illegal armed groups. As of July 31, under Decree 1628, the protection and relocation of teachers falls under the Ministry of National Education and the Departmental Education Secretaries. However, under the decree the NPU retains some responsibilities for the risk analysis and protection of family members. Through September the NPU evaluated 175 threat cases against teachers, of which 38 were found to be of extraordinary or extreme risk. According to the Colombian Federation of Educators, between January and December 10, there were 14 educators killed, compared with 22 in 2011.

Labor groups recognized that important advances were made by the labor subunit of the Prosecutor General's Office but said more needed to be done to address impunity for perpetrators of violence against trade unionists. They also claimed prosecutors were not tackling the large number of threat cases. The Prosecutor General's Office indicated that it prioritized cases in order of severity and had a backlog of lower priority cases.

Unions cited multiple instances in which companies fired employees who formed or sought to form new unions. Employers continued to use temporary contracts,

service agencies, and CTAs to limit worker rights and protections and lower costs. Many employers used CTAs to engage in illegal subcontracting. In practice fines assessed by the government did little to dissuade violators, as many companies chose to appeal rather than pay the fines. Strengthened laws and penalties regarding CTAs and other forms of illegal labor intermediation influenced several companies to contract CTA workers directly. However, the majority of companies contracting their workers through CTAs and temporary service agencies did not transform their labor relationships into direct-hire contracts.

During the year there were increasing reports that illegitimate cooperatives, which lack financial and operational independence from end-users, were changing their legal status into simplified corporations (SAS) while continuing to violate certain contracting laws, including on labor intermediation, and undermine labor rights. Many unions noted that these SAS were simply another form of subcontracting. While in theory SAS workers can exercise their right to organize and bargain collectively with SAS management, it appeared that in many cases the SAS were “shell companies” that had little to no control over the terms and conditions of employment (much like illegitimate cooperatives).

Of those CTAs that transformed their labor relationships into direct-hire relationships, a number converted the CTAs into SAS in order to directly hire workers. Labor confederations and NGOs reported that some business owners in several sectors used SAS and continued to use union contracts or temporary service agencies in an attempt to circumvent new legal restrictions on cooperatives, with the most problematic sectors being ports, textiles, and health care. Unions continued to voice reservations about the strength of the law regarding CTAs and labor intermediation as well as the government’s ability to regulate adequately due to labor inspector shortages.

The Port Worker’s Union estimated that 60 percent of the workforce in ports was employed under flexible nonunion contracts during the year. On January 17, port workers contracted by the company TECSA began a work stoppage to push TECSA to formalize its workforce. Although the workers returned to work following TECSA’s agreement to directly hire 70 to 80 workers, indirect and direct hires began another work stoppage in August, reportedly in response to TECSA’s refusal to negotiate on several issues, including the formalization of TECSA’s workforce. Workers reported that on August 29, the first day of the work stoppage, there was a violent clash between the riot police and protesters, and they alleged that police injured four protesters and detained three during that encounter. The government responded that the intervention of riot police was necessary

because the protesters were preventing other workers who wanted to work from entering the premises, adding that intervention in this instance was normal and proper. The Ministry of Labor convened a labor roundtable; following the initial meeting, the workers returned to work and reinitiated negotiations. Through November TECSA had directly hired 302 workers. Union leaders asserted, however, that some workers were pressured to renounce their membership in the union before being offered employment. The ministry reported that in the port sector of Buenaventura, it conducted 157 inspection visits that resulted in the opening of 148 investigations and the sanctioning of 30 companies for a variety of labor law violations.

Some sugar and ethanol refineries also utilized CTAs as a means of subcontracting labor to third parties, and some sugarcane cutters, predominantly Afro-Colombian and indigenous men, were required to belong to a CTA to gain employment. However, a number of large sugar refineries offered direct contracts to cane cutters in CTAs. Due to legal ambiguities and lack of enforcement, some indirectly contracted workers formed unions. For instance, sugarcane cutters formed unions to enhance collaboration. Although the law does not clearly define whether this is legally permissible, the unions were respected throughout the sugarcane sector.

CTAs and other subcontracting institutions were also common in the palm oil sector. After collective bargaining broke down over salary negotiations at one palm oil plantation in the region of Puerto Wilches in 2011, direct and subcontracted workers at five other plantations joined the strike to demand direct employment relationships for palm workers they believed to be performing core and permanent labor functions and thus illegally subcontracted. The sector-wide strike ended when local and national government officials, palm oil company executives, CTA owners, and union members reached an agreement to begin labor inspections to identify the misuse of CTAs and other subcontracting institutions. The ministry sanctioned 10 palm oil companies and several cooperatives in Puerto Wilches under Decree 2025 as a result of labor inspections conducted in response to the strike. Labor groups claimed that companies had directly hired no workers since the 2011 agreement and had blacklisted workers who participated in the strike.

Workers participated in multiple strikes in the oil region of Puerto Gaitan, Meta. Community members joined the protests, demanding better infrastructure and benefits. On October 5, police used force against protesters including rubber bullets and tear gas. Protesters also claimed that police used batons and clubs to beat them. Many protesters reported that police wounded and detained them. A

sector-wide energy workers' union, the Petroleum Industry Workers' Union (USO), which claimed an increase of more than 2,000 in membership by subcontracted workers during the year, led many demonstrations. On several occasions protests led to violence, and some unions and NGOs alleged that the government sometimes used excessive force to end the protests. The killing of seven USO workers in Orito, Putumayo, and Meta, a media campaign to discredit the USO, and mounting legal cases required the majority of the unions' resources to be spent on legal defense.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government did not effectively enforce the law in all cases, and there continued to be some reports that such practices occurred. During the year the ICBF initiated a new educational outreach program called Welfare of the Generations, which included a component on prevention of forced recruitment by illegal armed groups. This program, with a budget of more than 32 billion pesos (\$16.3 million), established teen and preteen clubs and other avenues for educational outreach in 32 departments and 811 municipalities.

Organized criminal gangs and FARC and ELN guerrillas practiced forced conscription, sometimes killing deserters or threatening them and their families. There were some reports that FARC and ELN guerrillas and organized criminal gangs used forced labor, including forced child labor, in coca cultivation and illegal mining in areas outside government control (see section 1.g.). A study funded by ICBF and undertaken by independent researchers was released in August that estimated 18,000 children participated in illegal armed groups, but most informed observers believed that estimate to be too high. After the results of the study were published, the ICBF noted that it had some doubts about the conclusions reached and stressed that it was difficult to produce exact statistics due to the clandestine nature of the illegal armed groups.

Forced labor in other sectors, including organized begging, also remained a serious problem.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets the minimum age for employment at 15, and 18 for hazardous work. Children ages 15 and 16 may work no more than 30 hours per week, and children age 17 may work no more than 40 hours per week. Children under the age of 15 may work in arts, sports, or recreational or cultural activities for a maximum of 14 hours per week. In all of these cases, working children and adolescents must have signed documentation filed by their parents and approved by a labor inspector or other local authority. Hazardous work includes an extensive list of activities within 11 occupational categories and subcategories identified as the “worst forms of child labor,” including agriculture, hunting and forestry, fishing, mining and quarrying, manufacturing, construction, transport and storage, health services, and defense. The government, however, approved some agricultural apprenticeship programs for children ages 14 to 17 through the National Service Learning Agency. For 14-year-old children, the program is education-only, and children are not permitted to work. The law prohibits child workers from working at night or where there is a risk of bodily harm or exposure to excessive heat, cold, or noise.

The law authorizes inspectors to issue fines of up to 100 times the minimum monthly wage for labor law violations, including child labor violations. A violation deemed to endanger a child’s life or threaten moral values might be punished by temporary or permanent closure of the establishment. Nationwide labor inspectors are responsible for enforcing child labor laws. The government provided guidelines to labor inspectors to help ensure children younger than age 15 do not work and adolescents ages 15 to 17 who have work permits are not engaged in dangerous work. In the formal sector (which covered approximately 20 percent of the child labor force), they did so through periodic inspections. Resources and training remained inadequate for effective enforcement. Through October labor inspectors had conducted 1,166 inspections of worksites where adolescent workers were employed. From those visits, 68 administrative investigations were launched, and during the year five of those had resulted in sanctions for violations of the law.

Government agencies carried out several activities to eradicate and prevent exploitative child labor. With ILO assistance the government worked to improve cooperation among national, regional, and municipal governments through its national plan to eradicate child labor and protect working youth. It also continued to employ a monitoring system to register working children. The government also sought to reduce demand for child labor through public awareness and training efforts, often working with international and civil society organizations.

An online training program for labor inspectors in various departments continued to provide inspectors and other officials with details on how to approach situations

involving the worst forms of child labor. The program also included a course manual developed and published by the ILO and made available online.

The government, through the Ministry of Labor, continued to follow the 2008 plan outlined in the National Strategy to Prevent and Eradicate the Worst Forms of Child Labor and Protect Young Workers, and it formed a roundtable discussion group to include other government representatives, members of the three largest labor confederations, and civil society. The roundtable concentrated its efforts in the second half of the year on strategies for the sugar and mining sectors. Working with the Association of Cultivators of Colombian Sugar (AsoCana) and regional sugar sectors, the government developed an action plan for eradicating child labor in the informal unrefined brown sugar market and in informal family-based production. During the year the Labor Ministry together with AsoCana and the ILO surveyed surrounding areas of the sugar sector of 42,736 children and found 412 children working in sugar mills or with “carretilleros,” families that use horse carts to illegally enter sugarcane plantations after cane-cutting to collect residual organic material.

The Ministry of Labor issued surveys to schools in vulnerable areas. The government continued to combat illegal mining and formalize artisanal mining production, with the goal of eradicating child labor and forced labor. Regional ICBF offices were charged with leading efforts to combat child labor in mining at the local level, working with the ministry and other government agencies to coordinate responses.

The CNP carried out awareness efforts to reduce child labor. The CNP taught children and their parents about potential dangers and illegal activities for youth, including child labor. This outreach included activities for children on a bus equipped with interactive displays.

Child labor remained a problem in the informal and illicit sectors. According to a National Administrative Department of Statistics study conducted in 2011 and published during the year, of the 11.3 million children between the ages of five and 17, an estimated 1.5 million worked (approximately 987,000 boys and 478,000 girls). The national rate of child labor was 13 percent, with 8.6 percent of children five to 14 years old working and 27.7 percent of children ages 15 to 17 working. According to the 2011 study, 48.7 percent of child laborers in urban areas engaged in commerce, hotel, and restaurant work, while 70.3 percent of child laborers in rural areas engaged in agriculture, fishing, cattle farming, hunting, and forestry work; 51.6 percent of children ages five to 17 did not receive payment.

Significant incidences of child labor occurred in the production of clay bricks, coal, emeralds, gold, coca, and pornography. Commercial sexual exploitation of children also occurred (see section 6). Children also worked as street vendors and domestic servants and were engaged in begging and garbage scavenging. There were also reports that children were involved in small family production centers in the “panela” (unrefined brown sugar) market, as well as children working as “pimpeneros” selling cheap Venezuelan gasoline.

Prohibitions against children working in mining and construction were largely ignored. Some educational institutions modify schedules during harvest seasons so that children may help on the family farm. Children worked in artisanal mining of coal, clay, emeralds, and gold under dangerous conditions and in many instances with the approval or insistence of their parents. The ICBF identified and assisted approximately 2,550 children working in illegal mining operations during the year. ICBF’s efforts were focused in the departments of Boyaca, Bolivar, Cesar, Cundinamarca, and Narino.

There continued to be instances of forced child labor in mines, quarries, and private homes. According to government officials and international organizations, children also were recruited, sometimes forcibly, to work in the illegal drug trade and other illicit activities. The FARC, the ELN, and organized criminal gangs forced several thousand children into prostitution or to serve as combatants or coca pickers (see section 1.g.).

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The minimum monthly wage was 566,700 pesos (\$293) for all sectors. In 2011 the level of national poverty was 29.4 percent, measured with a new multidimensional poverty index with five variables and 15 indicators instead of a simple monetary income calculation. Based on the previous method of income calculation, poverty for 2011 was 39.8 percent.

The law provides for a regular workweek of 48 hours and a minimum rest period of eight hours within the week. The law provides for paid annual civil and religious holidays for all workers. Employees who work at least one full year are entitled to at least 15 days of paid vacation. The law stipulates that workers

receive premium compensation for additional hours worked over the regular workweek of 48 hours and for work performed on Sundays. The law permits compulsory overtime only in exceptional cases where the work is considered essential for the company's functioning.

The law provides protection for workers' occupational safety and health in the formal sector. The law does not protect informal sector workers, including many mining and agricultural workers.

The Ministry of Labor enforced labor law, including occupational safety and health regulations, in the formal sector through periodic inspections by labor inspectors. An August 16 decree called for the ministry to hire an additional 100 labor inspectors, bringing the total to 624 inspectors. Through November the ministry had hired 92 labor inspectors, with an additional 146 positions vacant; some positions were empty as a result of attrition. Inspectors still lacked training in certain areas (such as the proper application of Decree 2025), and there were a few cases of corruption. Unionists stated that fines were too low to achieve a formalized labor force. Most fined companies preferred to go through an appeals process instead of paying the fine or directly hiring workers to eliminate the fine.

While the government undertook administrative actions through its labor inspectors to enforce the minimum wage in the formal sector, the government remained unable to enforce the minimum wage in the informal sector, which, according to the Office of the Inspector General, constituted approximately 57.5 percent of those who earned the minimum wage or less during the year. Of the 11.4 million persons in this group, 78 percent lived in rural zones. The situation was worse for domestic employees than for the general public, as 66 percent of those in the domestic service industry earned the minimum wage or less.

To encourage the formalization of labor, the Ministry of Labor established an agreement to promote formal employment generation in regions with high rates of informal employment. From November 2011 to October 2012, the ministry reported that 209,655 companies benefited from the formalization laws and coordinating tax cuts, generating approximately 500,000 jobs for young people and 60,000 for women over 40 years of age. A government program existed to increase the employability of extreme poor and displaced persons. Another program, aimed at elderly persons who were without a pension or living in extreme poverty, provided social services to more than 600,000 citizens. A third program assisted elderly persons who, due to their participation in an informal economy, earned less than the minimum monthly salary. Participants of this program

received a government payment in proportion to their personal retirement fund contributions.

Nonunion workers, particularly those in the agricultural and port sectors, reportedly worked under hazardous conditions because they feared losing their jobs in third-party contracting mechanisms or informal arrangements if they criticized abuses.

Between January 2011 and July 2012, security forces and other officials closed more than 595 illegal mines as part of a comprehensive interagency initiative to combat illegal mining. Security forces reported that illegal armed groups including the FARC, ELN, and organized criminal groups engaged in illegal mining of gold, coal, coltan, nickel, copper, and other minerals. Illegal mines were especially common in Antioquia, Cordoba, Choco, and Tolima.

According to Ingeominas, the government geological and mining oversight institute, there were 76 deaths due to mining accidents through September.