Colombia

At least 31 judges, lawyers and prosecutors were the target of threats, intimidation or physical attacks during the year. More than 100 other people associated with the administration of justice were also the subjects of harassment. Colombia continued to show a further deterioration of human rights against a background of steady political conflict between the leftist guerrilla groups and state security forces. Paramilitary groups act in close association with the security forces. The main legal events affecting the judiciary during the year were the enactment of a law reforming the Military Penal Code and the enactment of a law establishing a new system of specialised District Courts to replace the old and controversial system of Regional Courts. By the end of the year the government vetoed two key laws that would have helped in bringing about the end to impunity for human rights violators.

Colombia is a republic whose Constitution, adopted in 1991, provides for a democratic political system, the separation of powers and the Rule of Law. The executive power is vested in the President of the Republic, Mr. Andres Pastrana, who was elected in 1998 for a five-year term. Legislative functions are carried out by a bicameral assembly in which Mr. Pastrana's political party does not enjoy a majority, although he gathers political support from other groups for certain policies. The judiciary is constitutionally independent but in practice there is gross interference with the independence of judges and prosecutors in the carrying out of their work by the government, the military and non-state armed actors.

The Colombian legal system is organised according to the principles of the legal tradition of civil law. Its criminal legal system is undergoing an important process of reform to incorporate some elements of an adversarial model.

Human Rights Background

Serious violations of human rights and breaches of humanitarian law committed by paramilitary groups, leftist guerrillas and the security forces constitute the framework against which the poorly funded and understaffed judiciary operates. According to reports from human rights organisations, the rate of violations of human rights and humanitarian law during 1999 reached a level similar to that in 1998 with notable increases in certain practices, such as extra-judicial executions, mass kidnappings, forced disappearances and the forced displacement of people.

Peace Talks

1999 began with the opening of formal preliminary peace talks between the government and guerrillas of the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), the first and second largest guerrilla organisations in the country respectively. However, the first talks with the FARC soon slowed down to a virtual standstill when guerrilla leaders demanded that progress first be made in the fight against paramilitary groups. The process suffered an additional blow in March when members of the FARC killed three US citizens working with indigenous peoples in the country. In April 1999, representatives of both FARC and the government met again in working sessions, which included a personal meeting between President Pastrana and FARC leader Manuel Marulanda.

Formal peace negotiations started on 6 May 1999. The government's delegation included a former senior army officer, General Juan Salcedo, as the armed forces' representative in the peace talks, thereby recognising the role of the armed forces in the negotiations. On 21 May 1999, the leader of the paramilitary organisation United Self-defence of Colombia (AUC) kidnapped a prominent political leader and demanded to be recognised as a legitimate party to the peace talks in exchange for the release of the victim. The talks of 6 May 1999 resulted in agreement to a comprehensive agenda of 12 points called the "Common agenda for change to build a new Colombia". The agenda included issues such as the reform of the state, military forces and judicial system, a new agrarian policy, human rights and the environment. However, by the end of the month the encouraging results were overshadowed by the resignation of the Defence Minister, Rodrigo Lloreda, over differences of opinion about the government's peace strategy. Mr. Lloreda's resignation was followed by the resignation of 20 army generals. This revealed that there is wide opposition within various sectors of the country to the perceived government concessions to the guerrillas, amongst them plans to permanently withdraw all military forces from an area equivalent to five municipalities in the departments of Meta and Caquetá. The military withdrawal ordered by the government from that area had been only temporary until then.

The actual negotiations of the peace agenda were scheduled for 7 July 1999 but were indefinitely postponed after the two sides failed to agree on the role of an international mission to monitor the human rights situation in the territory under guerrilla control, the government insisting that the mission should investigate human rights violations in the demilitarised territory. In the following months deep concern about the future of the Colombia peace process was raised by neighbouring countries and the United States.

On 24 October 1999, after large popular demonstrations for peace, the government restarted the peace negotiations with FARC, dropping its demands for international human rights monitoring of the guerrilla strongholds. Several meetings took place between the government and FARC representatives during November and December 1999. On 3 November 1999 the government also concluded an agreement with the ELN to start peace talks. During these months military operations and fighting between the two parties increased as both sought to improve their position on the negotiating table. Scores of deaths and injuries were reported during the year as a result of these events.

By the end of the year FARC had declared a unilateral cease-fire to be in effect over the Christmas period until 10 January 2000. With the advent of the new year both the government and the guerrillas prepared themselves to pay visits to foreign countries to gather political and financial support for the peace initiatives.

Human Rights Violations and Breaches of Humanitarian Law During the Conflict

As the fighting intensified for the control of different areas, guerrillas and paramilitaries also intensified their war efforts and illegal actions to improve their standing in the peace process. Indiscriminate attacks on areas with considerable civilian presence, as well as the practice of mass kidnapping and hijacking of planes for ransom or just as a means to apply pressure and improve their own negotiating position were carried out by guerrillas and paramilitaries. The paramilitary groups have been acting always with the implicit or overt consent, and even cooperation, of the security forces. This constituted a further escalation of military action that affected the civilian population. On 30 May 1999 the ELN, the second largest guerrilla group, kidnapped 140 civilians while they were attending mass in a church in the city of Cali. The

action followed the previous hijacking of a civilian airliner with dozens of passengers aboard. The ELN was reported as conditioning the release of all hostages on the government resuming the peace talks that had broken down in February.

During 1999 the Colombian Commission of Jurists released reports that attribute almost 80 % of all human rights and humanitarian law violations to paramilitary groups. The reports also stated that security forces have an important involvement in paramilitary activity.

As a result of the conflict Colombia faces one of the largest displacements of people in the world. In 1999 the number of displaced persons reached 1.5 million. Many of them have been denied refugee status in neighbouring Venezuela where they have fled looking for a safe haven. The Colombian Government does little to respond adequately to the magnitude of the problem.

Human rights defenders continue to be one of the preferred targets of the paramilitaries. A number of human rights activists were killed, injured or threatened. Two members of the Committee of Solidarity with Political Prisoners were killed in January 1999. Four members of the Institute of Popular Training were kidnapped, although later released in the same month. Some human rights non-governmental organisations (NGO's) and their members have been receiving threats. Others were the targets of surveillance and telephone tapping. Some others even decided to close down their offices and to encourage their members to flee the country as a result of threats and attacks.

On 3 December 1999, press reports quoted General Néstor Ramirez, Deputy Army Chief, declaring that the army had to defend itself from rebel infiltrators in the Prosecutor's office, the Attorney General's office, the Ombudsman's office and also in international and national NGO's. These statements prompted a wave of public protest by various human rights constituencies in the country who asked President Pastrana to dismiss the General. However, the President merely noted the protest and left any subsequent action to the discretion of the Public Prosecutor. The declarations of General Ramirez have been interpreted as a confirmation of a predominant view in the armed forces that considers that human rights organisations are catering to the interests of guerrillas.

The UN High Commissioner for Human Rights established an office in Colombia in November 1996, which continued its work during 1999. The Office of the High Commissioner carries out monitoring tasks and technical co-operation activities throughout the country. In its 1999 report on its activities in Colombia, the Office of the High Commissioner concluded that "The government has not given sufficient priority attention to human rights and international recommendations"(paragraph 168); furthermore, in addition to "the serious deterioration of the fundamental rights situation, the problem of impunity persists so that persons responsible for human rights violations and breaches of international humanitarian law escape prosecution" (paragraph 173).

Impunity

Throughout 1999 little, if any, progress was made to put an end to the impunity enjoyed by members of the security forces and the paramilitary groups. On 9 April 1999 the government ordered the retirement of General Fernando Millan Pérez and General Alejo del Rio Rojas, trying to meet the demands of the United States on one side, and the guerrillas on the other, to effectively take steps to combat paramilitary activity in the country. Both army officers have

been pointed out by human rights organisations as actively backing paramilitary groups. However, the case of General Millan is currently being considered by a military tribunal.

On 21 May 1999, General Jaime Uscátegui was placed under military arrest at the request of the Public Prosecutor's office. General Uscátegui was accused of participating in the November 1997 massacre of 11 members of a judicial commission of inquiry in the locality of San Carlos de Guaroa, as well as failing to prevent the massacre of 30 civilians by paramilitary groups in Mapiripán in July 1997. However, as in other similar cases, General Uscátegui's case is being investigated by the military justice system which has released him pending trial. This case is still continuing.

During 1999 the Human Rights Unit of the Public Prosecutor's office reported 161 persons arrested on charges of involvement in paramilitary activities and 75 members of the security forces were also arrested for human rights violations. However, many arrest warrants issued by the prosecutors were not enforced. Officials working in this unit and others in the front line of the fight against impunity were also the subjects of threats and attacks, mainly from paramilitary groups and security forces. It was reported that at least 40 officials of the Public Prosecutor's investigation unit were killed and many more were harassed during the year.

The Legal Reform Process

The process of legal reform in Colombia that started in 1991 continued at a slow pace throughout the decade. In 1999 the draft bills for a new Penal Code and a new Code of Criminal Procedure were discussed in the two chambers of parliament. Only the draft Penal Code was approved and passed to President Pastrana, who vetoed the bill.

The draft bill to define the crimes of forced disappearance, genocide, forced displacement and torture, which was approved by parliament towards the end of the year, was also vetoed by President Pastrana on 30 December 1999. It was the sixth draft bill on the same matter that has failed to pass into law. A first draft was presented as early as 1988. The governmental objection reflects the strong opposition from military circles to the criminalisation of those acts and to the empowerment of the civilian judiciary to try them. The government objected in particular to Article 1 of the bill that contains the definition of the crimes. Its objections focused on the definition of genocide that included political genocide. The government argued that this would prevent the armed forces from combating the rebel guerrillas without being accused of political genocide. However, the government's objections do not differentiate between fighting against combatants belonging to the guerrillas and the elimination of non-combatant militants of political parties. The government added that the definition of political genocide was not present in the UN Convention on the Prevention and Punishment of the Crime of Genocide. Additional objections focused on "technical" problems related to the fact that certain formalities to adopt amendments to the draft were not fulfilled during the debate in parliament. As human rights organisations have said, these few formal defects could have been addressed without vetoing the law as a whole. The governmental objections seem to be more related to punishing the perpetrators of human rights violations as provided for in Article 7 of the bill that empowers the ordinary justice system instead of the military justice to try the crimes defined in Article 1. The governmental objection on this point was couched in "technical" wording, stating that this article had not been discussed in one of the parliamentary chambers before going to the plenary. Contrary to the government's claims, however, the two chambers did actually discuss the whole bill.

Another draft bill containing the Penal Code was approved by the legislature in December 1999. After a series of ambiguous declarations President Pastrana finally vetoed the bill in January 2000, specifically objecting to 86 of its provisions that, together, constituted 30 percent of the whole bill. The President objected to provisions that, if approved, would have defined serious crimes such as genocide, forced disappearance and various crimes against humanity as punishable crimes under the ordinary justice system in Colombia. The President objected, in particular, to the definition of genocide which again included political genocide, using the same argument that this would hamper the action of the security forces in combating the guerrillas. Further, the provisions incorporating breaches of international humanitarian law as crimes were also objected to because of the meaning given to the term "combatant". According to the government this term can only be applicable to members of the state armed forces and not to out-law groups participating in hostilities. If the term were to be applied to the latter, said the government, they would also claim the status of prisoners of war if captured by the armed forces. Different human rights groups, including the Colombian Commission of Jurists, have stated that the objections are unfounded in law and aimed at sinking the initiatives to punish those state agents that commit violations of human rights and breaches of international humanitarian law.

The Judiciary

The judiciary experienced certain modifications that will have an impact on its ability to tackle the endemic practice of human rights violations in the country. These modifications include the partial replacement of the regional justice system (known as "faceless justice", see Attacks on Justice 1998) and the enactment of a new Military Penal Code. The changes fell short of expectations. During the year a new bench of justices of the Supreme Court and the Council of State was appointed, pursuant to the 1991 Constitution.

Structure

During the year, the structure of the Colombian judiciary suffered some modifications. The judiciary in Colombia is composed of the ordinary court system, the special court systems, the court system on administrative-contentious matters with the Council of State (Consejo de Estado) at the highest level, the High Council of the Judiciary (Consejo Superior de la Judicatura), the Constitutional Tribunal and the Office of the Public Prosecutor (Fiscalia General de la Nación).

Within the ordinary court system, the Supreme Court is the court of highest instance and is composed of 23 justices. There are High Tribunals at the head of each of the 30 judicial sections in which the country is divided, as well as mixed or specialised courts. The composition and powers of each of these courts are defined in the Constitution and the 1996 Law of the Judiciary. The Council of State is the highest judicial body with regard to administrative-contentious matters and is composed of 27 judges known as counsellors.

Appointment and Security of Tenure

The 23 judges of the Supreme Court, as well as the 27 members of the Council of State, are elected and appointed by these bodies themselves, from lists prepared and submitted by the High Council of the Judiciary (Article 231 of the Constitution). These magistrates and those of the Constitutional Court serve for a non-renewable term of eight years and enjoy security of tenure whilst observing good conduct, satisfactory work and whilst they are below the age

of retirement (Article 233). The Constitution does not contain a similar provision granting security of tenure for judges of lower courts.

The High Council of the Judiciary is the body in charge of discipline and resource management in the judiciary, as well as of deciding conflicts of jurisdiction between ordinary and military tribunals. For this purpose it is divided into two chambers: the administrative chamber and the jurisdictional-disciplinary chamber. Its membership, a total of 13 magistrates, is elected as follows: from the six magistrates of the administrative chamber two are elected by the Supreme Court, one by the Constitutional Court and three by the Council of State. In contrast to this system of appointment by various bodies all seven magistrates of the jurisdictional-disciplinary chamber are appointed only by the national assembly from a list submitted by the government. All thirteen magistrates serve for an eight-year term (Article 254).

The powers of each chamber of the High Council of the Judiciary are wide-ranging. The administrative chamber has the power to create, locate, merge, transform or simply eliminate posts in the tribunals and courts in the country, as well as to elaborate and submit lists of candidates for the vacant posts within the Supreme Court and the Council of State. It also prepares and submits lists of candidates for the posts of judges in the tribunals and lower courts to be appointed by the High Tribunals in their respective jurisdictions. Finally, it administers the judicial careers and the resources of the judiciary.

The second chamber, the jurisdictional-disciplinary chamber, has the following powers: to decide on conflicts of competence between ordinary and military tribunals, act as the single instance in disciplinary proceedings against judges of the high tribunals and prosecutors of the same rank, and act as an appellate body in disciplinary procedures against all other judges and prosecutors. Taking into account the magnitude and the number of powers granted to this second chamber the method of appointment of its membership may not be convenient to preserve its impartiality and independence in the discharge of its duties. It is this chamber that has been taking decisions on conflicts of competence between ordinary and military courts, usually in favour of the latter. These decisions have been criticised as the source of the impunity granted to military officers by military tribunals for common crimes committed against civilians (see Attacks on Justice 1998).

Several decisions taken by both chambers of the High Council of the Judiciary were questioned and even legally challenged before the Supreme Court. In a landmark decision on 31 July 1999, the Supreme Court took the view that the decisions taken by the disciplinary chamber in cases in which it acts as a body of single instance can be appealed before the same body and are open to judicial review by the Supreme Court itself. The Court granted a tutela petition (a special remedy to protect constitutional rights) in favour of six magistrates who had been sanctioned for a disciplinary offence. The Supreme Court found that the magistrates in question had not been afforded the right to appeal the decision.

At the beginning of the year, the list of candidates prepared and submitted by the administrative chamber of the High Council of the Judiciary to fill a vacant seat in the Council of State was rejected by the organ empowered to appoint the replacement, the Council itself. The judges said that the list of candidates did not contain an explanation of the reasons for the selection of the candidates. This originated concern among press and judicial circles about the fact that the lists of candidates to be submitted may be elaborated without following objective and transparent criteria. The question was all the more important since 9

out of 27 magistrates of the Council of State and 7 out of 23 justices of the Supreme Court were due to leave their posts as of July in accordance with constitutional provisions about serving terms. In that regard there were a number of initiatives to set up a system of citizens to watch over the process to guarantee transparency.

Resources

The administrative chamber of the High Council of the Judiciary bears the responsibility of managing the human and financial resources of the Colombian judiciary. This includes the preparation of a budget proposal to be submitted to the national assembly for approval.

The Specialised Courts

On 1 July 1999, the system of regional courts or "faceless judges" (see Attacks on Justice 1996 and 1998) was replaced by a new system of specialised courts, rather than being simply abolished, in open contradiction with the 1996 Law of the Judiciary and the recommendations of international bodies. The law establishing a system of specialised one-judge criminal courts within the ordinary justice system to replace the old system (Law 504 of 25 June 1999) presents features that are worrisome and constitute a continuation of the old system with slight modifications that are positive.

The lapsed system of regional courts was composed of 58 one-judge regional tribunals (jueces regionales) and a National High Court (Tribunal Nacional) that functioned as an appeals court. The Supreme Court, sitting in plenary session, appointed the judges serving in these tribunals. The new system of specialised criminal courts will maintain jurisdiction over serious offences related to terrorism, drug trafficking, paramilitary activities and kidnapping for ransom, which were under the jurisdiction of the regional courts. Rebellion was excluded. This new system will be composed of 38 specialised one-judge tribunals. The High Courts of each judicial district will act as appeals courts.

The new specialised tribunals present a few positive changes from the old system. In general, however, the new system still suffers from some of the main problems for which the former system of regional courts was severely criticised by national and international human rights organisations, among them the Inter-American Commission on Human Rights in its March 1999 report. Some of the positive changes are that judges will not be allowed to keep their identity secret as they did in the old system, and that the police report or reports made by informants will not have full probative value (Article 50). Another provision prohibits the basing of convictions on anonymous witnesses' testimony as the sole evidence (Article 15) and the possibility of granting witness anonymity to police informants (Article 17).

However, the law allows prosecutors to keep their identities secret in the pre-trial investigations stage, though only in exceptional cases and with respect to cases involving kidnapping for ransom, terrorism, paramilitary activities, drug-trafficking in large quantities and money laundering. Article 13 grants the Prosecutor-General discretionary power to grant anonymity to prosecutors carrying out the pre-trial investigations "when their life and physical integrity are at risk". The trial hearing, however, will be public and the acting prosecutor at this stage will not be the same as the one that conducted the pre-trial investigations and kept his identity secret. The prosecutor during the trial cannot be granted anonymity.

The law also reproduces the controversial provisions on the use of anonymous testimony as evidence during trial. What is more worrisome is that the power to grant witnesses anonymity resides with the Prosecutor-General who assumes an important judicial role, but is not subject to judicial review, undermining in this way the judge's powers. Article 17 provides that the Prosecutor-General can grant witnesses full anonymity "if their life and physical integrity are at risk". The anonymous witness' deposition can then be used as evidence during trial.Although this provision also states that these rules will be applied without prejudice to the rules contained in international human rights treaties ratified by Colombia and the rights of the defence to cross-examine the witness, it is clear that the provisions by themselves violate international human rights law.

The new law also reproduces certain questionable procedural aspects of the former regional justice system. Not only does it establish the detention of the accused as a general rule and the provisional release pending trial as an exception, but it also establishes that the terms and delays of all stages and proceedings will be twice as long as those of procedures before other ordinary courts.

Withregard to the judges serving in the system of regional courts until July 1999, the administrative chamber of the High Council of the Judiciary decided to reposition them in different courts within the ordinary court system. However, deep concern has arisen over the fact that these judges will have to act openly without concealing their identity, with the risk of becoming targets of retaliation for their past activities as "faceless judges". The security fund of the judiciary has, for these reasons, set up a special programme aimed at providing security schemes for former faceless judges relocated in ordinary courts. Nevertheless, in the near future the fund is due to be restructured and ultimately closed as part of the reorganisation of the state apparatus.

Towards the end of the year the Procurator General (Procurador General- a public officer that represents the state in law suits and also oversees the legality of public acts) petitioned the Constitutional Court to declare Law N° 504, creating the specialised tribunals, as unconstitutional. The Procurator General argued that the law was formally flawed since the creation of courts and tribunals require a statutory law and not a normal law (the difference is that the former requires a higher number of votes to be approved in parliament). Other arguments presented by the Procurator General are related to substantive provisions of the law, such as the one that limits the use of anonymous witnesses and deprives the declarations of informants and the police report of probative value. The Procurator General considered that these provisions were unconstitutional. In April 2000, the Constitutional Court declared this petition admissible.

The Reform of the Military Penal Code

On 12 August 1999 President Pastrana signed into law a bill reforming the existing Military Penal Code. This reform had long been demanded by human rights groups as an instrument for ending the impunity enjoyed by members of the military who commit serious violations of human rights and humanitarian law. The law, a draft of which was first presented to parliament five years ago, does not, however, incorporate the criteria established by the Constitutional Court regarding the limits of military jurisdiction and does not correspond to the draft prepared by a parliamentary committee in consultation with various civil society organisations.

Article 2 defines crimes related to military service as those "deriving from exercising of the military or police function proper to them". The definition omits the words "deriving closely and directly from..." as was stated in the Constitutional Court's judgement C-358 of 1997 (see Attacks on Justice 1998) and adopted in the original draft. The actual wording of the article leaves the final decision as to which acts actually fall within the military and police function, and consequently within the jurisdiction of military tribunals, to the High Council of the Judiciary. The jurisdictional-disciplinary chamber of the High Council has consistently sent cases involving high-ranking military officers to military tribunals.

Similarly, Article 3 was initially drafted to define crimes not related to the service as being: "torture, genocide, forced disappearance, or any other crime that constitutes a serious violation of human rights, human dignity and sexual freedom". However, the approved Article 3 only mentions "torture, genocide and forced disappearance as defined in international instruments ratified by Colombia". This wording has the serious implication that it excludes some of the most frequent crimes committed in Colombia, such as massacres, summary executions, forced displacement of persons and rape. As Colombia has only ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment this poses an additional problem for the definition of crimes that fall within the military jurisdiction.

Article 214 purports to guarantee the independence and autonomy of military judges, establishing that in no case may military officers exercising command responsibilities carry out the investigation, indictment and trial of other military officers. However, the positive effect of this provision is diminished by other provisions which establish that the High Military Tribunal will be headed by the active Commander-General of the military (Article 235).

The new code also fails to clearly forbid superior orders as a legitimate defence in that one of its provisions states that criminal responsibility is precluded when the perpetrator has acted following "legitimate orders issued by a competent authority in full compliance with legal formalities" (Article 34). In this regard the wording of the new code is exactly the same as that of the old one.

The newly approved code also limits the role of the regular public prosecution in the military justice system. The law sets up a corps of military prosecutors who are members of the armed forces and therefore depend on the executive branch and cannot be said to be independent.

During the debate in parliament a last-minute provision was added that may endanger the whole effort of making a new code with some substantial, although insufficient, positive features. The legislators added Article 608 providing that the new code will enter into force within a year after its adoption provided that at that time the new law defining the structure of the military penal justice system is also in force. This provision makes the entry into force of the Military Penal Code conditional upon an uncertain event that is unlikely to happen since, by the end of the year, not even a draft bill on the subject had been introduced in parliament. In April 2000, however, the Constitutional Court declared that the requirement of a new law defining the structure of the military penal justice system as a condition for the Penal Code to enter into force was unconstitutional.

Among the few positive aspects of the new code is the guarantee of the rights of due process, including the right to prepare the defence with or without the assistance of a lawyer.

Additionally, it stresses the constitutional norm that prohibits the trial of civilians before military courts (Article 5)

The Judiciary in the Area Under Guerrilla Control

In August 1998, as a measure to facilitate negotiations, President Pastrana demilitarised the territory of five municipalities which the FARC guerrillas took under their control. FARC guerrillas carry out administrative and police tasks in the area and have reportedly established their own system for the administration of justice in the guise of an office to deal with complaints. The active commanders reportedly impart the guerrilla justice and the guerrilla units enforce their decisions. Press reports give accounts of how justice is imparted by the guerrillas. Cases normally start with a complaint which can be brought by any person; it follows a very short and summary procedure, with little respect paid to international standards of a due process of law. In cases involving criminal offences guerrilla leaders assume the role of judges and prosecutors. Decisions or convictions are reached quickly and carried out expeditiously. People still living in this area have little confidence in the regular courts as their decisions are not enforced and they instead tend to look to the guerrilla leaders to solve their disputes.

In July 1999, the Office of the National Ombudsman issued a report in which it denounced the execution of 11 civilians and the detention of another 34 by the FARC guerrillas in the area under their control. FARC leaders recognised the validity of the facts but did not take any action. Additionally, some people who have fled the area and a number of non-governmental human rights organisations have reported abuses and crimes committed against the civilian population still living in the area, such as forced displacement and recruitment of children. Executions and arbitrary deprivation of individual's liberty were carried out, without the victims being afforded due process, by guerrilla commanders, which constitutes a serious violation of humanitarian law.

The local prosecutors working in the five municipalities under guerrilla control were expelled in February and the authorities were reported as saying that they will not be sent back unless police and military control is resumed in the area.

Guerrilla justice not only takes place in the area under their control in the south-centre of the country, but also through discipline and control within the guerrilla units themselves. Discipline among guerrilla groups is said to be lax and units enjoy a high degree of freedom of action. This has led to abuses and serious crimes that have so far gone unpunished. In February, FARC guerrillas captured and executed three US citizens working with indigenous peoples. The leaders recognised FARC responsibility and promised to try and punish those responsible for the act.

Cases:

According to the Colombian Commission of Jurists, during 1999 at least 102 lawyers, judges, prosecutors and other judicial officials performing judicial functions were the target of various violent acts, among them threats, intimidation and killings. The armed conflict is the framework in which these attacks generally occur. Most of the jurists are attacked or harassed for trying to investigate, prosecute or try alleged perpetrators of human rights violations. There are also cases of harassment and attacks on jurists who perform their duties within the context of the fight against drug-trafficking groups and common criminals. Sixty-two per

cent of all actions against members of the judiciary was attributed to paramilitary groups, and 17 % to the guerrillas. Attacks on the judiciary come also from the security forces.

Edna Patricia Cabrera Londoño (judge): Ms. Cabrera was working as a judge in Cartagena del Chairá, Caquetá, when she was kidnapped by FARC guerrillas on 1st March 1999. Her illegal detention occurred when she was taking steps to decide on an habeas corpus petition lodged by a peasant of the locality.

Olger Cáceres Gerardino (lawyer): Mr. Cáceres was working as a municipal delegate in Cáchira, North Santander, when he was kidnapped, together with four other persons, by EPL guerrillas on 18 May 1999. Hours after they were kidnapped the guerrillas executed one of the victims, a Catholic priest, but the others were released.

Numis Esther Camacho (lawyer): Ms. Camacho was working as a municipal delegate in Curumani, Cesar, when she was murdered by paramilitaries on 24 July 1999. At the moment she was killed she was organising a public demonstration for peace.

José F. Castro Caicedo (ombudsman): Mr. Castro is head of the Bogotá-based Andean Council of Ombudsmen. He received death threats on 27 September 1999.

Maritza Chavarro Anturi (prosecutor): Ms. Chavarro was working as a prosecutor in the San Vicente de Caguán locality when she was expelled by the FARC guerrillas on 18 February 1999. Ms. Chavarro was told by the guerrilla leader that she could not stay and work there since the locality is part of the demilitarised area agreed upon between the government and the guerrillas.

Gerardo Cortés (prosecutor): Mr. Cortés was working as a prosecutor before the High Tribunal of Florencia, Caquetá, when he was kidnapped and then executed by unknown persons on 21 November 1999.

Santiago Diaz (lawyer): Mr. Diaz was working as a municipal delegate in Ibagué, Tolima, when he was threatened with death on 21 May, allegedly by paramilitary groups, who issued a public communiqué in which they identified lawyer Diaz, together with 16 other social and political leaders, as "military targets".

Ever Diaz Serrano (notary): Mr. Diaz was kidnapped by unidentified persons on 11 April and released on 29 July 1999, in Riohacha, La Guajira.

Cecilia Fierro de Rodríguez (procurator): Ms. Fierro, who is working as provincial procurator in Villavicencio, Meta, was threatened through phone calls on 15 September 1999. This happened after she had ordered disciplinary investigations to start into the conduct of several local officials.

Marco A. García Hernández (ombudsman): Mr. Garcia was kidnapped by ELN guerrillas who lured him to a place where they had said that they would give him a report on soldiers detained by them. But instead of providing him with information the guerrillas detained him also, from 15 to 21 December in Hacarí. North Santander.

Alvaro Fernán García Marín (prosecutor) and Julián Hernández López (judge): Mr. Garcia and Mr. Hernandez were kidnapped by unknown persons on 30 April 1999 in Quinchia, Risaralda. One was released on 27 July and the other on 10 August.

Edgar Giraldo (prosecutor): Mr. Giraldo, who is prosecutor in Cundinamarca, was kidnapped when he was travelling from El Peñol to Guarne, Antioquia, by ELN guerrillas on 30 October 1999.

Argiro Giraldo Quintero (lawyer and law professor): Mr. Giraldo is a former member of the 19 April Movement (M-19), and was physically attacked on 6 May 1999. He was not injured as a result of the attack.

Alfonso Gómez Méndez (prosecutor-general): Mr. Goméz, head of the public prosecution service in Colombia, was publicly threatened by the leader of the main paramilitary organisation, the United Self-Defence of Colombia, Mr. Carlos Castaño. In a letter made public on 11 June, Mr. Castaño said that he do not recognise the authority of the Prosecutor-General to investigate his activities and that his group would confront prosecutors rather than flee from them.

Jesús Arnoby Gómez (lawyer and law professor): Mr. Gómez, who is a lawyer and the Director of the Law faculty of the Cooperative University in Colombia, was killed by gunmen on 7 May 1999.

Virgilio Hernández (prosecutor): Mr. Hernandez, who was co-ordinating the Human Rights Unity of the public prosecution service in Bogotá, resigned his post on 12 July as a result of the numerous death threats he had been receiving, mainly from paramilitary groups.

Néstor Raúl Márquez (regional procurator) and Jorge Rincón prosecutor: Mr. Márquez and Mr. Rincón were injured when the police helicopter in which they were travelling was shot by FARC and ELN guerrillas on 11 April 1999 in San Pablo, Bolivar.

Eunice M. Mejia Maya (prosecutor): Ms. Mejia was working in Medellin when she was murdered on 18 May 1999. Some days later the judicial police captured two of the alleged perpetrators who happened to be common criminals.

Luis J. Osorio Rodrîguez (lawyer and former magistrate): Mr. Osorio was first kidnapped and then executed by FARC guerrillas on 19 November 1999 in Venadillo, Tolima.

Carlos A. Pareja Yepes (lawyer): Mr. Pareja was working as a municipal delegate in San Juan Nepomuceno, Bolivar, when he was murdered by unknown persons on 17 September 1999.

Gustavo Pérez Palacios (notary): Mr. Perez is a notary in Yolombó, Antioquia and was kidnapped by guerrillas of the National Liberation Army on 24 February 1999. He was released on 7 March.

Carmen Pineda Manrique (notary): Ms. Pineda was kidnapped by ELN and EPL guerrillas on 28 July 1999 in Sardinata, North Santander.

Antonio Ponce Attie (lawyer): Mr. Ponce was working as a municipal delegate in Guaranda, Sucre, when he was shot dead by a paramilitary group on 5 March 1999.

Rafael Quintero Araujo (lawyer working as a municipal delegate): Mr. Quintero was a lawyer working as a municipal delegate (local ombudsman) in Codazzi, Cesar, when he was killed by two gunmen on 8 February 1999.

Fabian L. Restrepo Beltrán (prosecutor): Mr. Restrepo was working as a prosecutor in San Carlos, Antioquia, when he was threatened with death, together with his family and his secretary, by the FARC guerrillas on 10 March 1999. After this event he was transferred to another locality.

Ruth Marlene Sánchez (prosecutor): Ms. Sanchez works as director of the Office of the Public Prosecutor in Córdoba, and received death threats by phone on 25 January 1999.

Francisco Torres Taborda (prosecutor): Mr. Torres Taboada, who works in Cocorná, Antioquia, was kidnapped by ELN guerrillas on 9 November and was released some days later.

Iván Villamizar Luciani (regional ombudsman): Mr. Villamizar, who was working in Cúcuta, received death threats from paramilitary groups and was obliged to leave the region on 6 September 1999.

A judge working in Cundinamarca for the regional justice system - thus anonymous - received phone threats in Bogotá on 20 August 1999.

The following are persons who work, or used to work, for one of the different sections in the judiciary, mostly in the public prosecution service, as investigators or assistants, and who also suffered attacks, harassment or intimidation during the year. The attacks against them are considered by the Colombian Commission of Jurists as a means to pressurise or intimidate the prosecutors and judges themselves:

60 members of the investigations unit of the public prosecution service were attacked by paramilitaries of the Peasants Self-defence of Córdoba and Urabá on 15 February in La ceja, Antioquia. The investigators were looking for mass graves in the area and were with 40 other public officials of the Administrative Department of Security. As a result of the attack, 8 investigators were kidnapped, and one was injured. Some hours afterwards the kidnapped officials were released.

Other ten investigators and assistants have been harassed in various circumstances throughout the year.