



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Colombia

<i>Concluding observations (118th session):</i>	CCPR/C/COL/CO/7, 1 November 2016
<i>Follow-up paragraphs:</i>	9, 29 and 39
<i>Follow-up reply:</i>	CCPR/C/COL/CO/7/Add.1, 18 December 2017
<i>Committee's evaluation:</i>	Additional information required on paragraphs 9[B], 29[B] and 39[B]
<i>Information from non-governmental organizations:</i>	Colombian Commission of Jurists ¹

Paragraph 9: Internal armed conflict

The State party should continue and intensify its efforts to prevent violations of Covenant rights and to give effect to the rights of victims of the armed conflict to truth, justice and full reparation. It should, in particular, ensure that:

- (a) The appropriate authorities adopt effective preventive measures in response to early warnings issued by the Inter-Agency Early Warning Committee and that they monitor and take proper action on all risk reports and follow-up notes issued by the Ombudsman's Office under the Early Warning System even if they are not converted into early warnings;
- (b) All violations of Covenant rights are investigated promptly, thoroughly and impartially, and the perpetrators of such violations are brought to justice and held accountable for their acts;
- (c) Effective protection and care is afforded to the most vulnerable persons and communities, in particular women, children, older adults, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, Afro-Colombians and indigenous peoples;
- (d) All victims receive full reparation, including the restitution of their land.

* Adopted by the Committee at its 128th session (2–27 March 2020).

¹ See https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGS%2fCOL%2f37020&Lang=en.



Summary of the State party's reply

(a) The Ombudsman's Office is continuing to develop the system for collecting, processing and assessing the action taken by the appropriate authorities. The Ministry of the Interior makes recommendations in all cases brought before the Inter-Agency Early Warning Committee, and monitors the implementation of those recommendations through information-gathering and a permanent communication channel with the relevant authorities. Training sessions for local authorities and security forces are conducted in the field;

(b) In 2016 and 2017, 52 judgments concerning 6,004 incidents and 28,055 victims were handed down in respect of 215 individuals under the Justice and Peace Act. Investigations were conducted on human rights violations committed by the Revolutionary Armed Forces of Columbia (FARC), the National Liberation Army and FARC dissident groups. Investigations were also conducted on human rights violations committed by public servants and on "false positives";

(c) The National Protection Unit provides protection to human rights defenders. As at 31 July 2017, the Protection and Assistance Programme within the Attorney General's Office was handling 525 cases involving 1,654 protected individuals;

(d) Humanitarian assistance is distributed by the Victims Unit on the basis of a needs assessment procedure. As at 31 July 2017, the Central Register of Victims included 8,504,127 victims, 6,646,456 of whom were eligible for assistance and reparations. The victims benefit from both individual and collective reparations. In terms of remembrance and truth, several strategies have been defined, aimed at establishing a human rights and historical remembrance archive and a national museum for remembrance, conducting investigations to establish the truth, promoting local initiatives on memory and strengthening non-judicial mechanisms for truth. A total of 25 remembrance initiatives have been promoted, mainly cultural centres, galleries, schools and events. Regarding the land restitution process, the State party provides data on registration requests and the administrative and judicial phases.

Information from the Colombian Commission of Jurists

(a) In 2017, the Ombudsman's Office issued 14 follow-up notes and 52 risk reports, of which 25 were imminent risk reports. In 2018, the Ombudsman's Office issued 87 early warnings; as at 20 August 2019, 33 of those warnings had been issued. The most frequent recommendations are that humanitarian assistance be provided to victims of human rights violations, that violations against human rights defenders be addressed, and that security conditions for leaders who have requested protection measures against threats be guaranteed.

Despite the progress in investigations into and the prosecution and punishment of alleged perpetrators of killings of social leaders and human rights defenders, the State party has not fully clarified the root causes of the violations. Furthermore, the consistent lack of implementation of the Ombudsman's recommendations in its early warnings and follow-up notes contributes to violence and human rights violations;

(b) Although the Attorney General's Office has included the reduction of impunity as an essential component of its strategic plan (2016–2020), no progress was made in 2017 in reducing impunity for human rights violations. A high level of impunity is evident with regard to crimes committed since 2005, with percentages similar to those reported during previous years and a rate of impunity close to 90 per cent for all related crimes.

In recent years, serious cases of corruption among judicial officials have been reported. The most significant example is the well-known "Cartel de la toga" scandal;

(c) Serious situations of human rights violations and violations of international humanitarian law continue, particularly with regard to vulnerable rural populations, such as indigenous people and campesinos and people of African descent, women, older adults, children and adolescents in rural areas.

In 2017, at least 348 people were victims of homicide. Of the 115 cases in which the alleged perpetrator was known, responsibility was attributed to the State in 94 cases, which

shows the persistence of extrajudicial executions in Colombia. The Colombian Commission of Jurists also refers to other human rights violations, including enforced disappearance, arbitrary detention and torture, and provides information on violations affecting vulnerable persons, including children, older adults, and lesbian, gay, bisexual, transgender and intersex persons.

(d) Structural deficiencies persist in the implementation of reparations for victims of armed conflict, as well as in the land restitution policy. The implementation of Act No. 1448 of 2011 on land restitution has been deficient, affecting 8,006 victims. Implementation has been impeded by factors such as budgetary constraints and delays in execution, deficiencies in prevention and protection measures for victims, insufficient results in humanitarian measures, the limited participation of victims, the closure of the victim registry in 2016, the lack of recognition and reparation measures for victims who are abroad, obstacles in collective reparation processes, the lack of comprehensive health care with a psychosocial approach, the limited progress made in the implementation of gender and ethnic differential approaches, and the lack of institutional coordination for the fulfilment of the objectives and measures provided for by the Act;

In June 2021, Act No. 1448 will expire, and land restitution will therefore no longer be processed. Some victims are now waiting for judicial proceedings to be considered, sentences to be enforced and those responsible for dispossession to be prosecuted.

Committee's evaluation

[B]: The Committee notes the information provided by the State party on the measures taken in response to early warnings issued by the Inter-Agency Early Warning Committee. It requires further information on the measures taken by the State since the adoption of the concluding observations, particularly in relation to the action taken on risk reports and follow-up notes issued by the Ombudsman's Office under the early warning system even if they are not converted into early warnings.

It notes the information provided regarding investigations, prosecutions and convictions relating to human rights violations committed both by members of armed groups and by public servants. It requests additional information on the progress made to implement the Committee's recommendation, including on the recent cases of corruption among judicial officials and on measures taken since the adoption of the concluding observations to ensure that all violations of Covenant rights are investigated promptly, thoroughly and impartially. It also requests the State party to respond to information provided to the Committee that the rate of impunity remains close to 90 per cent for all related crimes.

The Committee notes the information provided on the protection of human rights defenders, but regrets the lack of disaggregated information provided on the specific measures taken to ensure that effective protection and care is afforded to the most vulnerable persons and communities, in particular women, children, older adults, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, Afro-Colombians and indigenous peoples.

The Committee notes the information provided on measures taken to ensure reparation for victims. It also notes the data provided on the land restitution process. However, it requires information on the measures taken since the adoption of the concluding observations to ensure full reparation for the victims and to ensure the restitution of land to all victims, including measures to strengthen the application of Act No. 1448. The Committee reiterates its recommendations.

Paragraph 29: Conditions of detention

The State party should redouble its efforts to reduce overcrowding by, inter alia, ensuring that use is made of non-custodial measures, and to improve prison conditions so as to ensure that the dignity of persons deprived of their liberty is respected in accordance with article 10 of the Covenant. It should also step up its efforts to prevent torture and ill-treatment in places of deprivation of liberty, to ensure that all reports of torture or ill-treatment are investigated promptly, thoroughly and impartially by an independent body that has no hierarchical or

institutional tie to the suspected perpetrators and to ensure that the responsible parties are brought to justice and punished.

Summary of the State party's reply

The Government has taken steps to reduce prison occupancy, thereby mitigating and correcting a structural problem affecting the prison system. Data show a decrease in overcrowding since 2016. The State party reiterates the information provided in its report (CCPR/C/COL/7, para. 97) regarding the adoption of non-custodial measures of detention. In 2016 and 2017, two acts on non-custodial measures were adopted, as was a criminal justice policy information system.

Regarding conditions of detention, maintenance contracts for water treatment plants were concluded to ensure access to drinking water in detention centres. The governing council of the National Health Fund for Persons Deprived of Their Liberty issues recommendations on the health of detainees. A state of emergency in all of the country's prisons was declared on 5 May 2016 by the governing council of the National Prison Institute, which led to measures such as the deployment of mobile health-care teams, and the prompt execution of work to maintain, renovate and equip health-care facilities in prisons.

The Office of the Specialized Ombudsman for Criminal Justice and Prison Policy is implementing an independent complaints mechanism in prisons, in response to recommendations made by the Committee against Torture.

Information from the Colombian Commission of Jurists

Although the total percentage of overcrowding has been reduced, the problem persists. The current rate of overcrowding takes into account the total number of places of detention, not the real distribution of inmates. Similarly, places of detention designated for pretrial detention are also overcrowded.

In 2018, the Criminal Code and the Code of Criminal Procedure were amended, by Act No. 1908 of 9 July 2018. The maximum duration of pretrial detention was increased from two to four years for crimes relating to activity in organized armed groups.

The number of doctors in places of detention has been reduced. There is a tendency to use force against inmates, including cases of collective punishment and excessive use of force in special control operations.

Committee's evaluation

[B]: Although the Committee notes the decrease in the rate of overcrowding, it requires information on the occupancy rate disaggregated by place of detention and sex, including places of detention designated for pretrial detention. The Committee welcomes the adoption of two acts on non-custodial measures, but requires information on the progress made in their implementation and impact. It notes the information provided on the provision of drinking water in detention centres, but regrets that no information was provided on other measures taken since the adoption of the concluding observations to improve prison conditions so as to ensure that the dignity of persons deprived of their liberty is respected. The Committee notes the information that the number of doctors working in places of detention has decreased, and on the tendency to use force against inmates, including cases of collective punishment and excessive use of force in special control operations, and requires further information in this respect.

With respect to measures to prevent torture and ill-treatment in places of deprivation of liberty, the Committee welcomes the establishment of an independent complaints mechanism to investigate reports of torture or ill-treatment, but requires information on the number of cases of torture and ill-treatment investigated and prosecuted.

Paragraph 39: Alleged acts of intimidation, threats or attacks targeting human rights defenders, journalists, trade unionists, judicial officials, lawyers or social or human rights activists

The State party should redouble its efforts to provide timely, effective protection to human rights defenders, journalists, trade unionists, judicial officials, lawyers and social or human rights activists who are the target of acts of intimidation, threats and/or attacks because of the work that they perform. It should also step up its efforts to ensure that all allegations regarding acts of intimidation, threats or attacks are investigated promptly, thoroughly and impartially, and that the perpetrators stand trial and are held accountable for their acts.

Summary of the State party's reply

At the institutional level, the Government introduced the National Safeguards Process. A high-level panel on guarantees of non-repetition was created in March 2016. A unified command post was set up in December 2016 to monitor attacks against human rights defenders and social leaders. The National Commission on Security Guarantees under the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace was inaugurated on 23 February 2017. The Elite Peace Corps was established within the National Police as the State's front-line response for dismantling criminal organizations.

Regarding investigations, a special investigation unit responsible for dismantling armed groups was created within the Attorney General's Office in 2017. The Public Legal Service issued a directive on the protection of human rights defenders.

With regard to measures of protection, the State has a programme to protect those defending human rights.

Information from the Colombian Commission of Jurists

Since the signing of the Final Agreement, there has been a worrying increase in the number of attacks against human rights leaders and defenders, a situation that currently constitutes a major threat to peacebuilding in Colombia. The State party's response has not been effective, and impunity persists to a high degree.

The peace agreement contains a set of measures that can help to reduce violence against human rights defenders. The Government's refusal to implement these measures makes the situation even more difficult.

Committee's evaluation

[B]: The Committee notes the establishment of several institutional bodies, including the Elite Peace Corps. The Committee also notes the creation of a special investigation unit, and the data provided on measures of protection. It requires, however, information on their impact, such as with regard to investigations into and the prosecution of allegations of acts of intimidation, threats or attacks against human rights defenders, journalists, trade unionists, judicial officials, lawyers and social or human rights activists. The Committee also requires information on the claim that, since the signing of the peace agreement, there has been a worrying increase in the number of attacks against human rights leaders and defenders.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.