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Summary record of the 2722nd meeting

Held at the Palais Wilson, Geneva, on Friday, 16 July 2010, at 10 a.m.

Chairperson: Mr. Iwasawa

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Sixth periodic report of Colombia (continued) (CCPR/C/COL/6; CCPR/C/COL/Q/6 and Add.1)

1. *At the invitation of the Chairperson, the members of the Colombian delegation resumed their places at the Committee table.*
2. **The Chairperson** invited the delegation to reply to further questions raised by the Committee at the previous meeting.
3. **Ms. Abaunza Millares** (Colombia), responding to the question about the discrepancy between the different sets of statistics for extrajudicial killings, said that the figures compiled by the human rights unit in the Public Prosecutor's Office included acts committed by persons who were not agents of the State but civilians; some of the acts in question were homicides rather than extrajudicial killings. There were currently 1,216 cases of extrajudicial killing being handled either under the criminal justice system or under the accusatorial system, which was a written procedure introduced through Act No. 906 of 2004. Of that total 496 were under investigation under the latter system. The burden of proof differed in the two systems. In addition, under the criminal justice system, the sanctions available varied, and court decisions were based on the conduct of the defendant. In reply to the question concerning relative numbers of criminal and disciplinary cases, she explained that in the latter type of case it was the conduct of public officials that was under investigation.
4. Training in human rights and international humanitarian law was given to members of the armed forces at every level. Human rights training policy had been reviewed so as to provide training through a single educational unit at six different levels of the armed forces, depending on responsibilities at each level. Opportunities were taken to learn from mistakes and to incorporate good practice into the conduct of military operations. Training was based on the battalion as a unit, with a regular refresher course when soldiers were due to return to the field after a spell of non-active service. The practical courses were supplemented by input from other national and international institutions.
5. **Mr. Arango Alzate** (Colombia), responding to questions about the police, said the force currently comprised about 170,000 officers. New recruits received training in human rights and international humanitarian law through a cross-cutting model applicable to the various forms of police duty, ranging from street patrols to criminal investigations. As police duties covered the whole of the country, human rights training teams consisting of 10–15 members even visited remote rural areas to provide training for local officers. An information technology platform had been set up at the national police academy to offer virtual training courses and virtual examinations, in addition to the examinations which, at the senior level, required a physical presence. It was now planned to introduce Internet games through which police officers could test their own knowledge. Training continued throughout an officer's career, regardless of his or her level.
6. **Mr. Franco Jiménez** (Colombia), responding to questions about displaced persons and how displacements could be prevented, said the primary means of prevention was registration. Registrations were effected under Act No. 387 by the Public Prosecutor's Office and Acción Social (the presidential agency for social action), which were jointly responsible for ensuring due process rights and the right to have one's case heard. The Government was aware of the difficulties faced by displaced persons and of their reluctance to submit official complaints owing to their fear of the authorities and lack of resources, and it was stepping up the numbers of visits made to displaced persons in the regions. The

Public Prosecutor's Office was working with representatives of UNHCR and ICRC, as well as civil society organizations, to examine the question of the underestimation of the numbers of internally displaced persons, believed to be around 20 per cent. A strategy had been developed to reduce their numbers through an information campaign, given that over 7,000 displaced persons had been registered informally.

7. The Government had been working with UNHCR since 2007 on a programme to identify and protect displaced persons with UNHCR guidance, according to which State authorities must be equipped with the means to identify displaced persons, must safeguard their fundamental rights and must ensure that State assistance intended for them was not misdirected. UNHCR took the view that the purpose of registration was often misunderstood: it was to ensure that the victims of displacement were looked after and able to obtain redress.

8. It was not correct to say that humanitarian assistance had been supplied to members of the armed forces. In 2009, Acción Social had undertaken 869 humanitarian missions, including emergency care in 243 cases and assistance to the victims of 48 mass displacements. In 2010, it had so far undertaken 306 humanitarian missions, including assistance to over 2,500 families involved in 32 mass displacements. The humanitarian aid provided was comprehensive, covering registration, housing, food, health care, education, psychosocial care, security and protection. The public authorities had a constitutional duty to provide security and to ensure the provision of health and education services in emergency cases; the Government had concluded an agreement with ICRC for that purpose.

9. It was not correct to claim that preventive measures were militarized or that efforts were made to involve civilians in hostilities. On the contrary, the civilian and military authorities worked together to provide protection for displaced persons at all stages, and a new manual for the armed forces set out the relevant guiding principles. As a result, the numbers of forced displacements and expulsions were falling. Under the early warning system (SAT) a new oversight committee was in place to ensure respect for the principles underlying prevention and protection. The budget assigned to the Ministry of the Interior and justice for assistance to displaced persons had been increased from 900 million pesos in 2009 to 2.3 billion pesos in 2010. The SAT system was overseen by the Office of the Ombudsman, reflecting the recommendation in paragraph 75 (b) of the report of the Representative of the Secretary-General on the human rights of internally displaced persons concerning his mission to Colombia (A/HRC/4/38/Add.3). Admittedly, there was still much to be done to improve coordination among the agencies involved in assisting displaced persons.

10. **Ms. Fonseca** (Colombia), answering the questions raised about sexual violence, said that considerable progress had been made in tackling that problem through the compilation of information by the Forensic Institute, a scientific body attached to the Office of the Attorney General. Efforts were being made to ensure that persons working in the justice system obtained evidence of cases of sexual violence and were appropriately trained to deal with the problem. In giving increased publicity to sexual violence, it was important that women should not be too frightened to testify. The Institute's current programme on sexual violence aimed to establish how victims were cared for, to identify shortcomings in their treatment, and to train those dealing with the victims to address their concerns so that complaints could be lodged. The programme aimed to disseminate knowledge of relevant legislation at the regional, departmental and municipal levels, and to mainstream the question of sexual violence in the agendas of local and municipal governments. In the course of the drafting of Act No. 1,257 relating to sexual violence, all government agencies had been consulted, and a technical committee had been set up to coordinate the efforts of officials with responsibilities in that area.

11. With reference to the Ombudsman's Office, she pointed out that it formed part of the Public Prosecutor's Office and was fully independent. The Office was responsible for promoting and disseminating human rights standards. It could make recommendations and observations to the authorities and publish its findings.

12. On the question about the lack of coordination of initiatives in support of the Afro-Colombian communities, she said that a high-level commission had been formed under the aegis of the Vice-President to evaluate the programmes which had been conducted in recent years. Following that evaluation, Act No. 3,660 of 2010 had been adopted to help bring about equality of opportunity for Afro-Colombians.

13. The statistics for criminal cases involving torture came from the human rights unit in the Attorney General's Office and were dated January 2010. There were 38 current cases, of which 19 were under formal investigation. Two persons had been charged with the offence of torture and there had been 14 convictions. It was difficult to classify that offence because its characteristics were often subsumed into other offences such as causing grievous bodily harm or homicide. Efforts were being made to draw increased attention to torture as a separate criminal offence in the light of the Istanbul and Minnesota Protocols.

14. **Ms. Arango Olmos** (Colombia) added that as a result of the adoption of the Justice and Peace Act, torture was now emerging as a separate criminal offence.

15. **Ms. Fonseca** (Colombia), commenting on the protection of persons deprived of their liberty, said that the human rights unit in the Public Prosecutor's Office was proposing mechanism to improve coordination among the agencies responsible.

16. **Ms. Keller** said she had noted from NGO sources that 85 per cent of all cases of violence against women involved minors. What was the policy of the State party with regard to responses to girls who were victims of sexual violence? How did they differ from responses in the case of adult women victims?

17. **Mr. Thelin** enquired about the conviction rate for extrajudicial killings. How were such cases dealt with in first-instance courts and how many cases had resulted in convictions? How long was the interval between the start of an investigation and a decision by a first-instance court?

18. **Mr. Salvioli**, Country Rapporteur, noting that the Justice and Peace Act had been promulgated five years previously and that under the Act the maximum penalty was 8 years' imprisonment, expressed concern that persons detained since the date of enactment would probably have served their term before a final legal decision was taken.

19. He was pleased to hear that a national mechanism for the prevention of torture was being established. However, he had heard Colombian officials saying publicly that the State had no plans to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. He therefore asked what parameters would be applied in setting up the mechanism and whether any provision would be made for the involvement of civil society.

20. The Committee had received partial answers to its questions about the military criminal justice regime. He trusted that there was no risk of backtracking in that regard. Although the Technical Investigation Unit should bear primary responsibility for the investigation of possible human rights violations, some prosecutors had complained that the military had denied them access to alleged crime scenes for several days. Such unwillingness to cooperate could make it difficult to obtain evidence of violations of international human rights or humanitarian law.

21. While he welcomed the information provided by the delegation regarding redress, he referred to a statement by Vice-President Francisco Santos Calderón published in the

newspaper *El Tiempo* in which he claimed that the presumption of innocence had been violated in certain legal proceedings concerning crimes against humanity and called for restrictions on the right of victims to claim redress from the State. He noted in that connection that legal proceedings had been instituted against the Vice-President for alleged links with the paramilitaries.

22. The Council of State was the supreme decision-making body in contentious administrative proceedings concerning redress, which could last for six or seven years. He understood that pecuniary damages were the only type of compensation awarded and that there was no provision for more comprehensive redress. At the same time, he commended the scale of the damages awarded to date and the number of cases that had been settled under the inter-American human rights system.

23. He had not received an answer to his question concerning the implementation of the Constitutional Court's decision on legal abortions. The Attorney General had stated that he was opposed to the inclusion of legal abortion in university curricula and had called for a ban on emergency contraception. A young girl had recently died as a result of an illegal abortion even though she had been entitled to a legal termination of pregnancy. The attitude of the Attorney General might encourage such backstreet abortions. The mayor of Medellín had also removed abortion from the list of services offered by a women's clinic in the city. What action was being taken to uphold the Constitutional Court's ruling?

24. He asked whether Directive No. 029 of 2005 and other similar directives concerning financial incentives to encourage soldiers to report deaths in combat were still in force. They had reportedly given rise to a large number of what were known in Colombia as *falsos positivos* (false positives) or extrajudicial killings, mostly in impoverished parts of the country. The killings were subsequently presented as guerrilla casualties by persons claiming the reward.

25. **Ms. Arango Olmos** (Colombia), replying to Ms. Keller's question, confirmed that minors accounted for a very large proportion of cases of violence against women. That was a matter of the greatest concern to both the Government and the general public. The sexual abuse of children and women must be ended once and for all. A number of private individuals, together with members of the Bogotá Council and Congress, had unsuccessfully proposed that the names of rapists should be published in newspapers and on billboards. The initiative had failed because it would have constituted a violation of civil liberties, but it nonetheless illustrated the strength of public feeling against rapists. A referendum to ensure that rapists were given life sentences had also been proposed but the Constitutional Court had ruled against it on the ground of procedural irregularities. The Colombian Family Welfare Institute ran programmes for child victims of rape and removed children from abusive families. A very large proportion of rapists were close relatives of the child or friends of the family and such cases were usually not reported. Colombia was committed to taking resolute action to deal with that scourge.

26. **Ms. Abaunza Millares** (Colombia) provided figures for proceedings against members of the security forces who had allegedly been involved in extrajudicial killings. According to the most recent report published by the human rights unit in the Public Prosecutor's Office on 15 May 2010, 1,216 cases were currently active. Fifty cases had ended with convictions and 23 with early convictions, i.e. cases in which the accused had confessed to the acts charged. There had also been 11 acquittals to date. A total of 176 persons had been convicted at the close of criminal proceedings, 50 had been convicted in cases involving early sentencing and 33 had been acquitted. A number of liaison officers had been appointed to offer assistance in all matters pertaining to proceedings against members of the security forces. A lieutenant-colonel attended to requests from the Public Prosecutor's Office and the Ministry of Defence.

27. The investigations were very complicated and their duration was unpredictable. As it was frequently difficult to gather the necessary evidence, the State had established a unit composed of prosecutors with special expertise in such investigations. As a result, considerable progress was being made and it was expected, for instance, that the proceedings in the so-called Soacha case would be completed within a few months.

28. The limits applicable to military criminal justice had been spelled out clearly by the Constitutional Court. The judicial police conducted all evidentiary work at crime scenes. There had been cases where military officers had prevented the police from intervening but that was a thing of the past. The judicial police ran all operations. An agreement between the Public Prosecutor's Office and the Chief of Staff of the armed forces provided for the appointment of Technical Investigation Unit liaison officers throughout the country. A legal handbook specified the scope of the authority of the judicial police whenever its services were required in connection with a military operation.

29. There was absolutely no case in which a law enforcement official had received remuneration for reporting deaths in combat. As a matter of principle, no official could be offered a financial reward in such circumstances. Directive No. 029 had been rescinded and replaced, first by Directive No. 02 of 2008 and then by Directive No. 01 of 2009, which was currently in force. It applied strict criteria for the payment of rewards. They were never paid to a public servant but were paid only for information resulting in operational benefits for the law enforcement agencies. Two committees were tasked with monitoring such payments. The term "false positives" was a misnomer because an outcome that was unlawful was not accepted under any circumstances. It had been alleged that the rewards encouraged wrongful acts, but the Public Prosecutor's Office insisted that it had never found any link between such rewards and unlawful conduct. The Office of the Comptroller General of the Republic had also undertaken investigations and found no evidence of a link between the payment of rewards and the commission of crimes such as aggravated homicide or homicide of a protected person.

30. **Ms. Arango Olmos** (Colombia) said the Director of the Office in Colombia of the United Nations High Commissioner for Human Rights had informed the President that the Office was protecting a witness, a former member of the armed forces, who wished to speak to him about extrajudicial executions. The President had met the witness, who had informed him that the problem related not to rewards but to the routes followed by drug traffickers. There were allegedly high-ranking military personnel involved in drug smuggling who killed people in order to divert attention from the traffickers. The Government was in no way involved and was the first to denounce such crimes. It had submitted the facts to the Public Prosecutor's Office with a view to having the perpetrators brought to justice.

31. **Ms. Rey** (Colombia) said that when her Government had been asked in the context of the Human Rights Council's universal periodic review (UPR) about its failure to ratify the Optional Protocol to the Convention against Torture, it had drawn attention to the fact that its compliance with international human rights obligations was already monitored by a number of different bodies and that it was actively involved in the Inter-American system. There were currently 11 cases pending against Colombia in the Inter-American Court of Human Rights.

32. Action to prevent torture was being taken on a number of fronts. Firstly, as already mentioned, a national mechanism for the prevention of torture was being established. A few months previously the Committee against Torture had acknowledged Colombia's major efforts in the area of institution-building, but it had also criticized the lack of inter-institutional coordination. Colombia was now taking steps to remedy the situation. Secondly, a central information system was being set up to record all cases of torture. The Committee against Torture had asked for disaggregated statistics, which were not available

at the time. Colombia had now risen to the challenge and was engaged in the necessary institutional work.

33. **Ms. Lagos** (Colombia) said that a human rights committee composed of prisoners elected by their peers had been set up under Act No. 65 of 1993 to safeguard prisoners' rights. The prisoners themselves made proposals and identified shortcomings in the prison regime. The prison authorities then took the necessary action. The committee was a very important body and had won international recognition.

34. The idea of appointing "human rights consuls" stemmed from a proposal made in 2003 by the OHCHR Office in Colombia. The consuls assumed prime responsibility in each prison for the defence of prisoners. They received complaints from the prisoners themselves, their relatives and other visitors, State monitoring bodies and civil society organizations. A proposal for the establishment of pilot human rights observatories in six prisons was currently being considered. The observatories' mandate would be largely preventive. NGOs were also regarded as an extremely important source of advice and support for improvements in the prison system.

35. **Ms. Rey** (Colombia) said that Vice-President Calderón was a journalist who had been kidnapped by drug traffickers in 1990. He had established the Fundación Pais Libre (Free Country Foundation), an NGO that supported victims of kidnapping. He was the director of Colombian human rights policy and issued instructions to public officials on how the policy should be implemented. He had also spearheaded the strengthening of the Public Prosecutor's Office, and the Justice and Peace Act had been his idea. He was currently under investigation, but at his own request. He respected the prosecutors' decisions and was cooperating in the proceedings against him. He had indeed stated that crimes against humanity should be investigated more rigorously, not just for the benefit of victims but for the sake of society as a whole. With regard to his statements on redress, she explained that victims in Colombia were entitled to seek redress through both judicial and administrative proceedings; the Vice-President had simply launched a debate on the subject.

36. **Ms. Arango Olmos** (Colombia) said that the Vice-President actually wished to speed up the administrative procedure pertaining to redress without ruling out the possibility of recourse to the judicial procedure.

37. With regard to the personal charges against him, she emphasized that the Vice-President had no secrets. He was open and frank, and was not involved in double-dealing. Public opinion polls had confirmed his popularity and she was sure that he would continue to defend human rights in Colombia and worldwide.

38. **Mr. Salvioli** said that his question relating to the Vice-President had not been meant to cause offence. He had become personally acquainted with him during a human-rights-related event and his question had not been politically motivated. It had simply concerned a public statement by the Vice-President on a matter pertaining to the Covenant.

39. He acknowledged the State party's repeated statements that there was no connection between the rewards policy set out in Directive No. 029 and extrajudicial executions, which, according to the State party, were related to drug trafficking. He asked what had been done to prevent such executions in the future.

40. **Ms. Arango Olmos** (Colombia) said that the statements had been taken out of context and should be seen against the background of the Vice-President's human rights promotion work in Colombia.

41. **Ms. Abaunza Millares** (Colombia) said that her delegation had prepared a comprehensive document on 15 measures taken by the Government to enhance respect for human rights by the armed forces; it would be made available to the Committee. On 17

November 2008, the Minister of Defence had publicly announced the 15 measures aimed at better monitoring and implementation of the military doctrine as it related to the planning and execution of operations. The measures had been implemented, were followed up periodically and had led to a sharp decline in complaints of arbitrary detention, as recognized by international human rights bodies and civil society organizations. That very day, the Committee to Monitor Reporting would hold its fifteenth meeting and undertake an evaluation of the effectiveness of those measures, in cooperation with government representatives, the Office of the Procurator-General, ICRC and the OHCHR Office in Colombia. The meeting would provide guidance for further action.

42. The measures included the incorporation of legal advisers in all branches of the armed forces; they were responsible for ensuring that human rights considerations were taken into account in the planning and implementation of military operations. As a result, human rights awareness had been raised at all command levels and the relevant rules must be strictly obeyed. The advisers were supervised by two senior advisers within the General Command of the armed forces who supported the work of delegated inspectors. The army currently employed eight inspectors who monitored human rights compliance and assisted the Inspector-General of the armed forces in his work. They reported to the General Command of the armed forces, and in particular the Inspector-General, who was outside the line of command.

43. The Immediate Inspection Commission operated at the request of the Ministry of Defence, military commanders or the Inspector-General to provide a prompt response to any serious allegations relating to the application of military doctrine. It was composed of military personnel and civilians working for the military who had specialized knowledge of human rights principles. Inspections were conducted without prejudice to criminal or disciplinary proceedings.

44. **Mr. Arango Alzate** (Colombia), replying to question 19 of the list of issues, said that arbitrary arrest was unlawful under Colombian law and any violations were investigated promptly. Police action was subject to public oversight, and specific complaints procedures were in place for first-generation rights, such as the right to personal liberty.

45. With regard to pretrial administrative detention, he said that prevention was preferable to enforcement. Lawful deprivation of liberty was carried out in the case of *in flagrante* crimes or by judicial order. The police conducted some 100,000 operations daily and were fully aware of the rules applicable to pretrial detention. Relevant legislation was in place to protect citizens from arbitrary police action; the legitimacy of arrests was monitored by senior officers, specialized monitoring bodies and the judicial authorities. Pretrial administrative detention served to prevent drug-dealing on the street, indiscriminate terrorism, the proliferation of firearms, ammunition and explosives, and election-related offences; public order in Colombia clearly testified to its relevance. Strict checks were conducted in police stations and places of detention, and duty registers were kept to facilitate the identification of the officer conducting a given procedure. ICRC monitored detention conditions and procedures. The police management handbook contained information about first-generation rights, including personal liberty. As a result of those monitoring activities, complaints of arbitrary arrest had declined from 42 in 2008 to 20 in 2010.

46. **Ms. Lagos** (Colombia), replying to question 20, said that overcrowding was a long-standing problem in Colombian prisons. However, considerable efforts had recently been made to improve conditions. Eleven new prisons were being built with a total capacity of approximately 22,000; on completion, eligible prisoners would be transferred from particularly overcrowded prisons. Three prisons had been completed; the remainder were due for completion in August 2010. Conditions had also been improved in existing facilities

and new places had been created, which had helped to reduce overcrowding. In addition, progress had been made with regard to alternatives to imprisonment. Electronic tagging had been introduced and allowed prisoners with sentences of up to 8 years to serve their sentence at home while being electronically monitored. At present, 4,193 persons were serving their sentence at home. In parallel, the number of prison staff had been increased in order to meet demand in existing and future facilities.

47. With regard to the separation of persons awaiting trial from convicted prisoners, she said that Colombian prisons had separate yards; some were used by persons awaiting trial, others by convicted prisoners. To date, there were 25,793 persons awaiting trial and 55,258 convicted prisoners.

48. The National Penitentiary and Prison Institute had put forward a proposal for the systematic compilation of information relating to prisoners. The “comprehensive systematization of the penitentiary and prison system” project comprised an electronic database containing information on the names, sex, legal situation, occupation and location of all persons deprived of their liberty in Colombia. The database would also contain information on prisoners subject to special procedures such as indigenous persons, Afro-Colombians, pregnant women and breastfeeding mothers. Colombia had also undertaken important commitments with regard to the lesbian, gay, bisexual and transvestite community in the framework of the UPR mechanism.

49. Solitary confinement was governed by Act No. 65 of 1993, which provided for the establishment of a disciplinary board responsible for reviewing sanctions imposed on prisoners. The measure was monitored by the Public Prosecutor’s Office through municipal attorneys and prisoners’ representatives to ensure due process. In response to recommendations on solitary confinement by international human rights bodies, two circulars had been issued in 2007 and 2010 to ensure proper implementation of the relevant legislation and regulations. Procedures had been brought up to date to guarantee the rights of prisoners in solitary confinement, including access to health care, psychosocial support and contact with the outside world.

50. **Mr. Polanco** (Colombia), replying to question 21 of the list of issues, said that the National Prosecution Service had initiated two main investigations relating to illegal activities by the Colombian intelligence services. The first had been triggered by a magazine article concerning alleged illegal surveillance activities by the Administrative Department of Security (DAS) against Supreme Court judges in 2008. In response, the Director of DAS had requested an elite team from the Offices of the Public Prosecutor, the Procurator-General and the Comptroller General to investigate and clarify those incidents. The team had started its work the day following the publication of the article, a fact which testified to the Government’s commitment to transparency. The investigation had unearthed several files that had not been entered in the DAS records; they had been handed over immediately to the Public Prosecutor’s Office. It was not true that the files had been found in that Office.

51. The files had provided the basis for the second investigation into allegations of illegal activities by the secret DAS unit G-3 in 2004. The Government was eager to identify the offenders, who had also tapped the telephones of the Vice-Minister and the Chief of Police, among others, and to restore the honour of the almost 5,000 members of DAS who had been criticized by the media. No hasty conclusions should be drawn from media reports based on partial information. The Government, together with civil society, would do its utmost to ensure that transparent and independent investigations were conducted and the offenders brought to justice.

52. In the past 18 months, over 100 judicial proceedings had been instituted and DAS officers had volunteered for interviews to provide additional information. The Technical

Investigation Unit which worked for the police and the Public Prosecutor's Office had been provided with copies of all information collected by DAS over the past 20 years to ensure transparency. The Director of DAS had been the subject of an internal inquiry and had instructed his staff to cooperate fully with the overall investigation.

53. In order to prevent such incidents in future, with the involvement of all political parties Congress had on 5 March 2009 passed Act No. 1,288, which established a new framework for intelligence activities in Colombia. Under the Act, new mechanisms to oversee intelligence-gathering methods would be set up, including a parliamentary body. The Act provided for the adoption of a national intelligence plan, which set forth the intelligence community's mission and the challenges facing it. Any activity not provided for in the plan would be illegal. The Act further provided for the periodic review of intelligence and the establishment of the Centre for the Protection of Data, Intelligence and Counter-intelligence Files. The collection, processing and dissemination of intelligence and counter-intelligence information relating to characteristics such as sex, race, religion or political affiliation were prohibited.

54. DAS had established a human rights group and was developing a strategy for handling human-rights-related issues within the intelligence services. A copy of the publication setting forth the general guidelines for intelligence activities would be made available to the Committee.

55. The proposed new civilian intelligence agency in no way aimed at covering up the ongoing investigations, which were well under way. Several offenders had already been placed in pretrial detention, and all relevant information had been submitted to the investigators. The establishment of a new agency aimed at meeting Colombia's security needs, while correcting the serious structural flaws identified.

56. **Ms. Rey** (Colombia), also referring to the investigations into irregular activities by DAS, said that several high-ranking officials of the Supreme Court, the prosecution service and the judicial police were participating in the investigations, which had involved hundreds of judicial orders, judicial inspections and interrogations, and analysis of thousands of pieces of evidence. As a result, 30 persons had been indicted, 11 had been brought before the Supreme Court, and precautionary measures had been ordered against 10 DAS officials, including several of senior rank. In June 2009, the former deputy director of DAS had been formally accused in court. All investigations had been conducted with the participation of a senior member of the Procurator-General's Office responsible for overseeing proceedings to ensure transparency, due process and respect for victims' rights. Victims of the alleged DAS actions were entitled to participate in the criminal proceedings and submit evidence. The Procurator-General's Office had also instituted disciplinary proceedings, conducting over 50 visits and hearing more than 50 statements. As a result, 19 civil servants had been charged with disciplinary offences.

57. **Ms. Abaunza Millares** (Colombia), replying to question 22 of the list of issues, said that the Constitutional Court had clearly defined the restricted scope of military criminal justice. Some 200 staff within that justice system had received training on human rights issues. Regional workshops had been run for staff from both justice systems, providing an opportunity for them to reach joint decisions on cases where it had been unclear which jurisdiction should be used. The military justice system was being updated to introduce the adversarial procedure, which was used in the ordinary courts. A bill currently under consideration would restrict the scope of military criminal justice in cases involving human rights abuses; it had been approved by the Constitutional Court.

58. **Mr. Alonso Sanabria** (Colombia) said that the High Council of the Judiciary was responsible for resolving cases in which there was a conflict between two or more jurisdictions. Such conflicts tended to arise in cases involving military personnel on active

service who were tried in ordinary courts. Cases of crimes against humanity committed by members of the military or the police were not referred to military criminal courts under any circumstances. The decisions of the Constitutional Court clearly indicated that cases in which there was doubt as to whether an offence had been committed in the course of duty should be tried in the ordinary courts. Moreover, the High Council of the Judiciary had made it clear that, in case of doubt, the ordinary justice system should be used. Since 2008, 261 such conflicts had been referred to the Council. A total of 182 of them had met all the Council's criteria for reaching a decision, and 93 per cent of those cases had been referred to the ordinary courts.

59. **Ms. Rey** (Colombia), replying to question 23, said that under the Justice and Peace Act all persons who had reported an offence allegedly committed by a demobilized illegal armed group had the right to attend open hearings. Once victims had been identified, they had access to the proceedings. Victims were assigned legal representation by the Office of the Ombudsman if they were unable or unwilling to appoint their own counsel. Over 66,000 victims had been identified to date as having official legal representation, and some 38,000 of them had received psychosocial assistance.

60. **Ms. Abaunza Millares** (Colombia), replying to question 24, said that in 2009 the Constitutional Court had ruled that, since the legislation on exemption from military service was in accordance with the Constitution and there was no legislative lacuna in that respect, Congress should regulate the right to freedom of conscience. A bill to that effect was currently pending in Congress.

61. **Ms. Rey** (Colombia), replying to question 25, said that statements by the President had not sought to stigmatize human rights defenders. The Government recognized the significant contribution those people made in putting human rights issues on the national agenda and defending the rights of victims of human rights abuses. Special protection was provided to all who needed it. Several initiatives had been taken to raise awareness of the need to protect human rights defenders, including a 2009 directive from the Ministry of the Interior reminding local authorities of the importance of their work and the need to protect them. Regional meetings had also been organized between the police and human rights defenders.

62. In May 2010, the Government had tabled a bill to amend the Criminal Code by increasing the penalties for persons found guilty of murdering, threatening or abducting human rights defenders to up to 56 years' imprisonment. The police had created a new unit to investigate threats against human rights defenders. The Government nonetheless recognized that much remained to be done in order to provide effective protection for human rights defenders who received threats. The budget for the Ministry of the Interior's protection programme had increased from US\$ 13 million in 2002 to over US\$ 62 million in 2010. In 2009, protection had been provided for over 3,000 human rights defenders, over 1,500 trade unionists, over 1,000 community leaders, over 500 NGO members and over 700 journalists. Protection had also been provided to members of 18 rural indigenous and Afro-Colombian communities considered to be at risk.

63. **Ms. Arango Olmos** (Colombia) added that four women human rights defenders had recently been abducted by an illegal armed group, reportedly the National Liberation Army. One of them had been working with the Presidential Programme of Human Rights and International Humanitarian Law and the others were members of NGOs working in Colombia. She urged the international community to call for their immediate release.

64. **Ms. Rey** (Colombia), replying to question 26, said that the Justice and Peace Unit was giving priority to investigations of several serious human rights violations, including forced recruitment. The Unit had gathered information on over 3,500 children who had been identified as possible victims of forced recruitment. To date, some 773 charges had

been brought against persons responsible for recruiting or using children in paramilitary and guerrilla groups.

65. **Ms. Fonseca** (Colombia), replying to question 28, said that collective property rights in Colombia were inalienable, imprescriptible and immune from distraint. Legislation was in place recognizing and protecting the collective property of Afro-Colombian communities on the basis of their cultural and ethnic identity, notably Act No. 70 of 1993, which was principally implemented by issuing collective property titles. To date, some 170 such titles had been issued to Afro-Colombian communities, covering over 5 million hectares of land and benefiting over 3,000 families. About 35 per cent of the national territory belonged to indigenous communities. To date, some 154 *resguardos* (reserves) had been legalized, benefiting over 15,500 indigenous families and constituting a significant development in terms of restitution of land to indigenous communities. The Government was working with the private sector to draw up guidelines on the sustainable production of biofuels based on such fundamental principles as compliance with the law, mitigation of climate change and preserving biodiversity.

66. Replying to question 29, she said that Colombia had ratified the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) in 1991. Given that the Convention had constitutional status, it took precedence over domestic legislation. Working groups on prior consultation had been set up by the Ministry of the Interior, and 311 prior consultations had been carried out since 2003. The bill on prior consultation was currently proving somewhat challenging; the Government would send the Committee additional details on its status in writing.

67. Turning to question 30, she said that the Covenant was widely disseminated by the Government and State bodies on their websites. The Government's reports to treaty bodies and all concluding observations were also posted on the website of the Ministry of Foreign Affairs.

68. **Mr. Pérez Sánchez-Cerro** recalled that, in a 2006 report, the Representative of the Secretary-General on the human rights of internally displaced persons, Mr. Walter Kälin, had recognized that some of the underlying causes of displacement and many of the obstacles to durable solutions to that problem were linked to questions of land ownership and property entitlements that had not been properly solved over decades. There had been numerous allegations that indigenous land and Afro-Colombian collective property had been acquired in violation of the Constitution and domestic legislation, resulting in over 6 million hectares of agricultural land being abandoned over the previous 10 years. It would be useful to know what steps the State party would take to improve its implementation of the National Plan for Comprehensive Care of the Population Displaced by Violence, ensure there was sufficient funding to implement the Plan and enable displaced persons to return home.

69. The Committee would appreciate information on the measures the State party was taking to implement legislation regulating the right to prior consultation in accordance with ILO Convention No. 169.

70. He would welcome the delegation's comments on the Constitutional Court ruling upholding the right to conscientious objection and on the reasons why it had not been published.

71. Even when the planned new prisons had been built, the prison population would still exceed the capacity of all the country's prisons. He therefore asked how the State party planned to address the problem of prison overcrowding. In particular, it would be useful to learn whether separate facilities would be available for all pretrial detainees and whether steps would be taken to reduce the number of such detainees.

72. **Mr. Salvioli** welcomed the steps the Government was taking to investigate and punish the intelligence services' monitoring of civil servants, judges, civil rights defenders, journalists and even members of the Inter-American Human Rights Commission. He noted that Act No. 1,288 provided that all persons who revealed classified information, and not just members of the intelligence and counter-intelligence services, were liable to 5 to 8 years' imprisonment. He asked whether that did not impose too severe a restriction on the right of the public in general and the media in particular to have any sort of oversight of the work of the intelligence and counter-intelligence services. He also wished to know why that Act required civil servants to report crimes against humanity, but no other human rights violations. He asked how the State party would ensure that the members of the parliamentary commission to monitor intelligence and counter-intelligence activities would be truly independent and impartial.

The meeting rose at 1.05 p.m.