



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.
GENERAL

CAT/C/COL/CO/3/Add.2
24 September 2008

ENGLISH
Original: SPANISH

COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 19 OF THE CONVENTION**

**Comments by the Government of COLOMBIA* ** on the
conclusions and recommendations of the Committee
against Torture (CAT/C/CR/31/1)**

[16 October 2007]

* The annexes to this document are available at the secretariat.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Introduction

1. This document reports on the follow-up to some of the conclusions and recommendations of the Committee against Torture on the third periodic report of Colombia (CAT/C/CR/31/1).

“Peasant Soldiers” programme

2. Under the Constitution, “all Colombians are obliged to take up arms when the imperatives of State so require, in defence of national independence and State institutions”, except where exempted by the legislation on military recruitment. The Peasant Soldiers programme, then, is one component of the military configuration and, in the context of the democratic security policy, has made a significant contribution to the security forces’ success in combating all perpetrators of violence.

Prosecutors’ offices in military units

3. With regard to the establishment of prosecutors’ offices in military units, bearing in mind that these are representatives of the Attorney-General’s Office and work in complete independence, and given the nature of military operations, the role played by these officials in the various procedures - raids, capture of prisoners and removal of bodies - is of vital importance and facilitates the work of the security forces, within the framework of the law and with due regard for the jurisdiction of each entity. There is an inter-agency agreement on this subject.

4. From a government policy standpoint, under the National Development Plan 2006-2010, approved by Act No. 1,151, of 2007, the following human rights initiatives are envisaged to protect human rights defenders:

(a) Strengthen prevention;

- (i) Increased decentralization through the provision of training and advice to help local authorities to include strategies to prevent violations of human rights and international humanitarian law in their development, land-use and contingency plans;
- (ii) Introduction of the Early Warning System and the consolidation of a State information system;
- (iii) Design and implementation of learning strategies for communities so as to put human rights values at the centre of civil society’s response and prevent and deter threats and attacks from the various illegal armed groups;
- (iv) Maintenance of programmes to protect human rights defenders, trade unionists, indigenous advocates and social activists who are being persecuted and threatened;

(b) Launch initiatives for emergency prevention, protection and care, create conditions for the resettlement of the displaced population, and strengthen the comprehensive system for dealing with the problem of forced displacement;

(c) Implement special measures to improve the application of international humanitarian law, by removing children from armed conflict, implementing the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction and creating a Fund against Anti-personnel Mines;

(d) Strengthen the Special Committee to Promote the Investigation of Human Rights Violations and justice administration bodies, and ensure supervision and monitoring of judicial proceedings in respect of such violations;

(e) Formulate a national plan of action on human rights to guide and coordinate State action in the short, medium- and long-term, which will contain inter-agency agreements and social consensus on the establishment of areas for priority attention. In parallel with this process, the Ombudsman's Office will design and implement a model for follow-up, evaluation and monitoring of public policies with human rights implications. Lastly, as part of this process, the Office of the Vice-President will be given a clear mandate to coordinate the President's human rights programme. A standing invitation to participate in this process will be extended to international agencies and NGOs.

5. The Government takes the threats against members of human rights organizations very seriously¹ and has taken steps to strengthen the protection provided to them and their families.

6. In that regard, the President's Human Rights and International Humanitarian Law Programme has been coordinating precautionary measures with the Human Rights Unit of the Directorate-General of the National Police and the Human Rights Department of the Ministry of the Interior and Justice, with the aim of preventing any attack on the integrity of persons under threat.

7. In addition to the above, the President's programme is represented on several risk-control and evaluation committees in the protection programmes led by the Ministry of the Interior and Justice, which have reviewed the situation regarding the José Alvear Restrepo lawyers' collective, the National Union of Food Industry Workers (SINALTRAINAL), and the Women's Popular Organization, among many others, and taken steps to guarantee the safety of those affected in their work as human rights defenders and union leaders. There have also been meetings to review existing measures and adopt new ones.

¹ In a communiqué, the President of the Republic expressed "his sorrow and revulsion at the murder of Ms. Yolanda Izquierdo in the city of Montería. The competent authorities have offered a 50 million pesos reward to anyone providing information leading to the capture of those who planned and carried out the crime. As a precautionary measure, the President has asked the judicial police, with the assistance of the prosecutor's office, to seize the assets that those tried under the Justice and Peace Act are required to surrender for the compensation of victims. This decision was taken to prevent assets from disappearing, be it through bogus companies, contracts of various kinds, burglary or official negligence, which would make it difficult to compensate the victims." Office of the President of the Republic of Colombia, communiqué No. 17, 1 February 2007.

8. The President's Human Rights and International Humanitarian Law Programme has also asked the National Directorate of Public Prosecutions to investigate these threats and is coordinating with the Criminal Investigation Department (DIJIN) to launch a thorough investigation to establish the origin of some of the threats (those received in 2006 and 2007) in conjunction with the Colombian State's investigative body.

9. As a result of the efforts of the various State agencies, the number of violations against human rights defenders declined in 2007, as shown by the following table:

Violations	January-July 2006	January-July 2007	Change (percentage)
Homicide: indigenous people	30	27	- 10 %
Homicide: trade unionists (other)	12	6	- 50 %
Homicide: teachers (union members)	22	13	- 41 %
Homicide: teachers (non-union members)	12	3	- 75 %
Homicide: journalists	1	1	0 %

10. Lastly, the Ministry of Defence has issued ministerial directive No. 10, of 2007 (annexed), recalling that the Armed Forces, as the body responsible for implementing and enforcing the Constitution and the law, and to prevent homicide against protected persons, have an obligation to act with legality, necessity and proportionality, and that the military must therefore adhere unconditionally to humanitarian standards.

11. The measures taken to implement international humanitarian law are preventive, supervisory and legislative. The ministerial directive states that all military action should be guided by the principles of legality, discernment, necessity and proportionality. Given the situation and the new methods used by illegal armed groups, which increasingly operate in small units in civilian clothing, the military must spare no effort to identify the civilian population and protect it at all times.

12. In order to monitor compliance, the directive itself establishes a committee to follow up complaints of alleged killings of protected persons, with the task of:

- (a) Providing support as necessary to any criminal and disciplinary investigations that may be required;
- (b) Strengthening controls and making recommendations to the Commanding Officers' Meeting;
- (c) Analysing the factors influencing the occurrence of such events;
- (d) Meeting regularly with international agencies involved in the issue in order to obtain and evaluate any information they can provide.

Combating impunity

13. In recent years the Government of Colombia has put in place a State policy to combat impunity for violations of human rights and breaches of international humanitarian law. The overall aim of the policy is to remove the obstacles preventing or hindering the investigation of violations of human rights and breaches of international humanitarian law, the punishment of perpetrators and the compensation of victims.

14. The following procedure was used to establish this policy.

15. In 1998 the Government issued Decree No. 2,429 “establishing the Special Committee to Promote the Investigation of Violations of Human Rights”. The Committee’s mandate was as follows:

- (a) To pursue initial enquiries into human rights violations;
- (b) To coordinate, supervise and monitor investigations;
- (c) To report on the outcome.

16. In 2001, as part of an inter-agency project, parameters and a broad programme of work were drawn up for the formulation of a policy to strengthen the State’s capacity to investigate and punish violations of human rights and breaches of international humanitarian law. The programme of work comprised:

- (a) Launching a certain number of proceedings;
- (b) Strengthening the protection systems for those conducting investigations;
- (c) Training officials and providing them with technical support in their work;
- (d) Development of alternative dispute resolution mechanisms;
- (e) Building a network for inter-agency communication and coordination.

17. In July 2003 the Government signed an international cooperation agreement with the Government of the Netherlands on establishing the basis for an inter-agency management and coordination strategy to combat impunity for violations of human rights and breaches of international humanitarian law. The agreement, which is still in operation, has the following aims:

- (a) To formulate and implement a policy to combat impunity;
- (b) To launch and pursue a number of proceedings in cases of violations of human rights and breaches of international humanitarian law.

18. Document No. 3,411 of the Council for Economic and Social Policy (CONPES), of the National Planning Department (Policy for combating impunity for violations of human rights and breaches of international humanitarian law by strengthening the capacity of the Colombian State to investigate, prosecute and punish), was adopted on 6 March 2006.

19. The policy for combating impunity is coordinated with other Government strategies and plans so as to avoid duplication of work, and the relevant agencies are being encouraged to cooperate more closely.

Forensic investigation

20. Training of forensic staff on the question of torture, and in particular on the application of the Istanbul and Minnesota Protocols, has attracted much interest in the competent agencies. Specifically, a course on the Istanbul and Minnesota Protocols was given in November 2006 by the National Institute of Forensic Medicine and Sciences (see annex, "Topics and speakers").

21. Similarly, in compliance with the Inter-American Court of Human Rights judgement of 12 September 2005 (*Wilson Gutiérrez Soler v. Colombia*), finding the State of Colombia internationally responsible for the human rights violation, a training seminar on the Istanbul Protocol was organized at the request of the Ministry of Foreign Affairs and in cooperation with the Colombian office of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

22. The aim of the seminar was to raise awareness and provide training ahead of the implementation of the Protocol, in order to ensure understanding of the international guidelines on the proper handling of victims, documentation and the effective investigation of offences, bearing in mind that one basic means of protecting individuals against torture is to make a careful record of physical and psychological injuries so that the perpetrators can eventually be punished and similar acts prevented in future.

23. The seminar attracted broad participation from agencies considered to be central to the implementation of the Protocol:

- (a) Attorney-General's Office (including Technical Investigation Unit (CTI) and Criminal Investigation Department (DIJIN));
- (b) Judiciary;
- (c) National Police;
- (d) Military criminal justice system;
- (e) Department of National Security (DAS);
- (f) Ombudsman's Office;
- (g) Procurator-General's Office;
- (h) National Prison System Institute (INPEC);

- (i) National Institute of Forensic Medicine and Sciences;
- (j) Army and Navy;
- (k) Ministry of Foreign Affairs;
- (l) Ministry of the Interior and Justice.

24. The officials who attended the seminar will act as trainers within their agencies in order to raise awareness of the Protocol and its importance in the investigation of torture.

25. In addition, in order to ensure the proper administration of justice, instructions have been issued that autopsies shall be conducted with all due scientific and legal rigour. The autopsy protocol developed by the United Nations for human rights-related cases, as published in the *Boletín de Patología Forense* of the National Institute of Forensic Medicine and Sciences (see annex), is applied. Digital cameras are also available in many of the local units around the country, which make investigation easier (see annex: Inventory).

26. The following guidelines are also applied in forensic studies (see annexes):

- (a) Brief guide to forensic sexological examinations, expert reporting and use of the forensic and health-sampling kit;
- (b) Autopsy manual;
- (c) Practical handbook for forensic odontological examinations;
- (d) Manual for identification of bodies;
- (e) Technical regulations for a comprehensive forensic approach to family violence;
- (f) Technical regulations for determining level of intoxication.

27. Lastly, the Attorney-General's Office makes no distinctions when required to investigate punishable offences of any kind, either in respect of who the perpetrator, or their social standing, or their position or function, in accordance with the provisions of the Constitution on fundamental rights, due process and the proper administration of justice, inter alia.

28. As to cases of violations of the right to life where there are indications of torture and, in particular, sexual violence, the relevant communications have been sent to local prosecutors and the recommendation has been sent to CTI headquarters and the National Institute of Forensic Medicine and Sciences to be applied by them in accordance with their competencies and to ensure awareness of the views of the Committee against Torture.

29. The Attorney-General's Office complies with its constitutional and legal duty and the recommendations are and will continue to be applied in the terms proposed, so as to ensure that justice in Colombia is administered efficiently and effectively, it being the task of the National Directorate of Public Prosecutions to supervise investigations conducted by prosecutors and their offices and evaluate the results, as provided by Act No. 938 of 2004.

Independence and safety of prosecutors

30. According to information provided by the Chief of the Human Rights and Humanitarian Law Unit of the Attorney-General's Office, the prosecutors in that Unit are independent and impartial and have not been subjected to undue interference or restrictions but have been free to investigate human rights violations without regard to the identity of the perpetrators.

31. When required by the National Human Rights Unit, the Government, through the Office of the Vice-President, provides whatever support is needed in the form of military or police units to ensure the safety of judicial officials while they are in areas where breaches of the peace have occurred, as well as providing the necessary resources for the purpose.

32. In addition, the Technical Studies Coordinating Office of the Security and Logistical Support Section at CTI headquarters has been conducting risk and threat assessments at the central level and provided guidance on assessments done around the country by the various CTI offices in areas where officials are under threat.

33. Security precautions are taken on the basis of these studies, ranging from recommendations on self-protection to the establishment of a security scheme. This protection work is supported by the National Police.

34. Security schemes are currently in place for a number of chiefs and prosecutors from national and local prosecutors' offices, including the Human Rights and International Humanitarian Law Unit.
