



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

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Summary record of the 908th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 10 November 2009, at 10 a.m.

Chairperson: Mr. Grossman

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Fourth periodic report of Colombia (CAT/C/COL/4; CAT/C/COL/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Colombia took places at the Committee table.*
2. **Mr. Garzón** (Colombia), introducing Colombia's fourth periodic report (CAT/C/COL/4), said that his country had demonstrated its firm commitment to the safeguarding of human rights during the seven-year period since the submission of its previous report. The Government continued to pursue a policy of transparency vis-à-vis the international community in the area of human rights, voluntarily assuming obligations and accepting the recommendations of the universal periodic review (UPR) mechanism issued in late 2008, many of which related to the prevention and elimination of torture. The Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people had visited Colombia during the current year at the Government's invitation. The Special Rapporteur on the independence of judges and lawyers would visit the country in the second week of December 2009.
3. Torture and other practices incompatible with human dignity were prohibited by the Colombian Constitution and other legislation. The Government was therefore opposed to all forms of torture and ill-treatment and supported administrative disciplinary bodies and the judiciary in investigating and prosecuting those responsible for such conduct.
4. The democratic security policy aimed at combating criminal activities by illegal armed groups and drug-traffickers formed part of a comprehensive human rights policy. It had succeeded in safeguarding the rights of all persons, both nationals and foreigners, residing in Colombia and in reducing the incidence of violent deaths, terrorist activity and kidnapping. Yet in recent years the Colombian State and people had continued to be subjected to the worst forms of torture, namely the inhuman practices of kidnapping and the use of anti-personnel mines by illegal armed groups, especially guerrilla groups.
5. The Government regarded international human rights procedures as a valuable opportunity to continue tackling existing difficulties and shortcomings. It looked forward with an open mind to receiving the Committee's recommendations.
6. **Mr. Concha Sanz** (Colombia) said that article 12 of the Constitution prohibited enforced disappearance and also torture and cruel, inhuman or degrading treatment, and article 30 enshrined the right of habeas corpus. Articles 137 and 178 of the Criminal Code, which provided for the punishment of perpetrators of acts falling under article 12 of the Constitution, and article 295 of the Code of Criminal Procedure went even further than was required under the Optional Protocol to the Convention against Torture. Colombia had also ratified international treaties such as the Model Protocol for an Investigation of Extra-Legal, Arbitrary, and Summary Executions (Minnesota Protocol) and the Istanbul Protocol.
7. In December 2008 Colombia had accepted 73 voluntary commitments and some 70 recommendations under the UPR mechanism and had presented two progress reports on their implementation. It also implemented the annual recommendations of the OHCHR Office in Colombia and complied with the interim and provisional measures and other rulings of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

8. Colombia had developed sound practices for the prevention and elimination of torture, including the policy to counter impunity developed in National Council for Social and Economic Policy document No. 3411 of 2006. The policy was applied by the Office of the Prosecutor General, the Office of the Attorney General and the Office of the Ombudsman.

9. Colombia had also adopted a prison policy to deal with the problem of overcrowding and to rehabilitate prisoners. Eleven new prisons were now in use and human rights “consuls” had been appointed to handle prisoners’ grievances.

10. The Office of the Prosecutor General had set up specialized units to promote effective investigations of torture and ill-treatment, and the judicial system had expedited the decision-making process to ensure speedier prosecution of suspects. Information-gathering for the formulation and adoption of public policy had also been systematized.

11. **Mr. Marín Arias** (Colombia) said that the forensic physicians working for the National Institute of Forensic Medicine applied the Istanbul Protocol when assessing cases of non-fatal injuries attributed by the victim to the use of torture. A careful physical examination was undertaken to detect signs of torture and the victim’s mental state was assessed. In the case of fatal injuries, all the physicians were able to identify possible cases of torture and sexual offences, in accordance with the Minnesota Protocol. Such examinations were mandatory in the case of homicides involving suspected human rights violations, deaths in the context of deprivation of liberty and armed conflict, exhumation of corpses from illegal graves and suspicious deaths among members of vulnerable groups, such as trade union leaders and human rights defenders.

12. In documenting such cases, the National Institute used the system of epidemiological vigilance in respect of injuries from external causes and the network information system on missing persons and corpses, which contained variables for documenting signs of torture and determining possible attackers and membership of vulnerable groups. Forensic physicians working for the Institute described in detail all signs of torture, specifying whether they were attributable, for example, to sexual abuse, beatings or quasi-suffocation.

13. Act No. 589 of 2000 defined the offences of enforced disappearance, torture and genocide, and article 9 required the Government to create a National Registry of Missing Persons, which was consulted as and when necessary by forensic physicians. The physicians applied guidelines based on the Istanbul Protocol and the Minnesota Protocol whenever they suspected that torture or ill-treatment had taken place. The quality of the forensic pathology was reviewed by experts, who vetted, for instance, the description of injuries likely to cause pain, signs of enforced immobilization or sexual abuse, and background details on attempts to conceal a corpse or prevent its identification.

14. The two most recent Congresses on Legal Medicine and Forensic Sciences had focused on human rights. A virtual training course for forensic physicians contained a separate chapter on human rights. A number of workshops on the application of the Istanbul Protocol had also been held in conjunction with other bodies, including the United Nations Office on Drugs and Crime. The technical forensic regulations were being revised and updated in the light of the two Protocols he had mentioned.

15. **Ms. Suárez** (Colombia) said that the Office of the Prosecutor General was responsible for prosecuting cases of torture that fell under article 12 of the Constitution and the provisions of the Criminal Code, which defined torture as a crime against humanity in the context of an internal armed conflict, in accordance with common article 3 of the Geneva Conventions, and otherwise simply as the crime of torture. Colombia also scrupulously complied with principle 6 of the United Nations Basic Principles on the Independence of the Judiciary, which required the judiciary to ensure that judicial

proceedings were conducted fairly and that the rights of the parties were respected. The Office of the Prosecutor General ensured that cases brought to its attention by means of a complaint or report or through official channels were impartially investigated. Accused persons were guaranteed a public trial and victims were entitled to reparations.

16. The Office of the Prosecutor General had branches throughout the country and had established a National Human Rights Unit in 1995, which had later been expanded to cover international humanitarian law. A total of 7,873 cases had been brought to the attention of the Unit since its creation, of which 5,549 were currently active. Special units had been set up to deal with enforced disappearances, sexual violence, indigenous peoples, the inter-American human rights system, recruitment of child soldiers, child trafficking and criminal gangs. There were also units to provide support and care for victims.

17. Public officials who committed serious human rights violations such as torture, who were linked with illegal groups or who were guilty of homicide were prosecuted in accordance with article 15 of the United Nations Guidelines on the Role of Prosecutors.

18. **Mr. Concha Sanz** (Colombia) said that while the Colombian State was confident that it had made considerable headway towards overcoming existing problems, it nonetheless acknowledged that a great deal remained to be done. It undertook to enhance the effectiveness and efficiency of the judiciary, to provide training courses in human rights and international humanitarian law for civilian and military officials, to improve the information systems used to formulate public policy, and to ensure zero tolerance for human rights violations in general and torture in particular.

19. **Mr. Garzón** (Colombia) assured the Committee that its recommendations would form the basis of an open dialogue between civil society and the Government in his country, whose top priority was to bring all forms of violence to an end and to pursue a comprehensive policy aimed at ensuring respect for human rights.

20. **Mr. Mariño Menéndez**, First Country Rapporteur, said that in the course of the universal periodic review of Colombia before the Human Rights Council on 10 December 2008, the State party had recounted many of its efforts to promote peace and to ensure that the rule of law applied equally throughout its territory. Despite making allowances for the particular difficulties impeding the implementation of public policy in Colombia, he nevertheless felt it his duty to recall that nothing could ever justify the use of torture. His comments would not pertain to the actions of Colombian guerrillas or paramilitary forces, which could be the subject of an additional report if that was considered necessary. The establishment by the State party of a comprehensive human rights policy, the introduction of an early warning system to prevent enforced displacements and the strengthening of efforts to combat impunity demonstrated its commitment to eliminating violations of domestic and international law, in particular the provisions of the Convention.

21. From the standpoint of international law, the prohibition of torture was absolute, which meant that there could be no justification whatsoever for torture, not even the protection of State security in the event of grave danger. Under international law, torture was an offence in its own right and was not subsumed in the definition of other criminal offences. The Colombian authorities should therefore consider torture as separate from other criminal offences that might occur in conjunction with it. On the other hand, torture was included in the definitions of genocide, crimes against humanity and war crimes as one form of those offences. Under the Rome Statute of the International Criminal Court, which was binding on Colombia, torture could constitute a crime against humanity, irrespective of whether it was committed in peacetime or in times of armed conflict. Colombia's definition of torture must therefore not limit the characterization of torture as a crime against humanity to its commission during an armed conflict. Moreover, crimes against humanity

and war crimes could not be subject to any statute of limitations, nor could they not be pardoned by amnesty.

22. It should be noted that extrajudicial execution and enforced disappearance were often linked to torture and, in fact, enforced disappearance itself constituted torture. Extrajudicial execution was, in most cases, accompanied by torture; therefore, an investigation into an act of extrajudicial execution usually also entailed an investigation into torture.

23. NGOs had apparently not been consulted during the preparation of Colombia's fourth periodic report, and he wished to know whether that decision had been politically motivated. There seemed to be a contradiction between the information presented by the State party in its periodic report and that provided by other sources, given that the latter indicated the existence of a widespread and consistent pattern of torture employed for the purposes of political persecution, discrimination and punishment. There had also been reports that, in investigating allegations of torture, the Office of the Public Prosecutor and the judiciary tended to place acts of torture in other criminal-offence categories, which had the effect of reducing the number of cases of torture per se. That tendency might account for some of the contradictions observed when comparing statistics. Moreover, the number of convictions for torture against members of the security forces appeared to be very small in relation to the number of complaints of torture.

24. One of the ways in which torture was concealed was through extrajudicial executions. On his visit to Colombia in June 2009, the Special Rapporteur on torture had noted the phenomenon of "false positives", which related to the extrajudicial killing by the Colombian army of civilians who were subsequently presented as guerrilla casualties in order to inflate the body count. The behaviour of military officers was reportedly influenced by instructions from the Ministry of Defence, which awarded financial compensation and promotions to officers who claimed the highest body counts. He asked whether those practices were continuing, and if so, whether the Government was taking appropriate measures to punish those who engaged in them. A State governed by the rule of law could not allow its public officials to commit such atrocities, much less be given an institutional incentive to kill.

25. The opening of mass graves, which had been ordered as part of the Government's commitment to search for disappeared persons, had revealed large numbers of bodies and enabled many to be identified. He asked whether it had also led to the institution of criminal proceedings against individuals suspected of killing the persons whose bodies had been found in the graves, many of whom had presumably been tortured. He enquired whether the exhumation of bodies was still being carried out by military personnel. In the new Military Criminal Code, provision had been made for a military technical body to take charge of the exhumation and identification of bodies. Given the particular situation of Colombia, it would, in his view, be more appropriate for the task to be assigned to public authorities outside the military.

26. He enquired whether the Government was aware that new criminal paramilitary groups had been formed in recent years. Efforts by the State to combat paramilitarism would almost inevitably give rise to problems of complicity and lack of transparency on the part of public officials. He asked what steps the Government was taking to deal with the new groups.

27. With regard to articles 2 and 4 of the Convention, he had taken note of a range of problems relating to guarantees intended to protect citizens from torture and inhuman treatment. He requested information on the application of habeas corpus, which the State party had elevated to the rank of constitutional guarantee. It appeared, however, that the application of habeas corpus was very limited, possibly owing to a lack of information,

inaction or citizens' fear of exercising that remedy. He asked whether the *amparo* remedy before the Constitutional Court could be exercised in cases of arbitrary detention and whether there were any statistics relating to its use.

28. He noted with concern that the Committee had received reports of mass beatings and arbitrary detention, which, by definition, amounted to a failure to provide procedural guarantees. He asked whether the Government had received reports of such violations, and if so, what steps it had taken to deal with them. He requested information on how long suspects were in practice held in police custody prior to being brought before a judge and how long they could be kept in a high-security prison. In that connection, he would appreciate more details concerning the human rights committees that had been set up in prisons to monitor respect for human rights. He asked whether the designation of judges responsible for prison oversight had had the effect of minimizing the importance of the work of those committees.

29. There had been reports of the harassment of Supreme Court judges by the intelligence services, which were directly answerable to the President, in relation to actions that were legitimately within the judges' competence. He asked whether there was distrust of Supreme Court judges and what measures the Government planned to take to address that problem. There had also been reports of the invasion of privacy of human rights defenders and the harassment of victims whose claims were being examined in accordance with the 2005 Justice and Peace Act.

30. As to the State party's efforts to combat impunity, he would appreciate additional information on the implementation of the Justice and Peace Act, with particular reference to the 19,000 demobilized soldiers who had been declared innocent of serious violations of human rights. He would also like to know how many of the 30,000 suspected paramilitary fighters had been identified as such and how many had been convicted. Such questions were very important to victims and their families, to human rights defenders and to efforts to uphold the rule of law.

31. He asked what was the legal situation of persons whom the courts were not able to convict under the Justice and Peace Act, particularly as a result of application of Decree No. 128/2003. He enquired whether the evidence given by paramilitary fighters in court had helped to shed light on the truth and to establish links between members of paramilitary forces and elected officials and other public servants. He requested an explanation as to whether the extradition to the United States of 18 paramilitary leaders on drug-trafficking charges meant that those individuals would not be prosecuted for crimes against humanity or war crimes.

32. The existing procedures for the inspection of prisons and other places of detention appeared to exceed the requirements laid down in the Optional Protocol to the Convention against Torture. Given that the provisions of the Optional Protocol were quite stringent, it seemed unlikely that Colombia's legislation was already in compliance with all its provisions. For that reason, it was difficult to understand why Colombia had not yet ratified the Optional Protocol.

33. It would be useful to have an assessment by the Government of the effectiveness of its early warning system, which had been designed to prevent the enforced displacement of Colombians. In the context of the policy to combat enforced displacement and taking into account the judgements of the Constitutional Court on the implementation of that policy, he wished to know what measures had been taken to protect the most vulnerable persons in the event of enforced displacement, including Afro-Colombians, indigenous persons, women, children and older persons.

34. With regard to article 3 of the Convention, he asked whether a foreigner in the process of being expelled from Colombia had recourse to protection proceedings (*acción de*

tutela) before the Constitutional Court in order to suspend his or her expulsion. He enquired whether Colombia had concluded agreements with neighbouring countries in order to protect Colombian refugees who had fled there.

35. Concerning the exercise of criminal jurisdiction, he noted that there appeared to be a number of jurisdictional conflicts stemming from the fact that the military criminal courts continued to adjudicate cases that did not fall within their competence. He would appreciate having the Government's assessment of that situation.

36. Lastly, he wished to know whether the Government was willing to consider establishing alternative rules for the selection of candidates for the office of Prosecutor General that guaranteed a greater degree of independence for that office than was currently the case and that did not involve the nomination of candidates by the executive.

37. **The Chairperson**, Second Country Rapporteur, commended the Colombian Government for its open-door policy and its acceptance of visits to Colombia by United Nations Special Rapporteurs on various subjects. Colombia had made progress on many fronts, including the ratification of a number of international conventions, the enactment of domestic legislation to protect fundamental rights and the ratification in 2002 of the Rome Statute of the International Criminal Court, whose entry into force for Colombia had been suspended until 2009.

38. As to article 10 of the Convention concerning education and information regarding the prohibition against torture, the National Institute of Forensic Medicine had issued a circular making it compulsory for medical personnel to apply the Istanbul and Minnesota Protocols and had established a system for the certification of doctors who specialized in forensic pathology. He asked in what areas of the country the Institute had begun certifying doctors and whether in-service training was provided in order to ensure that the subjects taught in training programmes were thoroughly assimilated.

39. In its reply to question 12 of the list of issues, the State party had indicated that the army had organized a campaign aimed at promoting human rights. He enquired whether that campaign included specific objectives relating to incidents of sexual violence that had occurred in the armed forces. He wished to know whether the campaign had produced any results and whether civil society organizations and academic institutions had participated in its preparation and evaluation. He requested a description of the policy set out in circular No. 630,134 of May 2009 issued by the Ministry of Defence concerning respect for women's rights. He enquired whether the joint programme to eradicate gender-based violence had been linked in any way to incidents of gender violence within the armed forces.

40. Turning to article 11 of the Convention, he asked whether the data gathered through the National Penitentiary and Prison Agency's information system was available to the families of detainees and disappeared persons, and whether that system was linked to other networks for the collection of data on disappearances. It would be useful to hear the State party's reaction to reports that detainees' human rights committees in prisons had lost their independence since they had been required to report to prison governors. He asked whether a gender perspective had been included in the establishment of the human rights consul system in prisons. On the issue of isolation measures, he asked who determined what constituted the "serious misconduct" which could lead to isolation being ordered and whether there was any relevant jurisprudence in that respect. He also wished to know when the 11 new prisons provided for in the National Council for Economic and Social Policy document No. 3,277 of 2004 would become operational. It would be useful to have updated information on the use of electronic surveillance systems in prisons. The Committee would welcome information on the extent to which the small team of mental health specialist staff recruited by the National Penitentiary and Prison Agency was able to provide treatment and

care for prisoners with psychiatric problems. In particular, it would be interesting to learn whether there were plans to increase the number of those staff, and whether any such expansion would include participation by civil society and academia.

41. Concerning article 12, the Committee would appreciate further information on measures to implement the Constitutional Court's judicial decree No. 92 of 2008 concerning sexual violence in relation to armed conflict. He asked what steps had been taken to improve the reporting of cases of sexual violence, the investigation of such crimes and the level of cooperation between the Prosecutor General and human rights NGOs. What budgetary resources had been allocated to implementing the Prosecutor General's decision No. 0266 of July 2008? It would also be interesting to learn what measures the Prosecutor General was taking to harmonize the decisions of the different bodies that were working to prevent human rights abuses, such as the Human Rights Unit and the Justice and Peace Unit. The Committee would welcome an update on follow-up to the Constitutional Court's judicial decree No. 36 of 2009 in which it requested precise details of progress made in investigating cases of human rights abuses. He also asked for details of the case of an army sergeant who had sexually assaulted a 12-year-old girl from the Ticuna ethnic group in the Department of Amazonas, and had been arrested in January 2009.

42. In the light of NGO reports of eight cases in which there had been conflicts between civil and military jurisdictions, he asked how the State party planned to address the issues involved, including the gathering of evidence. It would be useful to have updated information on the 21 cases of judges who had been murdered, particularly as some of the investigations had been under way since 2004. Had there been other similar cases that had not been investigated?

43. Echoing colleagues' concerns about the 18 members of paramilitary groups responsible for some of the worst human rights violations who had been extradited to the United States, he asked how the State party viewed its responsibility to ensure the public's right to learn the truth. He wished to know to what extent there was real access to information in those cases. Given that the Justice and Peace Act precluded impunity for extremely serious crimes, people had the right to learn the truth, to justice and to compensation, but since the 18 individuals concerned had been extradited, he failed to understand how the State party would ensure that they gave evidence. In August 2009, the Supreme Court had ruled that the extradition of those individuals had been contrary to the Justice and Peace Act. He asked how many of the 18 had been questioned, what agreements existed concerning their extradition and whether the agreements were being upheld. In the light of Constitutional Court Judgement No. 370 of 2006, he asked to what extent the State party's other legislation was compatible with the Justice and Peace Act and what was being done to give effect to Judgement No. 370.

44. Turning to article 13 of the Convention, he requested information on the case in which, in January 2008, the Culma Palencia family in San Vicente del Caguán had been illegally detained and tortured by army personnel. He asked what specific measures were being taken to protect human rights defenders and trade union leaders from violence by illegal armed groups. It would be useful to learn why the National Institute of Forensic Medicine had not conducted an autopsy on the body of the assassinated trade union leader Guillermo Rivera Fúquene as soon as it had been discovered.

45. Referring to the issue of compensation under article 14, he would appreciate additional details on the scope of the relevant legislation, particularly whether it provided for redress for acts of torture committed by State agents as well as individuals acting outside the law. He would also appreciate the State party's comments on reports that compensation was regarded more as a matter of solidarity than an obligation under international human rights instruments to which Colombia was a party, including the Convention.

46. Lastly, the Committee would appreciate updated information on the situation that had led the Supreme Court to request international protection. In the light of the decisions of the Inter-American Commission on Human Rights in December 2008 to grant precautionary measures on behalf of the Supreme Court judge coordinating the investigation into members of Congress with alleged links to paramilitary groups, that matter was of grave concern.

47. **Ms. Sveaass** commended the State party for the efforts it had made to train medical and legal personnel in forensic medicine in order to enable them to identify signs of torture and ill-treatment. That knowledge was fundamental to the registration of complaints and the eventual alleviation of victims' suffering.

48. Nonetheless, she remained deeply concerned at the general ethos of fear in the State party, where people lived under constant stress, which in turn could easily provoke further human rights violations. Rather than protecting the public, some actions by the State served to exacerbate tension and stress. One example reported to the Committee concerned a military battalion which had been stationed close to a school and had even used the school in a military action. While there had been no reports of children having been harmed, such actions wreaked psychological damage on the entire community. In addition to such situations, the numerous examples of military and police personnel being involved in torture, extrajudicial killings and enforced disappearances were not conducive to the creation of the safe atmosphere people needed in order to overcome the trauma of long-term armed conflict. Human rights training for military and police personnel should therefore include methods of dealing with the public that did not involve brutality; such training could eventually put a stop to the circle of violence.

49. The National Institute of Forensic Medicine did commendable work gathering information on violence against women and children. However, the increase in cases of domestic violence was of great concern and was possibly due to the general level of violence in society. The Government should provide additional data on efforts to respond to that situation, stating in particular what legal measures were in place, how many cases had been investigated and how many people had been convicted of such crimes. Further information should be provided on awareness-raising measures, action plans to combat domestic violence, and shelters for family members in need of protection.

50. Lastly, she recalled that human rights defenders played a crucial role in any democratic society. The reports of the level of threats they received were truly alarming. She urged the Government to take further steps to support them in their work.

51. **Ms. Belmir** requested further details on the apparent conflict between military and civil jurisdictions. Despite a Constitutional Court ruling that they were not competent to do so, military courts apparently continued to investigate cases of rape, enforced disappearance, torture and extrajudicial killings. She would welcome the State party's comments on that situation. She also asked for further details of plans to reform the judiciary, particularly as the Committee had received reports that the reforms would restrict the power of the Constitutional Court vis-à-vis the military.

52. The Committee would appreciate an update on the bill giving the armed forces judicial police powers, allowing army personnel to arrest and detain suspects for a period of 36 hours without judicial supervision.

53. Given that many members of the judiciary had been murdered and threatened with violence, she asked whether the State party should change the way the judicial system currently functioned, as the rule of law was clearly in jeopardy.

54. **Ms. Gaer** said that, on an earlier occasion, the Committee had expressed concern about whether prosecutors based with military units were able to work without undue

interference. She wondered whether any oversight or review mechanisms guaranteed the independence of such prosecutors and enquired how many cases had been investigated, prosecuted and tried in court, whether any of the cases had been for torture, and what judgements had been handed down.

55. She sought more information about measures taken to ensure the independence of the human rights unit within the Public Prosecutor's Office and about investigations into allegations of pressure being exerted on the staff of that unit.

56. The Committee would also like to know more about action taken to protect human rights defenders, how many investigations had been carried out into allegations of threats against human rights defenders and their families, how many investigations had led to trials and what the judgements had been. She welcomed the change in Colombia's rhetoric in that regard: the scurrilous terms in which the Government had spoken of human rights defenders in the past had placed them at great risk. It would also be useful to know whether anyone had been brought to trial for the murder of human rights defenders.

57. On an earlier occasion, the Committee had requested information on the case of Yolanda Izquierdo. She asked whether there had ever been any investigation into that homicide.

58. In its concluding observations in 2003 (CAT/C/CR/31/1), the Committee had expressed its concern at inadequate protection against rape and other forms of sexual violence, which were allegedly frequently used as forms of torture or ill-treatment, and it had further expressed its concern at the fact that the new Military Penal Code did not expressly exclude sexual offences from the jurisdiction of the military courts. Colombia's reply to question 12 of the list of issues had shown that sexual violence as a form of torture had been given increased attention in recent years, but one of the reasons for that development was that there had been a rise in the number of such cases.

59. According to the National Institute of Forensic Medicine, acts of sexual violence had increased from some 12,000 cases in the year 2000 to more than 21,000 in 2008; 16,000 of those cases had involved girls, especially girls between 10 and 14 years of age. She asked the delegation to comment on those shocking figures and to explain the reasons for the huge increase. The fourth periodic report described initiatives to heighten public awareness of the phenomenon and to develop new forms of preventive measures, but little had been said in Colombia's replies to the list of issues about investigations, punishment or accountability; although the replies had referred to large numbers of confessions relating to the recruitment of children into the armed forces (written replies, para. 169), there had been far fewer confessions of acts of sexual violence.

60. According to paragraph 62 of the annual report of the United Nations High Commissioner for Human Rights (A/HRC/10/032), "the Attorney-General's Office faces structural problems, including insufficient resources, weak data consolidation capacity, lack of appropriate investigative frameworks and coordination difficulties". She understood that such problems could make it impossible to investigate all 21,000 cases, but she had not seen a reference to an investigation of any of the 183 cases cited in the Constitutional Court decision or to perpetrators being brought to justice. She invited the delegation to provide specific information on whether any of those cases had been investigated and the perpetrators prosecuted.

61. In its reply to question 14 of the list of issues, the delegation had stated that the gender perspective was taken into account in prosecuting cases involving torture. The Committee had received material from NGOs alleging assaults against lesbian, gay, bisexual, transgender and transsexual persons; it would be useful if the delegation could explain whether such persons were also covered.

62. **Mr. Gaye** said it was strange that military tribunals continued to deal with matters which clearly came within the remit of the civilian courts.

63. He sought more detailed information on the specialized jurisdiction of the authorities of indigenous communities. Such a body needed to take account of the customs and traditions of indigenous groups, but would pose problems if it also covered criminal matters, including acts of torture. It would therefore be useful to have some information on the jurisdiction of such a court. The proliferation of specialized bodies which had been set up to protect human rights, combat impunity and protect judges and prosecutors was an implicit admission on the part of the State of its inability to protect its own institutions.

64. He asked for an explanation of the concept of pretrial administrative detention. Apparently there was a shortage of judges, and thus trials could not be held promptly so as to ensure respect for the universal rule that persons should be tried within a reasonable length of time. He also sought further information on the work of lawyers.

65. **Mr. Kovalev** commended Colombia on the progress made in eradicating torture and ill-treatment, the assistance provided to refugees, the new system of criminal justice and improvements in the prison system.

66. The United Nations Secretary-General and the High Commissioner had repeatedly expressed concern about the enrolment of children in the armed forces of the State party. He would like to know how many children were involved, what the Government was doing to stop the forced recruitment of child soldiers, what the situation of those children was, what measures were being taken to rehabilitate child soldiers and provide them with reparation for the harm they had suffered, and whether those measures had been effective.

67. **Ms. Kleopas** said that the efforts by the State party, albeit commendable, did not seem to have gone very far towards eliminating systematic cases of torture, extrajudicial killings and forced disappearances, sexual violence and abuse of children, as documented by reliable information from NGOs and the United Nations. She asked whether the State party intended to ratify the Optional Protocol to the Convention, since that would help address the inhuman conditions and cases of abuse in prisons, especially in high-security facilities, where inmates were held in prolonged isolation without light or fresh air, restrictions were placed on communications, and access for human rights defenders was restricted.

68. She urged the State party to make the declaration under article 22 so that the Committee could consider communications from individuals who claimed to be victims of violations of the Convention. That would help Colombia in its fight against torture.

69. It was her understanding that legislation was very restrictive with regard to persons entitled to reparations and the amounts approved (apparently only about US\$ 7,500 for a victim of torture). It would be useful to know how the State party ensured the right of torture victims to rehabilitation and to fair compensation in cases of torture committed by public officials.

70. **Mr. Garzón** (Colombia) stressed that the Colombian judiciary was completely independent of the other branches of government, so much so that, to cite one example, in the past three years the Supreme Court had investigated and convicted a number of senior public officials from the executive and legislative branches, including members of Congress. Judges could investigate and convict mayors or governors and remove them from office, despite their having been elected.

71. Admittedly, in its efforts to combat impunity and protect human rights, Colombia had not achieved all its goals. A closer dialogue was needed between civil society and various State bodies, including the Government, but also a better understanding on the part of the international community that it was not easy to fight organized crime, such as drug-

trafficking, in which billions of dollars were involved, or to combat illegal armed groups, whether paramilitary organizations or guerrillas. Despite the difficulties it was facing, Colombia would continue to make every effort to ensure that, in combating crime, it did not employ the same practices as those used by illegal armed groups, and he underscored the importance of the Committee's recommendations in that regard.

The meeting rose at 12.40 p.m.