

# UPR MONITOR

International Service for Human Rights



Human Rights Monitor Series

## UNIVERSAL PERIODIC REVIEW, 3<sup>RD</sup> SESSION COLOMBIA (FINAL) REVIEWED ON 12 DECEMBER 2008, AFTERNOON

### Overview

The high-level delegation of Colombia was led by Mr Francisco Santos Calderón, Vice President of the Republic of Colombia. During the interactive dialogue, in which 43 States participated, he was supported by representatives from the Ministry of Justice, the Tribunal of Justice and Peace and the Department of Human Rights within the Presidency. The delegation in addition consisted of members from the Ministry of Foreign Affairs, the Office of the Public Prosecutor and the Permanent Mission of Colombia to the UN Office at Geneva.

The review was characterised by a high attendance also by members of the civil society. Many of the comments by the States emphasised the spirit of cooperation demonstrated by the Government, in particular in relation to the OHCHR office in Colombia, and the fact that Colombia volunteered to be reviewed under the UPR in the first year. Nevertheless the Working Group expressed concern on numerous issues and put forward very specific recommendations. The very tense relationship between the Government and civil society was clearly visible both in the initial presentation, and the replies to questions and recommendations.

In its responses, Colombia addressed the issues in a very general manner, often denying the veracity of allegations particularly regarding the widespread use of torture by police forces, the lack of protection of human rights defenders and the culture of impunity. Towards the end of the interactive dialogue, in regard to the intervention of the Danish representative, the delegation pointed out that among the practices that hinder the advancement of human rights, are 'political evaluations based on erroneous information'.

Of note was the inclusion of 'voluntary commitments' undertaken by the State subsequent to the review, which are also included in the document containing the replies to some recommendations.

### General information on Colombia

- Colombia is not a member of the Human Rights Council
- The members of the troika for the examination of Colombia were Burkina Faso, Bahrain, and Italy<sup>1</sup>
- Colombia held national consultation in writing, electronically and directly. Although numerous NGOs submitted written reports, Colombia regretted that some organisations had declined to take part in this process. Many NGOs saw the attitude of the Government of Colombia as rather conflictual and not based on real collaboration with civil society. Organisations working on human rights and sexual orientation and gender identity had not been included in the survey.

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<sup>1</sup> There were no objections by Colombia or by the members of the troika to the selection. For a full summary of the selection of troikas, see ISHR's *Daily Update* of 8 September 2008, available at [www.ishr.ch](http://www.ishr.ch).

## Information submitted to the Working Group

The **national report** of Colombia<sup>2</sup> addresses issues in a fairly detailed manner. There is little information regarding the measures taken to ensure freedom of press and non-discrimination against LGBT persons would have been useful. The report focuses on a number of issues also reflected in the UN and NGO information, such as prevention of violence, impunity, access to justice, discrimination, economic, social and cultural rights, and collaboration with NGOs. The reports notes progress made; notably together with the progresses made the report also presents a few self-criticisms.

The OHCHR **compilation of UN information** focuses on comments and recommendations made by special procedures, treaty bodies and other UN bodies on human rights developments during the last few years. The Committee Against Torture (CAT) called for the urgent ratification of the optional protocol and expressed concerns about impunity; the Committee on the Elimination of Discrimination against Women (CEDAW) lamented the under-representation of women in elected bodies, and the high rate of maternal mortality; the Committee on the Rights of the Child (CRC) expressed concern about the violations of the rights of the child especially in rural areas, the limited and unequal access to health-care system, the increasing number of children living in extreme poverty, and the current use of schools by State armed forces; the Human Rights Committee (HRC) noted the ongoing discrimination against indigenous and minority communities, denounced the links between elements of armed forces, State security forces and illegal paramilitary groups, and the use of arbitrary detention, extrajudicial executions and enforced disappearances; finally, the Committee on Economic, Social and Cultural Rights (CESCR), CAT, HRC and CRC all expressed concern on the high number of internally displaced persons (IDPs) within the country.<sup>3</sup>

21 other stakeholders, including many non-governmental organisations (NGOs) and some large coalitions, submitted information for the OHCHR **summary of stakeholders' information**.<sup>4</sup> The issues discussed included widespread impunity, extrajudicial killings and arbitrary detention,<sup>5</sup> discrimination of LGBT persons,<sup>6</sup> enforced disappearances by paramilitary groups,<sup>7</sup> killings, kidnappings and threats inflicted to human rights defenders and trade union members,<sup>8</sup> physical, psychological and sexual violence on women as a consequence of the internal armed conflict,<sup>9</sup> existence of about 13,000 child soldiers,<sup>10</sup> persisting corporal punishment used in home, schools and other institutions,<sup>11</sup> and the growing number of internally displaced people (IDPs)<sup>12</sup>.

## Interactive dialogue<sup>13</sup>

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<sup>2</sup> A/HRC/WG.6/3/COL/1, available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/COSession3.aspx>.

<sup>3</sup> A/HRC/WG.6/3/COL/2, idem.

<sup>4</sup> A/HRC/WG.6/3/COL/3, idem.

<sup>5</sup> Amnesty International, ODHACO network, JS1 organizations.

<sup>6</sup> Colombia Diversa.

<sup>7</sup> HRW, OAS, ODHACO.

<sup>8</sup> 'The Coalition' and WFTU.

<sup>9</sup> ODHACO, CLADEM, AI.

<sup>10</sup> VI, AI.

<sup>11</sup> GIEACPC.

<sup>12</sup> AI and HRW.

<sup>13</sup> Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR>. Fill in the form at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive username and password. Audiovisual archives of the meetings of the Working Group 'webcast' are available at [www.un.org/webcast/unhrc/index.asp](http://www.un.org/webcast/unhrc/index.asp).

## Presentation by the State

The delegation of Colombia stressed the attention on the progress achieved in the demobilisation of paramilitary groups, its exemplary collaboration with international mechanisms in promoting human rights and the improvements reached in the fight against impunity due to the Law on Justice and Peace and to a solid Constitutional Code. During the presentation, the delegation expressed disagreement with some of the analyses and views presented in the reports of many human rights organisations and called for a more constructive relationship with civil society.

## Themes and issues

Most States that took the floor highlighted the **cooperation** Colombia extends to the international community, in particular by agreeing to the continued OHCHR presence in the country, and by volunteering to be reviewed under the UPR with priority.

A significant number of States<sup>14</sup> expressed concern on the general culture of **impunity** and recommended that the Government of Colombia take measures in order to conduct impartial and independent investigation in all cases of abuses of human rights. The delegation rejected any comments regarding the Government not complying with the obligation to protect victims. It claimed that it does ‘not allow impunity’.

Many States<sup>15</sup> lamented the use of **violence by members of State forces and illegal groups**. They recommended that the Government take measures to stop violence especially with regard to women and children of indigenous communities, and to investigate all cases and hold the responsible accountable for their actions. The delegation outlined the creation in 2008 of a special prosecutor for investigating the recruitment of child soldiers and, as a consequence, the arrest and detention of a number of perpetrators.

A number of States<sup>16</sup> reported alarming information on the situation of **human rights defenders** in the country. The Working Group recommended the Government to take action towards the protection of activists, journalists and trade unionists in light of the numerous cases of intimidations, threats and murders. The delegation stated that a human rights training programme had been introduced for military and law enforcement officers and that a memorandum on investigations on abuses against human rights defenders had been recently published.

Numerous States<sup>17</sup> recommended that the Government take further measures to strengthen domestic norms against cases of **enforced disappearances**, to ensure reparation to the families and to urgently ratify the Convention for the protection of all persons from enforced disappearances. The delegation outlined the existence of a search Commission for disappeared persons and a system to find and identify bodies aimed to the creation of a database, which was set up in 2007. Furthermore a National Action Plan is currently being applied.

Many States<sup>18</sup> recommended that the Government take further measures to decrease the number of IDPs, and in particular to ameliorate and implement the legislation on the protection of the property rights of indigenous

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<sup>14</sup> Overarching issue touched by the majority of the states and particularly emphasised by Norway, Turkey, Switzerland, Netherlands, and Austria.

<sup>15</sup> Spain, Sweden, Switzerland, Algeria, Netherlands, Austria, Denmark, Slovenia, Germany, Canada, Malaysia, UK, Ireland, Australia, Romania, Uruguay.

<sup>16</sup> Norway, Sweden, France, Switzerland, Albania, Denmark, Germany, Canada, Azerbaijan, UK, Ireland, Australia, Romania, Hungary.

<sup>17</sup> Chile, Sweden, Switzerland, Canada.

<sup>18</sup> Chile, Spain, Sweden, France, Switzerland, Austria, Denmark, Canada, Portugal, UK, Republic of Korea, South Africa.

communities. The delegation merely commented by highlighting the existence of regional offices for social protection of IDPs, and the high number of ongoing investigations that brought so far to seven convictions.

States also engaged Colombia in discussion on the following themes: the need for measures to combat the use of antipersonnel landmines,<sup>19</sup> exploitation and violence against women and children,<sup>20</sup> poverty and inequality,<sup>21</sup> protection of LGBT people and establishment of public awareness campaigns,<sup>22</sup> cessation of the ‘soldier for a day’ programme and the use of children in intelligence services,<sup>23</sup> follow up to the recommendations of the Special Rapporteur on indigenous peoples,<sup>24</sup> implementation of the recommendations by the High Commissioner from February 2008,<sup>25</sup> and the ratification international instruments, including the optional protocol to the Convention against Torture.<sup>26</sup>

### Adoption of the report [date/time]

The Working Group adopted the report on Colombia on 15 December 2008. The troika thanked the delegation for its participation in the dialogue, and hoped that the process would continue in a constructive way. Colombia split the recommendations in three parts. It accepted 65 recommendations, rejected 11 and kept two pending. It also submitted a written answer to many of the recommendations, including some accepted and some of the rejected ones.<sup>27</sup>

The rejected recommendations dealt with questions related to the military, including conscientious objections, and use of children and other civilians in intelligence services, and the demobilisation of paramilitary groups. The Government also rejected the ratification of the optional protocol to CAT, and the acceptance of the competence of the Committee established under the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).<sup>28</sup>

Of note was the inclusion of ‘voluntary commitments’ undertaken by the State subsequent to the review, which are also included in the document containing the replies to some recommendations. These commitments deal with the prevention of violence, impunity, the protection of vulnerable groups and economic, social and cultural rights. While it is certainly welcome that States undertake such commitments, it seems that the commitments are a reiteration of those already contained in the national report, rather than a critical reflection on the concerns raised by members of the UPR Working Group. Also, even though the list of answers to recommendations seems relatively comprehensive, it will require further scrutiny by interested stakeholders.

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<sup>19</sup> Netherlands, Algeria.

<sup>20</sup> Switzerland, Romania, Ireland, Chile, Austria, Slovenia, Czech Republic, Japan, Azerbaijan, Hungary.

<sup>21</sup> UK, South Africa,.

<sup>22</sup> Czech Republic.

<sup>23</sup> Slovenia.

<sup>24</sup> Canada.

<sup>25</sup> Ireland.

<sup>26</sup> Denmark, Czech Republic, Mexico.

<sup>27</sup> A/HRC/10/82/Add.1, available at <http://ap.ohchr.org/Documents/gmainec.aspx>.

<sup>28</sup> The Government accepted, however, the ratification of the ICPPED.

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