



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

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**Committee against Torture
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Summary record (partial)* of the 911th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 11 November 2009, at 3 p.m.

Chairperson: Mr. Grossman

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3.10 p.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;
CAT/C/COL/Q/4/Add.1; HRI/CORE/1/Add. 56/Rev.1) (continued)*

1. *At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.*

2. **Mr. Concha Sanz** (Colombia) said that, under the Constitution, the judiciary was independent. The judicial apparatus comprised 4,454 judges and magistrates, as well as 18,441 officials, all recruited by competitive examination. Under the Constitution, magistrates of the higher courts were appointed either by the judiciary or by Congress. Candidates for appointment as magistrates of the Constitutional Court and the Higher Council of the Judicature were proposed by the executive. The judiciary's budget, voted by Congress on the proposal of the executive, was \$795 million in 2009 as against \$415 million in 2002. Judicial officials, judges and magistrates had the right to join trade unions. Civilian judges were not competent to hear cases involving the army and police, which fell entirely within the jurisdiction of the military courts, the powers of which were defined by law. The 2008 strike by judicial officials had been to do with salaries. Neither the Supreme Court nor any other superior court had requested the Inter-American Court of Human Rights to apply interim protection measures. The requests had been made personally by two magistrates and an assistant judge of the Supreme Court, but the Colombian State had ruled them inadmissible. The Colombian judicial system had its own security mechanism, which was financially and administratively autonomous and administered by the Higher Council of the Judicature.

3. At present, 70 parliamentarians or senior officials were either being investigated or had been convicted. In addition, 150 soldiers had been convicted; 300 cases in which soldiers were implicated were currently before the courts, and 800 soldiers were being investigated in connection with the murders of protected individuals.

4. Under the Colombian Constitution, it was the Supreme Court that was competent to examine and grant any extradition request. The current Government had received 1,467 extradition requests and 1,088 of them had been granted. In all, 1,032 persons had been extradited, 958 of them to the United States, including the 18 leaders of self-defence or paramilitary groups.

5. Military criminal justice applied its own procedural and substantive law. Military criminal courts were not competent to hear cases of human rights violations, crimes against humanity or sex crimes. Conflicts of competence between the military criminal courts and the regular courts were settled by the Higher Council of the Judicature. The Government had not submitted to Congress any bill providing for the transfer of powers from the judicial police to the military authorities.

6. No member of the army or police force in Colombia was under 18 years of age. Employment of minors under 18 years of age in the forces of law and order was also explicitly prohibited by law. The right of conscientious objection had been recognized in 2009. The State and civil society were endeavouring to prevent illegal armed groups from

recruiting minors. With the help of the international community, 3,800 girls and boys had been removed from those groups and taken under the wing of the Colombian Institute of Family Well-being. In accordance with Colombia's undertakings under the universal periodic review, the authorities were cooperating with the monitoring mechanism created by Security Council resolution 1612 (2005) on children and armed conflict. The Government and the local and regional authorities were also applying a global policy – focusing on education - to stop illegal armed groups from recruiting minors.

7. The Office of the Public Prosecutor of the Nation (Fiscalía General de la Nación) had been created under the 1991 Constitution, and the Public Prosecutor was elected for a term of four years by the Supreme Court on the proposal of the President of the Republic. The Office of the Public Prosecutor comprised 3,726 deputies and 2,446 officials, and the budget allocated to it for 2009 was \$650 million. Three sections of the Office of the Public Prosecutor were particularly important in matters of concern to the Committee: the human rights and international humanitarian law section; the humanitarian affairs section; and the justice and peace section. Regarding torture, 10,597 investigations had been initiated under Act No. 600; of those, 6,088 were at the pretrial stage, 442 at the investigation stage, and 7 cases were already before the courts. In 4,060 cases the investigations had resulted in referral to national or international mechanisms. Lastly, anticipated convictions (“sentencias anticipadas”) had been handed down in 3 cases. Concerning investigations conducted under Act No. 906 (instituting an adversarial procedure), 419 investigations were under way on alleged acts of torture: 382 were at the pretrial stage and 8 at the investigation stage. In 21 cases the accused had been referred to the courts and 8 other cases had resulted in convictions.

8. As of 31 October 2008, 31,671 individuals linked to illegal armed groups had been demobilized under the collective demobilization process and 15,879 under the individual demobilization process. The Justice and Peace Act had led to the dismantling of illegal and criminal military structures that had existed in Colombia before 2002; victim identification; judicial proceedings against the authors of criminal acts who had gone unpunished; exposure of the links between certain paramilitary groups and various social sectors and State agents; the quest for the truth; and victim compensation. Demobilized persons' depositions had led to the discovery of 2,267 mass graves and thus far 2,778 bodies had been exhumed. Of those, 758 had been identified and 647 remains had been returned to the families. A National Commission for Compensation and Reconciliation had been created to guarantee the rights of victims. The Office of the Public Prosecutor had also been given technical resources for organizing nationwide hearings. A Victims' Compensation Fund of more than \$100 million had also been established, enabling 10,000 families of victims to receive compensation. For the time being, the investigation of 4,763 individuals and officials under the Justice and Peace Act had not resulted in any convictions. In 2006 a support service responsible for exhumations in the interest of justice and peace had been created within the justice and peace section of the Office of the Public Prosecutor. The fact that prosecutors working in isolated areas were quartered in military barracks was a security measure and in no way signified the army's interference in the affairs of justice.

9. The Office of the Public Prosecutor had taken measures to give effect to ruling No. 092 of the Constitutional Court of 2008: creation of a database dealing exclusively with cases of sexual violence; creation of technical and legal committees to institute litigation; taking the psychological dimension into account in the treatment of cases of sexual violence; training of justice professionals; creation of teams of prosecutors to deal with human rights violations and infringements of international humanitarian law, accompanied by sexual violence; and institutional coordination of activities for the defence of the rights of women who were victims of sexual violence.

10. With regard to violence against women, Act No. 1142 of 2007 had increased the penalties imposed for domestic violence, and the provisions of the Criminal Code relating to sex offences had been amended by Act No. 1236 of 2008. Also, the provisions of the Convention of Belém do Pará and the Vienna, Cairo and Beijing Programmes of Action on violence against women had been taken into account in Act No. 1257 of 2008. An offence of sexual harassment had been introduced, and the penalties for gender-based grievous bodily harm or homicide of women had been increased. Budgetary measures had also been taken to improve the economic situation of female victims of violence, and a global strategy to combat such violence for the period 2008-2011 – centred on prevention, victim assistance, and legal aid - had been launched. Training courses were available to leaders and officials and an early-warning system had been put in place. An observatory on violence against women had also been created and was responsible, in particular, for collating the statistics prepared by the various public bodies concerned with violence against women, especially sexual violence.

11. Decree No. 128 of 2003 on the demobilization of members of self-defence groups clearly stipulated that there would be no amnesty or pardon for the authors of crimes against humanity or war crimes. Under that decree, 19,000 persons had already been demobilized and if they had not been prosecuted it was because they had not been accused of any war crime or crime against humanity at the time of their demobilization.

12. With regard to Guillermo Rivera, who had disappeared on 22 April 2008, the emergency-search procedure had been initiated on 23 April. A body had been found the following day at Ibagué had not been identified until July 2008 through fingerprinting; that case was currently at the investigation stage. Regarding Adán Culma Bustos and members of his family, the investigation conducted by the Florencia team of humanitarian affairs prosecutors was still at the pretrial stage. Lastly, in the case of Belki Vanessa Cayetano Joaquín, belonging to the Tamaku community, a non-commissioned officer in the national army had been indicted on a charge of sexual violence against a minor under 14 years of age and placed in pretrial detention; he was currently being interrogated by the Leticia prosecutor.

13. Under the Constitution, a person caught in flagrante delicto could be arrested without a warrant and must be brought before a judge within 36 hours. It should be pointed out that the mass arrests mentioned by some Committee members had been ordered by the courts.

14. An indigenous court had been established in Colombia; any conflict of competence between that court and the regular courts was settled by the Higher Council of the Judicature.

15. In the case of illegal telephone taps, officials of the Administrative Department for Security (DAS) and other services, including senior staff, had been placed in detention and were being investigated by the Office of the Public Prosecutor.

16. Decree No. 3600 had been adopted on 21 September 2009 on the initiative of the President of the Republic in order to declassify the intelligence archives. The recent visits to Colombia of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights defenders, raised by some Committee members, had been made at the invitation of the Colombian Government, and the mandate holders concerned had acknowledged the Colombian State's progress in its fight against extrajudicial executions and for the protection of human rights defenders. Colombia was, however, aware that a great deal remained to be done in those areas.

17. None of the 112 women and 79 men involved in the Victim and witness protection programme of the Ministry of the Interior and Justice, in force since December 2007, had been murdered thus far.

18. Foreign nationals returned (*refoulés*) or expelled could appeal to the immigration services through administrative channels. As for Colombians who had sought temporary refuge on the country's northern border with Ecuador, the Government had proposed in writing to the Office of the United Nations High Commissioner for Refugees (UNHCR) that it study the possibility of a draft agreement or programme of cooperation between Colombia and Ecuador to put in place a social protection and humanitarian assistance mechanism for such persons.

19. The Colombian Government, with UNHCR support, was implementing a social assistance programme for displaced persons, comprising mechanisms for assistance upon return. In parallel, an early-warning system had been put in place to prevent enforced displacement, in collaboration with the United States cooperation agency and with the participation of the Office of the Ombudsman. The Government had also recently signed a biennial cooperation agreement with UNHCR.

20. The central Government and the local and regional authorities had begun to cooperate on assistance programmes for displaced persons and vulnerable groups, such as women, children, ethnic minorities, and lesbian, gay, bisexual and transgender (LGBT) persons. It should be said that the departmental governors and the mayors were elected by direct suffrage and that many of them issued from opposition parties. That was the case, for instance, in the city of Bogotá. Collaboration between the Government and the regional and local authorities also extended to the fight against all forms of discrimination and violence.

21. In 2009 the Government, professional associations and trade unions had signed a tripartite agreement, under the aegis of the International Labour Organization (ILO), in order to improve the social dialogue and strengthen the protection of trade unionists. In that connection, the Director of the ILO Standards Department, Ms. Doumbia-Henry, had visited Colombia in October 2009 as part of follow-up to the conclusions concerning Colombia adopted on 8 June 2009 by the ILO Committee on the Application of Standards. She had held talks with all the social partners and with various governmental authorities and had submitted her conclusions to the workers' and employers' representatives and to the Government, which had approved them by consensus.

22. The National Penitentiary and Prison Agency (INPEC) was a public body that came under the Ministry of the Interior and Justice. Its budget for 2009 was \$360 million; it would rise to \$500 million in 2010. It had a staff of 11,092 surveillance officers and 1,494 administrative personnel. INPEC staff enjoyed the right to join a trade union. In all, the Agency supervised 253 prison establishments (139 national prisons and 114 municipal prisons). Eleven new establishments were under construction to provide a total of 22,703 beds. Their inauguration, planned for August 2010 at the latest, would make it possible to alleviate congestion in the country's prisons. Another measure adopted to reduce prison overcrowding was the establishment of an electronic surveillance system. Initially, 4,900 prisoners had been fitted with electronic bracelets, enabling them to live at home with their families or leave the prison to pursue their studies or to work.

23. Prisoners had access to basic health care 24 hours a day and to mental health services and treatment of serious illnesses such as cancer, AIDS or diabetes, which necessitated hospitalization and medicines. Prisoners with mental disorders were placed in three special units in the prisons in Bogotá (Modelo), Medellín and Cali, which were served by five psychiatrists, three clinical psychologists, five vocational therapists, four social workers, three general practitioners, three dentists and six nursing aides.

24. Every prison establishment had a human rights committee composed of representatives elected from among the prisoners. Those committees were in contact with the Office of the Solicitor General, the Office of the Ombudsman, the municipal mediators and

the Office of the High Commissioner for Human Rights. In addition, a member of the surveillance staff in all detention centres was responsible for liaison between the prison governor and the prisoners and with the oversight bodies (Office of the Solicitor General, Office of the Ombudsman and municipal mediators) for all matters relating to human rights. That function did not preclude direct dialogue between the spokesperson for the prisoners and the prison governor. Lastly, human rights observatories had recently been created in each of the INPEC regional offices.

25. Placement of detainees in the special treatment or isolation units for committing serious breaches was governed by the Correctional Code, which defined those breaches and the procedure to be followed. Maximum-security prisons received high-risk prisoners who had been given severe sentences. Also placed in such units were prisoners deemed to be dangerous and individuals who were subjects of extradition requests. Colombian legislation did not provide for a prison supervising judge.

26. The National Institute of Forensic Medicine came under the Office of the Public Prosecutor. It was a national public body with legal capacity, its own assets and administrative autonomy. Its budget ran to \$50 million in 2009 and would be \$60 million in 2010. It employed 1,776 persons (doctors, psychiatrists, laboratory experts, etc.). Its epidemiological surveillance system for external causes of injuries (SIVELCE) and its Network Information System for Missing Persons and Corpses (SIRDEC) were both national and international reference points. Its training and diplomas focused particularly on human rights.

27. **Mr. Garzón** (Colombia) reaffirmed the Government's commitment to cooperate with all the bodies of the United Nations system and its determination to move forward despite the violence and organized crime linked to drug trafficking, which was still rife in the country. He welcomed the frank and constructive dialogue with Committee members; all the written replies to the Committee's questions would be transmitted to the Solicitor General, the Public Prosecutor and the Ombudsman, as well as to the presidents of the two chambers of Parliament, the President of the Congress, the President of the Republic and all ministers concerned for purposes of information and as a basis for positive dialogue with civil society.

28. **Mr. Mariño Menéndez**, First Country Rapporteur, requested further details on the functioning and effectiveness of the magistrates' protection system administered by the Higher Council of the Judicature. Regarding extradition of paramilitary leaders sought for drug trafficking in the United States, such a measure risked preventing them from being tried for serious human rights crimes they might have committed in Colombia.

29. The figures furnished by the delegation showed a huge disparity between the number of investigations initiated (some 11,000) and the number of convictions (11) for acts of torture under Acts No. 600 and No. 906. That situation, which at first glance demonstrated passivity or extreme delays in the administration of justice, was worthy of comment. It would also be interesting to examine the effectiveness of the National Plan for searching for disappeared persons, which appeared to be limited for the time being, since only 750 bodies exhumed from mass graves had been identified. Moreover, the participation of the military technical corps created under the new Military Criminal Code for the exhumation and identification of bodies of disappeared persons raised the problem of cooperation with the Office of the Public Prosecutor and civilian bodies and of allocation of functions.

30. The delegation's replies intimated that collective arrests and detentions were possible once they had been ordered by a court. It would be helpful if the delegation could say whether the law effectively authorized such measures and, if appropriate, whether it was possible to render that provision unenforceable.

31. Returning to the question of remedies available to foreigners subject to expulsion orders and the conditions of the exercise of such remedies, he would like to know whether an *amparo* remedy before the Constitutional Court was possible and what mechanisms were in place to assess and take into account the risk of torture in the receiving country. He would also like details on the measures to protect forcibly displaced vulnerable groups and whether torture of persons belonging to such groups was not only investigated but also led to reparation. In conclusion, he was disturbed by the apparent paralysis of the early-warning system, which could be explained by the fact that the Office of the Ombudsman did not sit on the Inter-Agency early warning committee (CIAT) responsible for sounding the alarms.

32. **The Chairperson**, Second Country Rapporteur, thanked the delegation for its additional replies. He was pleased to learn of the increase in the budget allocated to the judiciary. Regarding the request for interim measures (“medidas cautelares”) of the magistrates of the Supreme Court, the Committee would have liked to learn more about what had motivated that request, which, by and large, concerned emergency situations or those in which irreparable damage might be caused to persons whose lives or physical safety were threatened. The figures provided in paragraph 3 of the written replies on investigations under way, prosecutions and convictions of senior officials and members of the military were useful but could have been more detailed if they had, for instance, been broken down by date and indictment.

33. While the State party was sovereign in its extradition decisions, it was the Committee’s duty to ensure that obligations under the Convention were respected, including in that context. Hence, when the State party extradited 18 leaders of paramilitary groups to the United States for their involvement in some of the most serious crimes committed in the region, it was legitimate to question the means used to ensure that investigations into those crimes continued. The Committee would be all the more interested in hearing what the delegation had to say on the subject since, according to civil society organizations, it had so far been impossible to question those concerned since their extradition. He was pleased to learn that no bill intended to confer judicial police functions on members of the military was under consideration. He also welcomed Colombia’s commitment to combat minors’ participation in armed conflicts, and the creation of the Office of the Public Prosecutor.

34. The huge disproportion between the number of investigations opened on allegations of torture under the previous Code of Criminal Procedure – 10,587 – and that of convictions – only 3 – caused concern about the effectiveness of the old model. On that subject, the delegation had spoken about “anticipated convictions” (“sentencias anticipadas”). It would be helpful to learn the exact meaning of the term. The entry into force of Act No. 906 and the adversarial model appeared to have improved the effectiveness of prosecutions in cases of torture, which was a good thing.

35. He noted with satisfaction that the Justice and Peace Act (see question 31) had made the demobilization of many members of illegal armed groups possible and that 4,763 investigations had been initiated under that Act. None of them so far had resulted in convictions, but that was understandable owing to the complexity of the cases. However, given the substantial resources required for investigations of such wide scope, it would be interesting to know whether sufficient resources had been made available to the investigators.

36. The delegation’s additional replies did not provide details on the case of Adán Culma Bustos and his family, except to state that the preliminary investigation was under way. And yet the events dated back to 2008. The alleged violations in that case were serious and called for thorough investigation. Had the soldiers involved been identified? If so, had they been suspended? The presidential decree ordering the declassification of the DAS files (see report, para. 279) and the indictment of several of its members, including senior officers, were an

encouraging development that the Committee would monitor with interest. The delegation could perhaps say whether the names of the persons indicted had been made public.

37. He was pleased to learn that none of the persons taken into the Victim and witness protection programme set up by the Ministry of the Interior and Justice had been murdered. However, according to some sources, many of them had been threatened and harassed, a situation that called for greater vigilance. It had been said that foreign nationals awaiting expulsion could seek redress from the immigration services through administrative channels. It would be useful to learn details of that procedure. Also useful would be details about how prisoners' complaints collected by the human rights committees in prisons were dealt with. Could the committees transmit those complaints directly to the competent authorities? Or did they have to go through an intermediary who then decided whether or not to follow them up? It was reassuring that solitary confinement was imposed only in cases of serious misconduct and that such misconduct was defined by law. It would be useful for the Committee to be told exactly which those laws were.

38. **Ms. Belmir** said that her request for clarification regarding the fact that military courts continued to hear cases that fell within the jurisdiction of the regular courts, despite a decision of the Constitutional Court declaring their lack of competence, had not been answered. She wondered about the quartering of representatives of the civilian judiciary in military barracks and would like some details regarding their relations with the soldiers in the course of their duties.

39. **Mr. Gaye** asked what exactly the powers of the indigenous courts were and whether those powers were defined in a legal text. He welcomed the introduction of electronic bracelets as a substitute for imprisonment. As he understood it, it was a merely experimental measure for the time being, and he would like to know on whose initiative – judicial or otherwise – it had been taken. He would also like more information on the modalities of preventive administrative detention.

40. **Ms. Sveaass** asked whether the prisons in Bogotá, Medellín and Cali were the only ones with a psychiatric unit, in which case it would be interesting to learn whether all prisoners with mental disorders were held in those prisons, or whether there were similar units in other prisons. She would also like to know whether each unit had its own team of doctors and social workers or whether the same persons covered the different establishments. Despite the legal prohibition of enrolment of children in the armed forces, some military units apparently continued to use minors, especially as informers. The delegation could perhaps comment on those allegations. While the State party had deployed considerable efforts to demobilize members of the illegal armed groups, including children, if demobilization was to be effective it needed to go hand in hand with monitoring and follow-up, a return to civilian life being often difficult for demobilized paramilitaries, many of whom had a sense of failure and might be tempted to rearm. Were any preventive measures being taken? A recent article in the *Cambio* newspaper had stated that a cremation pit had been discovered in May 2009 to the north of Santander and that some 200 victims of extrajudicial executions had apparently been incinerated between 2001 and 2003. She would like to hear the delegation's comments on those allegations and to learn whether an inquiry had been opened, because it was essential, in the interest of the peace and reconciliation process, for light to be shed on all violations.

41. **Ms. Kleopas** asked whether the compensation programme established by the State party was intended for victims of torture or other cruel, inhuman or degrading treatment or only those who had been subjected to torture or ill-treatment in the context of the guerrilla war. The fact that fewer than a dozen of thousands of complaints of torture had been taken to court was in itself a flagrant violation of the Convention and required the State party to initiate investigations of all allegations of torture without delay.

42. **Mr. Wang Xuexian**, regarding the issue of impunity, observed that, while the number of individuals being investigated was high, the number of convictions was extremely low. He cautioned the State party that impunity opened the door to further crimes. The Committee had also received information that a number of farmers had been robbed of their land and that State agents had been involved in that unlawful deprivation of property. Was there any truth in that allegation? For a farmer to lose his land meant losing his entire livelihood and being condemned to certain poverty; it would be helpful if the delegation could shed light on the matter.

43. **Ms. Gaer**, referring to the 182 cases of sexual violence which the Constitutional Court had ordered the Office of the Public Prosecutor to investigate, said that she had taken due note of the information the State party had furnished in paragraph 13 of its written replies, especially the measures taken to remedy structural problems faced by the Office of the Public Prosecutor, which she applauded. She wondered, however, whether the lack of information meant that none of those 182 cases had yet been investigated; if not, she would like information on the investigations carried out.

44. **Ms. Suárez** (Colombia), replying to a question concerning the 18 members of the united self-defence forces of Colombia extradited to the United States, said that some of them, who continued to be covered by the Justice and Peace Act, had been questioned under the voluntary deposition procedure provided by the Act. Their statements had led to the indictment of other persons for other acts falling within the competence of the Human rights and international humanitarian law section of the Office of the Public Prosecutor. Colombia had also recently asked for other extradited persons to be questioned, bringing to 16 the number of such requests to the authorities.

45. Regarding prosecutors quartered in military barracks, magistrates posted to some of the country's departments where law and order posed serious problems were housed with their families in such establishments solely in order to guarantee their safety, and they were entirely independent.

46. **Ms. Moya Suta** (Colombia), on the subject of the electronic surveillance bracelet, said that the measure had been taken in 2009 and the use of the bracelet could be ordered by the supervising judge in the case of an indicted individual, or by the sentencing judge in the case of a convicted person. Prisoners fitted with such bracelets could live at home and, depending on the circumstances, could go out to work or to pursue their studies. Their movements were monitored from a surveillance centre with state-of-the-art equipment. The moment a bracelet was damaged or removed, an alarm was automatically sounded and police and INPEC personnel were immediately dispatched to the scene.

47. While solitary confinement units existed in maximum- and medium-security prisons, such confinement was not merely a punitive measure since it was also used for health purposes. Viral infection or contagious disease sufferers could initially be placed in those units. At times it was the prisoners themselves who, finding cohabitation difficult in a prison, asked to be placed in such units. Individuals in those units retained all their rights, especially to legal and medical assistance and to an hour's exercise a day.

48. **Mr. Concha Sanz** (Colombia), referring to the independence of the judiciary, said that the fact that the judicial apparatus was endowed with autonomous administrative and financial security services did not mean that the State shirked its obligations. Any intimidation or harassment of justice officials by agents of the intelligence services or any other State institution was systematically subject to an administrative inquiry, as had occurred when the telephones of justice officials had been tapped.

49. The Office of the Ombudsman, responsible for the early-warning system, constantly brought the Government up to date on situations requiring its intervention in order to stave off massive human rights violations. CIAT, on which many members of the executive sat, instructed the national, regional and municipal civilian and military authorities on measures they should take to remedy situations to which the Office of the Ombudsman had drawn attention. The Office of the Ombudsman was also now represented on CIAT, which greatly facilitated information exchange and decision-making. Colombia was extremely proud of the fact that it was the only country to have put in place a system for the prevention of massive human rights violations.

50. Regarding the impunity of demobilized individuals, it should be noted that the process for the implementation of Decree No. 128 concerning demobilization was not yet at an end. Demobilized individuals were required to reveal all acts they had committed; otherwise, they could in no way benefit from the provisions of the decree. Any demobilized person who had not confessed to a war crime or crime against humanity had to account for his/her actions before the courts.

51. Attention to displaced persons was dispensed in two stages. Initially, they were provided with emergency humanitarian assistance, and at the second stage the authorities endeavoured either to stabilize the situation of refugees wherever they might be or to ensure their return. In the first situation, the idea was for displaced persons to have a source of income and be guaranteed access to basic services (in particular, education, health and housing). In the second situation, measures were taken to organize the return of persons who so wished, if respect for international rules could be guaranteed.

52. **Mr. Garzón** (Colombia), replying to Mr. Gaye, explained that the indigenous peoples enjoyed special legislation. Sometimes there was a conflict between indigenous law and national legislation: for instance, the competent court for crimes against humanity or certain practices permitted under indigenous laws, such as flogging. Those conflicts were resolved through dialogue and with respect for the principles of indigenous justice.

53. Colombia had three penitentiary establishments offering mental health services. Prisoners in need of specialized treatment were transferred to a specialized hospital.

54. The Victims' Compensation Fund was \$100 million dollars strong and was used to compensate victims of all forms of violence. That sum came entirely from the State budget and More than 200,000 victims having been identified thus far, in the end at least \$3 billion would be needed to compensate all the persons concerned. The property of drug traffickers, paramilitaries or illegal groups could also be used to finance the Fund. The compensation process, which already benefited thousands of families, needed to be improved in due course.

55. Impunity was essentially linked to the functioning of the judicial system. Justice must be able to operate effectively; investigations had to be carried through to the end and result in prosecutions, and victims had to be compensated. It was incumbent on the Government to provide the judicial apparatus with more resources and on the legislature to draft the laws required to make the justice system more effective. It would also be helpful to establish indicators relating to the fight against impunity. The situation in Colombia was dramatic and many State agents carried out their duties "with their hearts in their mouths". His own situation was a case in point: until 2007 he had been Governor of Valle del Cauca region. Two members of his security detail and his own daughter had been murdered in order to dissuade him from fighting corruption. Faced with that situation, the authorities, supported by society as a whole, needed to demonstrate their unflinching commitment to the war on violence and for each and every one to know that organized crime would not win the day. The violence that had prevailed in the country for 50 years had brought Colombians nothing

but grief and tears. He enjoined the international community to help all members of Colombian society to engage in a dialogue that would help open the way to peace and justice.

The delegation of Colombia withdrew.

The first part (public) of the meeting rose at 5. 20 p.m.