



## Economic and Social Council

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### Committee on Economic, Social and Cultural Rights

#### Forty-fourth session

#### Summary record of the 3rd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 4 May 2010, at 10 a.m.

*Chairperson:* Mr. Marchán Romero

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*Fifth periodic report of Colombia*

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

### **Consideration of reports**

#### **(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant**

*Fifth periodic report of Colombia (E/C.12/COL/5; E/C.12/COL/Q/5 and Add.1; HRI/CORE/1/Add.56/Rev.1)*

1. *At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.*
2. **Mr. Ayala Meléndez** (Colombia), introducing the fifth periodic report of Colombia (E/C.12/COL/5), said that his Government valued the work of the Committee highly and was committed to complying with the obligations it had undertaken within the United Nations system. His delegation welcomed the participation of civil society in the work of the Committee and would address some of the issues raised by NGOs.
3. **Mr. Piedrahíta** (Colombia) said that efforts were currently under way to review policy in several areas in preparation for the new Government, which would take office in August 2010. Since the adoption of the 1991 Constitution, Colombia had been committed to ensuring respect for the human rights of all Colombians and had been building its system of human rights protection through legislative and other means.
4. In order to guarantee full compliance with the International Covenant on Economic, Social and Cultural Rights, one of the Government's main priorities had been to improve security nationwide, so as to ensure that the State had full control of the country. Between 2002 and 2009 the number of murders had decreased by more than 45 per cent and the number of kidnappings by 92 per cent. Since 2002, the rate of murders of people in high-risk groups such as trade union leaders and activists had dropped by 85 per cent, and spending on their protection had increased to some US\$ 55 million in 2009. The population's trust in the authorities had increased and savings in security spending had allowed for higher spending on social development.
5. The Government had also worked to ensure sustained, high and equitable economic growth. The improved security situation had been reflected in improved economic performance, with the Government and the private sector recovering confidence and investing in the country. Consumer spending had also risen, leading to an average economic growth rate of 5 per cent between 2002 and 2009. In 2009, despite the global economic crisis and restrictions on exports to Venezuela, the economy had grown at a rate of 0.4 per cent.
6. Efforts to reduce poverty and promote equity had also been successful. While the number of families living in poverty had increased between 1996 and 2000, the figure had been decreasing consistently since 2002. Poverty and extreme poverty in Latin America had increased in 2009, but in Colombia both had decreased slightly. Social expenditure per capita had also increased, to a level that compared well with Latin American countries with a higher per capita income, such as Brazil and Mexico. Social expenditure targeting the poorest members of society had reduced extreme poverty by 14.4 per cent in 2008. Even during the global economic crisis, the Government had been able to increase social protection measures. Between 2008 and 2009, an additional 800,000 people had benefited from the Families in Action programme, which provided conditional financial support to families, and many more individuals had accessed the public health and education systems. World Bank figures placed Colombia high in the Human Opportunities Index, demonstrating that access to services was better than in many more developed countries. The Human Development Index of the United Nations Development Programme currently

positioned Colombia in the group of countries with a high index, indicating good results in areas such as life expectancy and educational achievements. Good progress was being made in combating income poverty, raising hopes that Colombia would achieve the first Millennium Development Goal by 2015.

7. The concept of social protection had been developed beyond the traditional elements of health, pension, unemployment and occupational risk to encompass aspects of citizenship and social inclusion, with a focus on social risk management. A top priority was to ensure that the poorest and most vulnerable sectors of society had comprehensive social protection. The *Juntos* (Together) strategy was an innovative policy targeting the 1.5 million poorest families, aiming to ensure that they benefited from all programmes in sectors such as health, education, employment, finance and justice. About a third of those families were internally displaced persons. The number of people with full social security coverage had increased from 60 per cent in 2002 to over 92 per cent in 2009.

8. Colombia's traditionally high unemployment rate had risen in 2009 after a significant decrease, but was once again dropping in 2010. Some 2.5 million new jobs had been created, but the unemployment rate remained high, with employment in the informal sector continuing to pose a significant obstacle to reducing the unemployment rate. Unemployment remained higher among women than men. One of the major challenges for the new Government would be to cut the unemployment rate to below double figures. That would be the only way to ensure that the social protection system, which was essentially funded by employee contributions, could be maintained and developed. Unlike in other parts of the world, trade union membership continued to rise in Colombia, with significant numbers of new members and new organizations.

9. Educational coverage had increased at all levels of education, from primary to high school. Public spending on education had risen by 42 per cent between 2002 and 2009. With the introduction of a government strategy to eliminate school fees for the poorest children, including those who had been internally displaced, there were currently 5.3 million children going to school free of charge. Others paid different amounts depending on their family income. Educational access had also increased for children with disabilities and those from minority groups. The Families in Action programme had been successful in encouraging many families to keep their children in school. School nutrition programmes had also helped to ensure children attended school. In 2009, the level of illiteracy had fallen to 6.8 per cent of the population aged over 15. There were currently over 1.5 million students in higher education, over half of whom were women. Proactive programmes were in place to encourage the poorest and most vulnerable groups to go on to higher education, with fees paid and subsidies available to cover housing and other costs. Those targeted included internally displaced persons, minorities and people of African descent.

10. Infant and child mortality was down and Colombia was on track to meet the Millennium Development Goal in that respect. Colombia had the world's third largest programme of conditional income transfer, under which 10 million people received assistance, the benefits amounting to \$400 million. The sum involved was not very high, but it had been of significant help: the communities reached by the programme had gained in confidence, since its effect was to provide a form of social protection. The programme had also helped to mitigate the impact of the financial crisis of 2009. It was well targeted, as shown by the fact that 74 per cent of the funds available went to the poorest 40 per cent of the population.

11. The Government was also focusing on providing support for early childhood: the number of people receiving assistance with their children's education and health had doubled and funding, which had been obtained by various means, including public-private partnerships, had increased by over 60 per cent.

12. There had also been improvements in benefits for elderly people. Since 2004, 150,000 people had received food or financial assistance. The Government also aimed to provide for elderly people with access to subsidized health services.

13. There was significant forced internal displacement in Colombia. According to the register that had been in place since 1997, there were 3.3 million internally displaced persons. In 1994, the Constitutional Court had ruled that forced displacement was unconstitutional, and that ruling had given the Government significant freedom to set up policies to tackle the problem. Numbers had been reduced over time and investment had been increased tenfold: between 2007 and 2010, the State had invested \$2.5 million. Progress had been made in ensuring that displaced persons had identity papers, thus enabling them to gain access to health and education services. Much remained to be done, however, in the way of providing social guarantees, compensating displaced persons for their lost lands and providing jobs. In particular, the Government was focusing on land and housing, although the question of land ownership was extremely complex. Court proceedings were in progress, but much land was under the control of organized crime. On 1 July 2010, the Government would submit a policy document to the Constitutional Court setting out the financial commitments that it proposed, with a view to rectifying what was an unconstitutional state of affairs. There might well be a need for constitutional reform.

14. Some progress had also been made in improving the lot of the indigenous communities and Afro-Colombians. Since the adoption of the 1991 Constitution, case law on various issues affecting the indigenous communities had been established and transfers of land had been made. The Government also provided funding for such communities. Despite the progress made, it remained essential to ensure that indigenous people had access to State programmes and wider representation in Congress. Colombia still had a long road to travel and, for the country to progress, security was essential. Not all areas of the country were covered by government programmes and efforts must be made to make sure that social policies were better targeted. He hoped that the Committee's contributions would assist the Government in its task.

15. **The Chairperson** invited the Committee to ask the Colombian delegation questions relating to articles 1 to 5 of the Covenant.

16. **Mr. Atangana** noted that, in question 1 of the list of issues regarding the fifth periodic report (E/C.12/COL/Q/5), the Committee had asked the Government to indicate the part played by the Ombudsman and NGOs in drafting the country's report, but there had been no reply. He also requested specific examples of action by the Ombudsman. What little information had been provided was vague.

17. **Mr. Kerdoun** (Country Rapporteur) noted that, according to paragraphs 122 to 135 of the report, the Government was trying to channel funds into international cooperation through the Presidential Agency for Social Action and International Cooperation. The information provided, however, covered activities only up to the end of 2006. He wondered whether cooperation started in 2006 had borne fruit, what progress had been made in the intervening years and whether any new projects had been started.

18. The most crucial issue of all was the continuing widespread violence in Colombia. According to paragraph 52 et seq. of the report, armed groups did not respect international humanitarian law, even though they were under an obligation to do so. Such a failure on their part was of particular significance in the context of the continuing spate of bombings, killings, kidnappings and other crimes, which had a serious effect on the civilian population. The Presidential Programme for Human Rights and International Humanitarian Law had promised to ensure respect for human rights and international humanitarian law and he asked why it had not been implemented: because it was incomplete or because it had been rejected by the armed groups? He wished to know precisely where the obstacles to the

implementation of the programme lay. The matter was very important, since implementation was a prerequisite for the country's political stability.

19. **Mr. Pillay** said that Colombia did not seem to have an effective policy regarding displaced persons, although the Committee had mentioned it as a matter of concern in 2001 and it also appeared in question 8 on the list of issues. The Government said that \$2.5 billion had been spent on alleviating the problems of internally displaced persons, yet the numbers were still on the rise: according to some reports, 150,000 people were displaced every year. In the first two months of 2010, 88 displaced persons had reportedly been murdered. He therefore asked whether there were effective policies to prevent forced displacement; to restore to displaced persons their original land or to provide them with compensation or redress; and to help displaced persons living in poverty, lacking decent housing, health or education services. Despite the money that had been spent, the Government's own report to the High Court in October 2009 had stated that 92.4 per cent of internally displaced persons lived below the poverty line. He asked where the funds provided had actually been spent. They did not seem to have benefited the most disadvantaged sectors of society. Moreover, there seemed to be a climate of impunity for the perpetrators of crimes against internally displaced persons. He would like to know why only 20 per cent of such crimes were prosecuted.

20. **Mr. Riedel** said that he was concerned that the information contained in paragraphs 52 to 62 dated back to 2006 and he requested an update on progress since then. Paragraph 59 stated that 55 per cent of the resources appropriated between 2002 and 2006 had been allocated to the creation of conditions of peace and development in depressed areas and to assistance of victims of the violence. Such a figure was of no practical use to the Committee, which needed to know specifically how much money had been spent, year on year, and whether improvements had been achieved.

21. The issue of the transitional justice process was of great interest to the Committee. The Government's response to question 5 on the list of issues mentioned the programme of restitution of goods and the land policy under decision No. 008 of the Constitutional Court, which he considered a landmark ruling that could serve as a model to other countries. The Committee would, however, like to hear more details on the modalities of the transitional justice process.

22. **Ms. Bonoan-Dandan** asked, in relation to the Government's response to question 2 on the list of issues, whether the reference to the Vice-President of the Republic leading the Presidential Programme for Human Rights and International Humanitarian Law was correct, since, according to her understanding, the various territories in Colombia had their own programmes for human rights and international humanitarian law. As for the statement that the Programme promoted the cross-sectoral insertion of economic, social and cultural rights in the territorial development plans, she asked for further information, particularly given that most of the fighting in the country took place in the territories.

23. With regard to question 3 on the list of issues, relating to bilateral and multilateral trade agreements, the Government had not, in her view, fully answered the question. Ethnic minorities might well participate actively in negotiations, but the Committee had wished to know how agreements concluded by Colombia affected the enjoyment of economic, cultural and social rights, particularly by women. She also wondered how precisely the Government defined the phrase "sustainable development".

24. As for the response to question 6 on the list of issues, the Government's response seemed to be at odds with independent information on how indigenous people constantly suffered abuse of their right to their own lands.

25. **Ms. Bonoan-Dandan** said that the State party's written reply to question 7 on the list of issues did not describe the effect of its current biodiversity policy on rural

communities. According to information before the Committee, the production of crops for biofuel had adversely affected the livelihoods of indigenous and other rural populations by diminishing their access to their sources of livelihood: she asked the delegation to comment on that issue.

26. **Mr. Kedzia** noted that a commission had been set up in 2006 to draft a plan of action on human rights in Colombia. He asked what the current status of the plan was and how it dealt with economic, social and cultural rights. In light of the reports of tensions and public disputes between the executive and judicial branches of government, he was concerned that those tensions might have undermined the independence of the judiciary; he asked the delegation to comment on the reports and on any measures taken to address the situation. He also asked the delegation to comment on the progress achieved in the areas of access to land, access to housing and income generation for internally displaced persons. While he was grateful for the statistical data provided on the country as a whole, he would welcome more specific data on the situation of particularly vulnerable groups.

27. **Mr. Sadi** asked for information on the status of the Covenant in the domestic legal system and expressed the hope that Colombia would soon ratify the Optional Protocol to the Covenant. He wondered what was feeding the ongoing internal conflict and why it impacted some vulnerable groups more than the rest of the population, and asked what measures the Government was taking to end the conflict. He also wondered what the implications were of Catholicism's status as the official religion and what impact that had on other religions.

28. He asked the delegation to respond to allegations that the Government's taxation policy benefited the rich more than the poor. He also asked why the Presidential Advisory Office on Women's Equity used the word "equity" in its name rather than "equality". The Quotas Act required only that women hold 30 per cent of seats in parliament, not 50 per cent, which implied that the State party was not striving for true equality between men and women.

29. **Mr. Zhan Daode** congratulated the State party on maintaining economic growth in 2009 in spite of the global economic crisis. Noting that Colombia had committed itself to reducing by half the proportion of its population living in poverty and extreme poverty by 2015, he asked what progress had been made towards that goal and how many people were currently living in poverty and extreme poverty in Colombia. Every effort should be made to reduce poverty and unemployment and to increase social stability.

30. **Ms. Barahona Riera** said she would like to know what impact the changes to the tax regime were expected to have on poverty and how the redistribution of wealth was envisaged within the framework of the new tax regime. She asked for clarification on whether the reform of the Families in Action programme involved cuts in social expenditure.

31. According to information before the Committee, the health system had been virtually privatized and did not guarantee access to basic health care for the whole population. She would appreciate clarification on that point.

32. Noting that the Constitutional Court, in an effort to protect the economic, social and cultural rights of the population, had handed down several rulings to amend sections of the free trade agreement between Colombia and the United States of America, she asked how the delegation viewed those rulings.

33. Lastly, she asked the delegation to respond to the Committee's previous recommendation that the Government should take the necessary legislative and financial measures to enable the Presidential Advisory Office on Women's Equity to address the serious gender issues in the country effectively.

*The meeting was suspended at 11.50 a.m. and resumed at 12.10 p.m.*

34. **Mr. Piedrahíta** (Colombia) said that NGOs had not been directly involved in drafting the State party's report but that the Public Defender's Office and the Office of the Procurator-General were among the State institutions that had been involved. Thanks to those institutions, questions and criticisms from NGOs had been incorporated into the report.

35. In response to the question on international aid, he said his delegation would provide the Committee with information in writing on how official development assistance to Colombia had evolved since 2006. Since Colombia was now a lower middle-income country, the Government foresaw little need for official development assistance in the future. It was working on a strategy to attract private investment and in fact had even begun its own donor activities.

36. Regarding the implementation of the Presidential Programme on Human Rights and International Humanitarian Law, he said that the Constitution required the armed forces and police officers in Colombia to apply international human rights standards and international humanitarian law. The delegation would provide further information in writing on the implementation of the Programme. As for illegal armed groups, he called on the international community to help the Government pressure those groups to comply with international standards.

37. In response to the comment that policies for internally displaced persons had been ineffective, he said the policies were insufficient rather than ineffective. More funds and more effective coordination between the federal, state and local governments were needed to remedy the problem. On 1 July 2010 the Government would be submitting a plan to the Constitutional Court to address the needs of internally displaced persons. The issues of greatest concern in that respect were housing and land. About 2 million hectares of land had been confiscated from criminal groups, which presented a great opportunity to redistribute land to the poor and the displaced. However, the legal process would take six to seven years. The delegation could provide written information on the Government's new land policies, which centred on redress, income generation and housing.

38. **Ms. Gaitán García** (Colombia) said that particular attention had been paid in Colombia's policy on internally displaced persons to the protection of persons at risk of displacement, and reparation and compensation for those who had been displaced. Efforts were being made to improve the channels of information that enabled displacement to be prevented, through coordinated action by the Ombudsman and the early warning system run by the Ministry of the Interior and Justice. Steps were being taken to return land to displaced people. Rehabilitation assistance, psychosocial support and housing were also being provided to them. A unit had been established in the Office of the Attorney-General to investigate situations of displacement and the original crimes that had caused them. The establishment of the unit was particularly significant as those crimes had never been investigated. Particular efforts were being made to uncover the reasons for displacement and to develop a comprehensive policy on compensation.

39. **Mr. Piedrahíta** (Colombia) said that 55 per cent of the Government's budget was allocated to poverty relief. Government plans covered a four-year period. The Constitution stipulated that social expenditure in real terms could not decrease year by year.

40. **Ms. Gaitán García** (Colombia), turning to the issue of transitional justice, said that efforts were being made to provide administrative remedies for violations of human rights by illegal groups, as well as compensation and reparation through the legal system.

41. **Mr. Piedrahíta** (Colombia) said that the process of drafting the national plan of action on human rights and international humanitarian law had not yet been completed, as

there had been some difficulties in agreeing on the draft. However, the Government remained committed to drafting the plan, and hoped it would be completed in the near future.

42. **Ms. Bonoan-Dandan** asked how economic, social and cultural rights were incorporated in national development plans. She also requested further information on how indigenous people were involved in trade agreement negotiations.

43. **Mr. Herrera** (Colombia) said that although Colombia had a national development plan, it also had development plans at all local administrative levels. Efforts were being made to ensure that human rights were a central element in all development plans.

44. **Ms. Gaitán García** (Colombia) said that all development plans must include an economic, social and cultural rights component. Those plans therefore gave local elected officials a voice in education, health, housing and income-generation programmes.

45. **Mr. Piedrahíta** (Colombia) said that he would ensure that the formal definition of sustainable development used by the Colombian Government was forwarded in writing to the Committee. The Committee had noted correctly that there was a conflict with regard to land rights. Although the Constitution stated that indigenous land, which accounted for 30 per cent of the territory of Colombia, could not be expropriated, it also stated that what lay beneath the land was the property of the State. There was therefore a conflict of interests between the indigenous community and mining operations. The Ministry of the Interior and Justice was working to overcome that problem.

46. **Mr. Herrera** (Colombia) said that Colombia was trying to adopt measures to ensure that indigenous communities could enjoy their rights. The Constitutional Court had ruled that prior consultation was a right of the indigenous community and must be concluded before any economic development projects could be carried out on indigenous land. All planned projects were therefore subject to consultation with the indigenous and Afro-Colombian communities.

47. **Mr. Piedrahíta** (Colombia), responding to questions raised on conservation and biofuels, said that 11 per cent of the territory of Colombia was protected by national reserves, and over 50 per cent of the country was covered by forest. Efforts were being made to give those who had been cutting down the forest to use the land for illegal drug production alternative employment as forest guards. The environmental impact on the rainforest of the production of biofuels had been minimal, since the majority of biofuel crop production was carried out on land that had previously been used for cattle ranching. Although there had been some cases in which the land of displaced indigenous communities had been used for the cultivation of biofuel crops, displacement was not directly attributable to biofuel production. Colombia was the second largest producer of ethanol and the largest producer of biodiesel in Latin America.

48. Turning to questions on tensions between the executive and the judiciary, he said that, although there had been accusations and recriminations in the past, Colombia had a strongly independent judiciary and a State that complied with judicial decisions. Strong decisions were issued by the Constitutional Court and implemented by the Government. A protection plan was in place for members of the judiciary who were involved in human rights cases. The State would continue to invest in their protection while they remained at risk. Although some tensions were inevitable, the independence of the Colombian judiciary remained strong and the budget allocated to it had increased significantly under the current Government.

49. Written information would be submitted on the problems and challenges related to internally displaced persons, including in the areas of housing, health care and income generation. Policy adjustments were being made on those issues, although some challenges



remained. Income generation was a complex issue, but was acknowledged as the crux of development; further investment was required in that respect. Written information would be provided on development indicators for specific groups such as indigenous peoples and Afro-Colombians.

50. Regarding the reasons why most victims of violence were Afro-Colombians and indigenous people, he explained that while over 70 per cent of Colombians lived in cities, many Afro-Colombians and indigenous people were concentrated in areas that had traditionally been neglected. Owing to the lack of a State presence and capacity for action in those areas, illegal groups had found a safe haven there for their activities. The Government had therefore been taking measures to restore security and sovereignty to those areas, and to ensure the provision of social services for the people. While the ability of the private sector to function in those areas was improving, much progress still remained to be made and the historical debt to indigenous people must be paid.

51. On the justiciability of the Covenant, he said that under the Colombian Constitution only fundamental rights were justiciable. As economic, social and cultural rights were considered to be progressive rights, they were only justiciable in the event that they had a direct impact on the exercise of fundamental civil and political rights.

52. **Ms. Gaviria** (Colombia) said that the Constitution included mechanisms for the immediate enjoyment and protection of social rights. In the event that an individual felt that his or her social rights, such as the right to health, were being threatened, they could use those mechanisms to call for the guarantee of the right concerned.

53. **Mr. Piedrahíta** (Colombia) explained that violence was not a new phenomenon in Colombia. Violence had been ongoing for 60 years, and had stemmed from the limited representation of certain political groups who had become guerrilla movements as a result of that political exclusion. Poverty, inequality and social conditions had also contributed to the dissatisfaction that had resulted in violence. In the 1990s violence had increased considerably, owing to the development of the illegal drugs trade in Colombia, which had become one of the main sources of funding for those illegal groups. The Government was making efforts to act on all the causes of violence. Although progress had been made in curbing violence, and Colombia was no longer considered the kidnapping capital of Latin America, further efforts were needed to ensure that the progress made was maintained. Increased security measures had been effective, and investment in social programmes had been increased. The Government recognized that overcoming violence required not just improved security but also more employment opportunities, poverty reduction and access to social services and health care, and that the vast inequalities among different sectors of society, which had a considerable effect on the indigenous population, must be eliminated.

54. Turning to freedom of religion, he said that there was no State religion, and although 90 per cent of the population was Christian, there were Jewish and Muslim minorities living in Colombia. The right to freedom of religion was enshrined in the Constitution.

55. Responding to questions on taxation, he said that over the past 20 years government revenue from taxation had doubled, from 7 per cent of gross domestic product in 1990 to 15 per cent in 2009. Revenue from taxation must, however, be increased further in order to guarantee delivery of social services. As for the fairness of the tax system, there were two main sources of income, value added tax (VAT) and income tax. VAT currently stood at a rate of 16 per cent and was a regressive tax paid by all consumers irrespective of their income, though there was no VAT on basic commodities such as food products and medicines. Income tax, on the other hand, was highly progressive, ranging from a rate of 5 per cent for those on low incomes to 20 per cent for those on the highest incomes. However, many wealthy people were not in the formal economy and therefore paid no income tax. Efforts were being made to overcome that problem. The amount paid in tax by

the poorest sectors of society was outweighed by the social benefits they received; State intervention thus reduced inequality.

56. **Ms. Gaitán García** (Colombia) said that the 30 per cent quota for political representation of women was a minimum level that the Government aimed to surpass. In fact, in 2009, 40 per cent of top decision makers had been women.

*The meeting rose at 1 p.m.*