Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee

Addendum

Evaluation of the information on follow-up to the concluding observations on Colombia

Colombia

| Concluding observations (118th session): | CCPR/C/CO/7, 1 November 2016 |
| Follow-up paragraphs: | 9, 29 and 39 |
| Follow-up reply: | CCPR/C/CO/7/Add.1, 18 December 2017 |
| Committee’s evaluation: | Additional information required on paragraphs 9 [B], 29[B] and 39[B] |
| Information from non-governmental organizations: | Comisión Colombiana de Juristas |

Paragraph 9: Internal armed conflict

The State party should continue and intensify its efforts to prevent violations of Covenant rights and to give effect to the rights of victims of the armed conflict to truth, justice and full reparation. It should, in particular, ensure that:

(a) The appropriate authorities adopt effective preventive measures in response to early warnings issued by the Inter-Agency Early Warning Committee, and that they monitor and take proper action on all risk reports and follow-up notes issued by the Ombudsman’s Office under the Early Warning System, even if they are not converted into early warnings;

(b) All violations of Covenant rights are investigated promptly, thoroughly and impartially, and the perpetrators of such violations are brought to justice and held accountable for their acts;

(c) Effective protection and care is afforded to the most vulnerable persons and communities, in particular women, children, older adults, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, Afro-Colombians and indigenous peoples;

(d) All victims receive full reparation, including the restitution of their land.

* Originally scheduled for adoption at the Committee’s 128th session but postponed to the 129th session (29 June to 24 July 2020) due to COVID-19.
Summary of the State party’s reply

(a) The system for collecting, processing and assessing the actions implemented by the appropriate authorities is continuously developed by the Ombudsman’s Office. The Ministry of the Interior makes recommendations in all cases brought before the Inter-Agency Early Warning Committee, and monitors the implementation of those recommendations through information gathering and a permanent communication channel with the relevant authorities. Training sessions for local authorities and the Public Force are conducted in the field.

(b) In 2016 and 2017, 52 judgments concerning 6,004 incidents and 28,055 victims were handed down against 215 individuals under the Justice and Peace Act. Investigations were conducted on human rights violations committed by the Revolutionary Armed Forces of Columbia (FARC), the National Liberation Army (ELN) and FARC dissident groups. Investigations were also conducted on the human rights violations committed by public servants. Investigations were also conducted on “false positives”.

(c) The National Protection Unit provides protection to human rights defenders. As at 31 July 2017, 1,654 individuals were under the protection of the Protection and Assistance Programme within the Attorney General’s Office, which represents 525 cases.

(d) Humanitarian assistance is distributed by the Victims Unit on the basis of a needs assessment procedure. As at 31 July 2017, the Central Register of Victims had registered 8,504,127 victims, 6,646,456 of whom benefit from assistance and reparation. The victims benefit from both individual and collective reparations. In terms of memory, several strategic lines were defined aimed at establishing a human rights and historical remembrance archive and a national museum for remembrance, and for carrying out investigations for the establishment of the truth, and local initiatives for memory and strengthening non-judicial mechanisms for truth. A total of 25 initiatives for memory - mainly cultural centres, galleries, schools and events – were promoted. Regarding the land restitution process, the State party provided data on the registration, administrative and judicial phases.

Information from the “Comisión Colombiana de Juristas”

(a) In 2017, the Ombudsman’s Office issued 14 follow-up notes and 52 risk reports, of which 25 were imminent risk reports. In 2018, the Ombudsman issued 87 early warnings; as at 20 August 2019, 33 of these warnings had been issued. The most frequent recommendations are that humanitarian assistance be provided to victims of human rights violations, that violations against human rights defenders be addressed, and that security conditions for leaders who have requested protection measures against threats be guaranteed.

Despite the progress in investigations into and the prosecution and punishment of alleged perpetrators of killings of social leaders and human rights defenders, the State party has not fully clarified the root causes of the violations. Furthermore, the consistent lack of implementation of the Ombudsman’s recommendations in its early warnings and follow-up notes contributes to violence and human rights violations.

(b) Although the Office of the Attorney General has established the reduction of impunity as an essential component of its strategic plan (2016-2020), no progress was made in 2017 in reducing impunity for human rights violations. A high level of impunity is evident with regard to crimes committed since 2005, with percentages similar to those reported during previous years, with a rate of impunity close to 90 per cent for all related crimes.

In recent years, serious cases of corruption among judicial officials have been reported. The most significant example is the well-known “Cartel de la toga” scandal.

(c) Serious situations of human rights violations and violations of international humanitarian law continue, particularly with regard to vulnerable rural populations, such as indigenous people, peasants, people of African descent, women, older adults, children and adolescents.

In 2017, at least 348 people were victims of homicide. Of the 115 cases where the alleged perpetrator was known, responsibility was attributed to the State in 94, which shows the persistence of extrajudicial executions in Colombia. The Colombian Commission of Jurists
also referred to other human rights violations, including enforced disappearance, arbitrary detentions and torture. It also provided information on violations affecting vulnerable persons, including children, older adults, and lesbian, gay, bisexual and transgender persons.

(d) Structural deficiencies persist in the implementation of reparations to victims of armed conflict, as well as in the land restitution policy. The implementation of Law No. 1448 of 2011 has been deficient, and affected 8,006 victims. Implementation has been impeded by, inter alia, budgetary constraints and delays in execution; deficiencies in prevention and protection measures for victims; insufficient results in humanitarian measures; the limited participation of victims; the closure of the victim registry in 2016; the lack of recognition and reparation measures for victims who are abroad; obstacles in collective reparation processes; the lack of comprehensive health care with a psychosocial approach; the little progress made in the implementation of gender and ethnic differential approaches; and the lack of institutional coordination for the fulfilment of the objectives and measures provided for by the law.

In June 2021, Law No. 1448 of 2011 on land restitution will expire, and land restitution will therefore no longer be processed. Some victims are now waiting for their judicial processes to be considered, the enforcement of their sentences, and the prosecution of those responsible for dispossession.

Committee’s evaluation

[B] The Committee notes the information provided by the State party on the measures taken in response to early warnings issued by the Inter-Agency Early Warning Committee. It requires further information on the measures taken by the State since the adoption of the concluding observations, particularly in relation to the implementation of the risk reports and follow-up notes issued by the Ombudsman’s Office under the early warning system, even if they are not converted into early warnings.

It takes note of the information provided regarding investigations into and the prosecution and conviction of human rights violations committed both by members of armed groups and public servants. It requests additional information on the progress made to implement the Committee’s recommendation, including information on the recent cases of corruption among judicial officials and measures taken after the concluding observations to ensure that Covenant rights are investigated promptly, thoroughly and impartially. It also requests the State party to respond to information provided to the Committee that the rate of impunity remains close to 90 per cent for all related crimes.

The Committee notes the information provided on the protection of human rights defenders, but regrets the lack of disaggregated information provided on the specific measures taken to ensure effective protection and care for the most vulnerable persons and communities, in particular women, children, older adults, persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons, Afro-Colombians and indigenous peoples.

The Committee takes note of the information provided on measures to ensure reparation for victims. It also takes note of the data provided on the land restitution process. It also requires, however, information on the measures taken since the adoption of the concluding observations to ensure full reparation for the victims and to ensure the restitution of land to all victims, including measures to strengthen the application of the victims law. The Committee reiterates its recommendations.

Paragraph 29: Conditions of detention

The State party should redouble its efforts to reduce overcrowding by, inter alia, ensuring that use is made of non-custodial measures, and to improve prison conditions so as to ensure that the dignity of persons deprived of their liberty is respected in accordance with article 10 of the Covenant. It should also step up its efforts to prevent torture and ill-treatment in places of deprivation of liberty, to ensure that all reports of torture or ill-treatment are investigated promptly, thoroughly and impartially by an independent body.
that has no hierarchical or institutional tie to the suspected perpetrators, and to ensure that the responsible parties are brought to justice and punished.

Summary of the State party’s reply

The Government has taken steps to reduce prison occupancy, thereby mitigating and correcting a structural problem affecting the prison system. Data show a decrease in overcrowding since 2016. The State party reiterates the information provided in its report (CCPR/C/COL/7, para. 97) regarding the adoption of non-custodial measures of detention. In 2016 and 2017, two laws on non-custodial measures were adopted, as was a criminal justice policy information system.

Regarding conditions of detention, maintenance contracts for water treatment plants were signed to ensure access to drinkable water in detention centres. The executive board of the National Health Fund for Persons Deprived of Their Liberty adopted recommendations on the health of detainees. A prison emergency was declared on 5 May 2016 by the executive board of the National Prison Institute and by the Constitutional Court, which led to measures such as the creation of rapid reaction health brigades, and maintenance, rehabilitation and endowment works.

An independent complaint mechanism has been implemented by the Office of the Specialized Ombudsman for Criminal Justice and Prison Policy pursuant to recommendations made by the Committee against Torture.

Information from the “Comisión Colombiana de Juristas”

Although the total percentage of overcrowding has been reduced, the problem persists. The current rate of overcrowding takes into account the total number of places of detention, not the real distribution of inmates. Similarly, places of detention designated for preventive detention are also overcrowded.

In 2018, the criminal code and criminal procedure were amended (Law No. 1908 of 9 July 2018). The maximum duration of preventive detention was increased from two to four years for crimes relating to activity in organized armed groups.

The number of doctors in places of detention was reduced. One non-governmental organization referred to the tendency to use force against inmates, including cases of collective punishment and excessive use of force in special control operations.

Committee’s evaluation

Although the Committee notes the decrease in the rate of overcrowding, it requires information on the occupancy rate disaggregated by places of detention and sex, including places of detention designated for preventive detentions. The Committee welcomes the adoption of two laws on non-custodial measures to detention, but requires information on the progress made in implementation and impact. It takes note of the information provided on the provision of drinkable water in detention centres, but regrets that no information was provided on other measures taken since the adoption of the concluding observations to improve prison conditions so as to ensure the dignity of persons deprived of their liberty. The Committee notes the information that the number of doctors working in places of detention has decreased, and on the tendency to use force against inmates, including cases of collective punishment and excessive use of force in special control operations, and requires further information in this respect.

With respect to measures to prevent torture and ill-treatment in places of deprivation of liberty, the Committee welcomes the establishment of an independent complaint mechanism to investigate reports of torture or ill-treatment, but requires information on the number of cases of torture and ill-treatment investigated and prosecuted.
Paragraph 39: Alleged acts of intimidation, threats or attacks targeting human rights defenders, journalists, trade unionists, judicial officials, lawyers or social or human rights activists

The State party should redouble its efforts to provide timely, effective protection to human rights defenders, journalists, trade unionists, judicial officials, lawyers and social or human rights activists who are the target of acts of intimidation, threats and/or attacks because of the work that they perform. It should also step up its efforts to ensure that all allegations regarding acts of intimidation, threats or attacks are investigated promptly, thoroughly and impartially, and that the perpetrators stand trial and are held accountable for their acts.

Summary of the State party’s reply

At the institutional level, the Government implemented a national safeguard process. A high-level panel was created in March 2016. A unified command post for follow-up on aggressions against human rights defenders and social leaders was established in December 2016. The National Commission on Security Guarantees under the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace was established on 23 February 2017. An elite peace corps was established within the National Police as the State’s immediate response for dismantling criminal organizations.

Regarding investigations, a special investigation unit for the dismantling of armed groups was created within the General Prosecutor’s Office in 2017. The Prosecutor’s Office issued a directive on the protection of human rights defenders.

With regard to measures of protection, the State has a protection programme for those defending human rights.

Information from the “Comisión Colombiana de Juristas”

Since the signing of the Final Agreement, there has been a worrying increase in the number of attacks against human rights leaders and defenders, a situation that currently constitutes a major threat to peacebuilding in Colombia. The State party’s response has not been effective, and impunity persists to a high degree.

The peace agreement contains a set of measures that can help to reduce violence against human rights defenders. The Government’s refusal to implement these measures makes the situation even more difficult.

Committee’s evaluation

[B]: The Committee notes the establishment of several institutional bodies, including the elite peace corps. The Committee also notes the creation of a special investigation unit, as well as the data provided on measures of protection. It requires, however, information on their impact, such as with regard to investigations into and the prosecution of allegations of acts of intimidation, threats or attacks against human rights defenders, journalists, trade unionists, judicial officials, lawyers and social or human rights activists. The Committee also requires information on the claim that, since the signing of the peace agreement, there has been a worrying increase in attacks against human rights leaders and defenders.

Recommended action: A letter should be sent to inform the State party about the decision to discontinue the follow-up procedure. The information requested should be addressed by the State party in its next periodic report.