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Excellency,

I am writing to thank you for your reply to my letter of February 17, 2006. I am writing in my capacity as Rapporteur for follow-up on Conclusions and Recommendations of the United Nations Committee against Torture, and refer to the examination of the third periodic report of Colombia (CAT/C/39/Add.4) by this Committee, at its 31st session, from 10 to 21 November 2003 (CAT/C/CR/31/1). At the end of that session, the Committee's Conclusions and Recommendations were transmitted to your Permanent Mission. In paragraph 10 n) of those Conclusions and Recommendations, the Committee asked, pursuant to its rules of procedures, that Colombia provide further information regarding areas of particular concern identified by the Committee in paragraph 10 b), d), f) and h). These were also appended to my letter to you.

As I explained, the Committee's follow-up procedure focuses on issues that are serious, that can be accomplished by the State party in a one year period, and that are protective. We received your reply dated 15 March 2006 concerning the information sought by the Committee and, after having had it translated, I have reviewed it with care. I am writing to express appreciation for your responses on these matters and for the substantial information provided in your reply which amounts to 15 pages.

From an analysis of the information provided to the Committee, I would be grateful for clarification of the following matters with regard to the implementation of the Convention in Colombia, and where sufficient information is not yet provided.

1. The Committee expressed concern regarding government counter-terrorism measures that might encourage the use of torture, and in paragraph 10(b) urged reconsideration of them, in light of Colombia's obligations under the Convention against Torture.

With regard to recommendation b(i), on the use of "peasant soldiers," the Committee appreciates the clarification of the purpose, mandate and number of persons who participate in the program. The Committee's recommendation that their use be reconsidered stemmed from concern that such combatants, drawn from and stationed in their own communities, may be the target of illegal armed groups, and produce attacks, including acts of torture, that target both combatants and civilians in those communities. As the reply did not comment on the matter of reconsideration, we would appreciate further information on whether there has been any evaluation of these forces, or any assessment or reconsideration of the risk of torture or other ill-treatment that their presence may create for civilians in the municipalities where the 598 teams you mention are based.

H.E. Ms. Clementina Forero Uros
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Thank you for clarifying the action of the Constitutional Court on the bill on the counter terrorism statute that would have given military forces powers of criminal investigation [recommendation b(ii)], and the judicial reform bill [recommendation b(iii)] and the fact that the Government has not tabled new bills. The information regarding the new adversarial system of criminal justice was most appreciated. Would you comment on how, in view of the reported placement of prosecutors from the Attorney General's Office inside specific military units, the prosecutors are able to maintain their independence?

2. With regard to recommendation 10(d) concerning the ability of staff of the Human Rights Unit of the Public Prosecutor's Office to carry out their duties independently, impartially and in safety and provide the Unit with the resources needed to do its work effectively, we appreciate the information regarding the 'Action against Impunity' program. Further information is requested on measures taken to investigate any reported claims of past pressure directed against such public officials, and any new rules and provisions that would provide them with the independence and job security required for maintaining such positions within the government. In particular, what measures have been taken and implemented to establish and elaborate rules for the selection and retention of such staff in career posts; have the Constitutional Court's recommendations on this matter been implemented? Is there any internal protection or investigation mechanism which staff can access to provide them with adequate job security and physical safety?

Additional information is also requested with regard to the financing of public service posts for those staff members responsible for human rights investigations, which is another means of ensuring the independence and safety of the staff. Recognizing that funds for the Human Rights Unit and Program for the Protection of Witnesses and Victims have largely been provided through international technical cooperation programs, what is the status of funding of these units from Colombian government sources and are there plans for making this permanent?

Finally, paragraph 34 of your reply references a series of benchmarks to help measure progress in implementing the policy to counter impunity. It would be helpful if you could inform us what benchmarks have been established, and which of them are most effective indicators of progress. Also, whether the independence and impartiality of the relevant public officials involved in implementing this policy has been one of the benchmarks.

3. With reference to paragraph 10 (f), the Committee was concerned that forensic reports and hence, the investigation into such deaths, document not only the homicide, but also the torture. It therefore recommended that signs of torture, particularly sexual violence, be documented in cases of violation of the right to life. It further encouraged training of the medical staff so they can determine when torture or ill-treatment of any kind has occurred. The information provided in your reply (paragraphs 35-40) concerning the use of the Istanbul Protocol, the 1991 UN Manual and other forensic techniques designed to identify and gather evidence regarding torture is indeed encouraging. Could you clarify whether there is also training provided to investigators and prosecutors so that they are able to identify cases in which they should, in turn, request trained medical experts to conduct autopsies using techniques like these designed to identify torture including sexual violence. Additionally, are there resources to ensure that the documented evidence from investigators including medical experts is maintained and archived so that it may be used as appropriate in any prosecution that may follow?

Additionally, can you clarify what measures are taken, if any, to coordinate the investigation of and preservation of evidence from autopsies on bodies found following enforced disappearances, so that an institution that plans to conduct investigations does not duplicate another's work. For example, there are several entities in charge of investigation of disappearances – Unidad de Derechos Humanos, Unidad de Justicia y Paz, and Comisión Nacional de Búsqueda de personas desaparecidas, and several institutions with policing/investigatory authority (e.g., Medicina Legal, CTI, DIJIN). How are investigations coordinated so that a forensic medical expert examines such bodies first, and that evidence of torture may be collected for use by each of the relevant agencies? In addition, what measures ensure that any such evidence is preserved so that elements of torture can be verified? Have there been any successful prosecutions for torture as a result of the maintenance of such procedures?

4. Finally, we come to recommendation 10(h), concerning protection of human rights defenders and members of the judiciary. The Committee expressed particular concern about the "widespread, serious attacks on human rights defenders" who play "an essential role in reporting torture and ill-treatment." Information available to the Committee revealed that many human rights defenders have been threatened and killed in Colombia, despite the existence of commendable support and protection programs which focus on immediate protection measures. The Committee recommended effective measures to protect human rights defenders against harassment, threats and other attacks and asked the State party for a report on any judicial decisions and any other measures taken in that regard, as well as measures to protect members of the judiciary and their independence.

The Committee appreciates the information provided to it regarding activities focused on human rights defence and protection: training workshops, coordination, etc. It notes with interest the various presidential and ministerial directives regarding these issues, particularly the description in your reply of the special instructions issued by the Military Forces pursuant to Ministerial Directive No 9, which require collection of information aimed at protecting "trade unionists and human rights defenders and the need to refrain from making unfounded statements that could place these vulnerable groups at risk (paragraph 45)". The Committee understands this directive ratified Presidential Directive 07 dated September 1999, whereby public servants are instructed to respect human rights defenders and the work of their organizations. Similarly, in Circular No. 5 of 2005 the Government's Advisory Council for internal control over official entities urges public servants of the executive branch to show due respect for the work of human rights defenders. These directives are an important step in the process of providing protection for defenders as recommended by the Committee against Torture.

Yet the Committee is also concerned over information it has received regarding ongoing problems increasing the risk to human rights defenders: for example, a report of the UN High Commissioner for Human Rights concluded that "the positive impact...of the directives was ...offset by certain public declarations made by governmental authorities. Top governmental officials questioned the nature of the work of human rights organizations and accused them of being at the service of terrorism. This weakens the legitimacy and the possibilities that the ...directives be respected and can encourage actions against...people involved in the defence of human rights or in trade union movements." [See UN Document E/CN.4/2004/13, paragraph 88. The High Commissioner identifies such officials as "Among them, the President of the Republic, a few ministers, and military commanders."] In the following year, the High Commissioner reported she was "unaware of any progress" in imposing disciplinary sanctions on public servants who "discredit or endanger the work of human rights defenders." [UN Document E/CN.4/2005/10, paragraph 40] and again, in 2006, she stated that measures penalizing persons for such acts against human rights defenders were still inadequate. [UN Document E/CN.4/2006/9] In 2006, she also stated again that some authorities publicly questioned the nature and legitimacy of the work of human rights defenders and that "such stigmatizations ...increase the risk exposure of human rights defenders." [E/CN.4/2006/9, Annex IV, paragraph 4]

Similarly, the Special Representative of the Secretary General on Human Rights Defenders also reported in 2005 that "Despite the ratification in July 2003 of the Presidential Directive 07 ...public attacks against the credibility of the defenders have continued" and she expressed her "gravest concern at the increase in public statements stigmatizing human rights defenders as 'enemies'" which she concluded "increase the risk of attacks by paramilitaries..." While the Spécial Representative welcomed the expansion of the protection program for defenders, she concluded that "As long as senior Government officials continue to stigmatize defenders as adversaries, no protection programme, regardless of how well funded, can successfully ensure their safety." [E/CN.4/2005/101/Add. 1, paragraphs 215-216.]

Finally, the Working Group on Disappearances, in a 2006 report on its visit to Colombia, stated that it was "deeply concerned by the hostile and derisive attitude of the Government towards human rights defenders..." and reported that it "heard direct assertions that victims of enforced disappearances somehow deserved their fate." [E/CN.4/2006/56/Add.1, paragraphs 82-83.] The Working Group members pointed to the "courageous attitude of Colombia's human rights defenders whether operating at governmental or non-governmental levels, including organizations of women's groups" and noted that, in providing legal aid and other assistance to victims of violence, these defenders "fill a need that is not otherwise attended to by the State. ...They deserve more acknowledgement, support and protection fro the Government as well as the international community than appears to have been provided thus far." [Id., paragraph 90.]

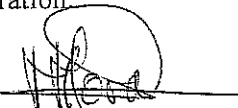
In view of these reports as well as the government's own directives cautioning against placing defenders at risk, the Committee strongly reiterates its request for information about any effective judicial or other measures that protect human rights defenders from attack, harassment, and stigmatization. Also, the Committee would appreciate it if you would clarify what specific sanctions, if any, have been applied to Colombian officials of all ranks who disregard the directives and place human rights defenders at greater risk by their public statements critical of them. Specific case examples would be appreciated.

Your reply also cites efforts to monitor precautionary measures, and to establish various human rights action plans, some in concert with human rights and civil society organizations. Can you clarify what measures have been instituted to build trust between human rights defenders on the one hand and government authorities, on the other, particularly in light of the perception held by that human rights defenders that they are often subjected to unfounded criminal charges leading to their arrest and detention, reportedly often based solely on the claims of paid informers, which are said to be aimed at punishing them for their human rights defense work. Furthermore, defenders claim that criminal investigations against them remain open after their release from detention for periods longer than permitted by law, even when credible evidence is lacking.

Many persons active in defenders groups have been targeted and killed. Yolanda Izquierdo was reportedly representing a group of displaced Colombians seeking housing. Many claimed their lands were seized and they were the victims of paramilitary violence. She was threatened several times in December 2006 and January 2007, reported her concern to the Attorney General's office, sought protection, was not provided it and was murdered by two men on a motorcycle in January 2007 in Monterio, Cordoba department. What have been the results of the investigation of Yolanda Izquierdo's homicide so far? The Committee would appreciate your clarification on the specific protection measures that are in fact available to persons who seek it, as Ms. Izquierdo apparently did?

Upon receipt of replies to this request for additional information, the Committee will be able to assess whether further information or action is still needed. The Committee looks forward to pursuing the constructive dialogue it has started with the officials of Colombia on the implementation of the Convention, and in this context, to receive additional follow up information on our recommendation.

Accept, Excellency, the assurances of my highest consideration


 PP Felice D. Gaer

Rapporteur for Follow-up on Conclusions and Recommendations
 Committee against Torture