



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Concluding observations on the seventh periodic report of Colombia\*

1. The Committee considered the seventh periodic report of Colombia (CCPR/C/COL/7) at its 3313th and 3314th meetings (see CCPR/C/SR.3313 and 3314), held on 19 and 20 October 2016. At its 3330th meeting, held on 1 November 2016, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the seventh periodic report of Colombia and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/COL/Q/7/Add.1) to the list of issues (CCPR/C/COL/Q/7), which were supplemented by the oral responses provided by the delegation and additional information provided in writing.

#### B. Positive aspects

3. The Committee welcomes the numerous legislative and institutional measures taken by the State party during the reporting period in the area of civil and political rights, including the adoption of:

(a) Decree No. 1036 of 2016, on the adoption of the National Strategy to Combat Trafficking in Persons 2016-2018;

(b) Act No. 1761 of 2015, which, among other provisions, makes femicide a separate criminal offence;

(c) Act No. 1719 of 2014, which provides for, inter alia, the adoption of measures to ensure access to justice for victims of sexual violence, particularly sexual violence during armed conflict;

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\* Adopted by the Committee at its 118th session (17 October-4 November 2016).



- (d) The National Strategy for Guaranteeing Human Rights 2014-2034;
- (e) Statutory Act No. 1618 of 2013, which sets out the provisions to ensure that persons with disabilities fully enjoy their rights;
- (f) Act No. 1448 of 2011, which, among other provisions, lays down measures for the provision of support, assistance and comprehensive redress to the victims of the internal armed conflict, and Decrees Nos. 4633, 4634 and 4635 of 2011;
- (g) Act No. 1482 of 2011, as amended by Act No. 1752 of 2015, which introduces criminal sanctions for discriminatory acts;
- (h) Decree No. 4912 of 2011, organizing the Programme for Prevention and Protection of the rights to life, liberty, integrity and security of persons, groups and communities of the Ministry of the Interior and the National Protection Unit, as amended by Decree No. 1066 of 2015;
- (i) Decree No. 4100 of 2011, which provides for, inter alia, the creation and organization of the National Human Rights and International Humanitarian Law System, as amended by Decree No. 1216 of 2016, which regulates matters related to the National System and the InterSectoral Human Rights and International Humanitarian Law Commission;
- (j) Act No. 1408 of 2010, which commemorates the victims of enforced disappearance and lays down measures to locate and identify them, and Regulatory Decree No. 303 of 2015.

4. The Committee welcomes the ratification by the State party of the following international instruments:

- (a) The International Convention for the Protection of All Persons from Enforced Disappearance, on 11 July 2012;
- (b) The Convention on the Rights of Persons with Disabilities, on 10 May 2011.

5. The Committee again welcomes the extensive references to international human rights standards, including the Covenant, in the jurisprudence of the Constitutional Court.

## **C. Principal matters of concern and recommendations**

### **Implementation of the Views of the Committee under the Optional Protocol to the Covenant**

6. The Committee notes that eight decisions have been issued in accordance with Act No. 288 of 1996 to grant compensation in favour of victims of violations who were the subject of the Committee's Views and that the payment of compensation been ordered in respect of four of those decisions. It also notes the adoption of Decree No. 507 of 2016 to facilitate the payment of the compensation provided for under Act No. 288 of 1996. However, it notes with concern that the Views in which it found a violation of the Covenant have not yet all been fully implemented (see CCPR/C/116/3, annex) (art. 2).

7. **The State party should take the measures necessary to implement fully the Views that have not yet been implemented in which the Committee found a violation of the Covenant, so as to guarantee an effective remedy when there has been a violation, in accordance with article 2 (3) of the Covenant.**

### **Internal armed conflict**

8. Although the Committee notes that peace negotiations with the Revolutionary Armed Forces of Colombia — People's Army (FARC-EP) have led to a considerable reduction in the impact of the armed conflict on the civilian population, it is concerned by reports that violations of Covenant rights, including the arbitrary deprivation of life, enforced disappearances and torture, continued to be committed during the period under review. The Committee finds it regrettable that it has not received sufficient information on the steps taken in response to the early warnings issued by the Inter-Agency Early Warning Committee during the reporting period or on their effectiveness in preventing serious human rights violations (arts. 2, 6, 7, 9 and 12).

9. **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.**

10. While the Committee takes note of the progress made in the application of Act No. 975 of 2005 (as amended by Act No. 1592 of 2012), it is concerned by the fact that numerous serious violations of Covenant rights committed by members of demobilized paramilitary groups are still going unpunished (arts. 2, 6, 7, 9 and 12).

11. **The State party should redouble its efforts to ensure that none of the serious violations of Covenant rights committed by members of demobilized paramilitary groups — including violations that have allegedly been committed by paramilitary leaders who have been extradited to the United States — goes unpunished and that the victims receive full reparation.**

### **Illegal armed groups that have formed in the wake of the demobilization of paramilitary organizations**

12. While the Committee takes note of the measures adopted by the State party to combat organized crime, it is concerned by reports of abuses allegedly committed during the period under review by illegal armed groups that have formed in the wake of the demobilization of paramilitary organizations. It is also concerned by claims that some of these groups have acted in collusion with agents of the State and by reports of abuses allegedly committed by these groups in Buenaventura (Valle del Cauca), although it does take note of the State party's assertion that the strategy which it has used there has reduced the level of violence (arts. 2, 6 and 7).

13. **The State party should redouble its efforts to prevent the commission of abuses by illegal armed groups that have formed in the wake of the demobilization of**

**paramilitary organizations and to ensure that the responsible parties, including any agents of the State who provide support to such groups or allow them to act with their acquiescence, are brought to justice and punished. The State party should also ensure that victims receive sufficient protection and full reparation.**

#### **Arbitrary deprivation of life**

14. The Committee notes with concern the allegations that, during the period under review, cases of arbitrary deprivation of life by members of the security forces continued to be recorded. It notes the information provided by the State party on the progress made in investigating homicides associated with the actions of the security forces, including those known as “false positives”, but is concerned that the number of perpetrators convicted remains low in relation to the high total number of victims (art. 6).

**15. The State party should intensify its efforts to prevent arbitrary deprivations of life by agents of the State. It should also ensure that all cases of arbitrary deprivation of life are investigated promptly, thoroughly and impartially, and that the perpetrators, including those in a position of command, are prosecuted and punished. In that regard, it should also ensure that investigations are launched, carried out and concluded in the regular justice system.**

#### **Discrimination and violence based on sexual orientation or gender identity**

16. The Committee recognizes the efforts made by the State party to protect the rights of lesbian, gay, bisexual, transgender and intersex persons, including the decisions of the Constitutional Court that guarantee the rights of same-sex couples to enter into civil marriages and to adopt children, and its efforts to combat discrimination and violence directed at them. The Committee is concerned, however, by reports that such persons have been the target of acts of violence, including murder, and police misconduct because of their sexual orientation or gender identity (arts. 2, 6, 7 and 26).

**17. The State party should continue and step up its efforts to combat stereotypes regarding, and prejudice against, lesbian, gay, bisexual, transgender and intersex persons, and to ensure that acts of discrimination and violence directed against them are prevented, that acts of violence against them are investigated, that the persons who commit such acts stand trial and are punished, and that victims are provided with assistance and full reparation. It should also adopt stronger measures to prevent members of the security forces from committing acts of discrimination or violence and to punish them if they do so. The Committee recommends that the State party continue its efforts to uphold the rights of same-sex couples in practice.**

#### **Violence against women and sexual violence**

18. The Committee recognizes that the State party has taken numerous steps to prevent and combat violence against women and sexual violence, to punish persons who commit such acts and to offer reparation and assistance to the victims. It is concerned, however, by reports that violence against women and sexual violence aimed primarily at women and girls continue to be serious problems both within and outside the context of the armed conflict, and by reports that many of these crimes go unpunished (arts. 3, 6, 7 and 24).

**19. The State party should redouble its efforts to prevent and combat all acts of violence against women and acts of sexual violence, to punish persons who commit such acts and to offer assistance and full reparation to victims. In particular, it should facilitate the submission of complaints by victims, investigate all instances of violence against women and of sexual violence promptly, thoroughly and impartially, ensure that the persons committing such acts stand trial and are punished and ensure that**

victims receive assistance, full reparation and appropriate protection without delay by, inter alia, making a sufficient number of shelters available for victims throughout the country.

#### **Voluntary termination of pregnancy**

20. While taking note of the measures adopted by the Ministry of Health to ensure that women have access to abortion services when one or more of the criteria provided for in Constitutional Court Decision No. C-355 of 2006 are met, the Committee is concerned by reports about the obstacles that some women have faced when attempting to gain access to legal abortion services, including conscientious objection on the part of health-care personnel without appropriate referrals and a lack of proper training on the part of such personnel. It is also concerned by reports of numerous cases in which abortions have been performed illegally under unsafe conditions that have endangered the life or health of the women involved. It is, in addition, concerned by information indicating that teenage pregnancy rates are high (arts. 3, 6, 7 and 17).

21. **The State party should continue and step up its efforts to ensure that women have effective, prompt access to legal abortion services by, inter alia, doing away with the obstacles that could prevent their access to such services and facilitating public access to information on how to go about having an abortion legally. In particular, the State party should establish an effective referral mechanism to ensure the availability of safe abortion services in cases where health-care professionals invoke the conscientious objection clause, and ensure that those professionals who perform abortions receive adequate training. The State party should review the repercussions of the existing legal framework with a view to ensuring that women do not have to resort to clandestine abortions that endanger their life and health. The State party should intensify its efforts to prevent unwanted pregnancies, especially among adolescents, and to ensure that women and adolescent girls have access to appropriate sexual and reproductive health services throughout the country.**

#### **Manual eradication of coca crops by campesinos**

22. The Committee takes note with concern of reports that coca crops are being cleared manually by poor campesinos who have no other employment opportunities in areas where there are landmines and where illegal armed groups are present. While taking note of the information provided by the State party concerning the steps taken to reduce these risks, the Committee is concerned by reports that many of these persons have been killed or injured by exploding landmines or by illegal armed groups (arts. 6 to 9).

23. **The State party should stop using civilians to manually clear coca crops until it has been verified, in accordance with the relevant international standards (such as the International Mine Action Standards), that the areas in which this activity is conducted are actually free of landmines and of other hazards that could put their life or safety at risk. It should also ensure that full reparation is made to persons who have been injured and to the family members of persons who have been killed. In addition, the State party should continue and intensify its efforts to ensure that unexploded anti-personnel mines are safely removed by trained personnel.**

#### **Enforced disappearances**

24. The Committee notes the steps taken by the State party to address the problem of enforced disappearances. However, it is concerned by reports that enforced disappearances continued to occur and that efforts to search for disappeared persons have run up against formidable challenges. It is also concerned about the lack of consolidated data on the number of disappeared persons (arts. 2, 6 and 7).

25. **The State party should continue and step up its efforts to investigate all presumed enforced disappearances promptly, thoroughly and impartially, and to ensure that the responsible parties stand trial and are punished; to search for disappeared persons, to allocate sufficient resources for that purpose and to coordinate the efforts of the relevant authorities effectively; and to ensure that victims receive full reparation. The State party should also expedite the process of cleansing the records comprising the Register of Disappeared Persons so that accurate, consolidated information on disappeared persons in the State party can be made available.**

#### **Trafficking in persons**

26. While welcoming the various steps taken by the State party to combat trafficking in persons and to punish the responsible parties, the Committee takes note with concern of reports that human trafficking, including internal trafficking, persists, particularly to the detriment of vulnerable persons such as children, Afro-Colombians and indigenous peoples (art. 8).

27. **The State party should continue and step up its efforts to prevent and combat trafficking in persons, including internal trafficking; to punish the responsible parties; to identify the victims; and to provide them with full reparation and appropriate protection and assistance.**

#### **Conditions of detention**

28. While taking note of the steps taken by the State party to improve prison conditions, the Committee is concerned by the persistence of serious overcrowding, as the total rate of overcrowding in the country's detention centres is 55 per cent and is reportedly over 400 per cent in two centres. The Committee is also concerned by reports that instances of ill-treatment of persons deprived of their liberty, including members of the lesbian, gay, bisexual, transgender and intersex population, continued to occur (arts. 7 and 10).

29. **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.**

#### **Internally displaced persons**

30. The Committee recognizes the efforts made by the State party to prevent internal displacements and to address this problem, and it notes that the number of internally displaced persons has fallen in recent years. It is concerned, however, by reports that instances of internal displacement, including cases involving large numbers of people, continue to occur owing to various factors, such as the activities of illegal armed groups that formed in the wake of the demobilization of paramilitary organizations and the implementation of megaprojects (arts. 2, 12, 26 and 27).

31. **The State party should continue and step up its efforts to prevent internal displacements, to ensure that all victims receive appropriate care, assistance and full reparation on a timely basis and to ensure that the return and relocation of displaced persons are conducted safely and in a sustainable manner.**

**Right to privacy**

32. The Committee finds it regrettable that it has not received updated information on the investigations being conducted into the suspected illegal surveillance activities reportedly conducted by officials of the former Administrative Department of Security and takes note with concern of allegations regarding the illegal surveillance of journalists during the reporting period. The Committee is also concerned that the “electromagnetic spectrum monitoring” provided for in article 17 of Act No. 1621 of 2013 could result in instances in which private communications conveyed via the electromagnetic spectrum are intercepted without the benefit of a rigorous assessment of the legality, necessity and proportionality of such interceptions. It is also concerned by the fact that the new Police Code that is to enter into force in 2017 defines the concept of “public areas” in a very broad sense that includes the electromagnetic spectrum, and by the fact that all the information and data gathered in public areas are considered to be in the public domain and to be freely accessible (art. 17).

**33. The State party should:**

(a) **Expedite the investigations being carried out into suspected illegal surveillance activities allegedly conducted by officials of the former Administrative Department of Security and ensure that all responsible parties are held accountable for their acts;**

(b) **Adopt effective measures to prevent illegal surveillance activities from being conducted and ensure that all allegations regarding such illegal activities are investigated and that the responsible parties are held accountable for their acts;**

(c) **Take the necessary steps to ensure that any interference with a person’s privacy, including interference via the electromagnetic spectrum, is in keeping with the principles of legality, necessity and proportionality;**

(d) **Ensure that the implementation of laws governing matters that could have repercussions on the enjoyment of the right to privacy, in particular Act No. 1621 and the new Police Code, is entirely in keeping with the State party’s obligations under the Covenant and, in particular, its obligations under article 17.**

**Military recruitment**

34. While welcoming the decisions of the Constitutional Court in which it concludes that the practice of indiscriminate round-ups with the aim of identifying young persons who have failed to resolve their military status and taking them to assembly points entails carrying out arbitrary arrests (judgments Nos. C-879 of 2011 and T-455 of 2014), and the State party’s assertion that this practice does not take place, the Committee is concerned by reports of cases recorded during the period under review (art. 9).

**35. The State party should adopt stronger measures to ensure that no one is detained arbitrarily, particularly for the purpose of military recruitment, by, inter alia, improving the training provided to members of the security forces; that all allegations of arbitrary detention are investigated promptly, thoroughly and impartially; and that the perpetrators are prosecuted and punished.**

**Excessive use of force during public demonstrations**

36. The Committee is concerned by reports that, during the period under review, members of the police Mobile Anti-Riot Squad and of the army used excessive force during public demonstrations, apparently resulting in loss of life and injury (arts. 6, 7, 19 and 21).

37. **The State party should continue and step up its efforts to prevent and eradicate effectively all forms of excessive use of force by members of the security forces and ensure that all allegations of excessive use of force are investigated promptly, thoroughly and impartially, and that the perpetrators are prosecuted and punished.**

**Alleged acts of intimidation, threats or attacks targeting human rights defenders, journalists, trade unionists, judicial officials, lawyers or social or human rights activists**

38. While applauding the establishment of the National Protection Unit and taking note of the number of persons to whom the Unit has afforded protection, the Committee is concerned by allegations that acts of intimidation, threats and/or attacks, including murders, targeting human rights defenders, journalists, trade unionists, judicial officials, lawyers or social or human rights activists were perpetrated during the reporting period, and by reports that many of these acts go unpunished (arts. 6, 7, 19, 21 and 22).

39. **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.**

**Use and recruitment of children by illegal armed groups**

40. The Committee takes note of the efforts made by the State party to prevent children from being used or recruited by illegal armed groups and to separate those who have been recruited from those groups and offer them assistance and protection. It is concerned, however, at reports of the continued use and recruitment of children by illegal armed groups, including, in particular, the use and recruitment of indigenous and Afro-Colombian children, and by illegal armed groups that formed in the wake of the demobilization of paramilitary organizations. The Committee takes note of the State party's statement that, in accordance with the laws in force, security forces do not engage in intelligence activities or military civic acts that involve children. It is concerned, however, by reports of cases in which members of the security forces allegedly involved children in such activities during the reporting period (art. 24).

41. **The State party should continue and step up its efforts to prevent the use and recruitment of children by illegal armed groups; to ensure that, in accordance with the jurisprudence of the Constitutional Court, all children who have been used or recruited by such groups are treated as victims, regardless of which armed group they have been separated from; to ensure that all children separated from such groups receive protection and proper care with a view to their physical and psychological recovery and to the restoration of their rights; and to ensure that the responsible parties stand trial and are punished. The State party should also adopt effective measures to ensure that, in actual practice, children are not involved in intelligence work or in military civic activities.**

**Rights of Afro-Colombian and indigenous persons**

42. The Committee is concerned by reports that Afro-Colombian and indigenous persons continue to be discriminated against despite the steps taken by the State party to combat discrimination. It is also concerned by reports regarding the issuance of permits for natural resource development projects on the territories of indigenous peoples that, in some cases, have had an adverse impact on their way of life. In particular, it is concerned by



reports that the Wayúu peoples in La Guajira Department do not have sufficient access to drinking water. While taking note of the introduction of guidelines for conducting prior consultations with ethnic communities present in the area of influence of a project, worksite or activity (Presidential Directive No. 10 of 2013), the Committee is concerned about the delay in the passage of a law that would require that consultations be held with ethnic communities with a view to obtaining their free and informed consent prior to the adoption and application of any measure that may have a substantial impact on their way of life and culture. In connection with the preparation of such a bill, the Committee notes that the Ministry of the Interior has arranged with members of relevant national offices to hold the first formal meetings at which a road map will be developed for consultations regarding that bill. The Committee takes notes of the examples of prior consultations provided by the State party, but finds it regrettable that it has not received sufficient information on the action taken to give effect to the right to prior consultation in relation to the application of Decrees Nos. 4633 and 4635 of 2011. It is also concerned by the fact that not all the plans that have been developed for the preservation of the 34 indigenous peoples at risk of cultural or physical extinction or disintegration are as yet being implemented (arts. 2 and 27).

43. **The State party should:**

(a) **Continue and step up its efforts to prevent and combat discrimination against Afro-Colombian and indigenous persons, to ensure that those who engage in such discrimination are held accountable for their acts and to ensure the full enjoyment by Afro-Colombian and indigenous persons of their rights, including, in particular, their rights over the lands, territories and natural resources that they use or occupy;**

(b) **Ensure that consultations are actually held with the relevant ethnic communities with a view to obtaining their free and informed consent prior to the adoption and application of any measure that may have a substantial impact on their way of life and culture, and ensure that Afro-Colombian and indigenous communities are consulted in a timely manner within the framework established by Act No. 1448 of 2011 and Decrees Nos. 4633 and 4635 of 2011;**

(c) **Expedite the passage of a law under which consultations must be held with the relevant ethnic communities with a view to obtaining their free and informed consent prior to the adoption and application of any measure that may have a substantial impact on their way of life and culture, ensure that this law is fully in keeping with the Covenant and other relevant international standards and ensure that ethnic communities play an active part in its formulation;**

(d) **Step up its efforts to ensure the timely and effective implementation of the plans that have been developed for the preservation of the 34 indigenous peoples that have been identified as being at risk of cultural or physical extinction or disintegration.**

#### **D. Dissemination and follow-up**

44. **The State party should widely disseminate the Covenant and its two optional protocols, its seventh periodic report, the written replies to the list of issues prepared by the Committee and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society, NGOs operating in the country and the general public.**

45. In accordance with rule 71 (5) of the Committee's rules of procedure, the State party should provide, within one year following the adoption of the present concluding observations, relevant information on its implementation of the Committee's recommendations made in paragraphs 9 (internal armed conflict), 29 (conditions of detention) and 39 (alleged acts of intimidation, threats or attacks targeting human rights defenders, journalists, trade unionists, judicial officials, lawyers or social or human rights activists) above.

46. The Committee requests the State party to submit its next periodic report by 4 November 2020 and to include in that report specific, up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, when preparing its next periodic report, to consult widely with civil society and NGOs operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. Alternatively, the Committee invites the State party to agree, by 4 November 2017, to use its simplified reporting procedure, whereby the Committee transmits a list of issues to the State party prior to the submission of its periodic report. The State party's response to this list of issues will then constitute its next periodic report to be submitted under article 40 of the Covenant.

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