

ANNEX 1

EXTENSIVE CONSULTATION PROCESS

In January 2008, Colombia established an Interinstitutional Committee that included the Presidential Programme for Human Rights and International Humanitarian Law, the Human Rights Divisions of the Ministry of Foreign Affairs, and the Ministry of the Interior and Justice, which constituted a Permanent Working Group (PWG) to prepare the Review.

In fulfillment of its duties and following the General Guidelines set forth in Human Rights Council (hereinafter the Council) Decision 6/102, the PGW used the following methodology in the consultation process with the main objective of making an in-depth analysis and evaluation of the human rights situation in Colombia, and designing alternatives and proposals to allow the State to adopt measures aiming at providing effective protection and promotion of human rights. This consultation process is permanent and did not end with the preparation of the written Review. It will continue in such a way as to satisfy the requirements of the Review.

Four specific objectives were set forth to reach this goal, which are directly linked to the Human Rights Council Guidelines:

- a) To determine the achievements, best practices, challenges and constraints of the State in complying with international and constitutional obligations to protect and guarantee human rights;
- b) To determine the main priorities, initiatives and possible commitments which the Colombian State might assume in order to overcome the challenges and constraints, and to improve the situations of human rights in practice;
- c) To determine what Colombia could request in terms of technical assistance; and
- d) To compile information by both State agencies and the civil society for the State Report, and overall for the preparation of the Universal Periodic Review.

The broad consultation process is addressed at three forums: (1) the various state entities, including control organs; (2) civil society; and (3) the Offices of the United Nations' Human Rights system and the G-24 Member States (a non-formal working group formed by countries which are friends of Colombia, and which meet with the government and the civil society to support initiatives related to human rights and international humanitarian law).

The Government does not share certain opinions and observations received during this consultation process, but it respects them.

The consultation process was developed under four modes:

a. Written consultation

Charts

Distribution of a consultation package to 35 State agencies, with a chart that of the parts that must be included in the State Report, , according to the General Guidelines, and the human rights issues which appear in the **OHCHR** webpage. Thirty one completed charts

were received¹, and these were analyzed in light of the recommendations and observations of the organs of international human rights treaties, as well as special procedures of the Council.

Communications

A total of 118 communications were sent to different NGOs, inviting them to suggest and give their opinions on Points 1. a), d) and e) of the Guidelines. In response to these invitations, in April, the following were received: two requests for an extension to reply, five requests for additional information on the periodic review, four individual in-depth replies (Ciudad Don Bosco, Fundación Dar Colombia, Corporación Construir, Corporación un Nuevo Amanecer and Corporación Compromiso), and a joint reply of 1203 NGOs, represented by the Colombian Platform for Human Rights and Development, the Permanent Assembly of the Civil Society for Peace, the Alliance of Social and Related Organizations for Democracy and Peace, and the Colombia-Europe-United States Coordination group.

From the *individual replies* given by the NGOs, that provided an opinion from the field of human rights in which they work, it is possible to conclude that:

- The NGOs consider that a process of socialization and raising awareness of the issues included in the UPR is essential, for the broad consultation process, addressed to institutional players and entities in the civil society, including the NGOs which work directly with vulnerable population groups.
- Additionally, they expressed that the consultation process should involve all interested players, in order to design joint mechanisms to strengthen the rights that are more frequently violated and thereby preventing possible future violations
- With regard to the achievements, constraints and challenges of the Colombian State in the matters of human rights, comments differ, depending on the area of work involved. These include achievements such as municipal action plans in human rights, regional development plans which have included issues of human rights, and the new Child and Adolescent Code. Of the main challenges, there was mention of the adoption of a national action plan for human rights.
- Among the priorities in human rights matters, there were issues such as specific actions to prevent child labor, the engagement of children in armed groups and in groups that live on the streets; a follow-up of human rights violations particularly among vulnerable groups, socialization of the human rights issues among the general public, and other issues such as comprehensive attention to the victims,

¹ These were the Ministries of Interior and Justice, Social Protection, Agriculture, Defense, Communications, Education, Environment Housing and Regional Development; the Office of the Attorney General, the Ombudsman, National Planning Department, the Attorney General's Office, the prison administration INPEC, ICBF, the Presidential Adviser on Equity for Women, the Presidential Program for Youth, Program for Human Rights and International Humanitarian Law; the Presidential Program for Social Action and International Cooperation, Presidential Program against Corruption, CNRR, DANE, the Executive Directorate of the Courts Martial, the Forensic Medicine Service, National Police, INCI, INSOR, CNTV, CNE, Civil Records Office, SENA and INCODER.

assignment of priorities in social investment rather than military spending, protection of human rights defenders, and the defense of democracy and the institutions.

The *joint reply*, includes the following points:

- Regarding the achievements, constraints and priorities of the State in human rights and international humanitarian law matters, they say that they have been able to identify two major obstacles: (i) the government has, on several occasions, dismissed the observations of the NGOs, and has attacked the dignity and legitimacy of their work; and (ii) the recommendations made by the human rights protection authorities have not been implemented, and that on the contrary, the government has done exactly the opposite.
- With regard to priorities, they say that (i) there continues to be socio-political violence, and that the number of extrajudicial executions committed directly by Law Enforcement officials has increased; (ii) that negotiations between the government and the paramilitary groups have become a threat to democracy and an extremely serious operation in terms of impunity; (iii) that murders of human rights defenders continue to occur; and (iv) that there has been a backward step, and violations in terms of economic, social and cultural rights.
- The NGOs invite the Government to understand the Periodic Review as an opportunity to acknowledge the profoundly adverse effects of the application of the Democratic Security Policy in terms of human rights and the democratic structures of Colombia.
- With regard to the methodology of the consultation progress, the NGOs propose that the government makes a public statement expressing respect for their work as human rights defenders. They consider it very important to rectify what they believe have been personal insults against them and that measures should be taken to disown those who claim to speak on behalf of the Government. Moreover, they believe that upon completion the Review should be made public and that the constructive proposals previously submitted by the NGOs should be taken into account.
- Finally, they hope that the State will recognize the serious situation of human rights and international humanitarian law, and that it will look for ways to improve human rights in practice, and to implement the recommendations given by the various instances of protection of human rights, both in the Universal system and in the Inter-American system.

With the same consultation purpose, 1102 communications were sent to municipal Ombudsmen across the country, requesting them to give their suggestions and opinions with regard to Points 1. a), d) and e) of the Guidelines. The Ombudsmen are public servants, elected by municipal councils, and accountable to the Attorney General Attorney General's Office. Their duties are to exercise civic oversight, to defend the interests of the

public, to receive complaints on human rights violations, to report those events to the authorities, and to supervise municipal officers. In some of the replies received, and it was said that the constraints found in human rights are closely related to the lack of dissemination and education on the subject, and the priorities in the matter should be designed to implement a social policy focused on the creation of new opportunities for work and education.

b. Consultations in with direct dialogue in selected forums.

✓ **Meetings with state entities**

Two meetings were held with State entities in March, to inform them of the importance and developments in the Periodic Review, the creation of the Human Rights Council, format for Country Report, and the content of the General Guidelines. Based on that, they were asked for information to be included in the report, and this was supplied on the matrices and in the attached documents.

✓ **Personal consultation**

The working group contacted a number of authorities and international and local organizations, in order to include them in the consultation process, and to obtain their comments. In July, four personal consultations were made: with the UNHCHR, the G-24 member States the Attorney General, and the Ombudsman.

The following concerns were expressed at a meeting with the Attorney General as well as in the written statement sent by that Office:

- There continue to be investigations under the military criminal justice system in cases of homicide against protected persons, and disciplinary investigations pursued by internal control offices of the battalions, and these are generally shelved quite rapidly after the event, with preclusion in favor of those allegedly responsible. Nonetheless, the efforts of the Ministry of Defense to combat this problem are acknowledged.
- Three years after the enactment of the Law of Justice and Peace, there has been no sentencing under this law.; the methodological plans are not specific for the purpose of making an indictment, and extradition could pose difficulties to the extent that those who have already made voluntary free statement, have not yet given sworn statements against third parties.
- The results achieved so far by the CNRR are scanty
- The results achieved so far by the Commission for the Disappeared, in the matter of identification of remains, are scanty
- The recruitment of minors into the illegal armed groups continues, and there is a lack of investigation into that crime.
- Initiatives should be taken in reparations, such as the proposed law of reparations for the victims of violence which is currently before Congress. There is nonetheless recognition of the important efforts made by the Government to enact the decree which proposes administrative reparations for the victims.
- With regard to education and health, reference is made to studies made by the Attorney General's office, namely "Education in the perspective of human rights",

where there is the recommendation "Concertation and execution of active policies to bring about more positive changes in education indicators"; and "The right to health with the perspective of human rights and the system of inspection, supervision and control by the Colombian State in matters of complaints about health", in which they recommend that the Constitutional Court declare a 'state of constitutional affairs' in this area.

Based on the individual consultation with the Ombudsman's Office, they decided to prepare a document entitled 'Elements of information and analysis regarding the Ombudsman's office' which includes a description of the achievements of the entity in the promotion and protection of human rights, some good practices which might be adopted by other countries, such as the Ombudsman's reports which study specific situations in human rights, makes recommendations to the different entities, and does a follow-up on compliance. Likewise, it includes a short analysis of the human rights situation in the country, mentioning progress, challenges, constraints and priorities. They advise that the petitions processed (consultations, requests and complaints) show that the rights most frequently violated are health, life, personal integrity, petition, and the rights recognized for the displaced population. They highlight progress in the system of integral attention for the displaced, and legislative measures adopted to comply with international obligations of the State such as the implementation of the accusatory system in criminal processes, and the implementation of the policy against impunity. As challenges, they include the definition and integral execution of National Action Plan for human rights, and the Human Rights Education Plan.

During the meeting with the UNHCHR the following issues were considered to be priorities: Homicide of protected people, the struggle against impunity, the displaced population, cases in the context of the Law of Justice and Peace, the human rights situation of human rights defenders and union members, reparations for the victims of violence, forced disappearance, kidnapping, the National Action Plan in Human Rights, the National Education Plan for Human Rights.

In the individual consultations with members of G-24, particular emphasis was placed on the following issues: cultural dissemination of human rights, human rights situation of union members, impunity, substantial differences in language as a barrier to dialogue, and millennium objectives. A subsequent meeting was proposed.

✓ **Meetings with representatives of the civil society**

Meetings with representatives of the civil society were held according to vulnerable population groups : Indigenous communities, AfroColombians, women, children, displaced groups, union members, human rights defenders and journalists. The meetings were held in July, and 72 people took part, including officers of state agencies who serve these groups and representatives of United Nations agencies in Colombia, such as UNHCR, UNICEF and UNIFEM. (See chart 1)

During these meetings opinions and suggestions were compiled regarding the achievements, challenges, constraints and main priorities of the Colombian State in matters of protection and respect of human rights, among which it is worth highlighting the

following:

- Meeting with organizations that represent and provide assistance to the displaced population

The following issues were considered to particularly important: (i) the implementation and progress made in a pilot plan in Huila and Caqueta for displaced families; (ii) work with respect to Constitutional Court Writ 092 with regard gender differentiation; (iii) the need to establish a mechanism for social economic stabilization; and (iv) difficulties regarding real indicators. Likewise, special concern was expressed regarding the development model, considering that displacement is not only a product of violence, but also a product of the country's real socio-economic situation. Finally, the following were highlighted as constraints to overcoming this problem; the imbalance between the victim and the offender, and the invisibility of the displaced population.

- Meetings with women's organizations

The organizations which attended the meeting said that they were unclear as to the issue, and considered that preparing the Review implied a strong cultural change, which they needed to assimilate accordingly in order to be able to contribute constructively. Nonetheless, they proposed that UNIFEM should promote a space for dialogue between the working group and the women's organizations, to discuss the methodology for preparing the review, rather than the substance of its content, and the role of the representatives of the civil society therein.

- Meeting with organizations working for rights of children

Among the achievements cited, is the Issuing of the Child and Adolescent Law and its influence on the development of public policy at municipal and departmental levels, the anti-landmines program, and the ICBF reintegration program. The problems identified were family violence, school violence, sexual exploitation and access to justice for its victims, disparity, displaced children, and the forcible recruitment of minors

- Meeting with representatives of indigenous communities

The following issues were highlighted: (i) The presence of the State in indigenous territories, considered by some leaders as an achievement and by others as a problem (in the indigenous territories, there are three major problems: the presence of drugs, the illegal groups, and disrespect for the identity of territory); (ii) Persecution and harassment of leaders; (iii) Progress in the discourse of Law Enforcement officers in matters of human rights; (iv) The need for economic development in accordance with the indigenous culture and protection of territories; (v) Displacement and the risk that this entails for their cultural existence; (vi) The presence of landmines in their territories; (vii) difficulties in health matters, particularly access to the health system; (viii) Food security; (ix) Difficulties in the implementation of a manual eradication and crop substitution a crop program; (x) constraints in the recognition of indigenous authorities; and (xi) Inefficient operation of communication spaces.. Finally, there was a proposal for a subsequent meeting.

- Meeting with representatives of the AfroColombian groups

There was consensus and concern in the consultation, about certain expressions on the part of the Government, which fail to acknowledge the problem of racial discrimination in Colombia. Likewise, the following issues were highlighted: the exercise of the rights of Afro-Colombian women; prior consultation of and concern for the implementation of projects within their territories; the specific situation of poverty; the need for development programs and policies; permanence in territories differential attention for displaced Afro Colombians, and implementation and regulation of Law 70/1993.

- Meeting with union leaders

During this meeting the following topics were discussed: anti-union violence as a historical constant. Concern regarding the minimum wage; informal work, and its consequences; situation of threats and violation of human rights of union leaders and unionized workers, and impunity thereof; acknowledgement of the Government's effort in favor of labor rights; and an analysis of the strengths and weaknesses of the protection program of the Ministry of Interior and Justice.

- Meeting with journalists organizations

The following issues were considered to be priorities: the precarious nature of the conditions of employment of journalists, which dramatically affects their independence and ethics, particularly during election times; the existence of threats against their life and safety; accusations and harassment against journalists by public servants and members of the armed forces; the lack of any type of advertising other than official advertising in certain regions, which thus imposes limits on the independence of the media, since they survive exclusively from that; the abuse of judicial process, through denunciations of slander or defamation; and the impunity in investigations in the murders of journalists.

As achievements, there was recognition of the effectiveness of the Ministry of Interior's Protection Program for Vulnerable Populations, and the position of leadership which Colombia has earned in legislation and jurisprudence. As possible commitment, the suggestion for the creation of a kind of Ombudsman-Delegate for issues of freedom of expression.

- Meeting on the situation of human rights defenders

The Government called on Permanent Assembly of Civil Society for Peace, the Alliance of Social Organizations and Similar for Democracy and Peace, and the Colombia-Europe-United States coordination group that bring together a large number of civil society organizations (1203 NGOs). However, these organizations expressed their intention not to take part in the meeting, or in any other consultation, until they had received an official reply to their communication, and until there had been a public announcement of the conditions in which civil society would take part in a broad consultation process at national level.

Chart No. 1.
Invitations and attendance: Meetings with Civil Society

Meeting	CIVIL SOCIETY ORGANIZATIONS			UN AGENCIES		STATE AGENCIES	
	Invited	Attended	No attending	Special agencies	No. attending	Entities	No. attending
Children	6	3	3	1	1	5	9
Women	9	2	2	1	1	5	8
Indigenous	16	7	10	-	-	2	5
Afrocolombians	12	5	5	-	-	2	7
Displaced	8	1	2	1	2	4	9
Unions	3	1	1	-	-	1	2
Journalists	3	1	1	-	-	2	4
HR Defenders	4	-	-	-	-	-	-
TOTAL	61	20	24	3	4	21	44

✓ **Workshop**

After the meetings were completed, the information provided by state agencies was compiled and the observations and opinions of the civil society was collected, an eight-hour workshop was held, attended by 57 officials (managers and advisers) of different government entities, to review the preliminary draft of the Country Report (prepared by the working group).

c. Electronic consultation

✓ **Access to the webpage**

The webpage of the Presidential Programme for Human Rights and International Humanitarian Law was enabled to provide room for the Periodic Review, to inform the public of the methodology that was being used, the preparations that were being made by Colombia, and the ways in which the public could participate actively in this process².

✓ **E-mail survey**

The public was able to submit its opinion on the human rights situation in Colombia by e-mail to: examenperiodicounive@presidencia.gov.co and participate in preparing the review, making their observations on Points 1.a), d) and e) of the General Guidelines, based on the formulation of four basic questions:

- (a) Which do you think have been the achievements of the Colombian State in matters of human rights?
- (b) Based on the policy of respect and protection of human rights implemented by the State, which actions or programs do you identify as best practices which could be useful in the experiences of other countries?
- (c) Considering the current human rights situation in Colombia, and the many efforts of the

² See <http://www.derechoshumanos.gov.co>

state to improve it, in your opinion, which are the challenges and constraints to guaranteeing the effective enjoyment of these rights in practice?

(d) In line with the preceding points, in your opinion, which are the priorities or the matters in which the State should concentrate its efforts to improve the situation of human rights in practice?

In regards to the electronic consultation, it should be noted that people were able to send in their comments on the human rights situation in Colombia, and this facility will continue to be open and available to the civil society to follow up the recommendations of the UPR.

Of the replies received, some citizens pointed out achievements such as the Child and Adolescent Code, the extension of school coverage, the education of the Armed Forces in the subject of human rights, the security policy and its results with respect to personal safety and lower levels of violence; the release of kidnapped victims; and the climate of trust in the institutions.

With regard to best practices, there was mention of the program Families in Action, programs for the elderly, the Community Councils held by the President with the communities in different parts of the country; Acción Social; and programs that care for the victims of landmines and AED.

As constraints, corruption and drug trafficking were identified. As challenges, there was mention of education, housing, employment, forced displacement, the struggle against impunity, reparations for victims, and the struggle against the illegal armed groups.

Finally, the priorities mentioned were the dismantling of illegal armed groups, the struggle against corruption, reparations for victims, the displaced, to promote the teaching of human rights; to meet the needs in matters of health, housing and education, and the victims' right to the truth.

✓ Press release

A Press release was issued to the media to publicize the Periodic Review, participation mechanism available, in order to lend additional transparency to the process.