



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination Eighty-seventh session

### Summary record of the 2356th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 5 August 2015, at 10 a.m.

*Chairperson:* Mr. Calí Tzay

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(*continued*)

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*The meeting was called to order at 10.10 a.m.*

**Consideration of reports submitted by States parties under article 9 of the Convention** *(continued)*

*Fifteenth and sixteenth periodic reports of Colombia (continued)*  
(CERD/C/COL/15-16; CERD/C/COL/Q/15-16)

1. *At the invitation of the Chairperson, the delegation of Colombia took places at the Committee table.*
2. **The Chairperson** invited the members of the delegation of Colombia to give their replies to the questions asked by Committee members at the previous meeting.
3. **Mr. Medrano** (Colombia) said that a national census was planned for 2016 as a means of meeting the challenge of improving the country's statistics, notably in order to help eliminate racial discrimination. It would include questions designed to reinforce the recognition of cultural diversity in Colombia. In particular, the census would give respondents the opportunity to identify themselves as members of a particular population group. He gave definitions of the various ethnic groups and a breakdown of the percentage of the Colombian population comprised by each ethnic and indigenous group. Drawing particular attention to the Roma population, which had arrived in Colombia in several waves over the centuries, fleeing from persecution, he said that the Colombian Government had put in place a policy to reaffirm their identity as an ethnic group and to guarantee their rights. The Roma living in urban centres had maintained their own social structures and continued to speak the Romani language.
4. As to female-headed households, he said that 21 per cent of indigenous households were headed by women, over 30 per cent of Afro-Colombian households were headed by women and 31 per cent of households not identified as belonging to an ethnic group were headed by women.
5. **Ms. Vásquez Camacho** (Colombia), replying to questions concerning the institutional framework of Colombia, said that the Ombudsman's Office was fully autonomous. It was certainly part of the Public Legal Service but that Service was independent of government. Article 281 of the Constitution had recently been amended to make it quite clear that the Office acted independently. The Ombudsman was appointed for a four-year term.
6. The Office of the Deputy Minister for Participation and Equal Rights had set up several directorates in a cross-cutting structure designed to make it easier to deal with the rights and issues of vulnerable populations. The Directorate of Black, Afro-Colombian, Raizal and Palenquero Affairs, for example, along with the Directorate of Indigenous, Roma and Minority Affairs and the Directorate for Prior Consultation, guaranteed the full exercise of the rights of indigenous and other groups and ensured that those groups were involved and properly consulted in decisions affecting them.
7. In addition, a specialist team within the Ministry of Culture ensured that that Ministry's policies reached all vulnerable groups. The Ministry had carried out studies of 68 indigenous and Creole languages and cultures and put policies in place for the communities concerned. It also provided training for government officials in the principle of a differentiated, "do-no-harm" approach to working with such groups.
8. **Ms. Córdoba** (Colombia), referring to the Committee's concerns about Act No. 1482, said that the word "arbitrarily", used in article 3 of the Act, was intended to indicate that a person had acted unfairly, unreasonably or contrary to the law, following only their own will or whim.

9. As to the inclusion of the concept of “race” and the omission of “ethnicity” in the definition of discriminatory acts in the Act, she explained that, in response to a constitutional challenge to Act No. 1482, the Constitutional Court had ruled that the notion of race applied to an individual while ethnicity referred to a group of individuals, i.e., a community.

10. No amnesty was possible for acts of racial discrimination; rather, the law provided for attenuating circumstances. Where the accused made a public retraction of an oral or written discriminatory statement, or the service denied on discriminatory grounds was restored or provided, the penalty for the offence was reduced by one third.

11. The notion of genocide referred to under Act No. 1482 was understood to mean the mass extermination of a population group on racial or religious grounds, or other grounds as mentioned in the Act.

12. **Ms. Fonseca** (Colombia), replying to questions regarding the State’s efforts to address impunity, said that the Attorney General’s Office, which was responsible for criminal investigations, had launched a drive to modernize and strengthen its procedures in 2012. The measures taken included setting up more offices around the country, particularly in departments where there were large Afro-Colombian, Palenquero, Raizal and Roma populations, improving institutional coordination and introducing differentiated approaches to investigation. The exercise demanded a considerable increase in financial and human resources.

13. Replying to concerns about the justice houses, she explained that they were local centres that coordinated the work of various agencies to bring justice services directly to citizens. They provided guidance on rights and on access to informal and formal justice mechanisms. In their 20 years of existence they had served 9 million people, resolving thousands of small claims and helping in the peaceful resolution of numerous conflicts.

14. On the question of the “constitutional corpus” (*bloque constitucional*), she said that under the 1991 Constitution international human rights instruments ratified by Colombia, such as the Convention, were incorporated into the Constitution and prevailed over domestic law.

15. Foreigners in Colombia enjoyed the same civil rights as Colombian citizens. Political rights were reserved for citizens, but foreigners resident in Colombia could be granted the right to vote in municipal or district elections and referendums.

16. The Colombian State had not yet reached a decision on whether to recognize the Committee’s competence under article 14 of the Convention.

17. **Mr. Sigindioy** (Colombia), referring to the questions raised about the indigenous jurisdiction, and notably about punishments such as whipping, that might amount to torture, said whipping was not a degrading treatment. It caused minimal physical harm and was more a symbolic ritual of purification designed to restore harmony. It was a reflection of a particular world vision. It was intended not to expose individuals to public humiliation, but to help them recover their role in the community.

18. In implementation of article 246 of the Constitution, which recognized the indigenous authorities and their jurisdiction, the Ministry of Justice and Law, in coordination with judicial bodies, had been working with the Standing Committee for Consultation with Indigenous Peoples and Organizations on legislation to align the indigenous and national justice systems. The Constitutional Court had played an important role in establishing the limits of the different jurisdictions and had stated that no jurisdiction could operate in violation of human rights.

19. The indigenous jurisdiction had been strengthened through the mechanisms put in place by the Higher Council of the Judiciary. Indigenous peoples had their own tribunals and courts with particular cultural characteristics. Nothing was imposed on them — they had developed their systems based on their own values and their own world vision. Communities had both lower and higher courts, whose rulings stood up well in comparison to those of the national courts. In addition, members of indigenous communities were able to serve their sentences within their own jurisdictions.

20. **Ms. Vásquez Camacho** (Colombia), turning to the question of protection of human rights defenders, said that the Government had set up the National Round Table on Safeguards for Human Rights Defenders in 2009. It was a high-level body, comprising government ministers, the Attorney General, the Ombudsman and representatives of certain international organizations.

21. Public recognition of the work of human rights defenders was important. The Minister of the Interior, for example, took part in public meetings in the various regions of the country, at which he recognized their work and encourage local authorities to support it. Local round tables on safeguards for human rights defenders were being reactivated, with priority being given to 14 departments.

22. **Mr. Mora** (Colombia), referring to the case of Mr. Genaro García, who had been murdered on 3 August 2015, said that Mr. García had been under the protection of the National Protection Unit for some years. He had generally preferred to keep a low profile and had not tended to use a special protection vehicle. He had frequently travelled in rural areas without his escort. On the day of his death he had not informed his escort of his movements. He had been killed in a rural area of the municipality of Tumaco, in the department of Nariño.

23. The National Protection Unit protected more than 9,000 individuals representing indigenous peoples, Afro-descendants, land claimants, human rights defenders and victims of the armed conflict. The prevention and protection programme employed a three-stage procedure. When the Unit learned of a possible risk or threat to an individual, a risk analysis was made and presented to an interagency committee comprising the five main government bodies with competence in human rights, and also attended by the Ombudsman's Office, the Attorney General's Office and the Counsel General's Office. Next the case went to the Committee for Risk Assessment and Recommended Measures to determine what measures should be taken. Only where extraordinary or extreme risk had been identified were special measures of protection recommended. Differential measures were taken where there were special risks relating to membership of ethnic or indigenous groups. The Unit's budget for 2015 was US\$ 156 million. Estimated expenses for 2015 were around US\$ 4.5 million in conventional measures and US\$ 1.15 million in differential measures.

24. The National Protection Unit had created special links with the Comprehensive Victim Support and Reparation Unit (Victims Unit) in order to obtain comprehensive, first-hand data on the risks faced by leaders of victims of the armed conflict, thus expediting risk assessments and the application of protection measures. Efforts were also ongoing to improve communication between the National Protection Unit and the leaders under protection. The goal was to facilitate better follow-up, and to obtain updated information about the overall security needs of communities and their leaders in order to enable swifter, more targeted action.

25. In response to requests from communities, the National Protection Unit also applied collective measures, incorporating a differentiated approach. The measures were subject to prior consultation with the communities concerned and took account of their specific context and vulnerabilities. At present, more than a dozen indigenous and Afro-Colombian communities benefited from such measures and consultations

were under way with several other indigenous communities. The Unit had also been involved in designing and implementing ethnic protection plans under Constitutional Court order No. 004 of 2009.

26. Additional efforts had been made with regard to indigenous communities subject to precautionary measures (*medidas cautelares*) issued by the Inter-American Court of Human Rights. Four reservations in the department of Cauca had been provided with equipment for indigenous guards and human, technical, financial and logistical resources had been harnessed for effective protection of two indigenous associations, also in Cauca.

27. In order to build communities' capacity to protect themselves, the Unit helped train and equip indigenous guards, set up emergency protection funds, and strengthen self-government. The Human Rights Department of the Ministry of the Interior, in conjunction with the Unit and with support from the Office of the United Nations High Commissioner for Refugees (UNHCR), was currently working to amend the rules governing the protection system. The objective was to implement a collective, differential, sociological and psychological approach to risk assessment, thus making it easier to define community-specific risk factors and take more effective action.

28. **Ms. Herrera** (Colombia) said that the Victims and Land Restitution Act, Act No. 1448 of 2011, had marked a political and legal turning point in Colombia. It formally recognized the armed conflict and its victims, thus laying the basis for peace-building and comprehensive reparation during post-conflict transition. The Act was part of a package of economic, social, individual and collective administrative measures adopted in a context of transitional justice. The Social Inclusion and Reconciliation Sector (Department for Social Prosperity), the Victims Unit, and the National System of Comprehensive Victim Support and Reparation, among others, had been tasked with its implementation. Decree Laws Nos. 4633, 4634 and 4635 of 2011 specified differentiated measures to provide support, assistance and comprehensive reparation to indigenous, Roma, Black, Afro-Colombian, Raizal and Palenquero communities and peoples respectively. The Central Register of Victims had been set up to identify and register victims of the armed conflict, and to preserve historical memory. Eighty-six per cent of the over 7 million victims registered to date had been forcibly displaced. Other violations included kidnapping, torture, enforced disappearance and sexual assault. Although Act No. 1448 covered a period starting only in 1 January 1985, it recognized all other victims' right to truth, symbolic reparation and non-repetition. More than 800,000 registered victims had self-identified as Afro-Colombian, indigenous, Raizal or Palenquero. Since 2012, the Victims Unit had also implemented a programme for collective reparations for forcibly displaced populations. To date, 33 ethnic peoples and communities had been recorded in the Register.

29. A new model of humanitarian assistance for indigenous peoples had been implemented in 2013. It took account of the ecological and cultural specificities of the communities receiving assistance and focused on the provision of local food, traditional building materials and clothing, and collaboration with traditional doctors and community leaders.

30. The annual budget for reparation payments had been increased. To date, nearly 20,000 members of ethnic communities had received individual compensation; 157 collective reparation claims had been filed by ethnic groups, of which 21 were currently in the prior consultation phase. One reparation measure for victims of enforced displacement was the return to their place of origin or relocation to areas where they would find support networks. Return and relocation were voluntary, with due regard for the safety and dignity of the community concerned. Currently, 46 communities were in the process of return or relocation. The Emberá people had been displaced to different cities and had now returned to their reservations in Chocó and

Risaralda. Several State institutions were accompanying the process, ensuring the availability of food, income-generating activities, health care and education to returnees. Thus far, none of the communities that had been returned or relocated with State assistance had gone back to the cities.

31. Land restitution was a fundamental aspect of the physical and cultural conservation of Colombia's ethnic communities. Land restitution judges had imposed precautionary measures in respect of 16 ethnic territories, protecting communal land rights. Two rulings of land restitution had been handed down in favour of the Emberá Katío community and the Renacer Negro community council.

32. **Mr. Sigindioy** (Colombia) said that ethnic protection plans comprised actions, programmes and projects aimed at the effective enjoyment of indigenous peoples' right. They were subject to prior consultation with the communities concerned and encompassed measures relating to land rights, cultural rights, human rights protection, humanitarian assistance and protection for victims of the armed conflict and enforced displacement.

33. The Wayúu were not victims of genocide. In an effort to remedy the problems affecting Wayúu communities, the State had provided financial and technical support, including for consultations on an ethnic protection plan. The plan was being implemented in the southern part of La Guajira, in consultation with Wayúu representatives and with the participation of the local authorities. An ethnic protection plan was also being developed for the Jiw people. In 2015, sanitation, reforestation and soil improvement projects would be implemented in some of the resettled communities. The Ethnic Protection Plan for the Awá people had been drafted in broad consultation with relevant institutions, organization and the communities themselves, but was yet to be implemented.

34. **Ms. Córdoba** (Colombia) said that, pursuant to Constitutional Court order No. 005, the Ministry of the Interior had formulated a plan to identify the collective and ancestral lands of Afro-Colombian communities, under the auspices of the Victims Unit and in cooperation with communities in the departments of Chocó, Cauca, Valle del Cauca, Cesar and Bolívar. Prior consultations had been held with more than a dozen community councils in late 2014. In June 2015, the commitments made during those consultations had been followed up in the 11 community councils of Buenaventura and a schedule for further consultations had been drawn up. The ancestral territories collectively occupied by Black communities were recognized in Colombian legislation; the terms "collective occupation" and "territory" were defined in Act No. 70 of 1993 and Constitutional Court order No. 005 of 2009 respectively.

35. **Mr. Mejía Martínez** (Colombia) said that the national Government had taken specific action to deal with the violence against Afro-Colombians in Buenaventura municipality. Focusing on prevention, the Government had almost doubled the number of police officers, increased the number of marine infantry officers by 30 per cent, brought the number of prosecutors up to 23, and appointed 4 additional prosecutors who specialized in organized crime. Eighty-four complaints of enforced disappearance and displacement had been processed as a matter of priority. Those concerted efforts had resulted in a considerable increase in the number of investigations and arrests, which had had a positive effect on the security situation and had helped restore the community's trust in public law enforcement.

36. A special operational unit had been set up within the national police to fight organized crime associated with illegal mining. In 2015, 473 police operations against illegal mining had been conducted, leading to large-scale seizure of equipment and proceedings against 1,550 persons accused of involvement in illegal mining activities. The security situation in the affected communities had improved greatly as a result.

37. **Ms. Vásquez Camacho** (Colombia) said that, thanks to the introduction of a quota system for the participation of women in public life, the number of female candidates in elections had nearly doubled between 2007 and 2011. The 2014-2018 National Development Plan set a target of a 20.3 per cent increase in the number of women in politics. An agreement signed between the Government and political party leaders on good electoral practices called for the promotion of women political leaders and the application of the gender perspective in all government programmes. The “More Women, More Democracy” campaign launched by the Office of the Deputy Minister for Participation and Equal Rights, in cooperation with the Forum on Gender and International Cooperation, involved training for women political candidates and a campaign to raise public awareness of the importance of women in politics. As a result of those efforts, a record number of women were running for office in the 2015 regional elections.

38. Women also actively participated in the peace process. Of the 60 victims attending the peace talks between the Government and the Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia) (FARC) in Havana 33 were women. The Gender Subcommittee established in 2014 was mandated to ensure that the gender perspective was included in all agreements. The common objective was de-escalation and the creation of a climate of trust and safety, which would benefit all communities. With regard to the participation of indigenous and Afro-Colombian representatives in the peace talks, she said that negotiators in Havana represented all Colombians regardless of ethnic origin.

39. **The Chairperson**, speaking as a Committee member, said that Mr. Feliciano Valencia, an indigenous leader from Cauca, had been subjected to political persecution in Colombia and had recently been accused of belonging to FARC. In Colombia such charges amounted to a death sentence. He therefore urged the State party to do everything in its power to protect Mr. Valencia’s life.

40. **Mr. Lindgren Alves** said that he welcomed the fact that 4,858 persons, or about 0.01 per cent of the population, currently self-identified as Roma in terms of their language and culture. The State party should help them to maintain that culture.

41. **Mr. Vazquez** reminded the delegation of a question he had raised at the previous meeting concerning the discrepancy between the State party’s data, according to which people of African descent accounted for about 10 per cent of the population, and data from other independent sources, according to which they accounted for roughly 25 per cent. He also underscored the need to include Afro-descendant communities in the population census scheduled for 2016.

42. He had not questioned the independence of the Ombudsman’s Office and he commended, in particular, the Early Warning System. However, the Sub-Committee on Accreditation of the International Coordinating Committee had emphasized the need for transparency in the selection process, pluralism in staff recruitment, and greater interaction with international bodies such as the Committee.

43. While he appreciated the delegation’s response to his questions concerning protection mechanisms, the number of killings that continued to be recorded underscored the need to enhance their effectiveness. Although the Ombudsman’s Office sent data concerning victims who required support to the National Protection Unit, it sometimes took the Unit two or three months to respond. It was therefore essential, in urgent cases, to seek support from other organizations. Protection strategies also tended to ignore the requirements of rural communities. The Unit apparently required victims to file a criminal complaint in order to initiate the proceedings. Many failed to do so because they feared that such action would place them at greater risk.

44. His concern regarding prior consultation stemmed from information obtained not only from NGOs but also from United Nations sources, international human rights organizations and the Colombian Constitutional Court. He asked why the National Afro-Colombian Authority (ANAFRO) had not been included in the prior consultations on the National Development Plan.

45. He enquired about the action taken to prevent the recruitment and participation of indigenous and Afro-Colombian children in the armed conflict, to incorporate a differentiated approach in the education system that would enable indigenous and Afro-Colombian communities to preserve their cultural identity, to prevent racial discrimination against those communities in the judicial system, and to prevent discrimination against migrants and asylum seekers on grounds of nationality. The State party reportedly assumed that asylum seekers from Africa were motivated by economic aspirations and were not genuine refugees. Lastly, he enquired about the status of the draft law on prior consultation and the extent to which indigenous and Afro-Colombian communities had been involved in the drafting process.

46. **Mr. Diaconu** said that corporal punishment was prohibited under international human rights law. However, it was traditionally permissible in some indigenous communities. It was therefore essential to coordinate the approach adopted to the issue in the indigenous and non-indigenous justice systems. Persons who appeared before indigenous courts should have the option of appealing to the regular justice system.

47. With a view to protecting potential victims from violence against indigenous peoples, legal action should be taken against all assailants, regardless of whether they were individuals, armed groups or agents of transnational companies. The armed groups should also be declared illegal and disbanded.

48. Acts of discrimination on ethnic grounds could be committed against individuals who were members of a particular community or against the community itself. The definition of ethnicity should therefore be in line with the provisions of the Convention.

49. **Mr. Medrano** (Colombia) said that the discrepancy between the State's population data on Afro-descendants and that available from other sources was related to self-identification, an option that was being offered in the 2016 census. Steps were being taken based on sociological and anthropological considerations to enable Colombian citizens to engage freely in what was a technical and political exercise aimed at recognizing the country's cultural diversity. Campaigns promoting pride in ethnicity had been conducted with the support of the Ministry of Culture and the Ministry of the Interior. By its resolution No. 0740 of 18 May 2011, the Ministry of Culture had declared the month of May Afro-Colombian month.

50. Indigenous groups were being given access to an education system that placed their cultural background on an equal footing with that of other population groups. Indigenous academics were actively involved in the education process. For example, the Ministry of Education had approved a programme in the University of Antioquia, known as the "Mother Earth" programme, in which the lecturers taught in indigenous languages. The Ministry of Culture and the Government strongly supported such initiatives, which recognized the value of linguistic diversity. Afro-Colombian studies were expanding and material was being produced in the two languages of the African diaspora that were still spoken in the country. Teachers were also specially trained for activities in Afro-Colombian communities.

51. **Ms. Herrera** (Colombia) said that vigorous action was being taken to protect the rights of children and adolescents. In particular, child and adolescent victims of forced recruitment were listed in the National Register and were eligible for comprehensive reparations. An inter-institutional coordination exercise was being conducted by the



Intersectoral Commission for the Prevention of Forced Recruitment, Sexual Abuse and Violence against Children and Adolescents by Illegal Armed Groups and Criminal Organizations. Administrative compensation was provided to victims through trustees, and training programmes for a large number of indigenous communities that had been particularly adversely affected by forced recruitment were being conducted throughout Cauca department. A total of 269 children and adolescents from indigenous communities were now registered as victims. Reparations would also be provided to victims of the armed conflict who had been subjected to racism and discrimination. Assistance had been provided to over 3,500 children as well as to parents, guardians, public officials and teachers in municipalities and towns facing the highest risk of forced recruitment.

52. **Mr. Mora** (Colombia) said that it was not necessary to file a complaint with the National Protection Unit in order to obtain protection, although it would be easier for the authorities to identify the source of threats of violence if a complaint was filed. Difficulties had led in 2014 to delays of three or four months in addressing complaints. The period had now been reduced to two months and the period set out in the rules of procedure was 30 working days. The Unit had thus far been quite effective. There had been just three murders of people under protection to date. Genaro García had unfortunately left his home without an escort. If he had followed the instructions contained in the self-protection handbook, he would still be alive.

53. Urban and rural protection measures were entirely different. Appropriate training was provided to indigenous guards to help reduce the risk. The Unit had been developing new forms of collective protection with a view to ensuring that all State entities were involved in mitigating risks in affected communities. It was not sufficient to provide escorts and armoured vehicles. It was also important to build schools, repair roads and involve the Ministry of Mines and Energy in providing appropriate mining concessions.

54. **Ms. Vásquez Camacho** (Colombia) said that protection of the lives of human rights defenders was a matter of the utmost concern to the Colombian Government. As it vehemently condemned all such killings, it was increasing the protection staff assigned to them. A substantial budget increase had been requested for the purpose.

55. **Ms. Córdoba** (Colombia), in reply to Mr. Vazquez's question about ANAFRO, said that, pursuant to Constitutional Court ruling T-823 of 2012, a congress had been held in the town of Quibdó from 23 to 27 August 2013 to establish ANAFRO as a transitional body. However, in ruling T-576 of 2014, the Constitutional Court had decided not to endorse the decision to establish ANAFRO. It had noted that, while the convening of the Congress had been an autonomous initiative of the Afro-Colombian communities, the Ministry of the Interior had assigned itself the task of issuing the invitations to attend the Congress pursuant to resolution 733 of 2013, which contained certain inconsistencies. In addition, the Ministry had required the participants to present certain documents, such as certificates of existence and representation, and to prove that their community boards were registered with the relevant mayors' offices. One of the aims of the congress had been to restart the dialogue between communities and the Government, but that aim had been replaced by the objective of completion of the prior consultation procedures. The Constitutional Court had urged the Ministry of the Interior to promote a process aimed at setting standards for consultations on general legislative and administrative decisions that might affect the communities concerned. A prior consultation procedure had been conducted to that end in December 2014 and January 2015. The fact that the High-level Consultative Commission was not the appropriate platform for the implementation of Constitutional Court ruling T-576 of 2014 had been confirmed in a recent statement by the Council of State.

56. **Ms. Vásquez Camacho** (Colombia) said that prior consultations on the National Development Plan had been held with the indigenous and Roma communities. While there was as yet no national platform for the communities of African descent, a number of regional meetings had been held, at which those communities had made important contributions to the National Development Plan. Constitutional Court ruling T-576 provided for the establishment of a national platform for prior consultations. In February 2015 more than 500 delegates from different departments had met in Bogotá to discuss the matter. Unfortunately, the meeting had been suspended because not all Afro-Colombian communities had been represented, but it was hoped to establish the national platform by October 2015.

57. Some leaders of the Afro-Colombian communities, including members of Congress, had worked with the Government on a project to include certain important provisions in the National Development Plan. For instance, reference was made in the Plan to the need to identify the communities' most pressing needs and to make the requisite budgetary funds available. The Government would continue to collaborate with the communities and with academia on working methods and community requirements. The Plan also provided for action in support of the Raizal community in San Andrés, Providencia and Santa Catalina. It was hoped to allocate a budget of about 50 billion Colombian pesos for projects in support of the Afro-Colombian communities.

58. **Mr. Sigindioy** (Colombia) said that indigenous communities' legal capacity to carry out judicial functions was part and parcel of their autonomy and of the recognition of ethnic and cultural diversity in the country. Indigenous courts were obliged to respect certain rights in their practices, such as the right to due process, the right not to be punished for acts that were not classified as offences at the time they were committed, and the right not to be subjected to torture or ill-treatment. The indigenous justice system was intended to recognize diversity in a way that respected human rights and strengthened institutions, based on agreements reached through prior consultation with all the indigenous groups in the country.

59. **Mr. Khalaf** said that it was the State's responsibility to protect human rights defenders, and that the National Protection Unit should not rely on self-protection measures taken by the human rights defenders themselves. He wished to know more about the legal measures being taken to consolidate that protection, including the investigation, prosecution and punishment of crimes against human rights defenders. He wished to know the basis for the State's policy on legal mining operations that resulted in the displacement of indigenous communities. Specifically, he wished to know the reasons why the Government had chosen to prioritize economic and material wealth over cultural and human wealth.

60. **Mr. Avtonomov** asked whether parties to a case that had been tried according to indigenous law could lodge a complaint before the Constitutional Court or an ordinary court if they believed their constitutional rights had been violated by the decision of the indigenous court. He wished to know if there was any monitoring mechanism to ensure that all customary laws, pertaining to both civil and criminal matters, were in line with constitutional and international law and with the State's international obligations. He also asked whether non-indigenous individuals could be parties in a case tried according to indigenous law.

61. **Mr. Mora** (Colombia) said that he had not meant to imply that community leaders or human rights defenders had to resort to self-protection in lieu of protection from the State. On the contrary, the State provided protection to all such persons who requested it, but those persons must comply with the protocols drawn up by taking measures to ensure their own safety. If they failed to do so, it would be very difficult for the State to effectively protect them.

62. **Ms. Fonseca** (Colombia) said that, of the more than 4,500 investigations currently being conducted by the Attorney General's Office, some 640 involved crimes against indigenous persons. Of those, 30 were cases of enforced disappearance and 79 were cases of forced displacement.

63. **Ms. Córdoba** (Colombia) said that there was a legal framework in place to recognize the traditional practices of Afro-Colombian cultures. Such practices included artisanal mining, which was an expression of ancestral knowledge as well as a form of livelihood for Afro-Colombian communities. The Government was developing a policy to legalize the practices of ethnic groups and individuals engaged in mining who did not meet the legal requirements. The right of priority access for those communities was established in the national legal framework and in mining concession contracts.

64. **Ms. Crickley** said that two sensitive issues were at the heart of the challenges facing the national protection system, namely trust and confidentiality. She wondered therefore how the State set about earning the trust of the persons under its protection and guaranteeing the confidentiality of any information they provided.

65. With regard to the nascent peace process, she asked how the State was ensuring the full and adequate representation of all ethnic groups in the country, including indigenous peoples, persons of African descent and the Roma. She wished to know more about the specific types of discrimination suffered by the Roma. The delegation should explain how women from minority ethnic groups were being explicitly included in political processes and represented in various forums.

66. Noting the differentiated effects of the exploitation of natural resources on women from various population groups, she asked what steps the State was taking to identify and address those differences. She wished to know what measures were being carried out to identify and address the harmful effects on women of militarization in indigenous territories and the impact of those measures. She asked what the Government was doing to implement the recommendation made by the Committee on the Elimination of Discrimination against Women on developing comprehensive gender-sensitive policies for indigenous peoples and for Afro-Colombians aimed at effectively addressing discrimination against them and how the women whom those policies were intended to benefit were involved in their implementation. Lastly, she wished to know about any specific measures taken to improve the health and education of indigenous and minority women.

67. **Ms. Dah** said that the idea of establishing peace schools as part of the peace process taking place in Havana was a very interesting one and was fully in line with article 7 of the Convention, but that a peace agreement must first be reached in order for the peaceful coexistence envisioned to become a reality. She therefore wondered whether the Government was planning any amnesty measures for former combatants, and she requested further information about the planned reparation measures for victims. In particular, she wished to know about reparation for displaced persons and whether those persons would be able to return to their homes.

68. **Ms. January-Bardill** said that further information was needed in order for the Committee to gain a clear understanding of the situation regarding racial discrimination in the State party and how it affected all the different population groups. In particular, she wished to know which groups benefited from maintaining the status quo and perpetuating racial discrimination. She requested further disaggregated data in writing, including information on economic differentials such as salary and net worth.

69. **Mr. Vazquez** (Country Rapporteur) said that, in referring to reports claiming that the situation of the Wayúu could be considered as genocide, he had intended, not to

endorse that allegation, but simply to highlight the urgency of the situation: another Wayúu child had apparently died of hunger the previous day. He therefore wondered what measures the Government would take to address the issue. He wished to know when the implementing regulations for Act No. 70 relating to land title would be adopted, as the lack of such regulations had a harmful effect on Afro-Colombian communities. Lastly, he asked whether the recently-established Afro-Colombia Peace Council had been invited to the peace talks in Havana.

70. **Ms. Vásquez Camacho** (Colombia) said that the peacebuilding process could begin only once a peace agreement had been reached and the conflict had come to an end. The Government intended to work with all the various civil society organizations representing the different communities to achieve that goal. The victims of the conflict were at the heart of the peace process, and their voices were being heard in Havana. All progress made in the peace talks was announced publicly on a government website.

71. She thanked the Committee for the opportunity to participate in the constructive dialogue. The questions that were still pending would be answered in writing in the next 24 hours.

72. **Mr. Vazquez** said that he wished to thank the delegation for a fruitful dialogue, one that he hoped to see continue in the future.

*The meeting rose at 1 p.m.*