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ПООЩРЕНИЕ И ЗАЩИТА ВСЕХ ПРАВ ЧЕЛОВЕКА, ГРАЖДАНСКИХ, ПОЛИТИЧЕСКИХ, ЭКОНОМИЧЕСКИХ, СОЦИАЛЬНЫХ И КУЛЬТУРНЫХ ПРАВ, ВКЛЮЧАЯ ПРАВО НА РАЗВИТИЕ

Доклад Рабочей группы по произвольным задержаниям*

Добавление

Миссия в Колумбию**

(1-10 октября 2008 года)

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Резюме

Рабочая группа по произвольным задержаниям посетила Республику Колумбия в ответ на широкое приглашение, охватывающее все тематические механизмы Совета по правам человека. Визит проходил с 1 по 10 октября 2009 года. Рабочая группа посетила столицу страны и департаменты Араука и Валье-дель-Каука. Кроме того, в Санта-Фе-де-Богота, столичный округ, а также в столицах департаментов Араука и Кали делегация провела встречи с представителями исполнительной и судебной власти, а также с представителями организаций гражданского общества. Группа посетила десять центров для задержания, в том числе четыре тюрьмы, два центра для задержания несовершеннолетних и два полицейских участка. Были проведены в обстановке конфиденциальности и без свидетелей беседы с примерно 150 задержанными, а также коллективные встречи, в которых приняли участие около 400 лиц. Рабочая группа выражает признательность властям страны и департаментов за всестороннее содействие в ходе выполнения группой порученного ей мандата.

В докладе описываются различные структуры и нормы, которые составляют институциональную и правовую основу системы содержания под стражей. В докладе отмечаются как успехи, так и проблемы в процессе применения нового состязательного уголовного производства; соблюдение сроков содержания под стражей в полицейских участках со стороны сотрудников национальной полиции и надлежащее ведение реестров. В докладе особо отмечается работа одного из старейших колумбийских учреждений, а именно Генеральной прокуратуры Республики, в состав которой входит весь комплекс структур прокурорского надзора и которая является гарантом соблюдения в рамках судебных процессуальных действий норм надлежащего судебного разбирательства и права на защиту, а также права на гарантию пребывания судей в должности; речь идет о назначенных по Конституции судьях, действующих в рамках уголовного производства. В докладе отмечается, что Рабочая группа удовлетворена существованием центров судебного обслуживания, а также деятельностью, проводимой в пенитенциарных учреждениях комитетами по правам человека, избираемых самими заключенными путем тайного голосования.

Рабочая группа обращает внимание на отмеченные различия между Конституцией - в качестве признанного во всем мире демократического инструмента как по сути, так и по форме - и нормами внутригосударственного права и применением их на практике. В докладе критикуется практика превентивно-административного задержания, применяемая сотрудниками национальной полиции; массовые или множественные задержания, осуществляемые в сельских районах военнослужащими; задержания в трущобных районах больших городов, среди прочего, нищих, попрошаек и

представителей этнических и сексуальных меньшинств; а также практика облав и засад. В докладе выражается обеспокоенность по поводу так называемого явления "подмен", когда трупы молодых людей, исчезнувших в крупных городах, обнаруживаются некоторое время спустя в сотнях километров от места похищения и выдаются за повстанцев, погибших в ходе вооруженных столкновений. В докладе критикуется отсутствие системы судей по уголовным делам в тюрьмах; переполненность пенитенциарных учреждений, в частности тюрем в городах Лапикота, Вилья-Эрмоса и Пальмира; а также практика проведения задержаний частными лицами.

В своих выводах Рабочая группа обращает внимание на ряд предпринятых правительством усилий по укреплению в стране законодательства, гарантирующего защиту прав человека, включая, в частности, принятие нового уголовно-процессуального кодекса, однако при этом подвергает критике ряд недостаточно эффективных мер законодательного и юриспруденческого характера с момента введения в действие этого кодекса. Кроме того, Рабочая группа обращает внимание на массовые задержания и отсутствие веских доказательств для целей проведения задержаний, в частности в тех случаях, когда единственными обвинениями являются обвинения реабилитированных повстанцев. Группа рекомендует правительству искоренить практику массовых облав или превентивно-административного задержания; покончить с практикой проведения задержаний военнослужащими и сотрудниками частных структур; приступить к набору судей в целях решения проблемы нехватки судей или усиления судебной системы в целях завершения процессов в соответствии с положениями предыдущего Уголовно-процессуального кодекса - Закон 600 - и укрепления институтов по защите прав человека.

Annex

REPORT OF THE WORKING GROUP ON ARBITRARY DETENTION ON ITS MISSION TO COLOMBIA (1 TO 10 OCTOBER 2008)

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CONTENTS (*continued*)

I. INTRODUCTION

1. The Working Group, established by the Commission on Human Rights through its resolution 1991/42 and whose mandate was extended for three years by the Human Rights Council in its resolution 6/4, visited the Republic of Colombia at the invitation of the Government from 1 to 10 October 2008. The delegation was headed by the Chairperson-Rapporteur of the Working Group, Ms. Manuela Carmena Castrillo (Spain), who was accompanied by Mr. Roberto Garretón (Chile), a member of the Working Group. The delegation was accompanied by the Secretary of the Working Group and another official from the Office of the United Nations High Commissioner for Human Rights in Geneva. The visit took in the capital, Bogotá, D.C., and the cities of Arauca and Cali.

2. The Working Group wishes to thank the Government of Colombia, the departmental authorities of Arauca, Cundinamarca and Valle del Cauca, the Office of the United Nations High Commissioner for Human Rights in Colombia, which helped prepare the programme and provided logistical support during the visit, as well as the Colombian civil society and non-governmental organizations (NGOs).

II. PROGRAMME OF THE VISIT

3. The Working Group enjoyed the full cooperation and total transparency of the national and departmental authorities at all levels. There was a constructive and sincere dialogue, and openness to the Working Group's observations and recommendations. The Working Group visited the following detention centres: the prison and the Temporary Shelter for Young Offenders in Arauca; La Picota prison; the temporary holding cells of the Prosecutor's Office; the holding cells of the Department of National Security (DAS), the Virgen de la Paz Clinic and the El Redentor Working School for Young Offenders in Bogotá; and the Villa Hermosa and Palmira prisons, and a police station in Cali.

4. The Working Group was able to interview anyone it wished to: persons held in pretrial detention, convicted prisoners, detainees' representatives, women, minors, parliamentarians, detained public officials and members of the armed forces, former members of unofficial armed forces and guerilla groups who have been arrested and demobilized, imprisoned members of paramilitary organizations, and detainees held in disciplinary cells. The majority were chosen at random.

5. During its visit the Working Group met various national and departmental authorities, representatives of the judiciary, magistrates, judges, prosecutors and representatives of the Public Prosecutor's Office at different levels, as well as officials from autonomous institutions. It held meetings with representatives of the executive, including the Deputy Minister for Foreign Affairs, the Deputy Minister of Justice, the Deputy Minister of Defence and other senior officials of those ministries and of the Presidential Human Rights and International Humanitarian Law Programme; judges of the Constitutional Court, the Supreme Court, and the High Council of the Judiciary; the Attorney-General; the Procurator-General; representatives of the Office of the

People's Advocate; and senior officers of the National Army and the National Police, senior staff of the Department of National Security and the National Institute of Penitentiaries and Prisons. In the departments of Arauca and Valle del Cauca the Working Group held meetings with departmental authorities, magistrates and judges, and with the Governor of Arauca, the commander of the 18th Brigade of the National Army in Arauca and the Director of the National Police in Cali.

6. The Working Group also interviewed representatives of various non-governmental organizations (NGOs) active in the fields of human rights, the prison system and women's and children's rights, immigrants, indigenous people, and persons of African descent, as well as other vulnerable groups in the criminal justice system. The Working Group met with lawyers, jurists, academics, detainees' representatives, and officials of the agencies of the United Nations system in Colombia. It interviewed, in private without witnesses, approximately 150 detainees and had collective interviews with some 400.

III. INSTITUTIONAL AND LEGAL FRAMEWORK

A. Institutional framework

7. For almost 50 years Colombia has been beset by armed confrontation, involving, in addition to the armed State institutions, various illegal armed groups that attack the civilian population. Of those groups the Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia) (FARC) and the Ejército de Liberación Nacional (National Liberation Army) (ELN) are still active; there are also anti-guerrilla paramilitary groups that claim to be self-defence groups. Colombia also suffers the serious consequences of illegal drug production and trafficking. The money generated from these illegal activities is fuelling the armed confrontation and undermining and corrupting the social institutions. Violence seems to have become a goal in itself: paramilitary groups are responsible for as many as 200 massacres per year and armed factions outdo one another in cruelty.

8. Since 2002, the current Government has been implementing the Democratic Security Policy which seeks, according to Government representatives, to recover State control of the territory and combat illegal armed groups, both guerilla and paramilitary. According to the Government, the policy has contributed to bringing the number of homicides down from 289,837 in 2002 to 14,928 in 2008; the number of massacres from 680 in 2002 to 169 in 2008; the number of internally displaced persons from 392,928 in 2002 to 210,441 in 2008; and the number of kidnappings from 2,882 in 2002 to 521 in 2008.

9. In 1990, in this context of violence and under fierce but peaceful pressure from civil society, a Constituent National Assembly was convened. In 1991 that Assembly adopted a Constitution proclaiming that Colombia is a social State governed by law which recognizes and develops human rights. The 1991 Constitution is nationally and internationally recognized as democratic both for its genesis and its content.

10. Four institutions are responsible for the administration of justice: the Constitutional Court, the Council of State, the Supreme Court and the High Council of the Judiciary. The Office of the Attorney-General and the military criminal courts are also mentioned among the judicial institutions.[1]

11. The safeguarding and promotion of human rights, protection of the public interest and monitoring of the official conduct of those in public positions is the responsibility of the Public Prosecutor's Office and is carried out by the Procurator-General, the Office of the People's Advocate, local attorneys and municipal representatives.[2] The Office of the People's Advocate forms part of the Public Prosecutor's Office and performs its functions under the overall authority of the Procurator-General.[3]

12. The High Council of the Judiciary is responsible for managing the judicial ranking system, as well as settling jurisdictional conflicts, drawing up lists of candidates for the appointment of judicial officials, preparing the draft budget of the judicial branch, and sanctioning mistakes by officials of the judicial branch and by lawyers.[4]

13. The Supreme Court is the highest court of ordinary jurisdiction. It can act as the court of cassation; try the President of the Republic and senior officials, and investigate and try members of Congress.[5] Since the Constitution came into force, it has shown great independence from the executive, which has been highly valued. Recently, at least two of its members have been publicly attacked by the highest authorities of the State, which some lawyers interviewed interpret as an attempt to undermine its independence.

14. Safeguarding the integrity and privacy of the Constitution is the responsibility of the Constitutional Court, which rules on unconstitutionality suits brought by citizens against laws and decrees with the force of law issued by the Government for their substantive content or errors of procedure in their form. The Constitutional Court issues final rulings on the constitutionality of international treaties and the laws approving them and revises judicial rulings connected with the protection of constitutional rights.[6] It is probably the most prestigious public institution in Colombia, and it enjoys a hallowed place as guarantor of basic rights.

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[1] Constitution, art. 116.

[2] Ibid., art. 118.

[3] Ibid., arts. 281 and 282.

[4] Ibid., art. 256.

[5] Ibid., arts. 134 and 235.

[6] Ibid., art. 241.

15. The Council of State serves as the highest administrative court and acts as the supreme advisory body for the Government on administrative matters.[7]

16. Investigating crimes and charging suspects in the competent courts is the responsibility of the Office of the Attorney-General. Under the Constitution, it also ensures the protection of victims, witnesses and others involved in proceedings, and manages and coordinates the judicial police functions assigned to the National Police.

17. Article 116 of the Constitution and article 31 of the Code of Criminal Procedure (Act No. 906) establish the bodies that administer criminal justice and are responsible for deprivation of liberty:

(a) The Criminal Appellate Division of the Supreme Court;

(b) The criminal divisions of the higher district courts, including the Military Court;

(c) The criminal circuit courts and the specialized criminal circuit courts;

(d) Municipal criminal courts;

(e) Courts of mixed jurisdiction when they settle criminal matters; and

(f) Executive oversight and security measures courts.

18. The law also provides for trial by jury in criminal cases, although this has yet to be set up.

19. Justices of the peace are responsible for settling individual or community conflicts fairly. The indigenous authorities may exercise their jurisdiction within their territorial limits and in accordance with their own rules and procedures, provided these do not contradict the Constitution and the laws. The Criminal Appellate Division of the Supreme Court rules on applications for legal protection or *amparo* and may even review the appellate decisions of circuit judges.

20. The Office of the People's Advocate is responsible for the public defenders of those who cannot afford legal representation. These are private practice lawyers who are contracted as court-appointed lawyers. The Office of the People's Advocate has 37 regional and sectional operational units and 2,200 public defenders nationwide. They receive continuing training, which is why most practising lawyers aspire to work as public defenders.

21. Public defenders work in the adversarial criminal justice system, and in administrative, civil and family law. Their work is supervised by inspectors, some of whom were interviewed by the Working Group. There are also academic coordinators. In Valle del Cauca each public defender had to serve at an average of 100 trials per month. In Cali there is an office for criminalistics support financed by international contributions.

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[7] Ibid., art. 237.

B. Legal framework for detention

22. The human rights treaties ratified by the Republic form part of the Constitution. Any law that contradicts them shall be deemed to be unconstitutional.

23. Article 28 of the Constitution establishes the legal prerequisites for deprivation of liberty. There must be legal grounds for detention, except in cases of flagrante delicto. The old Code of Criminal Procedure (Act No. 600 of 24 July 2000), which imposed an inquisitorial system, was replaced by the new Code of Criminal Procedure (Act No. 906 of 2004). The new Code was applied progressively, starting with the most populous areas: it has now been in force nationwide since 1 January 2008. Act No. 600 is still in force for crimes committed before 1 January 2005 and for cases the investigation of which began before the new system had come into force. In practice, this has extended the application of earlier Act No. 600 to crimes committed up to 31 December 2007 in some departments, such as Arauca. Under the system imposed by Act No. 600, the prosecutor investigates the case and the judge makes a ruling. In fact, the former serves more as an investigating magistrate than as a prosecutor. The prosecutor may issue arrest warrants. Although the sentence is pronounced orally in a public hearing, the rest of the proceedings take place in writing.

24. The new Code of Criminal Procedure, Act No. 906, establishes, as in most countries in Latin America, the adversarial system, which is oral and public. The National Police is responsible for the preliminary investigation to establish that a crime has been committed and identify the main suspects and accessories, and must submit an executive report to the competent prosecutor within 36 hours. The prosecutor must take charge of the investigation, determine if there are sufficient grounds to institute pretrial proceedings, and draw up a methodology for the investigation.[8]

25. All bodies with judicial police functions - the National Police, Department of National Security, and the Technical Investigation Unit of the Office of the Attorney-General - are supervised and coordinated by the Office of the Attorney-General.

26. Before issuing an arrest warrant, the supervisory judge verifies whether the principles of necessity, proportionality and reasonableness have been respected. All detainees must be promptly brought before the supervisory judge and within the maximum time limit of 36 hours. The judge must verify the legality of the detention and formalize the arrest in a preliminary hearing established specifically for that purpose (Act No. 906, art. 154). The judge must check that the detainee's rights were respected when he or she was apprehended; whether he or she was informed of his or her rights; whether those rights were enforced, for example, allowing the detainee to make a telephone call; and that the person was not ill-treated. If the prosecutor believes that the detainee is the perpetrator of or accessory to a crime under investigation, he or she shall formally accuse the detainee at the preliminary hearing.

27. If the material evidence shows beyond reasonable doubt that a crime was committed and that the accused was the perpetrator or an accessory, the prosecutor shall file an indictment and

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[8] Act No. 906, arts. 201 and 205.

the judge shall convene the indictment hearing within three days, during which time the discovery of evidence shall begin. The pretrial hearing subsequently takes place and the parties express their views on the evidence discovery process. The judge orders the taking of the evidence requested by the prosecution and the defence and sets a date and time for the oral proceedings.

28. The oral proceedings begin with the presentation of the case and continue with the examination of evidence, in the form of either testimony, expert witness accounts, documents, character witness accounts or eye witness accounts, followed by the allegations of the parties and participants, and concludes with the sentencing.

29. However, since oral adversarial criminal proceedings were instituted under Act No. 906, there have been certain setbacks in the system for guaranteeing personal freedom, including:

(a) Act No. 1098 of 2006, the Children and Adolescents Code, which prohibits reduced sentences or privileges if the victim is a child;

(b) Act No. 1121 of 2006, which establishes that no privileges shall be granted when a serious crime has been committed (for example, terrorism or drug trafficking);

(c) Act No. 1142 of 2007, which establishes that the seriousness of the crime shall influence the security measures, increases the penalties that can be applied and reduces the minimum criteria for pretrial detention. It is perhaps owing to this Act that pretrial detention is used in 65 per cent of cases.

30. Act No. 1153, known as the Minor Offences Act would have been another serious backward step had the Constitutional Court not subsequently declared it totally unconstitutional.

31. There is generally a widespread view that since the new Code was promulgated the trend has been to reduce the powers of the judges responsible for procedural safeguards.

32. Existing remedies include habeas corpus, remedy of protection, remedy of enforcement and remedy of the protection of public rights, all of which are clearly defined. Although habeas corpus can be applied by any court, not just a criminal court, it is not frequently used. It is not used in a court case or in connection with detention ordered by a competent judicial authority. If detainees are already suspects, they must seek their release from the judge responsible for procedural safeguards. In Colombia, there is a narrow interpretation of habeas corpus and it is usually used only in cases where the maximum time limit of 36 hours in police custody has been exceeded. There is no culture of habeas corpus appeals among non-governmental organizations. Applications for legal protection are filed in cases of threats to personal freedom.

33. During the meeting that the Working Group held with judges of the High Court of Justice of Valle del Cauca it learned that 275 habeas corpus appeals had been lodged in that jurisdiction in 2007, only 3 of them declared well-founded: 1 for a case of mistaken identity (the person was apprehended on 6 January 2007 and released 2 days later); another because the detainee had been held for 5 days in the police station; and the third because the detainee had not been tried within the maximum time limit of 90 days.

IV. OBSERVATIONS OF THE WORKING GROUP

A. Report by National Police officers of the time limits on detention in police stations and proper record-keeping

34. A range of legislative and managerial measures have been put in place in Colombia in order to ensure that when National Police officers arrest offenders they bring them before the judicial authorities within 36 hours of their arrest or apprehension, which is a significant achievement.

35. A large proportion of the police officers interviewed said that detainees should be brought before the authorities within the 36-hour period and not at the end of that period, as wrongly interpreted in other countries. The situation at the temporary holding cells of the central Prosecutor's Office in Bogotá was different: the Working Group noted that several persons had been there for much longer than the permitted maximum of 36 hours - some had been there for almost three months. When asked, the Public Prosecutor stated that it was for reasons connected to the judicial process, as required by the investigation or the detainee's protection.[9]

36. During its visits to official detention centres, the Working Group observed that detainee records are generally well kept, recording the date and time of detention; the authority that approved the detention; the officer making the arrest; and the date and time the detainee was brought before a court. The signatures or fingerprints of detainees confirm this information. The interviews with the detainees made it possible to confirm these facts. However, the Working Group heard of unofficial detention centres, whose records it would obviously be impossible to check. The Government stated that it had no knowledge of the existence of any such unofficial detention centres.

B. Judicial services centres

37. The Working Group welcomes the initiative of establishing judicial services centres, called Immediate Reaction Units (URIs), which bring together in a single location representatives of the security police, judicial police, Office of the Attorney-General, Office of the People's Advocate and the judges responsible for procedural safeguards. This obviously facilitates compliance with the 36-hour maximum time limit on detention and an expeditious preliminary hearing to formalize the arrest.

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[9] One case involved a key witness in the investigation of the so-called "parapolítica" case: the alleged connection between certain members of the legislature and paramilitary organizations. A person detained for drug trafficking was subjected to 16 proceedings and his interrogation lasted 12 days. Another person detained for drug trafficking had been held since 11 July 2008. One detainee had heart trouble and suffered from diabetes. Another was there because of an express request from the investigator, enforced through a custody order. A third had been transferred from Cali and a fourth from Pasto (Nariño).

C. The work of the Office of the Procurator-General

38. The Working Group was able to appreciate the sterling efforts being made by the Office of the Procurator-General in relation to the protection of human rights, both in its role as Public Prosecutor's Office and as guarantor of due process and the right to a defence in judicial proceedings. It is a long-standing Colombian institution, established in 1830, and has a disciplinary role with regard to public officials, including military and police officials. Its authorities jealously guard their autonomy and independence and demonstrated vast knowledge of the human rights situation in Colombia.

39. The Office of the Procurator-General plays an important role in apprehensions and arrests because it verifies fulfilment of the legal requirements. It also plays a preventive role: in Arauca, for example, it gave specific instructions to police officers not to carry out administrative detentions. Nevertheless, the passivity of this institution in the face of numerous cases of mass detentions has been criticized nationwide.

D. Offices of the Municipal Attorney

40. In the department of Valle del Cauca there are 118 municipal attorneys. Each is responsible for supervising three or four police stations, and 35 attorneys are responsible for supervising the department's prisons. The offices of the municipal and district attorneys are public and are open to the community 24 hours a day, 7 days a week. The Working Group witnessed the useful work being done by one of these offices in the city of Cali.

E. Judges responsible for procedural safeguards

41. The existence and work of the judges responsible for procedural safeguards, who preside over the preliminary hearings established under the new Code, is also worth special attention. They are, in fact, constitutional judges in a criminal case. Their role is to protect personal freedom.

F. Human rights committees in prisons

42. The Working Group was pleasantly surprised to discover in each prison block, or rather in each yard, human rights committees that had been democratically elected by the detainees by secret ballot. The committees coordinate their work with a guard who acts as a human rights ambassador. The ambassadors help the detainees draft their requests for conditional release. The members of the committees seemed to be very familiar with the situations of those they represented and they showed the Working Group a selection of complaints and requests, the majority of which were related to prison conditions, but also to the lack of visits by enforcement judges and difficulties with interviews with lawyers. The committees are the concrete manifestation of the right of prisoners to freedom of expression, freedom of assembly and to the protection of human rights.

43. When consulted by the Working Group, the detainees referred in positive terms to the work of the committees. The committees' very existence helps reduce tension in prisons. The Working Group considers this to be an initiative that could be replicated in other countries.

G. The gap observed between the Constitution, the law and reality

44. Even though the institutional design of the Constitution as a protector of basic rights, the numerous international human rights instruments ratified and the progress made in the area of criminal procedure law show a fair degree of sophistication, there remains a marked contrast with reality. Although many of the sources consulted accept that there had been an improvement in the country's security situation and that there are now fewer mass arrests, particularly in comparison with the period before 2005, arbitrary detentions are still taking place.

45. The Working Group heard allegations that prosecution was being used as a way of repressing certain categories of social worker, including municipal leaders, representatives of internally displaced persons, trade unionists, and journalists who are accused of slander and of making false criminal accusations. Particular concern was expressed for indigenous people, minors, pregnant women, female heads of household, immigrants and the poor. It is alleged that networks of security force informers who are paid have been set up for their information, as well as networks of unpaid collaborators. There were warnings of a policy of compensating those who provide information. Reintegrated guerrillas are forced to provide information, which often leads to detentions.

46. Various NGOs blamed the current situation on the Democratic Security Policy, designed by the President and implemented since 2002. The Deputy Minister of Defence explained to the Working Group that the aim of the policy is the recovery and control of the territory and to extend the State's presence to areas from which it had defected. Under Act No. 975 of 2005 - known as the Justice and Peace Act - thousands of members of paramilitary organizations had handed in their weapons and demobilized, exempt from criminal responsibility and without trial.[10]

47. The Act proposes reduced sentences of a maximum of eight years for tried and convicted combatants. According to Government sources, some 3,000 persons have taken this option, while the estimate of the prosecutor's office was 2,000. However, lawyers and members of NGOs estimate that only 245 persons have done so. According to the Government, 3,593 members of the Autodefensas Unidas de Colombia (United Self-Defence Forces of Colombia) (AUC) and 90 members of guerrilla groups have demobilized under the Justice and Peace Act.

48. According to the authorities, Act No. 975 has made it possible to solve 3,000 crimes, to find the bodies of 1,778 persons that had been executed and to locate 1,441 mass graves. However, some demobilized paramilitaries have formed new armed groups and returned to their criminal activities.

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[10] The purpose of Act No. 975 of 2005 - known as the Justice and Peace Act - is to "facilitate peace negotiations and the return, individually and collectively, of members of the illegal armed groups to civilian life while guaranteeing victims' rights to truth, justice and reparation".

49. The Office of the Procurator-General estimates that there were 2,412 reports of arbitrary detention between 1 January 2002 and 30 September 2008. If all of these reports were genuine, it would mean that there were some 400 arbitrary detentions a year, although the number would appear to have decreased since 2005.

H. Administrative pretrial detention powers of the National Police

50. The administrative pretrial detention powers of the National Police have not been defined with the precision and rigour required by individual freedom. Although the Code of Criminal Procedure establishes that police officers may detain a person only when they have an arrest warrant from a competent judge or in cases of flagrante delicto, some police officers interpret this to mean that they have powers to detain persons for other broad and vague motives, without being subject to judicial review. This is the case with detentions of persons who are in a highly agitated state; bothering passers-by, drunkenness; or represent a risk to themselves and the inhabitants. As a result, police officers take citizens (usually the socially vulnerable) to police stations without any legal justification and, what is more, without keeping a log of the arrests or the detention period.

51. National Police officers continue to detain citizens to check their identity or to determine whether they have a criminal or police record. These motives do not justify depriving citizens of their liberty, which must always be considered a protected legal right. Some authorities explained that these citizens were not being detained, but simply "held", which was justified by Constitutional Court judgement No. C-024 of 1994. The Working Group considers the term "held" to be a euphemism because these persons are in fact deprived of their liberty. The Working Group received allegations that minors had been detained by the National Police, not for having committed an offence, but for a "manifest proclivity to commit an offence".

52. In 2008, complaints against National Police officers submitted to the Office of the Attorney-General numbered 839, 26 of them related to illegal deprivation of liberty and illegal holding. Under article 38, paragraph 2, of Act No. 734 of 2002, any officer who receives three administrative sanctions in five years shall be disqualified for a period of three years. In serious cases, the officer is dismissed, which has happened in 353 cases.

53. It would be desirable for new legislation to define clearly the powers of detention of the National Police in these cases, confirming the validity of the legal prerequisites for detention and that it is not possible to detain persons simply with a view to checking their identity, determining whether they have outstanding legal penalties or protecting the detainee, in its case law of the aforementioned Constitutional Court judgement No. C-024 of 1994, allowed for enforcement of article 77 of the National Police Code and the abuse of administrative pretrial detention, which, furthermore, is applied without the necessary safeguards. Although the Court considered that this measure could be applied in exceptional cases and only when there were well-founded, objective and clear reasons for doing so, the National Police continue to detain persons, on the basis of mere suspicion, for purposes other than to check or confirm objective facts and without there being an urgent or imminently dangerous situation. This practice goes against the principles of legality, equality, non-discrimination, necessity and proportionality.

54. Recently, Constitutional Court judgement No. C-720 of 11 September 2007 declared unconstitutional article 192 of Decree-Law No. 1355 of 1970, a rule of the National Police Code that granted powers to station and substation chiefs to detain persons in a state of agitation.

55. The Working Group was told of plans to replace the current National Police Code with a new Civil Coexistence Act, which would provide better guarantees and be more geared to protecting citizens' rights.

I. Detentions in city neighbourhoods

56. The National Police is continuing its practice of carrying out round-ups or raids in big cities, justifying the practice as a preventive measure. Communities of sexual minorities complained of being detained frequently because of their appearance or clothes. Beggars, the destitute, vagrants, people who look suspicious, and even street vendors, whose goods are confiscated, are also detained.

57. In Cali, a joint inspection by the supervisory judge and the Office of the People's Advocate confirmed the detention of 18 transsexuals who were deprived of their liberty for more than 36 hours and who were allegedly raped and mistreated.

58. Police authorities explained that on many occasions these practices took place at the request of mayors who wanted the parks and streets to be cleared of such people. For example, by decree No. 092 B of 30 April 2007, the Mayor of the Municipality of Buenaventura authorized the police to "carry out the checks necessary to hold temporarily persons who have outstanding issues with the law until their legal situation has been clarified". The police proceeded to carry out mass detentions, including many Afro-Colombian minors.

J. Detentions in rural areas

59. The Working Group was informed that, although the army and the navy do not legally have powers of detention, the fact that it is impossible for the National Police to reach isolated rural areas or conflict zones means that soldiers assist the prosecutor's office under Procedural Act No. 600. The army continues to carry out detentions and arrests, whether supported by orders issued by prosecutors, carrying out arrests accompanied by a prosecutor, or exercising the power of any citizen to arrest anyone in the act of committing an offence.

60. Although it is claimed that the number of mass or multiple detentions has decreased dramatically since 2005, the army continues in this practice. Soldiers frequently hold the entire population of a village or hamlet in a square or other specific location while demobilized or reformed deserters from guerrilla groups identify individuals, who are immediately detained. Given the inconsistencies in the statements, which are general and vague, and the absence of other evidence, the majority are usually released a short time later, but others are prosecuted. According to the military authorities, the army merely accompanies the prosecutors and secures the perimeter. Detentions are also carried out on the basis of information contained in databases that have not been updated or in military intelligence reports. The armed forces' archives have thus become a source of detentions.

61. Mass detentions usually take place in remote rural areas of the country (mainly in the departments of Antioquia, Arauca, Bolívar and Norte de Santander), where Act No. 600 is applied to events that took place before 1 January 2005 or to investigations that had begun before the new system came into force in the different departments.

62. The Working Group received numerous accounts and reports regarding the lack of equity demonstrated by prosecutors and judges in assessing evidence: the former when requesting precautionary measures and bringing charges, and the latter when formalizing arrests and sentencing. The testimony of a former member of a guerrilla group who has been reintegrated into society or demobilized suffices, with no other evidence, for an arrest warrant to be issued. It is claimed that there is a directive, covered by military secrecy, offering a minimum of 3.6 million pesos (about $1,600) for each insurgent demobilized and establishing a rate for accusatory testimony against former comrades. It has not been possible to prove the existence of this directive.

63. Among others, the Group learned about the cases of Cajibío, Santa Rosa, and Caruto in the department of Cauca; the cases of Florida and Pradera; the case of El Queremal in the municipality of Dagua (all of those affected have now been released) and the case of the *Corregimiento* (indigenous community) of Cisneros (municipality of Buenaventura). In this last, 36 campesinos, indigenous persons and Afro-Colombians were detained during a mass arrest on 27 July 2003. It was alleged to be a case of flagrante delicto as there was known to be guerrilla activity in the area. On 5 March 2006, staff from the prosecutor's office, the Department of National Security and the army, after rounding up the inhabitants in the village of Puerto Jordán, separated 13 persons for whom they had an arrest warrant. On 12 and 13 August 2006, 13 persons were arrested in the municipality of Fortul, the majority of them social leaders and members of trade unions. On 2 and 3 June 2007, 15 persons were detained in Arauquita, Arauca. The municipal attorney was detained on 12 January 2008 together with 10 other persons. On 15 June 2008, 16 persons were detained in various rural districts of Arauca.

64. This situation has led to the theory that the State has used the law and the courts to press criminal charges against persons who are obviously innocent, usually social, municipal and trade union leaders, with a view to stigmatizing them and to justify further repressive measures. In Arauca, members of the communal action committees of the municipal districts have been detained simply on the basis of the testimony of two former guerrillas. The National Police in Arauca informed the Working Group that it had carried out 809 arrests in 2007, and 369 between January and September 2008. All those arrested had been handed over to the support unit of the prosecutor's office.

65. Act No. 600, which governs these detentions, does not distinguish between the accusation and the decision to deprive the accused of liberty. Although it is possible to appeal for the detention to be declared unlawful, the necessary distinction, which requires the deprivation of liberty to be carried out by a different body to that which ordered it, is lacking.

K. Round-ups, forced enlistment and "false positives"

66. The Working Group notes with concern the arrests carried out by military personnel, in particular the practice of round-ups, despite the fact that the army does not have legal powers to

do so. On some occasions, soldiers have orders to arrest a few persons, but arrest many more. One variation is forced enlistment: mass detentions of young persons with a view to checking their military status. Those who are deemed to have failed to register, to respond to being called up or to have performed military service are taken to the barracks for forced recruitment. The Deputy Minister of Defence declared that every young male must carry on his person his military service record or the document confirming the postponement of his military service because military service is not only the right, but the obligation of all male citizens. By and large, it is not the army, but illegal armed groups who forcibly recruit minors. The Working Group considered complaints from conscientious objectors who said that their objections were not taken into account. The Working Group has already deemed that the refusal to recognize the right of conscientious objection contravenes international human rights law.

67. The most serious concern is that senior State authorities have supported mass arrests.[11]

68. A situation that has alarmed Colombian civil society and the international community is the practice of "false positives". With a view to obtaining privileges, recognition or special leave, soldiers detain innocent people without any valid reason and then execute them. Their bodies appear the day following their disappearance tens of kilometres away and are identified as members of illegal armed groups killed in combat. These are mainly vulnerable people - street dwellers, adolescents from poor areas of big cities, drug addicts and beggars - who are dressed in a uniform and executed. In some cases, for example in Soacha, young people are tricked with promises of work and transferred to a place where they are finally executed.

69. This practice led to the recent - but somewhat tardy - resignation of the Commander-in-Chief of the army and the dismissal of 27 soldiers on the President's orders. These cases will be dealt with by the ordinary courts.

70. Eight adults and one 17-year-old disappeared between January and August 2008 in Soacha, a slum area of the capital. Their bodies were buried in separate unmarked graves in the cemetery of Ocaña, Norte de Santander, 400 kilometres from Bogotá. Two other victims appeared in Cimitarra. It was claimed that they were guerrillas who were killed in combat. In fact, they were poor adolescents from a disadvantaged neighbourhood. It was obviously thought that their disappearance would go unnoticed. In the region of Bajo Ariari, the bodies of various disappeared campesinos were presented tens of kilometres away as guerrillas who had been killed in combat. The Working Group was informed that more than 3,000 members of the army are under investigation by the Office of the Attorney-General and the Office of the Procurator-General, some for cases of "false positives".

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[11] On International Human Rights Day, during a coffee growers' congress, the President recognized that "last week I said to General Castro Castro that in that zone [Caldas, and Risaralda] we could not continue with mass arrests of 40 or 50 persons every Sunday, rather we would have to aim for 200, to speed up the imprisonment of terrorists and to strike back at these organizations. These have been mass arrests, but not arbitrary ones. They were in full conformity with the law. They were carried out following the careful examination of the evidence." See www.presidencia.gov.co.

71. Even when persons are released, they are stigmatized by the detention. If people are subsequently found executed, it is said that they had been detained on a previous occasion, implying that they had been members of an illegal armed group. That is what happened to the eminent academic, Alfredo Correa, who, after being accused by former guerrillas of belonging to an armed group, arbitrarily detained, stigmatized and released, was killed on 17 September 2004.

72. In 2008, mass detentions were carried out in Barrancabermeja, in Magdalena Medio and in Caquetá (where the Consolidation Plan, which replaced the Patriot Plan, is being implemented). The majority were released, but those that remain in detention are mainly leaders of trade unions and campesino or women's organizations. In San Vicente del Caguán, the prosecutor's office issued 59 arrest warrants, and 12 community leaders are still in detention. In May 2008, the prosecutor's office in Remolinos del Caguán issued 25 arrest warrants for terrorism, rebellion and drug trafficking; only 10 persons remain in detention. This confirms allegations that the prosecutor's office is rather quick to issue arrest warrants. In Unión Pereira, the army carried out mass arrests: the inhabitants were detained in a sports complex where their identity documents were confiscated and they were filmed with a video camera.

73. There were also mass detentions in Caquetá (following which five persons remain in detention) and Putumayo (15 persons remain in detention; one of the detainees, Mr. Heriberto Póveda Vásquez, who was terminally ill, died in prison). Various leaders of the Campesino Association of Valle del Río Cimitarra have been detained. Five hundred students from the Del Valle University are under investigation. In April 2008, three were detained; one remains in detention. There were also mass detentions in Arauca, Arauquita, Saravena and Montes de María. The prosecutor's office decided not to press charges in the cases where the detainee had spent more than six months in pretrial detention because there was insufficient evidence to go to trial.

74. On 12 January 2008 there were mass detentions in the municipality of Arauquita. In recent years the criminal courts of Arauca have had to be transferred to Bogotá for security reasons. The majority of the cases relate to the offences of rebellion and terrorism, for which the Special Prosecutor against Terrorism, located in the capital is the competent authority. This necessitates the transfer of detainees to Bogotá. The difficulties posed by this transfer regarding the exercise of the right to a defence and of equality of arms are understandable considering the distance separating detainees from their defence counsel and the difficulties involved in submitting and examining exculpatory evidence and in ensuring that the defence witnesses can appear before the court.

75. Similarly, the right to a defence is also called into question by the fact that the unit of the prosecutor's office responsible for these investigations, called the support unit, is located within the barracks of the 18th Brigade. While this does not affect the organizational independence of the two institutions, it makes physical access to the prosecutor's office difficult for defence witnesses.

L. Serious delays in judicial proceedings

76. Although the introduction of the adversarial system of criminal justice and oral proceedings represent an extraordinary step forward in terms of guarantees against arbitrary detentions, the Working Group observes that there are still serious delays in the criminal proceedings under Act No. 600. Given the principle of prompt process in adversarial criminal proceedings, it is feared that judges, prosecutors, procurators and public defenders may forget about those who are in detention under Act No. 600, as has happened in other countries. To give an indication, of the 103 public defenders in Cali, only 3 have been assigned to proceedings under the earlier Code.

M. Absence of enforcement judges in prisons

77. The Working Group found that the absence of enforcement judges in prisons was a generalized complaint among detainees, particularly in the Villa Hermosa prison in Cali. The enforcement judges' workload seems excessive: some of them are responsible for a very large number of cases. This often prevents them not only from having direct, periodic and regular contact with detainees, but also from visiting prisons on a regular basis. There are 102 enforcement judges. In Arauca, an enforcement judge was appointed as recently as 2008.

78. The weaknesses that the Working Group noted while observing the deprivation of liberty procedures require vigilant action by these judges, who must ensure the observance of all the guarantees established by law and make sure that prisoners who deserve to enjoy the prison privileges allowed by law, particularly conditional release, may do so.

N. Prison overcrowding

79. At the time of the Working Group's visit in October 2008, 69,600 persons were being deprived of liberty in Colombia in 140 prisons administered by the National Institute of Penitentiaries and Prisons, a decentralized institution under the Ministry of the Interior and Justice. Another 30,400 persons were being held under house arrest or subjected to other restrictions on their freedom. Sixty-five per cent of the prison population had been convicted and 35 per cent had been charged.

80. According to official sources at the National Institute of Penitentiaries and Prisons (INPEC), overcrowding has climbed to 28.9 per cent. In 2006, it was only 17 per cent and the increase is due to the Minor Offences Act. The Working Group's visit took place during "Dignity and Justice for Detainees Week", which was organized at the request of the United Nations High Commissioner for Human Rights within the framework of the celebration of the 60th anniversary of the Universal Declaration of Human Rights. In this regard, the Working Group cannot fail to highlight its concern at the high degree of overcrowding observed in the prisons of La Picota in Bogotá, Villa Hermosa and Palmira in Cali, and the prison in Arauca. La Picota has 3,605 inmates, 3,019 of them convicted and 584 charged. Villa Hermosa houses 2,286 convicts and 1,794 accused and is at 160 per cent of its capacity. In the same city, the prison of Palmira houses 3,019 convicts and 584 accused. The Arauca prison houses 309 prisoners, 253 of them are charged and 56 convicted.

81. Some of those interviewed claimed that no daylight entered the blocks where they were housed, that they could not go out into the yard and, in other cases, sick prisoners complained that they did not receive the specialized medical attention they needed, thus violating the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

82. The Working Group was informed that holding detainees incommunicado had been proscribed, but not in all establishments. It also criticized the delay in implementing release orders once the release papers had been received. Once the prison receives those papers, the authorities check whether or not the person has been summoned before any other courts. Only when it has received a negative response from all the courts does it release the prisoner. This process could be started sufficiently in advance so as to avoid extending the person's imprisonment beyond their sentence.

O. Citizen's captures and arrests

83. In some areas of the country, the authorities have delegated to private security company employees, as well as to mining and oil companies and other individuals, the powers to carry out arrests, which should always be restricted to public officials as a matter of State authority. It is untenable to argue that these powers stem from the obligation to detain anyone committing an offence in flagrante delicto in the absence of the security forces or when the number of security force personnel is limited. Flagrante delicto refers to specific cases limited in time and cannot be used to justify this practice, which simply conceals the State's failure to fulfil its basic responsibilities. The fact is that these calls on individuals to detain persons are perceived by their intended audience, as well as by all of Colombian society, as an incitation and a delegation of duties to deprive citizens of their liberty without any authority taking responsibility. According to the Government, cases of flagrante delicto are clearly defined and judges apply a narrow interpretation of the definition.

P. Detention of persons with mental disabilities

84. The Working Group visited the Virgen de la Paz Clinic in Bogotá, governed by the hospital authority of San Juan de Dios and under contract to the Ministry of Social Protection. During the Group's visit, this clinic housed 35 patients, although at times it has housed as many as 75. Many had already been sentenced and their sentences included a period of detention in a psychiatric facility.

85. The clinic also received patients who had not been sent by the courts, but who had been brought by their families. In these cases the psychiatrist's report had been confirmed by the forensic medical expert.[12] Any detainee who does not agree with their detention may apply for a writ of habeas corpus. The authorities declared that, sometimes, even when the doctors considered that patients were ready for release, their families refused to receive them and they had to remain in the clinic.

[12] Act No. 65, art. 107.

Q. Detention of minors

86. In Bogotá, D.C., the Working Group visited the El Redentor Working School and, in Arauca, the Temporary Shelter for Young Offenders. The Group noted that the latter was a type of depot or warehouse with bars on the windows, with a warden on duty, where an 11-year-old girl was detained for possession of psychoactive substances. Children in trouble with the law, indigenous minors and destitute adolescents are commonly detained there.

87. Act No. 1098, the Children and Adolescents Code, has been in force in Colombia (but not yet in Bogotá) since 15 March 2007. The Act is an attempt to apply the principle of the best interests of the child as enshrined in international instruments and establishes a juvenile criminal justice system. The new Code is based on the premise that the minor is responsible and that the penalties imposed on minors should aim to rehabilitate, educate and protect. Under the new system, the police force for children and adolescents apprehends young offenders and brings them before the supervisory judge, accompanied by the Family Ombudsman, within 36 hours of their apprehension. Minors can be tried only from the age of 15 years. Minors aged 14 cannot be tried, found criminally responsible or deprived of liberty, but they are brought before a judge to answer for their actions. The penalty of supervised freedom can be imposed on them, with the commitment to present themselves periodically before the Colombian Family Welfare Institute (ICBF), or semi-confinement (where they attend a rehabilitation centre only in the daytime).

88. The majority of detained minors are in detention for the illegal possession of weapons, theft, drug trafficking, homicide, attempted homicide and personal injury. The maximum penalty that can be imposed on them is eight years for crimes against humanity, even though the maximum penalty under the old Minors' Code was only three years.[13] The penalty can be reduced by half if the young offender pleads guilty to the charges. There is always the possibility of appealing to a hybrid court made up of criminal and family magistrates. The most common offences involving adolescents are theft, trafficking and possession of drugs and illegal possession of weapons.

89. Minors aged between 14 and 16 years may be deprived of liberty only if they have committed the offences of homicide, kidnapping or extortion. Minors aged between 16 and 18 years may be detained in establishments of the Colombian Family Welfare Institute (ICBF) only if they have committed offences warranting a sentence of six years' imprisonment (sexual abuse, domestic violence or aggravated theft). The new Children's Act is not yet in force in the department of Cundinamarca.

90. Between 15 March 2007 and 31 August 2008, 5,000 minors in Bogotá alone were processed through the Criminal Justice System for Adolescents for committing an offence. Of those, 200 are in pretrial detention and 100 have already been sentenced.

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[13] Decree No. 2737 of 1989.

R. Detention of migrants

91. The Department of National Security is responsible for migration and manages the arrival and departure of foreigners at the ports, airports and land borders. It authorizes extensions of permission to remain in the country, issues identity cards for foreigners, safe-conducts and judicial certificates for foreigners and collaborates with the Office of the United Nations High Commissioner for Refugees in determining refugee status.[14]

92. More than a destination country for migrants, Colombia is a transit country for persons, mainly from South America and Asia, who intend to continue their journey onwards to the United States of America. Department of National Security officials informed the Working Group that they had observed, since June 2008, an increase in the flow of Chinese migrants coming from Ecuador, seeking to travel to the United States of America via the Bolivarian Republic of Venezuela. On 21 September 2008, eight Chinese citizens, including four minors, were found concealed in a truck transporting garlic between Ipiales, on the border with Ecuador, and Cúcuta, on the border with the Bolivarian Republic of Venezuela.

93. Foreigners who are in an illegal situation, either because they have no visa or their visa has expired, are detained prior to being deported. If they cannot be deported before the legal time limit has expired they must be released.

94. Colombia is mainly a country of emigration: almost 50,000 Colombians leave the country every month. The main destinations are the United States of America, Spain, France and Switzerland, as well as Singapore and the United Arab Emirates. Many are victims of people-smuggling and they can pay over 20,000 United States dollars to be transported to another country. Unlike what occurs in other countries, Colombians deported from another country for illegal immigration are not detained on their arrival in Colombia.

V. CONCLUSIONS

95. **The Working Group highlights certain efforts made by the Government of Colombia to provide the country with a legal framework for detention that observes all the guarantees established in international human rights instruments, such as the entry into force of Act No. 906, the new Code of Criminal Procedure.**

96. **It regrets, however, that there have also been some backward steps, such as those highlighted in paragraph 28 above, and that the new criminal procedure legislation has been brought in alongside the old, as established under Act No. 600, for offences committed while the latter was still in force, for the simple reason that the events took place prior to the entry into force of the new legislation. Similarly, Act No. 1142 decreases to a large extent the effectiveness of the new legal system.**

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[14] The Department of National Security is also one of the country's intelligence services.

97. **The Working Group considers that, in accordance with article 9, paragraph 3, of the International Covenant on Civil and Political Rights, pretrial detention should be used only in exceptional circumstances, and that deprivation of freedom of persons whose guilt has not yet been proven by a court should be avoided.**

98. **The Group noted that the prosecutor's office issues a great many arrest warrants without significant objective evidence and based solely on the testimony of former guerrillas who have been demobilized or reintegrated into society and who obtain privileges for their testimony. The targets of these arrests, under warrants that are based on insufficient evidence, are often human rights defenders, community leaders, trade unionists, indigenous people and campesinos.**

99. **In the Group's view, mass detentions do not allow each person to be treated as an individual in criminal proceedings, which are meant to determine the guilt of each accused person.**

100. **The lack of legal regulation of administrative pretrial detention, and the failure to implement the rigorous requirements of Constitutional Court judgement No. C-024 of 1994 have led to many arbitrary detentions. Similarly, the delegation - express or accepted - to companies or individuals of powers to detain, as well as the loose interpretation of flagrante delicto have also led to many arbitrary detentions.**

101. **The Working Group noted a fierce tension between the judicial and executive branches, which manifested itself in a strike of the judiciary that lasted more than 40 days and was taking place during the Group's visit. The strike affected the legal framework for detention which basically concerns the guarantees resulting from the work of the judges.**

102. **The Working Group considers that public defenders are, in the majority of cases, doing their jobs professionally and to a high standard. However, some detainees reported cases of corruption among the lawyers performing this task, which calls into question their positive assessment and considers such cases must be duly eradicated.**

VI. RECOMMENDATIONS

103. **In the light of the above observations, the Working Group suggests that the Government of Colombia should consider the following recommendations:**

(a) Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Repeal the legal provisions that contradict the legal framework for detention in the Code of Criminal Procedure contained in Act No. 906;

(c) Amend its legislation so that the new Code is valid for any offence, regardless of the date on which it was committed, while maintaining the exception for proceedings that were already under way under Act No. 600;

(d) Put a stop to the practice and justification of administrative pretrial detention from the law, and from the actions and public discourse of the authorities and give due consideration to the draft Civil Coexistence Code;

(e) Put a stop to mass detentions that deprive persons of liberty even though no individual arrest warrant has been obtained in advance and the individual has not been caught in flagrante delicto; and to arrests with warrants that are based on insufficient evidence, such as the testimony of former guerrillas;

(f) Eradicate from discourse and practice the support for or justification of any detention carried out by members of the armed forces, ensuring that they do not have powers of deprivation of liberty, imposing appropriate penalties for any such detentions;

(g) Adopt the policy recommended in the previous section also in respect of illegal arrests made by agents of private security, mining or oil company agents or other individuals;

(h) Provide and ensure that, when members of the army, navy or agents of private companies detain a person, the National Police officials at the places of detention, the prosecutors and the judges that receive them identify those who carried out the arrest and question them about the detention and the events that led to it;

(i) Appoint judges specializing in expedited procedures, as well as prosecutors and public defenders to bring to a swift end trials that are still under way under Act No. 600 and clarify their working conditions;

(j) Ensure that all State bodies responsible for human rights participate and assume their responsibilities in combating corruption in the judicial systems;

(k) Investigate and follow up any army or navy operations that lead to the civilian deaths, injuries or detentions, through independent and impartial prosecutors and judges, rejecting the intervention of military courts.

(l) Invite the Special Rapporteur on the independence of judges and lawyers to the country with a view to collaborating to establish the necessary framework for the relationship between the judiciary and the executive, as the rupture between the two has prevented the judiciary from properly performing its role as guarantor of basic rights - which has undertaken - and, which was one of the factors that led to the strike of the judges, who are not covered by guaranteed irremovability, which took place during the Working Group's visit.
