



Note on the situation of torture and ill-treatment in Colombia¹

By Coalición Colombiana contra la Tortura², and the World Organisation Against Torture (OMCT)

Colombia's 4th periodic report to United Nations Committee Against Torture (CAT) was examined in November 2009. In its concluding observations the committee expressed concern "that the incidence of torture in the State party remains high and shows specific patterns that point to widespread practice"³.

The crime of torture and ill-treatment is committed in different scenarios and with diverse objectives, including to obtain information and confessions, submission of the prison population, and to exercise social control over communities by the armed actors.

Incidents of torture and cruel, inhuman or degrading treatment and punishment continue being practiced in Colombia, and are carried out by all groups that are party to the armed conflict. It is of particular concern that registered acts of torture committed by the armed forces are increasing.

¹ This note is based on two reports from the Coalición Colombiana contra la Tortura: "Informe de Seguimiento a las Recomendaciones del Comité contra la Tortura y otros tratos o penas crueles, inhumanos o degradantes de Naciones Unidas, Colombia 2009- 2010" (2011) and "Informe alternativo al 4to informe periódico del estado colombiano al comité contra la tortura (Octubre 2009)". The reports can be found at: http://www.coljuristas.org/documentos/libros_e_informes/informe_ccct_2009-2010.html and http://www2.ohchr.org/english/bodies/cat/docs/ngos/CCAT_Colombia43_sp.doc.

² Asociación de Familiares de Detenidos-Desaparecidos –ASFADDES-, Asociación MINGA, Colectivo de Abogados José Alvear Restrepo, Comisión Colombiana de Juristas, Corporación AVRE, Corporación centro de atención psicosocial –CAPS-, Corporación REINICIAR, Fundación Comité de Solidaridad con Presos Políticos, Corporación Vínculos y Organización Mundial Contra la Tortura.

³ <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CAT/C/COL/CO/4&Lang=E>.

Reports of **extrajudicial executions and forced disappearance** occur every year in Colombia. Between July 2008 and June 2009, 137 individuals were victims of extrajudicial executions or forced disappearance attributed to the armed forces. The numbers registered in the national register of disappearances (Registro Nacional de Desaparecidos) reveal the magnitude of the violations of forced disappearance: It counts 51310 cases (2011), out of which 12632 are alleged forced disappearances. 5 million people are **internally displaced**, and there are permanent reports of violations against the right to life of displaced people. All actors that are party to the armed conflict commit acts of **sexual violence**, and the number of cases attributed to the armed forces is increasing. The use of sexual violence as a weapon of war remains in impunity, as demonstrated by the fact that 97,8% of the cases reported by the prosecutors office does not have a conviction. Recruitment and the systematic use of **children** in the conflict by the armed groups continue, and this practice has a strong impact in indigenous and afro descendent communities.

Impunity: The lack of a systematic, centralised registration of cases of torture and ill-treatment in the justice system prevent a proper monitoring of this crime. It is also a challenge that not all cases are assigned to the Unit of human rights and international humanitarian law within the prosecutors´ office for investigation, and that few cases are brought to trial (23 judgements of conviction in 2011). Regional prosecutors´ offices are still in some cases located within the premises of military installations. There continue to be cases of human rights violations, including torture and ill-treatment, assigned to the military courts (2010). The “**Justice and peace law**” from 2005 has made the crime of torture and ill-treatment committed by the paramilitary groups invisible, as the first judgements delivered under the application of this law does not include this violation, even though evident in the facts of the cases. The latest legislative initiatives to strengthen the **military justice system** would allow it to investigate grave human rights violations.

Independence of the judiciary: Judges frequently receive threats in the exercise of their profession (up to 180 cases per year). Judge Gloria Constanza Gaona Rangel was assassinated in the department of Arauca, 22th March 2011. She was in charge of judicial proceedings concerning grave human rights violations, including acts of sexual violence and the execution of three children by members of the armed forces, at the time of her death. Members of the judiciary were subject to illegal surveillance by the Colombian intelligence service (the DAS scandal), and sanctions have still to be brought against those responsible for threatening the independence of the judicial power.

Advances has been made to **guaranty the rights of families of victims of forced disappearances**, through the “National plan for search of disappeared persons” (Plan Nacional de Búsqueda de Personas Desaparecidas). However, challenges remain in order to effectively identify the victims, investigate the crimes and establish responsibility. Colombia has not completed the process to

ratify the International Convention for the Protection of All Persons from Enforced Disappearance, and is not going to make the declaration foreseen under Article 31 of the Convention, which gives victims access to an individual complaint mechanism.

Conditions of detention: In 1998 the Constitutional court declared the state of the detention facilities as unconstitutional (Sentence T-153 of 1998). This situation persists, even though a number of international human rights bodies have made specific recommendations to improve detention conditions. Urgent issues include cases of torture and ill-treatment of detainees, excessive use of solitary confinement, overcrowding and lack of basic health care. Use of preventive detention, massive and arbitrary detention violates the procedural rights of the detainees and basic safeguards against torture and ill-treatment, and in addition increases the prison population and the already severe overcrowding. In this regard it is of special concern that Colombia has not ratified the **Option protocol to the Convention against torture**, which provides for a national preventive mechanism that would conduct independent monitoring and inspection of detention facilities.