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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Situation of human rights in Colombia

Report of the United Nations High Commissioner for Human Rights*, **

Summary

In the present report, the United Nations High Commissioner for Human Rights assesses the human rights situation in Colombia in 2021, the fifth anniversary of the signing of the Peace Agreement. It focuses on the enjoyment of economic, social and cultural rights, the prevention of human rights violations and the protection of human rights, including in connection with civic space, access to justice and the fight against impunity. In the report, the High Commissioner puts forward recommendations on how to improve the human rights situation in the country.

* The summary of this report is being circulated in all official languages. The report itself is contained in the annex and is being circulated in the language of submission and in English only.

** The present report was submitted late to allow for the inclusion of information on the most recent developments.



Annex

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia

I. Introduction

1. In the present report, the United Nations High Commissioner for Human Rights analyses the human rights situation in Colombia between 1 January and 31 December 2021, with a particular focus on the implementation of the human rights aspects of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace (Peace Agreement) signed between the Government of Colombia and the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo (Revolutionary Armed Forces of Colombia – People’s Army) (FARC-EP).

2. The fifth anniversary of the signing of the Peace Agreement between the Government of Colombia and FARC-EP was observed in November. The demobilization of FARC-EP and the formation of a new political party are among the most important outcomes for the peacebuilding process. Another significant result is the creation of 16 Special Transitory Peace Electoral Districts, particularly with regard to the political participation of victims from the areas most affected by the armed conflict and the most excluded sectors of society. The positive progress made by the transitional justice mechanisms is another important milestone on the fifth anniversary. However, the increase in violence in rural areas and some urban centres in 2021 seriously affected the leadership and community life of indigenous peoples, campesinos and Afro-Colombians, as well as women in rural areas.

3. The existing social and economic inequalities were exacerbated by the coronavirus disease (COVID-19) pandemic and violence. In late April, structural inequalities, including food insecurity and difficulties in obtaining access to education, health and jobs, combined with a proposed tax reform, gave rise to a widespread national strike that lasted for several months. The protesters demanded greater guarantees in terms of the right to peaceful assembly, participation in decision-making and reform of the National Police.

4. The Office of the United Nations High Commissioner for Human Rights (OHCHR) welcomes the Government’s announcement in January of temporary protection status for Venezuelan migrants in Colombia, thereby expanding the framework for protection of their rights.

5. In 2021, OHCHR conducted 527 field missions and held 331 capacity-building activities for State institutions and civil society.

II. Inequality

6. According to the Economic Commission for Latin America and the Caribbean, Colombia is the country with the second highest level of inequality in the region.¹ This situation primarily affects women, rural populations, indigenous peoples, Afro-Colombians and persons living in poverty in large cities.

7. In 2021, the country recorded the first signs of economic recovery since the beginning of the pandemic. During the first half of the year, the gross domestic product grew by 8.7 per cent compared to the same period in 2020.² In December, the national unemployment rate was 11 per cent, 2.4 percentage points lower than in the same month in 2020.³ However,

¹ See https://www.cepal.org/sites/default/files/presentation/files/ppt_socialpanorama2020_en.pdf.

² See <https://www.dane.gov.co/index.php/estadisticas-por-tema/cuentas-nacionales/cuentas-nacionales-trimestrales/pib-informacion-tecnica>.

³ Comments of Colombia, submitted on 11 February 2022.

income inequality increased: the Gini coefficient rose from 0.517 in 2018 to 0.526 in 2019⁴ and to 0.544 in 2020.⁵ According to the National Department of Statistics, between August and November, only 71 per cent of the population reported eating three or more times a day in the last week, compared to 90 per cent before the pandemic.⁶ In October 2021, 48.1 per cent of the population was engaged in informal employment.⁷

8. According to information published in September 2021, the percentage of the population living in multidimensional poverty in 2020 was three times higher in rural areas than in urban areas.⁸ The level of multidimensional poverty was highest in the Pacific⁹ and Caribbean regions, at 30.9 per cent and 28.7 per cent respectively, and lowest in Bogotá, at 7.5 per cent.¹⁰ The incidence of multidimensional poverty was 19.6 per cent in female-headed households, 17.2 per cent in male-headed households,¹¹ 50 per cent in households headed by indigenous persons and 29.2 per cent in households headed by Afro-Colombian persons.¹²

9. The pandemic continued to have a major impact on education, as in-person activities were suspended nationwide at certain times. Studying from home particularly affected children in poor households, as 78.9 per cent do not have an Internet connection and 96.9 per cent do not have a desktop computer.¹³ In some departments, such as Antioquia, this gave rise to higher risks of recruitment and use of minors by non-State armed groups and criminal organizations.

10. Women and girls continue to be victims of violence and suffer gender inequality and gender-based discrimination. In the second quarter of 2021, the number of babies born to mothers under 14 years of age was 22.2 per cent higher than in the same period in 2020.¹⁴ As of 6 December, the Attorney General's Office had received 114,727 complaints of domestic violence. In 77 per cent¹⁵ of the cases, the victim was a woman. In the same period, it received 43,394 complaints of sexual violence, 86 per cent of which involved female victims, and 183 reports of femicide.¹⁶ The Ombudsman's Office has identified barriers to access to health, justice and protection measures for victims of violence.¹⁷ OHCHR welcomes the creation, in the Attorney General's Office, of a National Working Group on Gender-based Violence¹⁸ and urges it to make progress in investigating such violence, applying a gender-sensitive approach at all times.

11. In 2021, the Ombudsman's Office handled 72 cases of gender-based violence against lesbian, gay, bisexual, transgender and intersex persons¹⁹ and identified the absence of an

⁴ See https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/Presentacion-pobreza-monetaria_2020.pdf.

⁵ Ibid.

⁶ See <https://www.dane.gov.co/index.php/estadisticas-por-tema/encuesta-pulso-social>.

⁷ See <https://www.dane.gov.co/index.php/estadisticas-por-tema/mercado-laboral/empleo-informal-y-seguridad-social>.

⁸ See

https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/boletin_tec_pobreza_multidimensional_20.pdf.

⁹ Excluding Valle del Cauca.

¹⁰ See

https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/boletin_tec_pobreza_multidimensional_20.pdf.

¹¹ Ibid.

¹² See https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/presentacion-rueda-de-prensa-pobreza-multidimensional-20.pdf.

¹³ See

https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/boletin_tec_pobreza_multidimensional_20.pdf.

¹⁴ See

https://www.dane.gov.co/files/investigaciones/poblacion/bt_estadisticasvitalas_nacimientos_IItrim_2021pr.pdf.

¹⁵ Attorney General's Office, official letter received on 14 December 2021.

¹⁶ Comments of Colombia, submitted on 11 February 2022.

¹⁷ Ombudsman's Office, official letter received on 16 December 2021.

¹⁸ Attorney General's Office, Decision No. 0-0858 of 20 May 2021.

¹⁹ Ibid.

approach that is sensitive to such persons in the conduct of investigations by the Attorney General's Office, making it difficult to determine whether attacks are related to the sexual orientation or gender identity of the victim. The Ombudsman's Office also found discrimination by police against lesbian, gay, bisexual, transgender and intersex persons, particularly transgender women.²⁰

12. Organizations of lesbian, gay, bisexual, transgender and intersex persons and the Ombudsman's Office²¹ have expressed concern about the obstacles hindering the participation of these organizations in the design of the action plan for the public policy on guaranteeing the effective enjoyment of the rights of lesbian, gay, bisexual, transgender and intersex persons and persons with diverse sexual orientations and gender identities.²² They have also expressed concern about the limited progress in, and lack of resources available for, the implementation of the plan, as well as about the fact that the thematic working group on urgent cases involving violations of the rights to life, security and integrity of lesbian, gay, bisexual, transgender and intersex persons has not met since 2019.²³

13. Organizations of persons with disabilities have indicated that such persons continue to face discrimination and have experienced many violations of their economic, social and cultural rights, including their right to work and the right of women with disabilities to live without violence. OHCHR highlights the need for further progress in the effective implementation of Act No. 1996 of 2019, which establishes the regime for the exercise of legal capacity by persons with disabilities over the age of 18 years. OHCHR welcomes the adoption of a national protocol on assessing support provision to assist persons with disabilities in making legal decisions, including those related to their sexual and reproductive rights.

14. OHCHR noted that the lack of adequate public services and the existence of barriers to accessing them affected the enjoyment of the rights to food, water, health and education among the Awá, Bora, Embera Katío, Emberá (Eyábida, Dovidá), Eperara-Siapidara, Hitnü, Jiw, Kogui, Koreguaje, Miraña, Murui-Muina/Uitoto, Wayúu and Wounaan indigenous peoples. For example, in the territory of the Embera people of Córdoba and Chocó, children suffer from malnutrition, respiratory infections and acute diarrhoeal diseases. Members of the Kogui and Wounaan peoples must walk for up to seven hours and then travel to cities to receive health care, which increases risks for pregnant women. According to the Kogui and Chocó indigenous authorities, the lack of civil registration hinders access to education and health services. In September, in the context of the severe humanitarian crisis suffered by forcibly displaced indigenous populations, the Constitutional Court determined that the Jiw community of the Naexal Lajt reservation had suffered violations of the rights to health, water, ethno-education and adequate food.²⁴

A. Comprehensive Rural Reform

15. According to the Peace Agreement, the right to access to land is the central pillar of the Comprehensive Rural Reform, which is intended to bring about the structural transformation of the Colombian countryside and close the inequality gap that affects rural communities. OHCHR welcomes the progress made in 2021 and urges the authorities to expedite the inclusion, registration and description of land in the Land Fund and its distribution to campesino families who do not yet own land, as well as to address the Fund's shortcomings in relation to requests for the formalization of ownership of ancestral territories of indigenous and Afro-Colombian peoples, in accordance with the Peace Agreement.

²⁰ See https://www.defensoria.gov.co/attachment/3756/INFORME%20DERECHOS%20HUMANOS%20DE%20PERSONAS%20OSIGD-LGBT%202020%20y%202021%20Vol.2.pdf?g_show_in_browser=1.

²¹ Ibid.

²² Ibid.

²³ Colombia, Ministry of the Interior, Decree No. 762 of 7 May 2018.

²⁴ See <https://www.corteconstitucional.gov.co/Relatoria/2021/SU092-21.htm>.

16. In 2021, the creation of 13 road maps for the implementation of the local development programmes was an important step forward in the design of tools to transform the regions most affected by the armed conflict and inequality. In the 16 subregions prioritized under these programmes, the active participation of the communities must be ensured, their needs must be taken into account in the regional transformation action plans, and ethnic- and gender-sensitive approaches must be applied in the implementation of the programmes.

17. There is an urgent need to resolve agrarian and land ownership conflicts in rural areas. OHCHR urges the Government and Congress to work together to create and implement agrarian jurisdiction to address and prevent these conflicts.

18. The most recent report of the United Nations Office on Drugs and Crime indicates a reduction of approximately 7 per cent in illicit crop cultivation in Colombia in 2020.²⁵ However, coca, marihuana and poppy growers who have benefited from crop substitution programmes report low levels of implementation of productive projects, as well as delays in the formulation of the National Plans for Comprehensive Rural Reform provided for in the Peace Agreement.

19. The State's comprehensive presence must be strengthened throughout the national territory to overcome structural poverty and guarantee full enjoyment of economic, social and cultural rights. To this end, and in the light of the Peace Agreement, effective access to land must be guaranteed, alongside opportunities for decent living standards rooted in access to public services such as health, housing, education, infrastructure and connectivity and measures designed to ensure healthy, adequate and sustainable food for the entire population.²⁶

B. Chapter on ethnic perspectives of the Peace Agreement

20. There have been delays in the application of the cross-cutting and rights-based ethnic perspective that is provided for in the relevant chapter of the Peace Agreement. According to a statement by the Ethnic Commission for Peace in June 2021, less than 2.4 per cent of the targets relating to the chapter on ethnic perspectives, as agreed with the Government and set out in the framework plan for the implementation of the Peace Agreement, have been achieved. As an example, the level of implementation of measures on land use and ownership is low. Among the commitments requiring a gender-sensitive approach, only 12 per cent have been met, 15 per cent are at an intermediate stage and 51 per cent have been implemented at a minimum level.²⁷ The Counsel General's Office also confirmed very low levels of implementation of the provisions of the Peace Agreement that relate to the ethnic peoples of Colombia.²⁸

21. Ethnic organizations have reiterated their dissatisfaction with the scant progress made in the implementation of the chapter, in particular in rural territories, and have highlighted the humanitarian crisis caused by worsening poverty, the escalation of armed conflict and the expansion of the control exercised by non-State armed groups and criminal organizations in their territories.

22. Other concerns expressed by ethnic peoples include the lack of guarantees for prior consultation, including access to information and participation, and the delayed formalization and protection of ancestral lands, which are considered crucial for the peacebuilding process.

²⁵ See https://www.unodc.org/documents/crop-monitoring/Colombia/Colombia_Monitoreo_de_territorios_afectados_por_cultivos_ilicitos_2020.pdf.

²⁶ See https://www.cancilleria.gov.co/sites/default/files/Fotos2016/12.11_1.2016nuevoacuerdofinal.pdf, p. 13.

²⁷ Peace Accords Matrix, Kroc Institute for International Peace Studies, *Five Years of Peace Agreement Implementation in Colombia: Achievements, Challenges and Opportunities to Increase Implementation Levels, December 2016–October 2021* (Indiana, United States of America, University of Notre Dame and Bogotá, Peace Accords Matrix, Kroc Institute for International Peace Studies/Keough School of Global Affairs, 2021).

²⁸ See <https://www.procuraduria.gov.co/portal/media/file/Tercer%20informe%20Acuerdo%20de%20Paz%202021%20.pdf>, p. 612.

Of the 329²⁹ requests for collective land ownership submitted by black communities, there has been progress on 21 titles. Of the 680³⁰ requests for constitution, expansion and rehabilitation of reservations submitted by indigenous communities, there has been progress in 50 cases.³¹

C. Political participation

23. OHCHR welcomes the enactment of Legislative Act No. 02 of 25 August 2021, which created 16 Special Transitory Peace Electoral Districts for the corresponding number of seats in the House of Representatives for the next two electoral periods, in compliance with the Peace Agreement. The aim of creating the 16 seats is to strengthen the political participation of communities located in historically excluded territories that have been affected by the armed conflict.

24. Significantly, Legislative Act No. 02 strengthens the representation of women by requiring gender parity in electoral lists.³² Another positive development is the regulations that allow members of community councils and indigenous reservations to stand as candidates, thereby strengthening the representation of ethnic peoples affected by the armed conflict.³³

25. OHCHR is concerned about the presence of non-State armed groups operating in areas within the 16 Peace Electoral Districts and the negative impact of this on security guarantees in the electoral process. OHCHR urges the State to take preventive measures to guarantee electoral activities and political participation in an environment that is free of threats and all forms of violence. The early warnings issued by the Ombudsman's Office and the reports of the Electoral Observation Mission should be addressed in a timely manner through protection measures, greater presence of civilian institutions in critical areas and action to tackle stigmatization and/or discrimination based on gender or ethnicity.

III. Security and human rights

26. OHCHR received information on 100 potential massacres³⁴ in 2021; of these, 78 have been verified, 2 are still being verified and 20 were deemed inconclusive. The 78 verified massacres involved 292 victims, including 32 women, 15 boys, 5 girls and 13 persons belonging to ethnic peoples (7 indigenous persons and 6 Afro-Colombians). The most affected departments are Antioquia, Cauca, Nariño and Valle del Cauca.

27. The Office for the Coordination of Humanitarian Affairs reported increases in displacement caused by violence and in confinements or restrictions on movement imposed by non-State armed groups and criminal organizations.³⁵ The Office reports that 72,388

²⁹ National Land Agency, Open Data Portal between March 2002 and November 2021, "Pretensiones Comunidades Negras" (Land claims by black communities). Available at <https://data-agenciadetierras.opendata.arcgis.com/datasets/pretensiones-comunidades-negras-1/explore?location=5.821976%2C-74.170877%2C5.86&showTable=true>.

³⁰ National Land Agency, Open Data Portal, November 2021, "Solicitud Legalización Resguardo Indígena" (Requests for legal title to indigenous reservations). Available at <https://data-agenciadetierras.opendata.arcgis.com/datasets/soliditud-legalizacion-resguardo-indigena/explore?location=4.860672%2C-76.845760%2C5.37>.

³¹ See <https://www.procuraduria.gov.co/portal/media/file/Tercer%20informe%20Acuerdo%20de%20Paz%202021%20.pdf>.

³² See <https://dapre.presidencia.gov.co/normativa/normativa/Acto%20Legislativo%2002%20del%2025%20de%20Agosto%20de%202021.pdf>.

³³ Electoral Observation Mission, "Circunscripciones Transitorias Especiales de Paz para la Cámara de Representantes 2022–2026 y 2026–2030" (Special Transitory Peace Electoral Districts in the House of Representatives 2022–2026 and 2026–2030), electronic document, August 2021.

³⁴ E/CN.4/2000/11, para. 27.

³⁵ The departments most affected by displacement are Antioquia, Cauca, Nariño and Valle del Cauca. The departments most affected by confinements or restrictions on movement are Antioquia, Chocó, Nariño and Valle del Cauca.

persons, including 12,848 children, were displaced between January and November 2021, while 26,291 persons were displaced in 2020. In addition, 57,787 persons have been confined between January and November 2021.³⁶ The Office reports that 69 per cent of displaced persons and 96 per cent of persons whose mobility has been unduly restricted are from indigenous or Afro-Colombian communities. In 2021, the United Nations Verification Mission in Colombia verified the murders of 54 former members of FARC-EP, bringing to 303 the number of such killings since the signing of the Peace Agreement in November 2016.³⁷ According to data from the National Police, in 2021, the total number of homicides rose by 9.5 per cent compared to 2020.³⁸ This violence occurs mainly in areas with high levels of inequality and an insufficiently comprehensive State presence.³⁹

28. OHCHR noted that violence committed by non-State armed groups and criminal organizations affects the lives of individuals and communities and has a disproportionate impact on indigenous peoples, Afro-Colombians and campesino communities. As well as committing massacres, causing forced displacement and imposing curfews and other restrictions on movement, these groups kill social leaders, threaten individuals who ignore their demands, control communication in the community, limit relationships with third parties, restrict and control productive activities including planting, harvesting, fishing and marketing of products, and do not recognize ethnic authorities. Such actions negatively affect food security in communities and undermine their political and economic autonomy. In addition, the development and exploitation of illicit economies and territorial control by non-State armed groups is increasing. Violence against women and girls, particularly sexual violence, is another issue of concern. Victims are silenced by threats, obscuring the seriousness of the situation.

29. In several communities, OHCHR has documented restrictions on ancestral cultural and religious practices such as the banning of community assemblies or prayer services for the dead. OHCHR has observed the impact of the violence committed by non-State armed groups and criminal organizations and the effects of clashes between armed actors, which jeopardize the very survival of some ethnic communities due to the loss of their territory and autonomy and the hopelessness that prevails among community leaders and ethnic authorities, who call for the immediate implementation of the Peace Agreement.

30. The recruitment and/or use of children by armed groups is particularly serious and has a profound, and often irreversible, negative impact on the social fabric of the affected communities. Similarly, the recruitment and/or use of children by non-State armed groups and criminal organizations exposes them to exploitative situations including some of the worst forms of child labour,⁴⁰ trafficking, sexual exploitation and sexual slavery, which mainly affect girls.

31. OHCHR reiterates that all persons under the age of 18 years who are recruited and used in hostilities or illegal activities by armed groups must be considered victims. The authorities must avoid stigmatizing them and must instead ensure their protection and promote the restitution of their rights, in line with international norms and standards.⁴¹

32. OHCHR reiterates that one of the greatest challenges in achieving peace is the limited comprehensive presence of the State, especially civilian authorities, in various areas of the country. To reduce the violence, the State must promote its comprehensive presence, particularly in the rural areas of Amazonas, Antioquia, Arauca, Bolívar, Caquetá, Cauca, Chocó, Nariño, Norte de Santander, Putumayo and Valle del Cauca. This will allow for greater access to justice and basic services, facilitate the fight against impunity and enhance the fulfilment of economic, social and cultural rights, which are key factors in deterring and preventing violence. In addition, it is necessary to further the Comprehensive Rural Reform

³⁶ See <https://www.humanitarianresponse.info/en/operations/colombia/infographic/impacto-y-tendencias-humanitarias-entre-enero-y-noviembre-de-2021>.

³⁷ See https://colombia.unmissions.org/sites/default/files/13.01.22_esp_infografia_informedic2021.pdf.

³⁸ See <https://www.policia.gov.co/grupo-informacion-criminalidad/estadistica-delictiva>.

³⁹ Antioquia, Cauca, Chocó, Nariño, Norte de Santander, Putumayo and Valle del Cauca.

⁴⁰ International Labour Organization, Worst Forms of Child Labour Convention, 1999 (No. 182), art. 3.

⁴¹ Convention on the Rights of the Child, arts. 3, 6, 16, 20, 32, 33, 34, 38, 37 and 39; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

provided for in the Peace Agreement through participatory implementation of the local development programmes.

33. In several regions, despite the growing presence of the security forces, non-State armed groups and criminal organizations have continued to multiply, expand and use violence. In some places, clashes between the military and non-State armed groups have led to displacement. There is also a risk of stigmatization, as the civilian population is accused of collaborating with non-State armed groups. In addition, individuals who provide information to the State have been subjected to reprisals, and some have even been murdered by these groups, which affects the level of trust in institutions. Efforts must urgently be made, within the framework of the National Commission on Security Guarantees, to move forward with the design of a public policy, formulated in agreement with civil society, including women's organizations, to dismantle criminal organizations and their support networks, as set out in the Peace Agreement. Furthermore, action on the early warning recommendations issued by the Ombudsman's Office must be stepped up by improving the performance of the Intersectoral Commission for Rapid Response to Early Warnings and directing its efforts towards seeking solutions to prevent violence, with the participation of human rights defenders.

A. Alleged human rights violations by the security forces

34. During 2021, OHCHR received 100 allegations of arbitrary deprivations of life; of these, 54 have been verified, 17 are still being verified and 29 were deemed inconclusive. Responsibility allegedly lay with members of the National Police in 44 of the verified cases, with military officials in 5 of the verified cases, and with off-duty officials from the technical investigation corps of the Attorney General's Office in 2 of the verified cases. The remaining three cases reportedly occurred during joint operations between the Armed Forces and the National Police.

35. Among the verified cases, OHCHR documented 29 incidents involving unnecessary or disproportionate use of force during protests, 13 that occurred during law enforcement activities, 2 that occurred during operations tackling organized crime, and 2 that arose from the failure to protect the victim during police detention. It also verified five cases involving members of the armed forces that occurred during public security duties, law enforcement activities or operations tackling organized crime. The three cases that took place during joint operations occurred in the context of the fight against organized crime.

36. OHCHR observed that some police officers, while attempting to prevent offences, had engaged in ill-treatment or unnecessary or disproportionate use of force which had, in some cases, resulted in arbitrary deprivations of life in respect of Afro-Colombian adolescents and young persons from poor and vulnerable communities, particularly in the Departments of Atlántico and Bolívar.

37. The Constitutional Court and the Attorney General's Office concluded that the ordinary justice system is competent to investigate potential violations committed by members of the security forces in the context of the national strike.⁴² OHCHR is working with the Attorney General's Office to ensure that progress is made in investigating the cases it has documented.

38. OHCHR welcomes the willingness of the Ministry of Defence to move forward with setting up a joint mechanism with OHCHR to prevent violations by the security forces by incorporating international human rights standards, including those relating to women's rights, in its procedures and operations.

⁴² Constitutional Court of Colombia, decision No. 576 of 25 August 2021; and Attorney General's Office, official letter of 31 May 2021.

IV. Civic space

A. Situation of human rights defenders

39. In 2021, OHCHR received 202 allegations of murders of human rights defenders; it verified a link between the victims' work and their deaths in 100 of the cases, and 102 cases were deemed inconclusive. In the verified cases, 12 of the victims were women, including 7 indigenous women, and 88 were men, including 9 Afro-Colombians and 9 indigenous men.⁴³ The main perpetrators were members of non-State armed groups and criminal organizations.

40. In 2021, OHCHR received 1,116 allegations of threats and attacks against individuals or organizations working to defend human rights; of these, 68 per cent were directed at men and 29 per cent at women, of which 26 could be considered cases of gender-based violence, and 3 per cent were directed at organizations. OHCHR identified high levels of stigmatization, including by State agents, which might be intended to delegitimize the work of human rights defenders, create fear and silence them. With regard to journalists, the Press Freedom Foundation recorded 575 attacks, including 168 assaults, 172 threats, 57 cases of obstruction of journalistic work and 65 cases of harassment.⁴⁴

41. Of the cases involving human rights defenders recorded by OHCHR, 33 per cent of the killings and 37 per cent of the attacks occurred during protests, indicating that a high degree of violence was used against them during demonstrations. Outside the context of protests, greater violence was used to silence defenders of land and territory rights, the rights of ethnic peoples, the environment, the victims of the armed conflict and the implementation of the Peace Agreement. The use of violence was also observed against persons participating in programmes for the substitution of illicit crops and persons who oppose or denounce illegal mining, forced recruitment of children, sexual violence, extortion and territorial control by non-State armed groups.

42. Human rights defenders, particularly those from indigenous and campesino communities, who support programmes to replace illicit crops face very high risks. In April, OHCHR documented the murder in Caldoño, Cauca, of a governor of the Nasa people who had links to the voluntary replacement of coca crops.

43. Reporting corruption is another common risk factor, as in the case of a hospital manager in Cauca, Antioquia, who was murdered in April for making allegations of corruption at the hospital. Disobeying orders from non-State armed groups can also be fatal. For example, the Jaibaná and cultural custodian of the Embera Eyábida people in Dabeiba, Antioquia, was allegedly murdered in April for failing to comply with a ban on using ancestral roads. In the same month, OHCHR documented the murder of the District Prosecutor of Tibú, Norte de Santander, which may have been related to her work investigating cases of femicide.

44. OHCHR documented attacks on and murders of human rights defenders in 28 of the country's 32 departments. Among the murders, 75 per cent occurred in Antioquia, Cauca, Chocó and Valle del Cauca, while 47 per cent of the assaults were recorded in Antioquia, Bogotá, Cauca and Valle del Cauca. Attacks on defenders have the effect of silencing entire communities and disrupting their organizational processes, hindering leadership handovers and damaging the social fabric. A prime example is that of the Nasa people in northern Cauca, where persistent attacks on their traditional authorities and leadership have had a negative impact on their organizational structure, self-government and cultural survival. OHCHR has documented instances of murders and threats against human rights defenders that have led to forced displacement of communities. Emblematic cases include the murder of the indigenous guard of Geandó in Bajo Baudó, Chocó, in March, which led to the displacement of at least 35 members of the indigenous community, and the murder of the legal representative of the

⁴³ See <https://www.hchr.org.co/files/micrositios/Homicidios-de-personas-defensoras-de-DDHH-Dic-2021.pdf>.

⁴⁴ See <https://flip.org.co/index.php/es/atencion-a-periodistas/mapa-de-agresiones>.

Afro-Colombian community council in the municipality of Roberto Payán, Nariño, in June, which led to the displacement of ethnic leaders and authorities from the municipality.

45. OHCHR appreciates the efforts made by the justice system in the investigations into murders of human rights defenders and notes that progress has been made in 49 of the 145 cases reported by the Ombudsman's Office in 2021, including 1 conviction, 18 trials in progress, 18 arrest warrants and 11 investigations under way.⁴⁵ It highlights the support provided to regional prosecutors by the Special Investigation Unit of the Ombudsman's Office to strengthen their capacity to take urgent action to investigate emblematic cases such as the death of Lucas Villa in Pereira in May and that of Esteban Mosquera in Popayán in August, both of whom were student leaders and promoted the involvement of young persons in peaceful protest. The effort being made to investigate threats and aggression was reflected in the adoption in April of Decision No. 0775 of the Attorney General's Office, which provides for the consolidation of a working group to prioritize immediate responses to threats against human rights defenders. However, significant challenges remain with regard to progress in investigations, particularly in rural areas, due to people's fear of reporting, difficulties in access encountered by the Institute of Forensic Medicine and the Technical Investigation Corps, insecurity and insufficient personnel in the Attorney General's Office. OHCHR reiterates the need to identify the instigators and make progress in the adoption of a public policy aimed at dismantling criminal organizations, with the participation of civil society.

46. The National Protection Unit made efforts to respond to the high number of requests for protection. From January to October, it granted 6,244 of the 25,777 requests for individual protection measures. In September, the Ministry of the Interior adopted Decree No. 1139 of 2021 on streamlining the processes for granting requests for protection measures and reducing response times, which averaged between three and five months.⁴⁶ Without a comprehensive institutional response and local, gender-sensitive and ethnic perspectives in the approach to risk factors, the measures may be insufficient. OHCHR received information on operational deficiencies in individual protection schemes, the removal of protection schemes without objective justification and the application of protection measures unsuited to defenders and their specific context and work. OHCHR was made aware of the case of a defender who disappeared despite having reported his situation to the National Protection Unit, and of the cases of six human rights defenders who were murdered despite having protection measures in place.

47. OHCHR considers that Decree No. 1139 could have been strengthened if protected persons and the bodies that make up the Committee for Risk Assessment and Recommended Measures had been consulted and provided with the text. The decree made formal provision for mechanisms to discuss the situation of specific groups, but there is no mechanism focusing on female defenders.

48. OHCHR recognizes the impetus given by the National Protection Unit to collective protection measures in respect of ethnic peoples, trade unions and women's and human rights organizations. However, there are still delays in the processing of requests for collective protection measures. Of the 915 requests submitted between 2016 and 2020, measures were granted in only 16 per cent of cases. Challenges also persist in institutional coordination and budget allocation, hindering the implementation of collective measures; in the enforcement of Decree No. 660 of 2018 on the protection of communities and organizations in the territories; and in steps to address the underlying causes of risk factors as a complement to material measures.

49. It is important to strengthen and, in some cases, revitalize mechanisms for participation between the Government and civil society, such as the National Safeguards Process, the regional committees on safeguards and the design process for the National Human Rights Action Plan. OHCHR highlights the State's intention to move forward in the design of a public policy on safeguards and respect for human rights defence work, and reiterates its willingness to provide support for mechanisms to allow civil society to

⁴⁵ Comments of Colombia, submitted on 11 February 2022.

⁴⁶ See https://funcionpublica.gov.co/eva/gestornormativo/norma_pdf.php?i=171486.

participate in that process. In December, the Government issued a policy to guarantee the exercise of the defence of human rights. Implementation activities are under way in the policy's main areas of action. Some sectors of civil society expressed concern at the failure to include their perspectives in the policy.

B. Right of peaceful assembly

50. The national strike that began on 28 April was a largely peaceful citizen-led mobilization. Unprecedented numbers of young persons participated in the strike, which was intended to address inequality and economic, social and political exclusion.

51. Colombia has a robust legal framework protecting the right to peaceful assembly. However, the repression of the protests and the manner in which force was used against peaceful demonstrators during the strike demonstrated the need to improve the democratic management of protests. OHCHR documented cases of unnecessary or disproportionate use of force resulting in arbitrary deprivations of life and violations of personal integrity and security, as well as arbitrary detention, sexual and gender-based violence and acts of discrimination and racism. In some of these cases, the victims were indigenous persons, Afro-Colombians, journalists or human rights defenders. In particular, OHCHR verified 46 deaths, including one woman, in the context of these protests. Of those cases, 28 allegedly involved the security forces and 10 reportedly involved armed individuals in civilian clothing. In 8 of the cases, the perpetrator could not be identified. In addition, OHCHR received allegations of sexual violence committed against 60 individuals (48 women and 12 men) and verified 16 cases involving offences reportedly committed by police officers. OHCHR also observed cases of violence used against the security forces and acts of vandalism. OHCHR set out its analysis of the national strike in a document, published on 15 December 2021,⁴⁷ on lessons learned in the exercise of the right to peaceful assembly.

52. The Attorney General's Office initiated investigations into 29 cases of homicide and 13 cases of sexual violence that occurred in the context of protests related to the national strike. OHCHR encourages the authorities to make progress in the investigation of all cases. OHCHR also documented 64 cases in which protestors had been prosecuted for offences including violence against public officials, damage to property, obstruction of a public thoroughfare, use of explosives or firearms, conspiracy and even terrorism. The authorities have a duty to investigate offences committed in the context of protests, while respecting the guarantees of due process, and, if applicable, to impose on the perpetrators adequate punishment that is proportionate to the offence.

53. OHCHR welcomes the creation, in August, of the Human Rights Directorate of the National Police. It encourages the State to promote a broad national debate on aspects of policing that require reform, including oversight and accountability mechanisms. It also considers it important for the authorities to introduce legislative reforms designed to fundamentally transform the Mobile Anti-Riot Squad, including a review of the protocols on the use of force and the use of less lethal weapons and ammunition, and ensure its compliance with international norms and standards. The authorities must guarantee the civilian nature of the police, its focus on citizen security and its preventive role as a duty bearer.⁴⁸

54. OHCHR is concerned about the approach taken in the Civil Security Act, which sets out, *inter alia*, increased and more severe penalties for behaviours in which protesters might engage, potentially leading to the criminalization of protest. Although there are regulations on the conditions in the centres that are used during protection-related transfers, the broadening of the grounds on which the Act can be applied and the greater discretion granted to the police in that connection could increase the risk of this measure of deprivation of liberty being used arbitrarily.

⁴⁷ See https://www.hchr.org.co/documentoseinformes/documentos/Colombia_Documento-lecciones-aprendidas-y-observaciones-Paro-Nacional-2021.pdf.

⁴⁸ *Ibid.*, p. 62.

V. Access to justice and the fight against impunity

A. Comprehensive System of Truth, Justice, Reparation and Non-Repetition

55. Five years after the signing of the Peace Agreement and more than three years since the Comprehensive System of Truth, Justice, Reparation and Non-Repetition became operational, the System's capacity to fulfil its mandates has been demonstrated.

56. However, victims, leaders, communities, human rights defenders and persons appearing before the Special Jurisdiction for Peace have faced serious risks to their lives and integrity due to insecurity in the regions. The work of the Attorney General's Office, the security forces and the National Protection Unit must be coordinated in order to guarantee protection for such persons and ensure that they can safely engage with the Comprehensive System. The comprehensive and timely implementation of the Peace Agreement will improve conditions for the participation of victims and persons appearing before the Special Jurisdiction.

57. The Commission for the Clarification of Truth, Coexistence and Non-Repetition and the Unit for the Search for Persons Deemed as Missing in the context of and due to the armed conflict continue to face challenges in obtaining access to information from some State institutions, which is essential for the fulfilment of their mandates. OHCHR calls on State institutions to guarantee effective and timely access to information and to ensure that their rules on access to information are consistent with international human rights law.

1. Special Jurisdiction for Peace

58. The accreditation of 328,071 victims and the appearance before the Special Jurisdiction for Peace of more than 13,200 individuals are indicative of its progress and capacity. The decisions on hostage-taking and serious deprivation of liberty (macro case No. 001) and on deaths falsely presented by State agents as combat casualties (macro case No. 003), as well as the prioritization of macro case No. 007 on the recruitment and use of children in the armed conflict, contribute to recognition of the atrocities committed and raise awareness of their impact on the victims and on society.

59. The Recognition Chamber of the Special Jurisdiction for Peace referred the first cases to the Investigation and Indictment Unit owing to the lack of acknowledgment of responsibility by some of the individuals appearing in connection with macro case No. 003. OHCHR recalls that an effective contribution to the truth by persons appearing before the Special Jurisdiction is fundamental in upholding victims' rights and is a condition for obtaining and retaining benefits.

60. OHCHR welcomes the announcement of the launch of new macro cases. Cases of sexual violence, enforced disappearance, forced displacement and violations of the rights of ethnic peoples in territories that have not yet been prioritized must be adequately addressed at this new stage, taking into account the expectations of the victims and their families.

61. The Attorney General's Office must continue investigating human rights violations committed during the armed conflict until the Special Jurisdiction for Peace has issued decisions in all macro cases. The right to an effective remedy, as established in the International Covenant on Civil and Political Rights, requires the competent authorities to take all necessary measures to ensure that the circumstances surrounding human rights violations are fully clarified. The Attorney General's Office must establish strategies to ensure that these violations are investigated effectively so that victims can obtain justice in a timely manner, in accordance with international human rights law and domestic jurisprudence.⁴⁹

⁴⁹ International Covenant on Civil and Political Rights, art. 2; Human Rights Committee, general comment No. 31 (2004), para. 18; and Constitutional Court of Colombia, judgment No. C-080 of 2018.

2. Commission for the Clarification of Truth, Coexistence and Non-Repetition

62. OHCHR recognizes the importance of the work of the Commission for the Clarification of Truth, Coexistence and Non-Repetition over a period of more than three years and welcomes the Constitutional Court's decision⁵⁰ to extend the Commission's mandate until June 2022. The 25 recognition forums, the 27,290 individuals who have been heard and the 1,008 coexistence initiatives represent significant progress in upholding the rights of victims. OHCHR also welcomes the efforts of the Truth Commission in raising awareness of the true experiences of Afro-Colombian and indigenous peoples.

63. The recommendations issued by the Truth Commission will constitute a road map for promoting institutional and social changes to consolidate the democratic welfare state governed by the rule of law. To that end, it is essential that a sufficient budget be made available for the establishment of a committee to monitor the implementation of the recommendations set out in the Truth Commission's final report, in order to lay the foundations for non-repetition.

3. Unit for the Search for Persons Deemed as Missing in the context of and due to the armed conflict

64. In 2021, the Unit for the Search for Persons Deemed as Missing adopted strategies to bolster the search for missing persons, including the signing of 10 regional search pacts intended to ensure inter-institutional coordination, the involvement of social sectors, active participation and recognition of the work of persons engaged in searches, particularly women.

65. The Unit is developing the second phase of the National Plan on the Search for Disappeared Persons, which prioritizes 35 subregions and the implementation of 23 regional search plans to locate 31,061 persons deemed as missing. Five individuals who had not contacted their families for more than 15 years were found alive in Arauca, Antioquia, Magdalena and Valle del Cauca.

66. To date, the Unit for the Search for Persons deemed as missing has recovered 358 bodies, made progress in updating the National Register of Graves and Illegal Cemeteries with information on 4,373 sites containing bodies, and collected 3,514 biological samples from family members. Some of these activities are conducted in coordination with the Special Jurisdiction for Peace in connection with macro cases and precautionary measures for the protection of such locations. OHCHR encourages continued coordination between the Special Jurisdiction for Peace, the Unit for the Search for Persons deemed as missing and other State entities to make progress in the search process and uphold the rights of the families of missing persons.

B. Victims and Land Restitution Act

67. In 2021, legislation was passed⁵¹ to extend the Victims and Land Restitution Act for 10 years. As of 10 December, there have been 6,528 land restitution court rulings and 21 relating to ethnic peoples, covering almost 481,000 hectares of restituted land and benefiting 17,229 women and 17,186 men.⁵² More than 37,900 pending applications must be resolved, judgments must be enforced to ensure effective material restitution, and protection for land claimants must be guaranteed. Between 2011 and 2021, approximately 3,022 threats (against 1,811 men and 828 women) and 51 murders (of 45 men and 6 women) were registered among land claimants. OHCHR condemned the murders of three women and one man who were members of a restitution commission in the Department of Meta. This is the most serious case connected with the restitution policy since it was established in 2012.⁵³

⁵⁰ Judgment No. C-337/21 of 2021.

⁵¹ Congress of Colombia, Act No. 2078 of 8 January 2021.

⁵² Report of the Land Restitution Unit to the Office of the United Nations High Commissioner for Human Rights in Colombia, 30 September 2021.

⁵³ UN Human Rights Colombia (@ONUHumanRights), "We condemn murder in #Meta of 2 land claimants, Yadmil and Sandra Cortés, and of Karen Garay, from the Land Restitution Unit, and of

68. The restitution policy must be strengthened to ensure that it is sustainable in territories where there is an increase in violence, in order to prevent more persons from being displaced, more land being taken and more rural communities being forcibly abandoned. In particular, the State must strengthen its presence in areas such as Bajo Cauca, Catatumbo and the Pacific regions of Nariño, Cauca and Chocó, as well as southern Bolívar and the south-east of the country, where restitution has not been established as a reparation mechanism for victims. Likewise, there is an urgent need to strengthen linkages between the restitution process and land access policies in order to prevent any overlap that might give rise to land dispossession due to advancements in land formalization.⁵⁴

C. Access to justice

69. On 28 October, the Office of Prosecutor of the International Criminal Court decided to conclude its preliminary examination of the situation in Colombia, subject to potential reconsideration in the event of any significant change in circumstances. The Prosecutor and the Government signed a cooperation agreement to strengthen and ensure the sustainability of the progress made by domestic prosecution services and judicial bodies, in particular the Special Jurisdiction for Peace. The Government committed, inter alia, to guaranteeing the security of officials from the prosecution services and judicial bodies and of individuals appearing before the various accountability mechanisms.⁵⁵

70. OHCHR highlights the reparations ordered by the Inter-American Court of Human Rights in its judgment in the case concerning *Bedoya Lima et al. v. Colombia*,⁵⁶ which represent an opportunity to combat impunity and sexual violence in the context of the armed conflict, and urges the State to enforce the order. It also highlights the decision of the Constitutional Court⁵⁷ protecting the freedom of expression of the National Movement of Victims of State Crimes in the mural entitled “Who gave the order?” on the subject of “false positives”. It is imperative that judicial cooperation mechanisms such as extradition should be implemented in a manner that does not interfere with the State’s obligations to guarantee the rights of victims of human rights violations. This should be considered in the context of the capture and prosecution of individuals accused of being leaders of criminal organizations.

VI. Recommendations

71. **The United Nations High Commissioner for Human Rights recalls the recommendations made in previous reports and:**

(a) **Urges the State to urgently address the situation in the territories most affected by violence, reinforce the presence of civilian authorities, in particular the Public Legal Service, including the municipal attorneys’ offices, and to provide basic services to prevent and contain violence and protect the civilian population and community, social, indigenous and Afro-Colombian leaders in these areas;**

Jhoan Cogua. We urge the authorities to investigate these murders. We express our condolences. We call for preventive measures to be strengthened to improve restitution”, 11 July 2021, available at <https://twitter.com/onuhumanrights/status/1413985005806759939>.

⁵⁴ Counsel General’s Office, Office of the Specialized Counsel for Follow-Up of the Peace Agreement, Report on the progress made in implementing the strategies for land access and use of rural land provided for in the Peace Agreement, recommendation 111, 7 January 2021. Available at https://www.procuraduria.gov.co/portal/media/file/Informe%20sobre%20Acceso%20y%20Uso%20de%20la%20Tierra%20Def%2007_01_2021.pdf.

⁵⁵ See <https://www.icc-cpi.int/news/icc-prosecutor-mr-karim-khan-qc-concludes-preliminary-examination-situation-colombia>.

⁵⁶ Case of *Bedoya Lima et al. v. Colombia*, Judgment of 26 August 2021.

⁵⁷ Decision No. T-281, 23 August 2021. Available at <https://www.corteconstitucional.gov.co/Relatoria/2021/T-281-21.htm>.

(b) Urges the State to redouble its efforts to implement the Peace Agreement, particularly the Comprehensive Rural Reform, the local development programmes and the chapter on ethnic perspectives, in order to combat structural inequalities;

(c) Reiterates the need to effectively guarantee the right to territory of indigenous and Afro-Colombian peoples and the right to free, prior and informed consultation;

(d) Urges the State to make progress in setting up a system of agrarian courts, accelerate the inclusion, registration, distribution and delivery of land to rural communities and the formalization of the ownership of ancestral lands of indigenous and Afro-Colombian peoples, and strengthen the regulatory framework for the protection of the rights of campesinos, in accordance with international instruments;

(e) Reiterates the urgent need for the National Commission on Security Guarantees to adopt and implement a policy, formulated in agreement with civil society and with the participation of women, on dismantling criminal organizations and their support networks;

(f) Urges non-State armed groups to respect human rights and, where applicable, international humanitarian law;

(g) Urges the State to take action on the call made by communities affected by the violence for the adoption of humanitarian agreements to protect lives and ensure respect for human rights;

(h) Urges the Ministry of the Interior to strengthen the capacity and methodology of the Intersectoral Commission for Rapid Response to Early Warnings, with the aim of implementing concrete violence prevention measures;

(i) Encourages the strengthening of the regional commissions of the Public Legal Service in order to take action on early warnings through coordination between the municipal attorneys' offices, the Counsel General's Office and the Ombudsman's Office;

(j) Urges the Government to strengthen and, in some cases, revitalize the regional committees on safeguards and improve the follow-up given to their decisions;

(k) Encourages the Attorney General's Office to continue to strengthen the ability of the Special Investigation Unit to identify and sanction the perpetrators or instigators of attacks against human rights defenders and those who signed the Peace Agreement and to dismantle criminal structures;

(l) Urges the State to take effective measures to protect children from all forms of violence, including forced recruitment and use in the context of the armed conflict;

(m) Urges State institutions to implement the recommendations set out in the OHCHR document⁵⁸ entitled "El Paro Nacional 2021: Lecciones aprendidas para el ejercicio del derecho de reunión pacífica en Colombia" (The National Strike 2021: Lessons learned for the exercise of the right to peaceful assembly in Colombia);

(n) Urges the State to promote a broad debate in society on aspects of policing that require reform, including oversight and accountability mechanisms, and on the possibility of transferring oversight of the police to a civilian ministry;

(o) Urges the State to support the autonomous and independent work of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition, strengthen coordination and cooperation between State institutions and the System and guarantee the effective protection of its members and the victims and witnesses who participate in it;

⁵⁸ See <https://www.hchr.org.co/index.php/informes-y-documentos/documentos/10246-documento-lecciones-aprendidas-paro-nacional-colombia-2021-juliette-de-rivero-representante-de-la-alta-comisionada>.

(p) Urges the State and society to continue to support the work of the Truth Commission, disseminate its final report and allocate a sufficient budget to allow for the effective implementation of its recommendations;

(q) Urges the State to strengthen the Institute of Forensic Medicine and the Genetic Profile Bank to speed up the search for missing persons;

(r) Urges the State to intensify its efforts to ensure that victims of gender-based violence have access to justice, medical and psychosocial services, specialized shelters suited to their needs and comprehensive gender-sensitive reparation measures.
