

Situation of human rights in Colombia

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

Summary

In this report, the United Nations High Commissioner for Human Rights analyses the human rights situation in Colombia in 2022. It highlights the impact of territorial violence on human rights, the state of implementation of human rights provisions of the Peace Agreement, including rural reform and transitional justice, as well as civic space. It also addresses the new “total peace” policy and the transition to a human security model.

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

** This report was submitted after the deadline to include information on 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 this report, the Office of the United Nations High Commissioner for Human Rights (OHCHR) analyses the human rights situation in Colombia between 1 January and 31 December 2022.
2. On 13 March, legislative elections took place, including the first election of 16 special transitional districts for peace established in the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (the Peace Agreement), signed in 2016 between the Government of Colombia and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP). These seats, assigned for two electoral periods, seek to ensure political representation of the areas most affected by the conflict, where there is weak institutional presence. Four hundred and three people applied. Some of them faced obstacles to freely campaign, such as restrictions imposed by non-State armed groups preventing them from accessing certain constituency areas, direct threats or threats against their entourage, and stigmatization. Of the 16 people elected, three were women. The election of some was questioned due to their lack of representation of victims and communities. In addition, concerns were raised about alleged pressure on the process from traditional political parties and non-State armed groups.
3. The presidential elections were mostly peaceful, with isolated acts of violence¹. On 19 June, in the second round of elections, Gustavo Petro was elected President and took office on 7 August with Francia Márquez, a human rights defender from the department of Cauca, and the first woman of African descent to become Vice-President.
4. In its first 100 days, the new Government prioritized the development of a new “total peace” policy that includes the comprehensive implementation of the Peace Agreement. It adopted an “Emergency Plan for the Protection of Social Leaders, Human Rights Defenders and Peace Signatories” in August. In October, it relaunched two key mechanisms for the implementation of the peace agreement: the Commission for the Follow-up, Promotion and Verification of the Implementation of the Final Agreement and the National Commission on Security Guarantees.
5. In October, the House of Representatives approved the Regional Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).
6. In 2022, OHCHR conducted 906 field missions and 319 capacity-building activities with State institutions and civil society.

II. Total peace policy

7. In July, the Office published the report *Territorial Violence: Recommendations for the New Government*², which identified 156 municipalities where violence by non-State armed groups and criminal organizations seriously impacted the human rights situation.
8. These groups and organizations maintain a presence in several territories and exercise control over the population using coercion, intimidation, violence and threats to counter the opposition to the development of their activities. In addition to acts of sexual violence, killings and disappearances, in

¹ On 29 May, in Meta, during the first round of elections, members of a non-State armed group attacked members of the Army as they removed electoral materials, resulting in the death of a voting jury and an injured soldier. During the scrutiny process, in Cauca, unknown individuals murdered two social leaders in two separate incidents. Both victims reportedly supported President Petro’s campaign.

² https://www.hchr.org.co/informes_tematicos/violencia-territorial-en-colombia-recomendaciones-al-nuevo-gobierno/.

several territories the groups extort, control or limit the mobility of the population and its productive activities.

9. In some places, such groups seem to supplant State functions, regulating aspects of community life and making decisions on family issues or delivering “justice”.
10. Violence by armed actors in rural areas and in some urban centres severely affects indigenous, African descent and peasant leadership and community life, as well as women, girls and members of the LGBTIQ+ community. It is in this context that the majority of killings of human rights defenders are committed, affecting the organizational capacity of communities and their social fabric.
11. In the report, the Office highlighted the responsibility of the State, as a guarantor of human rights, to protect populations and expressed concern at cases of alleged collusion between State agents and non-State armed groups.
12. In response to this situation of violence, the new Government launched the “total peace”³ policy which includes a commitment to strengthen the implementation of the Peace Agreement; the initiation of dialogues with all armed groups present in the territories; and the development of a new approach to human security.
13. As part of this new policy, the Government resumed dialogues with the National Liberation Army (ELN)⁴ in November and has reached out to other groups. In September, the High Commissioner for Peace announced the willingness of several armed actors to engage in dialogue and the possibility of a multilateral ceasefire⁵. On 31 December, President Petro announced a bilateral ceasefire⁶ with five non-State armed groups and criminal organizations⁷.
14. On November 4, President Petro approved Law 2272 of 2022, which defines the legal framework of the “total peace” policy as State policy and ratifies the new approach to human security. This Law establishes a Commission to determine the type of organizations with which a political dialogue will begin and with which a process of submission to justice will take place. It also facilitates partial and full agreements with different actors of the armed conflict, including humanitarian agreements⁸.
15. Law 2272 states that the peace policy must ensure the effective participation of women and civil society by incorporating differential approaches in an intersectional and territorial manner as well as a focus on the centrality of victims⁹. It is essential that efforts are made to achieve such participation and that agreements which contribute to mitigating the impact of violence on the civilian population be made simultaneously. To achieve “total peace”, the rule of law and participatory development must be strengthened in territories affected by violence. This requires strengthening State civilian institutions, combating situations of corruption and collusion, and effectively implementing the Peace Agreement.

III. Implementation of the Peace Agreement

16. In line with the provisions of the Peace Agreement, the Office has incorporated a follow-up chapter on aspects of human rights related to the implementation of the Agreement.

³ <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=197883>.

⁴ <https://petro.presidencia.gov.co/prensa/Paginas/Gobierno-del-Cambio-y-guerrilla-del-ELN-reanudan-este-lunes-negociacion-221119.aspx>.

⁵ <https://www.elcolombiano.com/colombia/gustavo-petro-y-danilo-rueda-explican-cese-multilateral-del-fuego-con-eln-exfarc-disidencias-y-narcobandas-PG18695802>.

⁶ <https://petro.presidencia.gov.co/prensa/Paginas/Presidente-Petro-anuncia-cese-al-fuego-bilateral-con-5-organizaciones-armad-221201.aspx>.

⁷ On 31 December, the Government issued Decrees 2656, 2658, 2659 and 2660.

⁸ <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=197883>.

⁹ Law 2272, paras. 2 and 3 b, art. 2; Law 2272, art. 8C.

A. Comprehensive rural reform and drug policy

17. The new Government announced a shift in its drug policy, with a less punitive and more social approach focused on public health. In particular, it announced that it would prioritize crop substitution policy over other mechanisms, as well as the inclusion of a human rights approach in public drug policies¹⁰. The United Nations High Commissioner for Human Rights noted that “this approach could be instrumental in better protecting the rights of peasants, indigenous and Afro-Colombian communities and of people who use drugs, both in Colombia and globally”¹¹.
18. The Comprehensive National Programme for the Substitution of Illicit Crops still presents challenges in terms of its level of implementation. The programme’s progress in terms of voluntary crop eradication is at 75.07 per cent of the four-year target¹². The Procurator General’s Office notes a 21 per cent increase in the number of families being removed from the Substitution Programme for non-compliance or failing to meet the requirements of the Programme¹³. The Comptroller General’s Office has reported concerns regarding the management of resources for the Substitution Programme¹⁴.
19. In November, the State notified the UN Secretary-General of Colombia’s adhesion to the United Nations Declaration on the Rights of Peasants and Other Persons Working in Rural Areas.
20. The Government announced the purchase of land to compliment the National Land Fund, with the aim of advancing the allocation of land to peasants. This included the signing of an agreement with the cattle ranchers’ association in October¹⁵.
21. Rural women face greater difficulties in terms of access to, use and land tenure. For every five rural women who benefit from land programmes, there are eight male beneficiaries. Of the plots allocated as part of the Peace Agreement between 2016 and 2018, 38 per cent of the beneficiaries were women¹⁶.
22. The National Round Table for Monitoring Development Programmes with a Territorial Focus called¹⁷ on the Government to seek greater community participation, recognize family and community agriculture and make advances in democratizing access to land. The Round Table also indicated that the road maps designed to implement the Peace Agreement do not include the Framework Implementation Plan’s indicators which include guarantees for the territorial rights of ethnic peoples.
23. Congress is currently reviewing two important legislative initiatives for comprehensive rural reform: the creation of an agrarian¹⁸ jurisdiction to address conflicts over territory in rural areas, and the recognition of peasants and other people working in rural areas as subjects of rights, by incorporating the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas into the Constitution¹⁹. If approved, these bills would constitute significant progress.

¹⁰ <https://petro.presidencia.gov.co/prensa/Paginas/La-paz-en-Colombia-afecta-de-manera-positiva-el-trabajo-con-Estados-Unidos-221003.aspx>.

¹¹ Press conference by UN High Commissioner for Human Rights Michelle Bachelet, Geneva, 25 August 2022 | OHCHR, https://www.hchr.org.co/historias_destacadas/una-politica-de-drogas-mas-social-podria-proteger-mejor-a-campesinos-indigenas-y-afrodescendientes-en-colombia-michelle-bachelet/.

¹² https://www.procuraduria.gov.co/Documents/Cuarto%20Informe%20Seguimiento%20al%20Acuerdo%20de%20Paz_Radicaci%C3%B3n%20281%29.pdf.

¹³ *Ibid.*

¹⁴ https://www.contraloria.gov.co/resultados/informes/informes-posconflicto/-/document_library/impz/view_file/3519115?_com_liferay_document_library_web_portlet_DLPortlet_INSTANCE_impz_redirect=https%3A%2F%2Fwww.contraloria.gov.co%2Fresultados%2Finformes%2Finformes-posconflicto%2F%2Fdocument_library%2Fimpz%2Fview%2F2968463%3F_com_liferay_document_library_web_portlet_DLPortlet_INSTANCE_impz_redirect%3Dhttps%253A%252F%252Fwww.contraloria.gov.co%252Fresultados%252Finformes%252Finformes-posconflicto%253Fp_p_id%253Dcom_liferay_document_library_web_portlet_DLPortlet_INSTANCE_impz%2526p_p_lifecycle%253D0%2526p_p_state%253Dnormal%2526p_p_mode%253Dview.

¹⁵ <https://www.minagricultura.gov.co/noticias/Paginas/ACUERDO-PARA-LA-MATERIALIZACI%C3%93N-DE-LA-PAZ-TERRITORIAL-Compra-directa-de-tierras-para-la-construcci%C3%B3n-de-la-Reforma-Rural-In.aspx>.

¹⁶ <https://colaboracion.dnp.gov.co/CDT/Prensa/PND-Pacto-por-Colombia-pacto-por-la-equidad-2018-2022.pdf>.

¹⁷ https://www.cinep.org.co/Home2/images/2021News/MesaPDET.docx.pdf?utm_source=MesaPDET.

¹⁸ <http://leyes.senado.gov.co/proyectos/index.php/textos-radicados-senado/p-ley-2022-2024/2607-bill-056-de-2022>.

¹⁹ http://leyes.senado.gov.co/projects/images/documents/Texts%20Radicados/Papers/2022/gaceta_1279.pdf.

B. Transitional justice

24. The Final Report²⁰ of the Commission for the Clarification of Truth, published in June, based its findings on the individual and collective testimonies of more than 30,000 victims and on more than 500 dialogue and recognition sessions with broad sectors of Colombian society.
25. Dissemination of the report and implementation of its recommendations would help Colombian society to become aware of the history of the armed conflict and guarantee non-repetition. The report is an instrument for the comprehensive implementation of the Peace Agreement, to combat impunity, to overcome the militarization of security, the lack of protection of peasants, discrimination, violence and its disproportionate impact on ethnic peoples, women and children.
26. The Monitoring Committee, installed in August 2022 for a seven-year period, will verify the implementation of the Commission's recommendations. The Office has contributed to the establishment of the Committee and will continue to support efforts to implement the recommendations. It is essential that the State ensure conditions for the functioning of the Committee.
27. The search led by the Unit for the Search of Persons Deemed as Missing requires State entities – executive and judicial – at the national and local levels to guarantee effective access to information and advance institutional coordination to strengthen the search.
28. The implementation of regional search plans has enabled progress to be made in finding persons deemed as missing. However, it is constrained by the critical security situation in departments such as Arauca, Chocó and Norte de Santander, and in regions such as the Pacífico Medio and Nariñense, among others. The identification strategy has addressed 34,238 files on unidentified bodies.
29. The State's acceptance of the competence of the United Nations Committee on Enforced Disappearances in August to receive and examine individual communications constitutes an important step forward in the search for victims, and the investigation and eradication of enforced disappearance²¹.
30. Hearings on the recognition of responsibility conducted by the Special Jurisdiction for Peace in the cases of kidnappings (case 01) and extrajudicial executions (case 03) at the national level, in Bogotá and in the departments of Cesar and Norte de Santander are significant milestones for discovering the truth. Precautionary measures to protect places where there have been reports of victims of disappearance in Antioquia and Valle del Cauca, among others, have also been important. The Office values the opening of three new macro-cases²² and reiterates the importance of the formal opening of the macro-case on sexual violence²³.
31. The first three resolutions of conclusions in macro-cases 01 and 03 are justice sign of progress and demonstrate the Special Jurisdiction for Peace's ability to combat impunity. Specific sanctions imposed by the Peace Tribunal should take into account the concerns and proposals put forward by the victims. Their participation must be ensured through observations in legal proceedings, as well as at the stage of implementation of sentences. Compliance by those appearing before the Special Jurisdiction with the conditions they assumed by virtue of their submission to the Jurisdiction is necessary to guarantee the full truth.
32. The Office learned of concerns from victims' groups related to Interpretative Judgement 3 of the Special Jurisdiction for Peace²⁴ which they consider limit their participation. They also highlighted challenges they have faced in certain proceedings and participation spaces. OHCHR reiterates that standards on access to justice, equality of parties and participation guarantee the centrality of victims.

²⁰ <https://www.comisiondelaverdad.co>.

²¹ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&clang=_en#EndDec.

²² Macro-case 08 (crimes committed by members of the security forces, other State agents, in association with paramilitary groups or civilian third parties). Macro-case 09 (crimes committed against ethnic peoples and territories) and Macro-case 10 (crimes committed by the former FARC-EP).

²³ https://jurinfo.jep.gov.co/normograma/compilacion/docs/auto_srvr-103_11-julio-2022.htm.

²⁴ https://jurinfo.jep.gov.co/normograma/compilacion/docs/pdf/TP-SA-SENIT-03_28-April-2022.pdf.

C. Victims and Land Restitution Act

33. The Final Report of the Commission for the Clarification of Truth notes that, between 1995 and 2004, more than eight million hectares²⁵ were dispossessed or abandoned. According to the Land Restitution Unit, more than 568,000 hectares²⁶ have been restored after 10 years of implementation of the Victims Act. Resolute progress in land restitution processes involves strengthening the administrative processes of the Unit, ensuring adequate representation of victims and strengthening the security component for claimants. Judicial processes to resolve the backlog of cases should also be strengthened.
34. According to information from the Land Restitution Unit, 7,791 restitution decisions have been approved, benefiting 85,588 persons. There are 57 judicial offices nationwide to resolve 19,272 restitution claims²⁷. The Unit continues to face a major challenge in the restitution of ethnic territories. A total of 822 applications have been submitted for indigenous and Afrodescendant territories, but only 235 applications have been processed administratively for their submission to the justice system. Of these, 24 have reached a verdict. Social sectors requested the Government to review the more than 57,000 cases that were rejected for land restitution and are therefore not part of the land registry. In November, the Government issued Circular 00021, which eliminated the Unit's Environmental, Mineral Energy and Infrastructure Team.

D. Dismantling and submission to justice

35. President Petro reactivated the National Commission on Security Guarantees in October and has already made progress towards adopting the guidelines of a Public policy on Dismantling Criminal Organizations and Conduct. This policy should be adopted as soon as possible and should take into account territorial dynamics and analysis in its implementation and monitoring. According to good practices identified by the Office, dismantling should focus on factors enabling the criminal phenomenon. Good practices recommend the simultaneous implementation of five measures, in line with the State's international human rights obligations: social investment, strengthening justice, combating corruption, affecting criminal assets and submission to justice. Under the latter measure, reparation to victims should be included, and the criminal network should be exposed²⁸.
36. Participation of affected communities and ethnic peoples – including women – to define the way in which social investment, strengthening justice and fighting corruption contributes to dismantling is fundamental for achieving this goal. To that end, the National Commission on Security Guarantees must increase its efforts to channel the proposals of ethnic communities and peoples and adequately guarantee their security.

E. Ethnic chapter

37. The reports of the Special High-level Instance of Ethnic Peoples to monitor the implementation of the Peace Agreement²⁹, the National³⁰ Afro-Colombian Peace Council and institutions such as the Procurator General's Office³¹ and the Kroc Institute agree that minimal progress has been made to

²⁵ <https://www.comisionde.la.verdad.co/sites/default/files/downloadables/2022-06/Report%20Final%20capi%CC%81title%20Findings%20and%20recommendations.pdf>.

²⁶ <https://www.urt.gov.co/estadisticas-de-restitucion-de-tierras>.

²⁷ *Ibid.*

²⁸ Edgardo Buscaglia, “La paradoja de la represión: la impotencia del Estado ante la delincuencia organizada”, available at <https://www.casamerica.es/index.php/temastv/paradoja-de-la-represion-la-impotencia-del-estado-ante-la-delincuencia-organizada>; Edgardo Buscaglia, “La integración vertical de la delincuencia organizada vinculada a la corrupción política: un análisis jurimétrico del decomiso de activos y los derechos humanos” in Carlos Tablante, Mariela Morales Antoniazzi (eds.), “Impacto de la corrupción en los derechos humanos”, available at <https://biblio.juridicas.unam.mx/bjv/detalle-libro/5096-impacto-de-la-corrupcion-en-los-derechos-humanos>.

²⁹ <https://www.cenpaz.com/2022/01/informe-jeanpe-2016-2021-de-seguimiento.html>.

³⁰ CONPA, “II Informe de Balance de la implementación del Capítulo Étnico del Acuerdo final de paz: 5 años de incumplimiento” (II Review of the implementation of the Ethnic Chapter of the Final Peace Agreement: 5 years of non-compliance), August 2022, <https://conpapaz.org/>.

³¹ <https://www.procuraduria.gov.co/portal/media/docs/Procuradur%C3%ADa%20-%20Report%20Final%20Cap%C3%ADtulo%20C3%89tnico%202020%20-%20August%202021.pdf>.

implement the ethnic chapter of the Peace Agreement. According to the Kroc Institute³², as of September 2022, only 13 per cent of the 80 provisions included in the ethnic chapter have been fully implemented.

38. OHCHR noted setbacks in the protection of rights to life, mobility, territory and self-government of indigenous peoples and people of African descent in Arauca, Cauca, Chocó, Córdoba, Huila, Nariño, Norte de Santander, Putumayo and Valle del Cauca. The National Afro-Colombian Peace Council attributes the high level of non-compliance with the ethnic chapter to the persistence of the armed conflict and the humanitarian crisis that continues to affect ethnic peoples³³.
39. The lack of prior, free and informed consultation in programmes and projects for the implementation of the Peace Agreement contributed to the lack of guarantees of other rights of ethnic peoples and, from their perspective, the progress achieved so far has not had a positive impact on them.
40. The new Government's commitment to the implementation of the ethnic chapter and the appointment of ethnic human rights defenders to official positions aimed at protecting rights are positive signs. The decision of the Government of the United States to accompany the implementation of the ethnic chapter is also welcomed.³⁴

IV. Territorial violence, security and human rights

A. The situation of security and human rights

41. OHCHR received allegations of 128 cases of possible massacres³⁵ in 2022, of which 92 were verified, two are still under verification and 34 were considered inconclusive. In 92 verified massacres, 321 victims were recorded: 270 men, 30 women, 14 boys and 7 girls. In addition, 27 victims were from ethnic groups: 23 indigenous people and four people of African descent. The most affected departments were Antioquia, Cauca, Nariño and Valle del Cauca. Twenty-seven per cent of the victims were young people aged between 18 and 28. In Tumaco (Nariño), three members of the Awá people were massacred while at a meeting planning actions to oppose coca cultivation in the area. In the verified cases, the alleged perpetrators are mainly criminal organizations.
42. The Office for the Coordination of Humanitarian Affairs (OCHA) indicates that, in 2022, 82,862 people (approximately 19 per cent of which are children) have been displaced and 102,395 people have been confined³⁶, while in 2021, 73,974 people were displaced and 65,685 suffered confinement³⁷. OCHA notes that, in 2022, 65 per cent of the displaced population and 70 per cent of those whose mobility has been unduly restricted are indigenous and of African descent. The departments most affected by displacement and confinement are Arauca, Cauca, Chocó and Nariño³⁸.

³² <https://curate.nd.edu/show/4f16c250g77>.

³³ CONPA, "II Informe de Balance de la implementación del Capítulo Étnico del Acuerdo final de paz: 5 años de incumplimiento" (II Review of the implementation of the Ethnic Chapter of the Final Peace Agreement: 5 years of non-compliance), August 2022, <https://conpapaz.org/>.

³⁴ <https://www.unidadvictimas.gov.co/en/institutional/agreement-with-the-United-States-would-be-fundamental-for-ethnic-communities-in-Colombia>.

³⁵ For a definition of "massacres", see E/CN.4/2000/11, para. 27.

³⁶

https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/informe_impacto_y_tendencias_ene-ago_2022_vf.pdf; <https://reliefweb.int/report/colombia/informe-tendencias-e-impacto-humanitario-en-colombia-2022-fecha-de-corte-enero-septiembre-de-2022-fecha-de-publicacion-24-de-octubre-de-2022>.

³⁷ <https://reliefweb.int/report/colombia/colombia-impacto-y-tendencias-humanitarias-entre-enero-diciembre-de-2021-08-de>.

³⁸ https://reliefweb.int/attachments/7886001b-f5cc-43b5-9df0-efa08df26cfe/informe_impacto_y_tendencias_ene_dic_2022_vf.pdf.

43. The United Nations Verification Mission in Colombia verified, in 2022, the killings of 50 former FARC-EP combatants, bringing the total number of killings of former combatants to 355 since the signing of the Peace Agreement³⁹.
44. The Office documented cases of gender-based violence (sexual slavery, early unions, rape) in the context of the conflict. This violence forms part of the territorial control exercised by non-State armed groups, and is also used as a reprisal to male relatives belonging to rival groups. Femicides have been perpetrated by non-State armed groups whose victims have been accused of belonging to armed groups or maintaining relationships with their members. The presence of non-State armed groups results in restrictions on the free expression of and violence against LGBTIQ+ persons.
45. The Office received information about the involvement of non-State armed groups in the transfer of women to Chocó and Nariño, raising concerns about the risks of possible trafficking for sexual exploitation, including of girls. In some cases, groups are reported to be directly selecting and transferring women. The Office has also been informed about cases of femicides, including one of a girl, who were possibly victims of trafficking.
46. In 2022, the Office learned of 115 cases of children and adolescents recruited by non-State armed groups (74 boys, 37 girls, 4 without information on sex). Of these, 20 were reportedly killed (11 girls and 9 boys), and 12 girls were sexually abused. There is a high level of under-reporting of these violations and abuses. Poor access to food and an adequate standard of living, lack of protection from gender-based violence and the cultural loss suffered by ethnic peoples as a result of the impact of the conflict increase children's vulnerability to these practices. Under international human rights standards, non-State armed groups must not, under any circumstances, recruit or use persons under the age of 18 in hostilities and the State has an obligation to take all possible measures to prevent such recruitment and exploitation, to demobilize recruited children and to provide them with all necessary assistance for their physical and psychological recovery and social reintegration⁴⁰.
47. There is a need to strengthen gender and ethnic approaches in prevention and protection measures against recruitment, particularly where State presence is weak. In addition, it is necessary to support local and ethno-territorial authorities that warn of such situations. Most of the cases known to the Office have been detected by the institution after the recovery, death or escape of the minor and not at the time of recruitment. Furthermore, gender stereotypes often mean that the recruitment of girls, especially for sexual exploitation, is not recognized as a violation of their rights, leading to insufficient institutional action. When children and adolescents who have been separated do not access or remain on protection pathways, there is no institutional monitoring of their situation, which puts them at risk of being recruited again.
48. In the case of indigenous peoples and people of African descent, violence by non-State armed groups and criminal organizations, including disregard for their authorities, displacement and territorial dispossession, affect their physical and cultural survival. These groups force them to become associated with illicit economies and impose restrictions on their customs, forcing them to abandon the ancestral practices that underpin their well-being, cultural identity and autonomy. Ethnic communities have developed various forms of resistance to pressure from non-State armed groups and criminal organizations.
49. Official data from the Human Rights and National Defence Observatory indicate that 103 members of the security forces were killed by criminal organizations and non-State armed groups in 2022⁴¹. In San Luis (Huila), seven police officers, some under the age of 20, died in September after being attacked by a non-State armed group.

³⁹ <https://colombia.unmissions.org/sites/default/files/n2276999.pdf>.

⁴⁰ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2002), arts. 4 and 6.

⁴¹ Comments of the Colombian State, submitted on 20 February 2023.

50. OHCHR condemns all forms of violence that seriously affect human rights. Addressing this violence requires a comprehensive commitment by the State, including greater institutional coordination. Economic, social and cultural rights must be upheld as a matter of priority, including the State commitments contained in the Peace Agreement on comprehensive rural reform and drug policy.
51. The Government's shift towards a human security approach can be reinforced by ensuring that security forces prioritize the protection communities most at risk. The adoption by the National Commission on Security Guarantees of a public policy to dismantle criminal organizations, including by seizing their assets would contribute to this objective. There is also a need for the State to commit to and coordinate preventive actions to strengthen and make the Early Warning System of the Ombudsman's Office more effective. This prevention tool that must go complement the "total peace" policy, and the new human security approach.

B. Security forces

52. OHCHR received 71 allegations of arbitrary deprivation of life allegedly committed by members of the Police and Military Forces. These allegations were registered in 19 departments, the most affected being Antioquia, Cauca, Nariño and Norte de Santander. The Office sent the 71 allegations to the Ministry of Defence, who considered that in 41 cases, no violation to the right to life was committed, because international standards regarding the use of force and firearms and/or international humanitarian law had been respected, and/or because security forces were not involved the allegations. The Ministry of Defence also informed that it had taken action in 30 allegations where the right to life may have been violated, including penal and/or disciplinary actions in some cases⁴².
53. The events that took place in the village of Alto Remanso, Puerto Leguizamo (Putumayo) in March, where 11 people were killed during an army operation, as well as the events in the district of Chocho (Sucre), where members of the National Police arbitrarily deprived three young men of their lives, point to the urgent need to make progress in reforming military and police doctrines, and prioritizing the protection of civilian populations in the design and execution of military and police operations.
54. The Office received allegations of cases of torture, cruel treatment and sexual violence while the victims were in police custody. At the Chambacú police station in Cartagena (Bolívar), 11 people in detention were victims of serious sexual violence by other detainees, with no police intervention to prevent such acts; these events are being investigated by the Attorney General's Office and the Procurator General's Office.
55. The Office verified that, in Bolivar, members of the Armed Forces allegedly perpetrated gender-based violence, including sexual violence, and forced early unions with girls and adolescents, taking advantage of their socio-economic vulnerability. Measures to prevent the Ministry of Defence's Zero Tolerance Policy on Sexual Violence in territories affected by armed conflict must be implemented and monitoring and accountability mechanisms must also be implemented to respond to the gravity of these events.
56. OHCHR welcomes the adoption of a human security concept as the basis of the Government's new security policy. This concept broadens the traditional notion of security and establishes a close relationship with human rights. Human security is not limited only to aspects related to the use of force, but is based on an approach aimed at preventing violence and prioritizing the protection of the population, which is actively involved in identifying its security needs. Responsibility for security issues is not confined exclusively to the work of the security forces, and includes different State institutions with various responsibilities and which must be coordinated effectively to cover all the dimensions of the approach.

⁴² Communication received on 14 February 2023.

57. This new approach involves far-reaching changes in current police and military doctrines and envisages mechanisms to enable coordination between all the State institutions concerned. OHCHR provides technical advice to the Government to ensure that human rights are properly integrated into this new security paradigm.
58. The decision to suspend bombing of high-value targets where the presence of children and adolescents has been identified,⁴³ is an important development. In this regard, OHCHR has observed gaps in monitoring and verification mechanisms and accountability processes. Overcoming these gaps would allow for greater transparency and certainty in intelligence reporting. In November, the Government announced Colombia's adherence to the Safe Schools Declaration.
59. OHCHR welcomes the Constitutional Court's decision to assign jurisdiction to the ordinary system of justice over the El Tandil massacre (Tumaco), which was allegedly committed by members of the security forces in 2017⁴⁴. This is a positive development for the implementation of international standards on competent jurisdictions for alleged human rights violations committed by members of the security forces⁴⁵. However, it is noted that not all justice entities apply these international standards consistently, which could increase the thresholds of impunity and compromise the application of an independent justice.
60. OHCHR has provided advice and technical assistance for the reform of the National Police to strengthen the inclusion of human rights. This advisory support is aimed primarily at ensuring that international human rights standards are incorporated into police doctrine as the focus of manuals, directives and operational orders; that better communication is initiated with communities and effective channels of communication are established or strengthened; that the exercise of the right to peaceful assembly is managed in accordance with international human rights standards and norms; and that international human rights standards are included in the disciplinary system, particularly that such conduct must be investigated and prosecuted in the ordinary justice system.

V. Civic space

A. Situation of human rights defenders

61. High levels of violence against human rights defenders continued throughout 2022. OHCHR received 256 allegations of killings of human rights defenders, in 116 cases of which it verified a link between their death and their human rights work, and in 140 were found to be inconclusive⁴⁶. Nine of the victims of the verified cases were women, including three indigenous women, one woman of African descent, one peasant and one trans woman; 107 were men, including 23 indigenous men, 14 men of African descent and 52 peasants. Non-State armed groups are alleged to be responsible for 73 per cent of the verified killings.
62. In 2022, OHCHR noted a significant increase in allegations of killings against members of the *Juntas de Acción Comunal*, linked to community and territorial control exercised by non-State armed groups, particularly in of Arauca, Bolívar and Putumayo. Of the total number of cases of allegations of killings of defenders verified in 2022, 45 per cent of the victims were members of the *Juntas de Acción Comunal*, with 52 cases in 2022 compared to 13 in 2021.

⁴³ See <https://www.infobae.com/america/agencias/2022/08/25/colombia-suspende-bombardeos-cuando-haya-menores-de-edad/>.

⁴⁴ Decision 989/22.

⁴⁵ See the Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, E/CN.4/2005/102/Add.1, 8 February 2005; See also the Report of the United Nations Special Rapporteur on the independence of judges and lawyers, A/68/285; Resolution of the Inter-American Court of Human Rights, Monitoring compliance with judgment, Cases Radilla Pacheco, Fernández Ortega et al. and Rosendo Cantú et al. v. Mexico cases, 17 April 2015, footnote 37, p.8.

⁴⁶ The Office of the Ombudsman documented 215 killings of social leaders, while INDEPAZ documented 189 cases.

63. These groups also used violence against indigenous authorities and authorities of African descent, including members of indigenous and Cimarrona guards, to disrupt their authority and organizational processes. OHCHR verified allegations of killings of brothers Marcos Fidel and Albeiro Camayo, Guillermo Chicame, Miller Correa, Luis Tombé, Yemi Chocué and the child Breiner Cucuñame of the Nasa people in the department of Cauca. In Nariño, it verified allegations of killings of five indigenous Awá authorities and guards: Juan Orlando Moriano, John Faver Nastacuas, Carlos José García, Gerardo Pai and Carlos García. In Chocó, it verified the cases of Luis Champuro of the Wounaan people, Sercelino Lana of the Embera people, Julio Cardenas of the Barrios Unidos Local Community Council and Fredy Mena of La Playa Community Council.
64. In the Medio Magdalena region, OHCHR verified allegations of killings of Teófilo Acuña, Jorge Tafur and Luis Quiñones, who were peasant leaders working to defend the land and the environment. In Casanare, it verified the allegation of the killing of Luz Marina Arteaga, who accompanied communities in their struggle for access to land and carried out municipal monitoring in Orocué.
65. OHCHR promoted protective measures and investigative actions in 682 cases of threats and attacks against defenders, 501 against men, 163 against women, some of which constituted gender-based violence, 8 against LGBTIQ+ persons and 10 against organizations. Of note is the car bomb attack on defenders, who were at the headquarters of the *Movimiento de Masas Social and Popular del Centro Oriente* (Social and Popular Masses Movement of the Central East) in Arauca in January; the bomb attack on the Nasa Paéz indigenous reserve in Huila; and the bomb attack against the mayor of Cumbal in April and against the governor of the Cumbal indigenous reserve in the department of Nariño in October.
66. There is also concern about the negative impact of a series of pamphlets allegedly signed by the “Águilas Negras”, which threatened several defenders, including members of the Regional Indigenous Council of Cauca, members of the student movement of EAFIT University in Antioquia, judges of the Constitutional Court who voted in favour of the ruling that decriminalized abortion in February and the Vice President of the Republic when she was a candidate. Other pamphlets, followed by death threats, generated fear and displacement of environmental defenders who denounced the risks of fracking pilot projects in Puerto Wilches (Bolívar). A significant group of mayors, ombudspersons, defenders and members of the Barí indigenous community in Norte de Santander received death threats and even suffered attempts on their lives allegedly by non-State armed groups in their quest to exercise territorial control.
67. OHCHR values the Government’s adoption, in August, of an Emergency Plan proposed by civil society to protect defenders, social leaders and peace signatories in 65 municipalities and six prioritized capitals. The Plan is structured in six axes and 49 short- and medium-term actions. The most visible part has been the establishment of Unified Operations Centres for Life (*Puestos de Mando Unificados por la Vida*), which function as operational spaces at the local level, created to adopt concrete prevention and protection measures. These centres have faced implementation challenges related to the lack of a preventive approach by some local authorities, limitations in the capacity of the National Government to accompany local level spaces, lack of trust between authorities and civil society, and the structural causes of violence in the territories. In some municipalities, however, processes were initiated to reverse some of the risk factors affecting defenders.
68. OHCHR hopes that the Emergency Plan will serve as the basis for the adoption of a comprehensive and coherent public policy on prevention and protection for human rights defenders, which will be built with the participation of civil society and ethnic territorial authorities. One of its basic elements should be the strengthening of the municipal ombudspersons as the main authorities responsible for human rights at the local level, especially in those municipalities experiencing the highest rates of violence and multidimensional poverty.

69. The Office received a high number of complaints regarding the implementation of individual and collective protection schemes. The complaints refer to delays in the implementation of protective measures, the tendency to decrease the level of risk in risk analysis studies, the lack of adaptation of the measures to the realities of the territories, the weak incorporation of ethnic and gender perspectives and operational failures. OHCHR considers the ongoing proceedings before the Constitutional Court, following legal action by several defenders, to be a unique opportunity to thoroughly review the individual and collective protection system of the National Protection Unit⁴⁷. This reform is imperative.
70. There is also a need to revive the national guarantees process through the establishment of the National Round Table to begin the formulation of a national guarantees policy for human rights defenders. In addition, greater efforts are required by national and regional authorities to reactivate the territorial round tables and transform them into spaces that effectively address the main risk factors that prevent defenders from exercising their work in the territories. With a few exceptions, in the past, the operational functioning of the territorial round tables was affected by a lack of political will, weak presence of decision-making authorities, a lack of clear methodologies for monitoring and implementing commitments and a lack of broad representation of civil society, especially ethnic peoples.

B. Right to peaceful assembly

71. The current Government took some significant steps towards complying with international human rights standards on the right to peaceful assembly. As part of the reform of the National Police, a process of transformation of the Mobile Anti-Riot Squad (ESMAD) was announced, including the pre-eminence of dialogue, the differentiated use of force and the use of force as a last resort, and accountability. The reform of the Mobile Anti-Riot Squad, however, must be the result of a broad participatory process with various civil society actors and must include substantive changes such as the revision of its protocols on the use of force and less lethal weapons, as well as the strengthening of internal control mechanisms that ensure strict compliance with international standards. It is also crucial to strengthen mechanisms to prevent and investigate instances of sexual and gender-based violence against women, girls and LGBTIQ+ persons that occurred in 2021. The Office accompanied a meeting between the National Police Commander and youth from the “front lines”⁴⁸, during which the latter shared recommendations based on their experience.
72. During the first half of 2022, OHCHR documented 110 cases of people (95 men and 15 women) arrested and detained in connection with the National Strike protests in 2021. The arrests were made by court order and as a result of an investigation process by the Attorney General’s Office, with information provided by the National Police. In 85 of the registered cases, the Office of the Attorney General included the crime of conspiracy among the offences charged, and in 54 cases the crime of terrorism. In other cases, serious crimes such as torture, kidnapping, attempted homicide or homicide were also included. The majority of those charged are young people between 18 and 28 years old, in vulnerable conditions, who had participated in protests or so-called spaces of resistance in the country’s main cities.
73. OHCHR notes that the use of criminal offences such as terrorism and conspiracy by the Attorney General’s Office and arrests around key dates when young people often came out to protest stigmatize people participating in protests and create an environment that does not enable the full and free exercise of the right to peaceful assembly⁴⁹. To address this situation, in December, the Government issued Decree 2422⁵⁰, by which it created an Interministerial Commission with the power to admit, as spokespersons for peace, citizens of social and humanitarian organizations who have arrest warrants.
74. In contrast to progress with investigations against individuals who participated in the protests, OHCHR identified slow progress in the prosecution of cases of human rights violations by members of the

⁴⁷ Decision 538/22.

⁴⁸ https://twitter.com/NoticiasCaracol/status/1565862788802781185?s=20&t=_qXrym-NndVjpmWXRJKg4Q.

⁴⁹ <https://www.hchr.org.co/pronunciamentos/intervencion-de-juliette-de-rivero-en-audiencia-publica-de-la-comision-para-la-verificacion-de-garantias-y-derechos-humanos-de-personas-capturadas-en-el-marco-de-la-protesta-de-la-camara-de-represent/>.

⁵⁰ <https://www.infobae.com/tag/decreto-2422-de-2022/>.

security forces during the National Strike in 2021⁵¹. Of the 46 cases of deaths during protests between April and July 2021 verified by OHCHR, 13 are on trial, 29 are under investigation, 3 have been filed and in one case no information was obtained. The Attorney General's Office has charged 10 members of the security forces, of whom five are of higher rank. In 28 cases (of the 46 cases) which involve the security forces, no one is deprived of liberty nor have there been convictions.

75. With regard to cases of 2021 referred to in the previous paragraph, and with regard to the 14 people who were deprived of their lives in the context of the protests of September 2020, a working group was established between the Ministry of Defence, the Inspectorate of the Police, the Attorney General's Office, the Procurator General's Office and OHCHR to facilitate advances in the investigations and prosecution of members of the security forces allegedly responsible⁵². The establishment of dialogue channels between the Mayor's Office of Bogotá and the Ministry of Defence with the families of victims is also a welcome step.

VI. Recommendations

76. The United Nations High Commissioner for Human Rights recalls the recommendations made in previous reports and:
- a) Calls upon the State to strengthen the presence and capacity of its civil authorities and institutions in the territories most affected by the violence, including ethnic territorial authorities, and to strengthen the coordination of local, regional and national actions to respond to the conflict and violence.
 - b) Calls for immediate measures to de-escalate the violence and mitigate its impact to be agreed upon in the context of talks and/or negotiations with non-State armed groups, and/or criminal organizations, and for these to adhere to international norms and standards on victims' rights and combating impunity.
 - c) Urges non-State armed groups to fully respect human rights and, where applicable, international humanitarian law.
 - d) Urges the strengthening of community participation in the implementation of the rural reform, social management plans for rural property, policies of access to land for rural women, and to ensure that the purchase of land by the State does not generate speculative processes.
 - e) Calls on the State to promote and strengthen forums for dialogue on the implementation of the Peace Agreement related to comprehensive rural reform and drug policy, such as the National Round Table for Monitoring Development Programmes with a Territorial Focus.
 - f) Calls on the Ministry of Agriculture and Rural Development, the National Land Agency and other entities in the sector to create a programme of priority access to land for rural women.
 - g) Urges that adequate resources be allocated for the effective implementation of the Escazú Agreement.
 - h) Urges the State to strengthen community participation in the framework of the National Comprehensive Programme for the Substitution of Illicit Crops, its articulation with comprehensive rural reform, the territorial approach and the implementation of the access to land programme.
 - i) Urges the State to incorporate the recommendations of the Commission for the Clarification of Truth into existing and future public policies. Also encourages the continuation of processes of recognition of responsibility before the Special Jurisdiction for Peace that are vital for accountability and the fight against impunity.

⁵¹ https://www.hchr.org.co/wp/wp-content/uploads/2022/05/211214-Colombia_Documento-lecciones-aprendidas-y-observaciones-Paro-Nacional-2021.pdf.

⁵² https://www.hchr.org.co/informes_anuales/informe-de-la-alta-comisionada-de-las-naciones-unidas-para-los-derechos-humanos-sobre-la-situacion-de-derechos-humanos-en-colombia-durante-el-ano-2020/.

- j) Urges the State to implement a comprehensive and transparent public policy for the prevention and attention of enforced disappearance. This includes strengthening the National Institute of Legal Medicine and Forensic Sciences, the Genetic Profile Bank and strengthening the effectiveness of the Urgent Search Mechanism.
- k) Calls upon the State to provide the necessary administrative, budgetary and legal conditions to ensure that the Special Jurisdiction for Peace's specific sanctions regime guarantees victims' rights and non-repetition.
- l) Urges the State to adopt and implement a public policy to dismantle criminal organizations and an action plan for the National Commission on Security Guarantees, taking into account the recommendations of the Commission for the Clarification of Truth, complying with international human rights obligations and including participation of civil society.
- m) Urges the Government to reactivate and strengthen ethnic participation bodies and to facilitate the ongoing and participatory monitoring of the implementation of the Peace Agreement's ethnic chapter at the regional level.
- n) Urges the State to regulate Law 70 and adopt a methodology to guarantee the right to prior consultation in accordance with international standards in all decisions affecting indigenous peoples and people of African descent, including those related to the implementation of the Peace Agreement.
- o) Calls for intensified efforts to ensure access to comprehensive care for survivors of sexual and gender-based violence in the context of conflict, ensuring stigmatization is avoided. The prevention of gender-based and sexual violence must be prioritized in areas most affected by conflict.
- p) Urges the Ministry of Defence to effectively implement the Zero Tolerance Policy on Sexual Violence, especially in territories affected by violence and armed conflict.
- q) Urges the State to take comprehensive and differentiated measures to prevent and provide early responses to the recruitment of children and adolescents in the context of the conflict, including measures to prevent recruitment for sexual exploitation and to strengthen protective environments at home, at school, and within the community.
- r) Urges the State to initiate a process to reform intelligence law, with broad participation from civil society, including appropriate mechanisms for monitoring and analysing information. Also urges the inclusion of grounds for the declassification of intelligence when there are consistent indications that violations of human rights and international humanitarian law may have been committed as a result of the collection or use of such information.
- s) Invites the State to make progress on security sector reforms through the new human security policy, based on measurable and objective indicators, which include differential, gender and ethnic approaches to changing military and police doctrines. Also calls for the establishment of inter-institutional coordination spaces for the operationalization of human security policy.
- t) Again urges the State to move forward with the announced process of transferring the National Police to a civilian ministry outside of the Ministry of Defence.
- u) Urges the Government to adopt and implement a national policy for the protection of defenders, within the framework of the national guarantee process, with the broad participation of civil society, that can respond to the needs for prevention, protection, combating impunity and the stigmatization of defenders.
- v) Calls on Congress to allocate adequate resources to each of the ministries and institutions responsible for the adoption and implementation of collective protection measures.
- w) Calls on Congress to approve the initiative to strengthen the human rights work of ombudspersons in category five and six municipalities with high levels of violence against communities.
- x) Urges the Attorney General's Office to make progress in investigating alleged human rights violations and violations of international humanitarian law in a thorough, prompt, independent, impartial and

effective manner, including violations committed during the 2021 National Strike, particularly killings in the context of protests, serious injuries, including eye injuries, and gender-based violence, and to bring the perpetrators to justice.

- y) Urges the Attorney General's Office to ensure that the prosecution of violent acts during protests complies with human rights norms and standards, including the application and interpretation of criminal offences in accordance with the acts pursued.