

Situation of human rights in Colombia

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

Summary

The present report of the United Nations High Commissioner for Human Rights describes the human rights situation in Colombia in 2021, the year of 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 protection of human rights, civic space, access to justice and the fight against impunity. The report contains recommendations on ways to improve the human rights situation in the country.

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

** The present report was submitted after the deadline in order to reflect the latest developments

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

I. Introduction

1. The present report 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-related aspects of the peace agreement signed between the Government of Colombia and the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP).
2. The fifth anniversary of the peace agreement signed between the Government of Colombia and the FARC-EP was celebrated in November. The demobilization of the FARC-EP and formation of a new political party is one of the most important results for the peacebuilding process. Another significant result is the creation of the 16 special transitional electoral districts for peace, especially important for the political participation of victims from the areas most affected by the armed conflict and the most excluded sectors of society. The progress made by the transitional justice mechanisms is another important milestone of this fifth anniversary. However, the increase in violence in rural areas and some urban centers in 2021 seriously affected the leadership and community life of indigenous peoples, peasants and people of African descent, as well as women in rural areas.
3. The pandemic and violence deepened the existing social and economic inequalities. In late April, structural inequalities, including food insecurity, difficulties accessing education, health, and jobs, in addition to a proposed tax reform, provoked the widespread mobilizations of a national strike that lasted for several months. The protesters demanded greater guarantees for 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 the temporary protection statute for Venezuelan migrants in the country, strengthening 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 second-most unequal country in the region.¹ This situation affects primarily women, rural populations, indigenous peoples and people of African descent as well as poor inhabitants of large cities.
7. In 2021 the country witnessed the first signs of economic recovery since the beginning of the pandemic. During the first semester, GDP rose by 8.7 per cent with respect 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, income inequality increased, the Gini coefficient went from 0.517 in 2018 to 0.526 in 2019⁴ and to 0.544 in 2020.⁵ According to the National Administrative Department of Statistics, between August and November, 71 per cent of people reported eating three or more times a day in the last

¹ https://www.cepal.org/sites/default/files/presentation/files/version_final_panorama_social_para_sala_prebisch-403-2021.pdf.

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

³ Observations of the Colombian State on report A/HRC/49/19, 11 February 2022.

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

⁵ Ibidem.

week, while 90 per cent did so before the pandemic⁶. The percentage of informal employment reached 48.1 per cent in October 2021.⁷

8. According to information published in September 2021, the Multidimensional Poverty Index (MPI) in 2020 was three times higher in rural areas than in urban areas.⁸ The MPI was higher in the Pacific⁹ (30.9 per cent) and Caribbean regions (28.7 per cent) and was lowest in Bogotá (7.5 per cent).¹⁰ The MPI of people living in households headed by women was 19.6 per cent, compared to 17.2 per cent for households headed by men.¹¹ In households headed by indigenous people the MPI was 50 per cent and 29.2 per cent in households headed by people of African descent.¹²

9. The pandemic continued to have a major impact on education, as in-person activities stopped around the country over different periods of time. Studying from home particularly affected children in poor households, as 78.9 per cent do not have internet and 96.9 per cent do not have a desk top computer.¹³ In some departments, such as Antioquia, this led 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 birth rate for mothers under 14 years of age increased by 22.2 per cent compared to the same period in 2020.¹⁴ According to the Office of the Attorney General, to 6 December 114,727 complaints of domestic violence had been received. In 77 per cent¹⁵ of these cases, the victim was a woman. In the same period, the Office of the Attorney General received 43,394 complaints of sexual violence, 86 per cent involving women victims, and 183 reports of femicide.¹⁶ The Office of the Ombudsman has identified barriers for victims of violence to access health, justice and protection measures.¹⁷ OHCHR welcomes the creation by the Office of the Attorney General of a National Working Group on Gender-based Violence,¹⁸ and urges the Working Group to make progress in all phases of its investigations of this violence, using a gender-based approach.

11. In 2021, the Office of the Ombudsman assisted 72 cases of gender-based violence against lesbian, gay, bisexual, transgender and intersex people¹⁹ and identified a lack of a lesbian, gay, bisexual, transgender and intersex-based approach in the investigations the Office of the Attorney General (making it impossible to determine the relationship between the attacks and the sexual orientation or gender identity of the victim) and the existence of

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

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

⁸ https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/boletin_tec_pobreza_multidimensional_20.pdf.

⁹ Without Valle del Cauca.

¹⁰ https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/boletin_tec_pobreza_multidimensional_20.pdf.

¹¹ https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/boletin_tec_pobreza_multidimensional_20.pdf.

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

¹³ https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2020/boletin_tec_pobreza_multidimensional_20.pdf.

¹⁴ https://www.dane.gov.co/files/investigaciones/poblacion/bt_estadisticasvitalas_nacimientos_Htrim_2021pr.pdf.

¹⁵ Office of the Attorney General. Letter received on 14 December 2021.

¹⁶ Observations by the Colombian State on report A/HRC/49/19, 11 February 2022.

¹⁷ Office of the Ombudsman. Letter received on 16 December 2021.

¹⁸ Approved by Resolution 0-0858 of 20 May 2021 of the Office of the Attorney General.

¹⁹ https://www.defensoria.gov.co/attachment/3756/INFORME%20DERECHOS%20HUMANOS%20DE%20PERSONAS%20SIGD-LGBT%202020%20y%202021%20Vol.2.pdf?g_show_in_browser=1.

discrimination by the members of the police against lesbian, gay, bisexual, transgender and intersex people, especially transgender women.²⁰

12. Lesbian, gay, bisexual, transgender and intersex organizations and the Office of the Ombudsman²¹ expressed concern about the obstacles faced by these organizations to participate in the formulation of the action plan for the national policy to guarantee the rights of lesbian, gay, bisexual, transgender and intersex people,²² the lack of progress and resources for the implementation of the policy and the fact that the thematic roundtable for attention to urgent cases of violations of the rights to life, security and personal integrity of lesbian, gay, bisexual, transgender and intersex people has not been convened since 2019.²³

13. Organizations of persons with disabilities have said that they continue to face discrimination as well as frequent violations of their economic, social and cultural rights, such as the right to work, and the right of women with disabilities to a life free of violence. OHCHR highlights the need to continue to make headway in the implementation of Law No. 1996 of 2019, which establishes the legal capacity of persons with disabilities over 18 years of age. The Office welcomes the adoption of the national guidelines and protocol to assess the support available to assist persons with disabilities in making legal decisions, including those related to their sexual and reproductive rights.

14. OHCHR observed that the lack of adequate public services and barriers to access to these services affected the enjoyment by the Awá, Bora, Embera Katío, Emberá (Eyábida, Dovidá), Eperara-Siapidara, Hitnü, Jiw, Kogui, Koreguaje, Miraña, Murui- Muina/Uitoto, Wayúu and Wounaan indigenous peoples of their rights to food, water, health and education. For example, children in the territory of the Embera people of Córdoba and Chocó suffer from malnutrition, respiratory infections, and acute diarrheal disease. The members of the Kogui and Wounaan peoples must walk up to seven hours and then access cities to obtain health services, increasing the risks for pregnant women. According to the Kogui and Chocó indigenous authorities, lack of birth certificates is an obstacle to gaining 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 ruled that the rights of the Jiw community of the Naexal Lajt reservation, including their rights to health, water, ethno-education and adequate, had been violated.²⁴

A. Comprehensive Rural Reform

15. The peace agreement puts the right to access land at the center of the Comprehensive Rural Reform, aimed to achieve structural transformation of the Colombian countryside and close the inequality gap affecting rural communities. OHCHR welcomes the progress made in 2021 and urges the Government to accelerate the inclusion, registration and characterization of lands in the Land Fund and their distribution to peasant families that still do not possess land, and also address the shortcomings of the Fund with regard to requests for formalization of the ancestral lands of indigenous peoples and people of African descent, as stipulated in the peace agreement.

16. In 2021, the creation of 13 roadmaps for the implementation of the development programmes with a territorial focus is an important step in the effort to transform the regions most affected by the armed conflict and inequality. It is necessary to guarantee the participation of communities in the 16 subregions prioritized by these programmes, to take into account their needs as proposed in the Regional Transformation Action Plans, and to consolidate an ethnic and gender-based approach in the implementation of the programmes.

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

²¹ https://www.defensoria.gov.co/attachment/3756/INFORME%20DERECHOS%20HUMANOS%20DE%20PERSONAS%20SIGD-LGBT%202020%20y%202021%20Vol.2.pdf?g_show_in_browser=1.

²² Decree No. 762 of 7 May 2018.

²³ Created by Decree No. 762 of 2018.

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

17. The agrarian conflicts and land disputes in rural areas must be urgently resolved. OHCHR urges the Government and Congress to work together to create and implement the agrarian jurisdiction to address and prevent these conflicts.

18. The most recent UNODC report shows a reduction of about 7 per cent in illicit crop cultivation in Colombia in 2020.²⁵ However, the coca, marihuana and poppy growers that entered the crop substitution programmes complain of low levels of implementation of productive projects and delays in the formulation of the National Plans for Comprehensive Rural Reform contemplated in the peace agreement.

19. Across the country, comprehensive State presence must be strengthened to overcome structural poverty and guarantee the enjoyment of economic, social and cultural rights. To this end, and in accordance with the peace agreement, it is necessary to guarantee access to land and “opportunities for adequate living standards that derive from access to public goods, such as health, housing, education, infrastructure and connectivity and measures to guarantee access to healthy, adequate, and sustainable nutrition for the entire population.”²⁶

B. Ethnic chapter of the peace agreement

20. There have been delays in the application of a crosscutting ethnic and rights-based approach, as set out in the ethnic chapter of the peace agreement. According to a statement by the Ethnic Peace Commission in June 2021, less than 2.4 per cent of the ethnic chapter has been implemented, based on the targets agreed with the Government in the Framework Plan for the implementation of the peace agreement. An example of this is the low level of implementation of measures on land use and ownership. Only 12 per cent of the commitments with a gender approach have been completed, 15 per cent are at an intermediate stage and implementation of 51 per cent is at the minimum level.²⁷ The Office of the Procurator General also confirms the “very low level of implementation of the points of the peace agreement related to the ethnic peoples of Colombia.”²⁸

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

22. Other concerns expressed by the ethnic peoples are the lack of guarantees for prior consultation, such as access to information and participation, and the delayed formalization and protection of ancestral lands, crucial for the peacebuilding process. Of the 329²⁹ requests for collective land titling for black communities, 21 titles have been issued. In the case of

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

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

²⁷ 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”, <https://curate.nd.edu/downloads/6108v982w96>.

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

²⁹ National Land Agency, *Pretensiones Comunidades Negras*, available at the Agency’s open data portal between March 2020 and November 2021, <https://data-agenciadetierras.opendata.arcgis.com/datasets/pretensiones-comunidades-negras-1/explore?location=5.821976%2C-74.170877%2C5.86&showTable=true>.

indigenous communities, progress has been made in 50 of the 680³⁰ demands for constitution, expansion and rehabilitation of reservations.³¹

C. Political participation

23. The Office welcomes the enactment of a constitutional amendment (Legislative Act 02 of 25 August 2021) that creates the 16 special transitional electoral districts for peace, enabling the election of an equal number of seats in the Chamber of Representatives for the next two electoral periods, in compliance with the peace agreement. The purpose of these 16 seats is to strengthen the political participation of communities in historically excluded territories that have been affected by the armed conflict.

24. Significantly, this constitutional amendment strengthens the representation of women by requiring gender parity in the electoral party lists.³² It also contains regulations that allow members of community councils and indigenous reservations to run for office, thus 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 the zones that correspond to the 16 electoral districts for peace and the negative impact that this will have on security guarantees in the electoral process. The Office urges the State to take preventive measures to guarantee the electoral activities and political participation in an environment free of threats and all types of violence. The timely response to the Ombudsman's early warnings and the reports of the Electoral Observation Mission should include protection measures, greater presence of civilian institutions in critical areas and actions to address stigmatization and/or discrimination based on gender or ethnicity.

III. Security and human rights

26. OHCHR received information about 100 possible massacres in 2021,³⁴ of which it has verified 78 cases, is in the process of verifying two cases, and has deemed 20 cases to be inconclusive. Two hundred ninety-two victims of the 78 verified massacres have been registered (including 32 women, 15 boys, 5 girls, and 13 people belonging to ethnic groups (seven indigenous and six people of African descent). The most affected departments are Antioquia, Cauca, Nariño and Valle del Cauca.

27. The Office for the Coordination of Humanitarian Affairs reported an increase in the number of displacements provoked by the violence and the confinements or restrictions on the population's mobility caused by non-State armed groups and criminal organizations.³⁵ The Office for the Coordination of Humanitarian Affairs reports that 72,388 people (including 12,848 children) were displaced between January and November 2021, while 26,291 people were displaced during all of 2020. Furthermore, 57,787 people were confined between January and November 2021.³⁶ The Office for the Coordination of Humanitarian Affairs also indicates that 69 per cent of the displaced population and 96 per cent of the

³⁰ ANT, *Solicitud legalización Resguardos Indígenas*, available on the ANT's open data portal, November 2021, <https://data-agenciadetierras.opendata.arcgis.com/datasets/solicitud-legalizacion-resguardo-indigena/explore?location=4.860672%2C-76.845760%2C5.37>.

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

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

³³ Special Transitional Electoral Districts for Peace for the Chamber of Representatives 2022-2026 and 2026-2030, Electoral Observation Mission, electronic document, August 2021.

³⁴ For the definition of massacres, see E/CN.4/2000/11, para. 27.

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

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

population whose mobility has been unduly restricted are indigenous people and people of African descent. In 2021, the United Nations Verification Mission in Colombia verified the killing of 54 former members of the FARC-EP, bringing to 303 the total number of such killings since the signing of the peace agreement in November 2016.³⁷ National Police data reveal that the overall number of homicides increased by 9.5 per cent in 2021 compared to 2020.³⁸ This violence has occurred mainly in areas with high levels of inequality and an insufficient comprehensive State presence.³⁹

28. OHCHR observed that violence committed by non-State armed groups and criminal organizations affects individual and collective life plans and disproportionately impacts indigenous peoples, people of African descent and peasant communities. As well as committing massacres, forced displacements and imposing temporal and other restrictions on mobility, these groups kill social leaders, threaten those who disregard their demands, control communications 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 the communities' food security and undermine their political and economic autonomy. In addition, these actions strengthen the development and exploitation of illicit economies and territorial control by non-State armed groups. Violence against women and girls, particularly sexual violence, is another factor of concern. These threats generate silence, obscuring the gravity of this situation.

29. In several communities, OHCHR has documented limitations on ancestral cultural and religious practices, such as the ban on organizing community assemblies and celebrating *novenas* for the dead. OHCHR has observed the impact of the violence committed by non-State armed groups and criminal organizations, as well as 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 urgent 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. Also, the recruitment and/or use of children by non-State armed groups and criminal organizations exposes the children to exploitation dynamics that include some of the worst forms of child labor,⁴⁰ trafficking, and sexual exploitation and slavery, which mainly affect the girls.

31. OHCHR reiterates that every person under the age of 18 who is recruited and used in hostilities and illegal activities by armed groups must be considered a victim, avoiding any stigmatization against them by the authorities, who must instead ensure their protection and promote the restoration of their rights in accordance with international norms and standards.⁴¹

32. OHCHR reiterates that one of the greatest challenges for peace is the limited comprehensive presence of the State, especially civil authorities, in various areas of the country. In order to mitigate this violence, the State must promote its comprehensive presence, particularly in the rural areas of Antioquia, Amazonas, Arauca, Caquetá, Cauca, Bolívar, Chocó, Nariño, Norte de Santander, Putumayo and Valle del Cauca. This will allow for greater access to justice and basic services, facilitating the fight against impunity and enhancing the fulfillment of economic, social and cultural rights, fundamental factors for deterring and preventing violence. It is also necessary to further implement the comprehensive rural reform foreseen in the peace agreement through the participatory implementation of the development programmes with a territorial focus.

33. In several regions it has been observed that the growing presence of public security forces has not been able to reverse the multiplication, expansion and violence of non-State

³⁷ https://colombia.unmissions.org/sites/default/files/13.01.22_ing_infografia_informedic2021.pdf.

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

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

⁴⁰ ILO Convention No. 182, Article 3.

⁴¹ Convention on the Rights of the Child and its Optional Protocol on the Involvement of Children in Armed Conflict, Articles 3, 6, 16, 20, 32, 33, 34, 38, 37 and 39.

armed groups and criminal organizations. In some places, confrontations between military forces and non-State armed groups have led to displacements. The risk of stigmatizing civilian populations of collaborating with non-State armed groups is also observed. Likewise, people who provide information to the State have become victims of retaliation and even killings by these groups, affecting the level of trust in institutions. It is urgent to proceed, in the framework of the National Commission on Security Guarantees, with the development of a public policy to dismantle criminal organizations and their support networks, with the agreement of civil society, including women's organizations, as foreseen in the peace agreement. Furthermore, the implementation of the Office of the Ombudsman's early warning recommendations must be strengthened by improving the performance of the Intersectoral Commission for the Rapid Response to Early Warnings and directing its efforts toward the search for solutions to prevent violence, with the participation of human rights defenders.

A. Alleged human rights violations by public security forces

34. During 2021, OHCHR received 100 allegations about arbitrary deprivation of life, of which it verified 54 cases, is in the process of verifying 17 cases and has deemed 29 cases to be inconclusive. Members of the National Police were allegedly responsible in 44 verified cases; military officials were allegedly responsible in five verified cases; and out of duty officials of the Technical Investigation Corps of the Office of the Attorney General were allegedly responsible in two verified cases. Three cases would have occurred during joint operations between the military and the National Police.

35. Out of the verified cases, the Office documented 29 cases that involved the unnecessary or disproportionate use of force in the context of protests. It also documented 13 cases involving police operations to prevent or prosecute crimes, two cases involving operations against organized crime and two cases involving the breach of duty to protect a victim detained in a police station. In addition, it verified five cases that implicate members of the military, which occurred during citizen security, crime prevention and prosecution, and anti-organized crime tasks. The three cases involving joint operations occurred in operations against organized crime.

36. OHCHR observed that some members of the police engaged in mistreatment or the unnecessary or disproportionate use of force while carrying out crime-prevention operations, resulting in some cases in the arbitrary deprivation of life of adolescents of African descent and young people in poor and vulnerable communities, particularly in the departments of Atlántico and Bolívar.

38. It should be noted that the Constitutional Court and the Office of the Attorney General concluded that the ordinary courts have jurisdiction to investigate possible violations committed by members of the public security forces in the context of the National Strike.⁴² The Office is cooperating with the Office of the Attorney General in the investigations of the cases that it has documented.

39. OHCHR welcomes the willingness of the Ministry of Defense to establish a joint workspace with the Office to prevent violations by the public security forces through the incorporation of international human rights standards, including the rights of women, into its procedures and in the execution of institutional actions.

IV. Civic space

A. Situation of human rights defenders

40. In 2021, OHCHR received 202 allegations of killings of human rights defenders. It verified that in 100 cases the victims' deaths were linked to their work defending human

⁴² Constitutional Court, Order 576 of 2021; and Letter of the Office of the Attorney General of 31 May 2021.

rights, and it deemed that 102 cases were inconclusive. Twelve of the victims in the verified cases were women, including seven indigenous women, and 88 were men, including nine men of African descent and nine indigenous men.⁴³ The main perpetrators were members of non-State armed groups and criminal organizations.

41. OHCHR received 1,116 allegations of threats and attacks against human rights defenders or human rights organizations in 2021: 68 per cent against men, 29 per cent against women (of which 26 could constitute cases of gender-based violence), and three per cent against organizations. OHCHR identified high levels of stigmatization, including by State agents, which could be aimed at delegitimizing the work of human rights defenders, generating fear and silencing them. The Freedom of the Press Foundation registered 575 attacks against journalists, including 168 assaults, 172 threats, 57 obstructions of journalistic work, and 65 cases of harassment.⁴⁴

42. Thirty-three per cent of the killings and 37 per cent of the attacks against human rights defenders registered by OHCHR occurred during protests, revealing a high level of violence against defenders during demonstrations. Outside of this context, violence was used with greater intensity to silence those defending land rights, the rights of ethnic peoples, the environment, victims of the armed conflict, and implementation of the peace agreement. This violence was also observed against people who participate in crop substitution programmes, and who oppose or report illegal mining, the forced recruitment of children, sexual violence, extortion and territorial control by non-State armed groups.

43. Supporting crop substitution programmes exposes human rights defenders, particularly indigenous and peasant defenders, to very high risks. In April, OHCHR documented the killing of a female governor of the Nasa people in Caldono (Cauca) involved in voluntary coca crop substitution processes.

44. Reporting acts of corruption is another common risk factor, as in the case of the manager of a hospital in Caucasia (Antioquia) who was killed in April for reporting alleged corruption in the hospital. Disobedience of orders of non-State armed groups may also lead to death. For example, the *Jaibaná* [traditional healer] and cultural manager of the Embera Eyábida people in Dabeiba (Antioquia) was killed in April for allegedly failing to comply with the prohibition against traveling along ancestral roads. In that same month, OHCHR documented the killing of the sectional prosecutor of Tibú (Norte de Santander), possibly in relation to her work investigating cases of femicide.

45. OHCHR documented killings and attacks against human rights defenders in 28 of the country's 32 departments. Seventy-five per cent of the killings occurred in Antioquia, Cauca, Chocó and Valle del Cauca, while 47 per cent of the attacks were recorded in Antioquia, Bogotá, Cauca y Valle del Cauca. Attacks against human rights defenders silence and disrupt the organizational processes of entire communities, hinder the renewal of their leadership and damage the social fabric. An emblematic example is that of the Nasa people in northern Cauca, where persistent aggression against their traditional authority and leadership has had a negative impact on their organizational structure, self-government and cultural survival. OHCHR documented the fact that the killings and threats against human rights defenders can provoke the forced displacement of communities. Emblematic cases are the murder of the indigenous guard of Geandó in Bajo Baudó (Chocó) in March, which triggered the displacement of at least 35 members of the indigenous community, and the killing of the legal representative of the Community Council of People of African Descent of the municipality of Roberto Payán (Nariño) in June, which led to the displacement of municipal ethnic leaders and authorities.

46. OHCHR welcomes the efforts made by the justice system in investigating the killings of human rights defenders, and notes that there has been investigative progress in 49 of the 145 cases reported by the Office of the Ombudsman in 2021, including: one judgment, 18 cases in trial, 18 cases with arrest warrants and 11 cases being investigated.⁴⁵ Of particular

⁴³ <https://www.hchr.org.co/files/micrositios/Homicidios-de-personas-defensoras-de-DDHH-11-08-2021.pdf>.

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

⁴⁵ Observations of the Colombian State on report A/HRC/49/19, 11 February 2022.

significance is the support given by the special investigation unit of the Office of the Attorney General to the regional prosecutors to strengthen their capacity to take urgent actions for the investigation of emblematic cases, such as the deaths of Lucas Villa in May (Pereira) and Esteban Mosquera in August (Popayán), student leaders who promoted the involvement of young people in peaceful demonstrations. Also of significance are the efforts to investigate threats and attacks through the adoption, in April, of Resolution 0775 of the Office of the Attorney General for the consolidation of a working group that prioritizes immediate responses to threats against human rights defenders. However, significant investigative challenges persist, particularly in rural areas, derived from people's fear of reporting, the difficulty of access by the National Institute of Legal Medicine and Forensic Sciences and the Technical Investigation Corps, the conditions of insecurity and insufficient personnel of the Office of the Attorney General. OHCHR reiterates the need to identify the intellectual authors and adopt a public policy aimed at dismantling criminal organizations, with the participation of civil society.

47. The National Protection Unit made efforts to respond to the high number of requests for protection. Between January and October, it granted 6,244 individual protection measures in response to 25,777 requests. The Ministry of the Interior adopted Decree 1139 in September to streamline the processes for granting measures and reducing response times, which averaged between three and five months.⁴⁶ These measures may prove to be insufficient without a comprehensive institutional response and a territorial, gender and ethnic approach to address the risk factors. OHCHR received information about operational deficiencies in individual protection schemes, the dismantling of protection schemes without objective justification and the inadequacy of protection measures in the context and work of human rights defenders. OHCHR learned about the case of a human rights defender who disappeared despite having alerted the National Protection Unit about his situation, as well as the cases of six human rights defenders who were killed despite having been beneficiaries of protection measures.

48. OHCHR believes that Decree 1139 could have been strengthened through a process of consultation and dissemination with protected persons and the entities that make up the Committee for Risk Assessment and Recommendation of Measures. The Decree formalized discussion spaces about the situation of specific groups, but it did not formalize a space dedicated to women human rights defenders.

49. OHCHR recognizes the impetus that the National Protection Unit gave to the collective protection measures in favor of ethnic peoples, trade unions, and women's and human rights organizations. However, there is still a backlog in the processing of collective protection requests. Measures have been granted in response to only 16 per cent of the 915 requests made between 2016 and 2020. Challenges also persist with regard to institutional coordination and budget allocation, which hinder the implementation of collective measures, the implementation of Decree 660 of 2018 related to the protection of communities and organizations in the territories and actions to address the underlying causes of the risk factors that complement the material measures.

50. It is important to strengthen and, in some cases, reactivate the spaces of participation between the Government and civil society, such as the National Guarantees Process, the territorial guarantees roundtables and the process developing the National Action Plan on human rights. OHCHR highlights the State's intention to construct a public policy of guarantees and respect for the work and defense of human rights, and it reiterates its willingness to support participatory spaces with civil society. In December, the Government issued a policy to guarantee the defense of human rights, which is in the process of being implemented. Civil society sectors expressed their concern over the lack of inclusion of their perspectives in this process.

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

B. Right of peaceful assembly

51. The National Strike that began on 28 April was a mostly peaceful civic mobilization, with unprecedented participation by young people, which sought to make an impact on inequality and economic, social and political exclusion.

52. Colombia enjoys a robust legal framework for the protection of the right of peaceful assembly. However, the repression of the protests and the way force was used against peaceful demonstrators in the context of the National Strike evidenced the need to strengthen the democratic management of protests. OHCHR documented cases involving the unnecessary or disproportionate use of force that resulted in the arbitrary deprivation of life and violations of personal integrity and security, as well as arbitrary arrests and sexual and gender-based violence and acts of discrimination and racism. In some of these cases the victims were indigenous people, people of African descent, journalists and human rights defenders. In particular, OHCHR verified 46 deaths (including that of a woman) in the context of these protests, with 28 cases involving public security forces and 10 involving armed people dressed as civilians. The perpetrator could not be identified in eight cases. In addition, the Office received allegations of sexual violence against 60 people (48 women and 12 men), of which it verified 16 cases allegedly perpetrated by members of the police. OHCHR also observed situations of violence against public security forces and acts of vandalism. OHCHR detailed its analysis of the National Strike in a lessons learned document on the exercise of the right of peaceful assembly, which was published on 15 December 2021.⁴⁷

53. The Office of the Attorney General opened investigations in 29 cases of homicides and 13 cases of sexual violence committed in the context of the National Strike. The Office encourages investigations in all of the cases. OHCHR also documented the prosecution of 64 protesters for violence against a public servant, damage to the property of others, obstruction of public roads, the use of explosives or firearms, criminal conspiracy and even terrorism. It is the duty of the authorities to investigate crimes committed in the context of the protests, respecting due process guarantees and, if warranted, imposing sanctions that are appropriate and proportionate to the crime.

54. OHCHR welcomes the creation of the human rights directorate of the National Police in August. It also encourages the State to promote a broad national debate on the reforms to be made within the police, including its internal oversight and accountability mechanisms. It also believes it is important to adopt legislative initiatives for the profound transformation of the National Police's mobile anti-riot squad, including a review of its protocols on the use of force and less lethal weapons and ammunition, so that they comply with international norms and standards. The civilian nature of the police, its focus on citizen security and its preventive role as guarantor of rights must be guaranteed.⁴⁸

55. OHCHR expresses concern about the content of the Public Security Law, including the increased and enhanced penalties for conducts demonstrators' may engage in, which could result in the criminalization of protests. Although the law regulated conditions in centers that would be used during so called "protection transfers", the broadening of the causes for such transfers and the greater discretion granted to the police for their application could increase the risk of an arbitrary use of this liberty-depriving measure.

⁴⁷ 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 fight against impunity

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

56. As the country commemorates the fifth anniversary of the signing of the peace agreement and more than three years of the operation of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition, this System has demonstrated its capacity to fulfill its mandates.

57. However, victims, leaders, communities, human rights defenders and those who have submitted to the jurisdiction of the Special Jurisdiction for Peace have faced serious risks to their lives and integrity due to the insecurity in rural areas. Coordination between the Office of the Attorney General, the public security forces and the National Protection Unit is necessary for their protection and to guarantee their safe access to the Comprehensive System of Truth, Justice, Reparation and Non-Repetition. The comprehensive and timely implementation of the peace agreement would improve the conditions of participation for victims and those who have submitted to the jurisdiction of the Special Jurisdiction for Peace.

58. The Commission for the Clarification of the Truth, Coexistence and Non-Repetition and the Unit for the Search for Persons deemed Missing continue to face challenges in accessing information from some State institutions, which is essential for fulfilling their mandates. OHCHR urges State institutions to guarantee the effective and timely access to information and to ensure that their rules on access to information are compatible with international human rights law.

1. Special Jurisdiction for Peace

59. The accreditation of 328,071 victims by the Special Jurisdiction for Peace and the submission of more than 13,200 people to its jurisdiction are an indication of the capacity and progress made by the Special Jurisdiction for Peace. The rulings on hostage-taking and serious deprivation of liberty (macro-case 001) and on deaths falsely presented by State agents as deaths in combat (macro-case 003), as well as the prioritization of macro-case 007 on recruitment and use of children in the armed conflict contribute to acknowledgement of the atrocities committed and to raise awareness about the impact of the conflict on victims and society.

60. The Chamber for Acknowledgement of the Special Jurisdiction for Peace transferred the first cases to the Investigation and Indictment Unit of the Special Jurisdiction for Peace after some of those who had submitted to the jurisdiction of the Special Jurisdiction for Peace did not acknowledge responsibility in the context of macro-case 003. OHCHR recalls that effective contributions to the truth during trial by those who had submitted to the jurisdiction of the Special Jurisdiction for Peace is crucial for guaranteeing the rights of victims and is a condition to gain access to and maintain their benefits.

61. OHCHR welcomes the announcement of the opening of new macro-cases. The crimes of sexual violence, enforced disappearance, forced displacement and violations against ethnic peoples that have not yet been prioritized must be adequately addressed in this new stage, given the expectations of the victims and families.

62. The Office of the Attorney General should continue investigations of the human rights violations committed during the armed conflict until the Special Jurisdiction for Peace issues final decisions in each macro-case. The right to an effective remedy established in the International Covenant on Civil and Political Rights requires that the competent authorities take all necessary measures to ensure that the human rights violations are fully clarified. The Office of the Attorney General must develop strategies to ensure the effective investigation

of these violations, providing justice for victims in a timely manner, in accordance with international human rights law and domestic jurisprudence.⁴⁹

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

63. OHCHR recognizes the importance of the more than three years of work by the Commission for the Clarification of Truth, Coexistence and Non-Repetition and of the Constitutional Court ruling⁵⁰ to extend the mandate of the Commission to June 2022. The 25 acknowledgement events, the 27,290 people who were heard and the 1,008 coexistence initiatives reflect the progress made to guarantee the rights of victims. OHCHR also welcomes the efforts of the Commission to raise awareness about the truth coming from indigenous peoples and people of African descent.

64. The future recommendations of the Commission will serve as a roadmap to promote institutional and social transformations to consolidate a democratic State governed by the rule of law. To this end, it is crucial that an adequate budget is allocated for the implementation of the Committee to monitor the recommendations of the final report of the Commission, which will set the foundations for non-repetition.

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

65. In 2021, the Unit for the Search for Persons deemed Missing implemented strategies to improve the search for disappeared persons that included the signing of 10 regional search pacts. These pacts will enable inter-institutional coordination, engagement of social sectors, active participation and recognition of the work of people who are searching for persons deemed missing, especially women.

66. The Unit for the Search for Persons deemed Missing is developing a second phase of the National Search Plan that prioritizes 35 subregions and the implementation of 23 regional search plans to search for 31,061 persons deemed missing. Especially noteworthy are the five persons found alive in Arauca, Antioquia, Magdalena and Valle de Cauca and who had not contacted their families in more than 15 years.

67. The Unit for the Search for Persons deemed Missing has recovered 358 bodies thus far, advanced registering information about 4,373 burial sites into the National Registry of Graves, Illegal Cemeteries and Burial Grounds and collected 3,514 biological samples from the families. Some of these actions were carried out in coordination with the Special Jurisdiction for Peace in the context of macro-cases and the precautionary measures ordered to protect these sites. OHCHR encourages the continued coordination between the Special Jurisdiction for Peace, the Unit for the Search for Persons deemed Missing and other State institutions to advance in the search process and fulfill the rights of the families of disappeared persons.

B. Victims and Land Restitution Law

68. The law⁵¹ extending the Victims and Land Restitution Law for an additional 10 years was passed in 2021. As of 10 December, 6,528 land restitution judgments had been issued, including 21 for ethnic peoples, restituting nearly 481,000 hectares and benefiting 17,229 women and 17,186 men.⁵² It is necessary to resolve the more than 37,900 requests that are pending; execute the judgments to guarantee effective material restitution; and ensure the protection of the land claimants. The Office condemned the killing of three women and one man from a land restitution commission in the department of Meta, the most serious attack against the land restitution programme since its creation in 2012.⁵³

⁴⁹ ICCPR, art. 2; CCPR/C/21/Rev.1/Add.13, para. 18; Constitutional Court, Ruling C-080 of 2018: <https://www.corteconstitucional.gov.co/relatoria/2018/c-080-18.htm>.

⁵⁰ <https://www.corteconstitucional.gov.co/Relatoria/2021/C-337-21.htm>.

⁵¹ Law No. 2078 of 8 January 2021.

⁵² Report of the Land Restitution Unit to OHCHR-Colombia, 30 September 2021.

⁵³ <https://twitter.com/onuhumanrights/status/1413985005806759939>.

69. The land restitution policy must be strengthened to ensure its sustainability in territories where there has been an increase in violence, to prevent new forced displacements, land grabbing, and abandonment of rural communities. It is especially necessary to strengthen the presence of the State in areas such as Bajo Cauca, Catatumbo and the Pacific coast of Nariño, Cauca and Chocó, Sur de Bolívar, and southeast Colombia, where restitution is not being used as a mechanism for reparation to victims. Equally crucial is the need to strengthen coordination between the restitution process and access to land policies in order to prevent overlapping of processes that result in land grabbing due to progress in the land formalization process.⁵⁴

C. Access to justice

70. On 28 October, the Prosecutor of the International Criminal Court decided to close the preliminary examination of the situation in Colombia. This decision could be revisited in case of a significant change of circumstances. The Office of the Prosecutor and the Government signed a cooperation agreement to guarantee that the progress made by Colombian prosecutorial and judicial entities will be sustained and strengthened, especially the Special Jurisdiction for Peace. The Government committed, among others, to guarantee the security of prosecutors and judicial operators as well as that of the people who have submitted to the different accountability mechanisms.⁵⁵

71. OHCHR highlights the reparations ordered by the Inter-American Court of Human Rights in the ruling *Bedoya Lima et al. v. Colombia*, which provides an opportunity to fight impunity and sexual violence in the context of the armed conflict,⁵⁶ and urges the State to implement reparations. The Office also highlights the Constitutional Court ruling⁵⁷ to protect the right to freedom of expression of the organization "Movement of State Crimes" in relation to the mural "Who Gave the Order?" that refers to the so-called "false positives." In addition, judicial cooperation mechanisms, such as extradition, must be implemented without interfering with the State's obligations to guarantee the rights of victims of human rights violations. This criterion should be taken into account when progressing with the arrest and prosecution of those indicted for being leaders of criminal organizations.

VI. Recommendations

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

a) Calls upon the State to urgently address the situation in the territories most affected by violence, by reinforcing the presence of civilian authorities, in particular the Public Ministry, including municipal ombudsmen, and by providing basic services to prevent and contain the violence and protect the civilian population and community, social, indigenous leaders and leaders of people of African descent in these areas;

b) Urges the State to redouble its efforts to implement the peace agreement, in particular the Comprehensive Rural Reform, the development programmes with a territorial focus and the ethnic chapter, in order to address the structural inequalities;

c) Reiterates the need to effectively guarantee the right to territory and the right to prior, free and informed consultation of indigenous peoples and people of African descent;

⁵⁴ Office of the Procurator General, "Report on the advances in the implementation of the strategies on access to land and use of rural land contemplated in the peace agreement," Recommendation 111, January 2021.

⁵⁵ <https://www.icc-cpi.int/Pages/item.aspx?name=pr1623>.

⁵⁶ https://www.corteidh.or.cr/docs/casos/articulos/seriec_431_esp.pdf.

⁵⁷ <https://www.corteconstitucional.gov.co/Relatoria/2021/T-281-21.htm>.

- d) Calls upon the State to advance in the implementation of an agrarian jurisdiction, accelerate the entry, registration, distribution and delivery of lands to rural communities and the formalization of the ancestral lands of indigenous peoples and people of African descent and to strengthen the normative framework to protect the rights of peasant communities, in accordance with international instruments;
- e) Reiterates that the National Commission on Security Guarantees should adopt and implement, as a matter of urgency, a public policy to dismantle criminal organizations and their support networks, in consultation with civil society and with the participation of women;
- f) Urges non-State armed groups to fully respect human rights and, when applicable, international humanitarian law;
- g) Calls upon the State to respond to the calls by populations affected by violence, urging the adoption of humanitarian agreements to protect life and respect for human rights;
- h) Urges the Ministry of the Interior to strengthen the capacity and methods used by the Intersectoral Commission for Rapid Response to Early Warnings to implement specific measures to prevent violence;
- i) Encourages the State to strengthen the capacity of the Public Ministry's regional commissions to monitor early warnings, through coordination between the municipal ombudsmen, the Office of the Procurator General and the Office of the Ombudsman;
- j) Urges the Government to strengthen and, in some cases, reactivate the territorial guarantees roundtables and reinforce the monitoring of their decisions;
- k) Calls upon the Office of the Attorney General to continue to strengthen its special investigation unit's capacity to identify and sanction the direct and intellectual authors of attacks against human rights defenders and those who signed the peace agreement and to dismantle their criminal structures;
- l) Urges the State to take effective measures to protect children from any form of violence, including forced recruitment and use in the context of the armed conflict;
- m) Calls upon State institutions to implement the recommendations contained in OHCHR's document on "Lessons Learned in the Exercise of the Right of Peaceful Assembly in Colombia";
- n) Calls upon the State to promote a broad national debate on police reform, including internal oversight and accountability mechanisms and the possibility of transferring 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, and strengthen the coordination and cooperation between the State institutions and the System and ensure the effective protection of those that constitute the System and of the victims and witnesses who participate in it;
- p) Also urges the State and society to continue to support the Commission for the Clarification of Truth, Coexistence and Non-Repetition, disseminate its future final report and allocate sufficient resources to ensure the effective implementation of its recommendations;
- q) Calls upon the State to strengthen the National Institute of Legal Medicine and the DNA Profile Bank to expedite the search for missing persons;
- r) Urges the State to intensify efforts to ensure access by victims of gender-based violence to justice, medical and psychosocial services and specialized shelters that are adapted to their needs and to measures of comprehensive reparations with a gender-based approach.