



General Assembly

Distr. general
21 June 2023
English
Original: Spanish

Human Rights Council

Fifty-second session

27 February–4 April 2023

Agenda item 2

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

Situation of human rights in Colombia

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

Summary

In the present report, the United Nations High Commissioner for Human Rights assesses the human rights situation in Colombia in 2022. The report focuses on the impact of territorial violence on human rights and the degree of implementation of the human rights aspects of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, including the sections related to rural reform and transitional justice, and civic space. It also considers the new policy of “total peace” and the transition to a human security-centred model.

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

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



Annex

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

I. Introduction

1. In the present report, the High Commissioner for Human Rights assesses the human rights situation in Colombia in the period from 1 January to 31 December 2022.

2. On 13 March, legislative elections took place that included the first elections in the 16 transitional electoral districts for peace established in the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace (hereinafter the Peace Agreement) concluded in 2016 between the Government of Colombia and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP). These seats, which will be filled for two electoral terms, were created in order to guarantee the political representation of areas particularly affected by the conflict in which there is only a limited institutional presence. A total of 403 candidates stood for election, some of whom came up against obstacles in their efforts to campaign freely. Such obstacles included restrictions imposed by non-State armed groups that prevented them from entering certain parts of their constituencies to carry out political campaigning activities, direct threats against them or their entourage and stigmatization. The 16 persons elected included 3 women. Some of the elected candidates were challenged on the grounds that they apparently did not represent the victims and communities. In addition, concerns were raised about alleged pressure from traditional political parties and non-State armed groups during the election process.

3. The presidential elections were mostly peaceful, with only isolated incidents of violence.¹ On 19 June, in the second round of elections, Gustavo Petro was elected President. He took office on 7 August, alongside Francia Márquez, a human rights defender from Cauca department who is the first woman of African descent to hold the office of Vice President.

4. In its first 100 days in office, the new Government prioritized the development of a new policy of “total peace”, entailing the full implementation of the Peace Agreement. In August, it adopted an emergency plan for the protection of social leaders, human rights defenders and signatories of the peace agreements. In October, it reactivated two mechanisms that are key to the implementation of the Peace Agreement, namely the Commission for the Follow-up, Promotion and Verification of the Implementation of the Final Agreement and the National Commission on Security Guarantees.

5. Also in October, the House of Representatives adopted the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

6. In the course of 2022, the Office of the United Nations High Commissioner for Human Rights (OHCHR) conducted 906 field missions and 319 capacity-building activities with State institutions and civil society.

II. The total peace policy

7. In July, the OHCHR country office in Colombia published a report on territorial violence in Colombia that contained recommendations for the new Government, entitled

¹ On 29 May, in Meta, during the first round of elections, members of a non-State armed group attacked army officers who were in the process of removing electoral materials, leaving one election officer dead and one soldier wounded. During the vote counting process, in Cauca, two social leaders were killed by unknown persons in two separate incidents. Both victims had reportedly supported the campaign of President Gustavo Petro.

Violencia territorial en Colombia: recomendaciones para el nuevo Gobierno,² and identified 156 municipalities in which violence by non-State armed groups and criminal organizations had seriously affected the human rights situation.

8. These groups and organizations maintain a presence in a number of areas, where they use coercion, intimidation, violence and threats to exercise control over the population and thwart any opposition to the conduct of their activities. In addition to perpetrating acts of sexual violence, killings and disappearances, in some areas the groups use extortion against the local population and control and/or restrict their movements and productive activities.

9. In some places, such groups appear to assume functions that lie within the remit of the State alone, regulating aspects of community life, making decisions on family matters and administering “justice”.

10. The violence perpetrated by armed actors in rural areas and some urban centres severely affects leadership and life in Indigenous, Afro-descendant and campesino communities, as well as women, girls and LGBTIQ+ persons. The majority of killings of human rights defenders are committed in this context, affecting the organizational capacity of the communities and their social fabric.

11. In its report, OHCHR highlighted the State’s duty, as guarantor of human rights, to protect the population and expressed its concern about cases of alleged collusion between State agents and non-State armed groups.

12. The new Government launched its policy of total peace³ in response to this situation of violence. The policy entails a commitment to step up the implementation of the Peace Agreement, to enter into dialogue with all armed groups present in the country and to develop a new approach to human security.

13. In implementation of this new policy, the Government resumed talks with the Ejército de Liberación Nacional (National Liberation Army) (ELN)⁴ in November and has reached out to other groups. In September, the High Commissioner for Peace announced that several armed actors were willing to engage in dialogue and that a multilateral ceasefire was possible.⁵ On 31 December, President Gustavo Petro announced⁶ a bilateral ceasefire with five non-State armed groups and criminal organizations.⁷

14. On 4 November, President Gustavo Petro gave the green light for Act No. 2272 of 2022, establishing the legal framework for the State policy of total peace and confirming the new human security-centred approach. The Act provides for the creation of a commission to qualify the type of organizations with which political dialogue will be initiated and a process of submission to justice will ensue. It also establishes the possibility of partial and full agreements being reached with the various actors in the armed conflict, including humanitarian agreements.

15. Act No. 2272 stipulates that the peace policy must ensure the effective participation of women and civil society and, to this end, must incorporate differential approaches on an intersectional and regional basis and place the needs and interests of victims at the centre of all processes.⁸ Efforts to ensure that this participation materializes, and that simultaneous progress is made in implementing agreements that help to mitigate the impact of violence on the civilian population, are essential. To achieve “total peace”, it is essential that the rule of law and participatory development are strengthened in the territories affected by violence,

² The report is available at www.hchr.org.co/informes_tematicos/violencia-territorial-en-colombia-recomendaciones-al-nuevo-gobierno/.

³ See Act No. 2272 of 2022, available at www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=197883.

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

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

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

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

⁸ Act No. 2272, ch. I, art. (2) (b), and ch. II, art. (8) (c).

and this requires a reinforcement of the State's civilian institutions, with an intensified drive to combat corruption and collusion in order to ensure effective implementation of the Peace Agreement.

III. Implementation of the Peace Agreement

16. In line with the provisions of the Peace Agreement, the OHCHR report includes a section on implementation of its human rights-related aspects.

A. Comprehensive rural reform and drug policy

17. The new Government announced a change in drug policy entailing the adoption of a less punitive, more social and public health-oriented approach. More specifically, it announced that the new approach would prioritize the crop substitution policy over other mechanisms and that public policies related to drugs would incorporate a human rights-based approach.⁹ The former United Nations High Commissioner for Human Rights noted that this approach could be instrumental in ensuring better protection for the rights of campesino, Indigenous and Afro-Colombian communities and those of drug users, both in Colombia and elsewhere in the world.¹⁰

18. Challenges continue to constrain the extent of implementation of the Comprehensive National Programme for the Substitution of Illicit Crops. Progress towards achievement of the four-year target for voluntary crop elimination under the Programme is currently 75.07 per cent.¹¹ The Ombudsman's Office has reported a 21 per cent increase in the number of families that have been withdrawn from the Crop Substitution Programme for failing either to comply with obligations or to meet the requirements for admission.¹² The Office of the Comptroller General of the Republic has expressed concerns about the management of the Programme's resources.¹³

19. In November, the Government informed the Secretary General of the United Nations of its decision to adhere to the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

20. The Government also announced that it had acquired land to supplement the National Land Fund with a view to moving forward with the allocation of land to campesino communities. The acquisitions entailed the conclusion of an agreement with the cattle ranchers' union in October.¹⁴

21. Women in rural areas face greater difficulties with land access, usage and tenure. For every five campesino women benefiting from land programmes, there are eight men benefiting. In total, 38 per cent of all uncultivated land allocated under the Peace Agreement between 2016 and 2018 was awarded to women.¹⁵

⁹ See <https://petro.presidencia.gov.co/prensa/Paginas/La-paz-en-Colombia-afecta-de-manera-positiva-el-trabajo-con-Estados-Unidos-221003.aspx>.

¹⁰ See www.hchr.org.co/historias_destacadas/una-politica-de-drogas-mas-social-podria-proteger-mejor-a-campesinos-indigenas-y-afrodescendientes-en-colombia-michelle-bachelet/.

¹¹ See www.procuraduria.gov.co/Documents/Cuarto%20Informe%20Seguimiento%20al%20Acuerdo%20de%20Paz_Radicaci%C3%B3n%20%281%29.pdf.

¹² Ibid.

¹³ See www.contraloria.gov.co/documents/20125/2968463/011.+Resumen+Ejecutivo+.+Sexto+Informe+de+Seguimiento+a+los+Recursos+del+Posconflicto+2022.pdf/3274882a-37d2-5524-0348-2db480837ec1?t=1669298586050.

¹⁴ See 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.

¹⁵ See <https://colaboracion.dnp.gov.co/CDT/Prensa/PND-Pacto-por-Colombia-pacto-por-la-equidad-2018-2022.pdf>.

22. The National Round Table for Monitoring Development Programmes with a Territorial Focus urged¹⁶ the Government to foster greater community involvement, to recognize family and community agricultural concerns and to move forward with the democratization of access to land. The Round Table also noted that the roadmaps designed to achieve compliance with the Peace Agreement do not incorporate the indicators set under the Framework Implementation Plan for guarantees of the land rights of ethnic peoples.

23. Congress is currently considering two important legislative proposals for comprehensive rural reform. One provides for the creation of a special agrarian court¹⁷ to hear disputes in rural areas and the other for the recognition of campesinos and other persons working in rural areas as subjects of rights through the incorporation to the constitutional body of law of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.¹⁸ If adopted, these bills would constitute significant advances.

B. Transitional justice

24. The findings set forth in the final report¹⁹ of the Commission for the Clarification of Truth, Coexistence and Non-Repetition, which was published in June, are based on the individual and collective testimonies of more than 30,000 victims and more than 500 dialogue and recognition sessions with broad swathes of Colombian society.

25. Dissemination of the report and implementation of the recommendations contained therein would help to make Colombian society aware of the history of the armed conflict and ensure non-repetition. The report is as an instrument that can contribute to the comprehensive implementation of the Peace Agreement, to the fight against impunity and to efforts to end the militarization of security activities, the vulnerability of campesinos and the discrimination and violence that has a disproportionately severe impact on ethnic peoples, women and children.

26. The Follow-up and Monitoring Committee, established in August 2022 for a period of seven years, will verify the implementation of the Truth Commission's recommendations. OHCHR provided assistance for the start-up of this Committee and will continue to support its efforts to ensure compliance with the recommendations. It is essential that the State guarantees the conditions necessary for the Committee's operation.

27. To reinforce the search activities led by the Unit for the Search for Persons deemed Missing, it is essential that the State institutions of the executive and judicial branches, at both the national and local levels, guarantee effective access to information and step up institutional coordination and cooperation.

28. The implementation of regional search plans has allowed for progress to be made in locating persons reported as missing. However, their implementation is limited by the critical security situation in certain departments, including Arauca, Chocó and Norte de Santander, and in the mid-Pacific and Nariño regions, among others. As part of strategic efforts to increase identification, 34,238 unidentified body files have been reviewed.

29. The State's acceptance, in August, of the competence of the Committee on Enforced Disappearances to receive and consider individual communications²⁰ is an important step forward in the search for, investigation and elimination of enforced disappearance.

30. The hearings involving acknowledgement of responsibility before the Special Jurisdiction for Peace for kidnapping cases (case No. 1) and cases of extrajudicial execution

¹⁶ See www.cinep.org.co/Home2/images/2021Noticias/ComunicadoMesaPDET.docx.pdf?utm_source=MesaPDET.

¹⁷ See <http://leyes.senado.gov.co/proyectos/index.php/textos-radicados-senado/p-ley-2022-2024/2607-proyecto-de-ley-056-de-2022>.

¹⁸ See http://leyes.senado.gov.co/proyectos/images/documentos/Textos%20Radicados/Ponencias/2022/gaceta_1279.pdf.

¹⁹ See www.comisiondelaverdad.co.

²⁰ See <https://treaties.un.org> (*Status of Multilateral Treaties Deposited with the Secretary General*, chap. IV.16).

(case No. 3) throughout the country, held in Bogotá and in the departments of Cesar and Norte de Santander, were significant milestones in the process of ascertaining the truth. The interim measures taken to protect places in Antioquia and Valle del Cauca, among others, where reports indicate that victims of disappearance might be found were also important advances. OHCHR welcomes the decision to open three new macrocases²¹ and reiterates the importance of formally opening a macrocase concerning sexual violence.²²

31. The first three decisions and findings issued in macrocases Nos. 1 and 3 represent progress in guaranteeing justice and demonstrate the Special Jurisdiction for Peace's ability to counter impunity. The specific penalties imposed by the Special Jurisdiction must take account of the concerns and suggestions put forward by the victims, whose involvement, through observations throughout the judicial process and at the sentence enforcement stage, must be guaranteed. Compliance with the conditions that those appearing before the Special Jurisdiction assume by virtue of their submission to justice is essential to ensuring the full truth.

32. OHCHR learned of concerns among victims' groups concerning interpretative judgment No. 3²³ of the Special Jurisdiction for Peace, which they believe limits their participation. Victims also drew attention to the challenges they have faced in some proceedings and forums. OHCHR reiterates that it is through adherence to standards for access to justice, equality of parties and participation that a victim-centred approach is guaranteed.

C. Victims and Land Restitution Act

33. The Truth Commission's final report indicates that, between 1995 and 2004, more than eight million hectares of land were dispossessed or abandoned.²⁴ According to the Land Restitution Unit, more than 568,000 hectares were returned in the ten years following the adoption of the Victims and Land Restitution Act.²⁵ In order for decisive progress in land restitution to be achieved, the Unit's administrative processes must be strengthened, adequate representation of victims must be ensured and guarantees of safety and security for claimants must be reinforced. Additionally, judicial procedures must be tightened up in order to reduce the backlog of cases.

34. According to information provided by the Land Restitution Unit, 7,791 restitution decisions have been issued, benefiting 85,588 persons. There are 57 judicial offices throughout the country working to resolve a total of 19,272 claims for restitution.²⁶ The restitution of ethnic territories remains a major challenge for the Unit. A total of 822 claims have been submitted in respect of Indigenous and Afro-descendant territories but only 235 claims have been processed administratively and referred for legal proceedings, with a verdict having been issued in just 24 of these cases. Social sectors have asked the Government to review the more than 57,000 claims for land restitution that have been dismissed and, accordingly, are not reflected in the land register. In November, the Government issued Circular No. 00021, disbanding the Unit's Environmental, Mining, Energy and Infrastructure Team.

²¹ Case No. 8: criminal offences committed by members of the security forces, other State agents, in association with paramilitary groups, or civilian third parties in the armed conflict; Case No. 9: criminal offences committed against ethnic peoples and territories in the armed conflict; and Case No. 10: criminal offences not eligible for amnesty committed by the now defunct FARC-EP during the Colombian armed conflict.

²² https://jurinfo.jep.gov.co/normograma/compilacion/docs/auto_srvr-103_11-julio-2022.htm.

²³ https://jurinfo.jep.gov.co/normograma/compilacion/docs/pdf/Sentencia-interpretativa_TP-SA-SENIT-03_28-abril-2022.pdf.

²⁴ See www.comisiondelaverdad.co/sites/default/files/descargables/2022-06/Informe%20Final%20capi%CC%81tulo%20Hallazgos%20y%20recomendaciones.pdf.

²⁵ www.urt.gov.co/estadisticas-de-restitucion-de-tierras.

²⁶ Ibid.

D. Dismantling and submission to justice

35. In October President Gustavo Petro revived the National Commission on Security Guarantees, which has already made progress towards the adoption of public policy guidelines for dismantling criminal organizations and ending their activities. The policy should be finalized as soon as possible and, in the implementation and monitoring stages, should take account of territorial dynamics and analyses. Based on good practice identified by OHCHR, the dismantling process should focus on the factors that enable criminal activity, and should entail the simultaneous implementation of measures addressing five aspects of the State's international obligations in the area of human rights, namely social investment, the strengthening of the justice system, the fight against corruption, the requisition of the proceeds of crime, and submission to justice. Measures adopted in the last area should include reparations for victims and exposure of the criminal network.²⁷

36. The involvement of affected communities and ethnic peoples – including the involvement of women – in defining the nature of the dismantling measures related to social investment, the strengthening of the justice system and the fight against corruption is fundamental to their success. To this end, the National Commission on Security Guarantees must increase its efforts to bring proposals received from ethnic communities and peoples to fruition and provide appropriate guarantees for their safety and security.

E. Ethnicity-related aspects of the Peace Agreement

37. The reports produced by the Special High-Level Forum of Ethnic Peoples created to monitor the implementation of the Peace Agreement,²⁸ by the National Afro-Colombian Peace Council,²⁹ by the Attorney General's Office³⁰ and by the Kroc Institute for International Peace Studies,³¹ among other institutions, concur in stating that minimal progress has been achieved in the implementation of the ethnicity-related aspects of the Peace Agreement. According to the Kroc Institute, as at September 2022, only 13 per cent of the 80 ethnicity-related provisions had been fully implemented.

38. OHCHR observed a weakening in protection of the rights to life, freedom of movement, territory and self-government of Indigenous Peoples and persons of African descent in Arauca, Cauca, Chocó, Córdoba, Huila, Nariño, Norte de Santander, Putumayo and Valle del Cauca. The National Afro-Colombian Peace Council attributed the high level

²⁷ See Edgardo Buscaglia's presentation *Paradoja de la represión: la impotencia del Estado ante la delincuencia organizada* (Paradox of repression: the impotence of the State in the face of organized crime) (2011), available at www.casamerica.es/index.php/temastv/paradoja-de-la-represion-la-impotencia-del-estado-ante-la-delincuencia-organizada. See also 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 and Mariela Morales Antoniazzi (eds.), *Impacto de la corrupción en los derechos humanos*, Querétaro, Mexico, Instituto de Estudios Constitucionales del Estado de Querétaro, 2018, pp. 239–293, available at <https://biblio.juridicas.unam.mx/bjv/detalle-libro/5096-impacto-de-la-corrupcion-en-los-derechos-humanos>.

²⁸ Special High-Level Forum of Ethnic Peoples of Colombia, *Informe de seguimiento, impulso y verificación a la implementación del capítulo étnico del Acuerdo Final para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera* (December 2021), available at www.cenpaz.com/2022/01/informe-jeanpe-2016-2021-de-seguimiento.html.

²⁹ National Afro-Colombian Peace Council, *II Informe de balance de la implementación del capítulo étnico del Acuerdo Final de Paz: 5 años de incumplimiento* (August 2022), available at <https://conpaz.org/>.

³⁰ www.procuraduria.gov.co/portal/media/docs/Procuradur%C3%ADa%20-%20Informe%20Final%20Cap%C3%ADtulo%20%C3%89tnico%202020%20-%20Agosto%202021.pdf.

³¹ Kroc Institute for International Peace Studies, *Quarterly Report: Actual Status of Implementation of the Final Agreement, July-September 2022* (December 2022), available at <https://curate.nd.edu/show/4f16c250g77>.

of non-compliance with the ethnicity-related provisions of the Peace Agreement to the persistent armed conflict and the humanitarian crisis that continue to affect ethnic peoples.³²

39. The lack of free, prior and informed consultation in programmes and projects designed to implement the Peace Agreement has contributed to a lack of guarantees for other rights of ethnic peoples. As a result, from their perspective, the progress achieved to date has been without positive impacts for them.

40. The new Government's commitment to implementing the ethnicity-related provisions and the appointment of ethnic rights defenders to official posts involved in the protection of rights are positive signs. The decision of the Government of the United States to provide support for the implementation of the ethnicity-related provisions is also welcomed.³³

IV. Territorial violence, security and human rights

A. Security and human rights situation

41. OHCHR received allegations of 128 possible massacres in 2021. Of these, 78 have been verified, 2 are still in the process of being verified and 20 have been ruled inconclusive.³⁴ In the 92 verified massacres, 321 victims were recorded (270 men, 30 women, 14 boys and 7 girls), 27 victims belonged to ethnic groups (23 Indigenous persons and 4 persons of African descent) and 27 per cent were young persons between the ages of 18 and 28 years old. The departments most affected were Antioquia, Cauca, Nariño and Valle del Cauca. In Tumaco, in Nariño department, three members of the Awá community were victims of a massacre that took place while they were at a meeting planning action to oppose coca cultivation in the area. In the verified cases, the alleged perpetrators are for the most part criminal organizations.

42. The Office for the Coordination of Humanitarian Affairs (OCHA) reports that, in 2022, a total of 82,862 persons (approximately 19 per cent of whom were children) were displaced and 102,395 persons endured confinement,³⁵ while, in full-year 2021, 73,974 persons were displaced and 65,685 persons suffered confinement.³⁶ OCHA states that, in 2022, 69 per cent of displaced persons and 70 per cent of persons whose movement was unduly restricted were from Indigenous or Afro-Colombian communities. The departments most affected by displacement and confinement are Arauca, Cauca, Chocó and Nariño.³⁷

43. The United Nations Verification Mission in Colombia verified the killing of 54 former members of FARC-EP in 2022, bringing to 355 the total number of ex-combatants killed since the conclusion of the Peace Agreement.³⁸

44. OHCHR documented cases of gender-based violence (sexual slavery, early unions and rape) in the context of the conflict. This violence is one of the ways in which non-State armed groups exercise territorial control, and is also used as a form of reprisal against male relatives who belong to rival groups. Femicides have been perpetrated by non-State armed

³² See National Afro-Colombian Peace Council, *II Informe de balance de la implementación del capítulo étnico del Acuerdo Final de Paz: 5 años de incumplimiento*.

³³ See www.unidadvictimas.gov.co/es/institucional/acuerdo-con-estados-unidos-sera-fundamental-para-las-comunidades-etnicas-en-colombia.

³⁴ For a definition of what how the term "massacres" should be understood, see [E/CN.4/2000/11](https://www.unhcr.org/refugees/4/2000/11), para. 27.

³⁵ See www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/informe_impacto_y_tendencias_ene-ago_2022_vf.pdf and <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>.

³⁶ See <https://reliefweb.int/report/colombia/colombia-impacto-y-tendencias-humanitarias-entre-enero-diciembre-de-2021-08-de>.

³⁷ See https://reliefweb.int/attachments/7886001b-f5cc-43b5-9df0-efa08df26cfe/informe_impacto_y_tendencias_ene_dic_2022_vf.pdf.

³⁸ [S/2022/1004](https://www.unhcr.org/refugees/4/2000/11), paras. 54 and 55.

groups in which the victims had been accused of belonging to other armed groups or having relations with their members. The presence of non-State armed groups leads to restrictions on the free expression of LGBTIQ+ persons and to acts of violence against them.

45. OHCHR received information indicating that non-State armed groups were involved in transporting women to Chocó and Nariño, raising concerns that there may be a risk of trafficking for sexual exploitation, including of girls. In some cases, the groups were apparently selecting and transporting women directly themselves. OHCHR has also learned of cases of femicides in which the victims might have been trafficked, including one in which the victim was a young girl.

46. In 2022, OHCHR learned of 115 cases in which children or adolescents (74 boys, 37 girls and 4 cases in which gender was not indicated) were recruited by non-State armed groups. Of this number, 20 were reported to have been murdered (11 girls and 9 boys) and 12 girls were reported to have suffered sexual violence. A large proportion of such violations and abuses go unreported. Poor access to food and an adequate standard of living, a lack of protection against gender-based violence and the cultural losses suffered by ethnic peoples as a result of the conflict make children more vulnerable to such practices. Pursuant to international human rights standards, non-State armed groups should not under any circumstances recruit persons under the age of 18 years old or use them in hostilities and the State has an obligation to take all possible measures to prevent such recruitment and exploitation, to demobilize recruited minors and to provide them with all assistance necessary for their physical and psychological recovery and social reintegration.³⁹

47. There is a need to reinforce the gender- and ethnicity-related aspects of measures taken to prevent and protect against recruitment, particularly in areas where the State presence is weak. It is also necessary to ensure that local and ethno-territorial authorities that warn of such situations receive support. State institutions became aware of most of the cases known to OHCHR only after the recovery, death or escape of the persons concerned, not at the time of their recruitment. In addition, owing to gender stereotypes, the recruitment of girls, especially for sexual exploitation, is in many cases not recognized as a violation of their rights, and, accordingly, the institutional response is inadequate. Furthermore, if the demobilized children and adolescents do not enter or remain in protection pathways, there is no institutional follow-up of their situation and they are thus placed at risk of being recruited again.

48. Violence by non-State armed groups and criminal organizations, including disregard of ethno-territorial authorities, displacement and dispossession of land, affects the physical and cultural survival of Indigenous Peoples and persons of African descent. Such groups force ethnic communities to become involved in unlawful economic activities and impose restrictions on their customs that force them to abandon the ancestral practices that are the cornerstone of their well-being, cultural identity and autonomy. However, communities have developed various forms of resistance to pressure from non-State armed groups and criminal organizations.

49. Data from the Observatory for Human Rights and National Defence indicate that 103 members of the security forces were killed by criminal organizations and non-State armed groups in 2022.⁴⁰ In San Luis, in Huila department, seven police officers, some of whom were under the age of 20, died in September after being attacked by a non-State armed group.

50. OHCHR condemns all these forms of violence that seriously undermine human rights. Addressing this violence requires a comprehensive commitment from the State, including greater inter-institutional coordination. Economic, social and cultural rights must be upheld as a matter of priority, including the commitment to undertake a comprehensive rural reform and to overhaul drug policy assumed by the State in the Peace Agreement.

³⁹ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, arts. 4 and 6.

⁴⁰ Information from the Government of Colombia, submitted on 11 February 2022.

51. The Government's switch to a human security-centred security policy should be accompanied by a heightened focus on the protection of the communities most at risk on the part of the security forces. The adoption, by the National Commission on Security Guarantees, of a public policy for dismantling criminal organizations that includes the seizure of the organizations' assets would contribute to achievement of this goal. It is also necessary for the State to commit to coordinated preventive action that serves to strengthen the early warning system operated by the Ombudsman's Office – a preventive tool that should go hand in hand with the "total peace" policy and the new human security-centred approach – and ensures that it is effective.

B. Security forces

52. OHCHR received 71 allegations of arbitrary deprivation of life purportedly 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. OHCHR referred the 71 allegations to the Ministry of Defence, which concluded that, in 41 cases, no violation of the right to life had been committed as international human rights norms and standards on the use of force and firearms and international humanitarian law had been respected and/or the security forces had not been involved in the alleged events. The Ministry of Defence also reported that it had taken action in respect of 30 allegations in which the right to life might have been violated, including, in some cases, criminal and/or disciplinary action.⁴¹

53. The events that occurred in March in the village of Alto Remanso, Puerto Leguísimo, in Putumayo department, where 11 persons lost their lives in the course of an army operation, and the events that took place in the village of Chocho, in Sucre department, where officers of the national police arbitrarily deprived three young men of their lives, attest to the urgent need to move forward with the reform of military and policing practices and principles and to prioritize the protection of the civilian population in the design and execution of military and police operations.

54. OHCHR received allegations of torture, cruel treatment and sexual violence while the victims were in police custody. At Chambacú police station in Cartagena, in Bolívar department, 11 detainees were allegedly subjected to serious sexual violence by other detainees without the police doing anything to prevent the acts. These events are being investigated by the Public Prosecution Service and the Attorney General's Office.

55. OHCHR verified that, in Bolívar department, members of the armed forces allegedly perpetrated acts of gender-based violence, including sexual violence, and forced early unions with girls, taking advantage of their highly vulnerable socioeconomic situation. The preventive measures envisaged under the Ministry of Defence's zero tolerance policy on sexual violence in territories affected by the armed conflict must be given effect, and monitoring and accountability mechanisms that reflect the gravity of such acts must be implemented.

56. OHCHR welcomes the adoption of a human security-centred notion of security as the cornerstone of the Government's new security policy. This human security-centred notion broadens the traditional notion of security and establishes a close link between security and human rights. The human security-centred notion of security is not limited to aspects related to the use of force; rather, it entails an approach to security where preventing violence and protecting the population, which actively participates in identifying its security needs, are prioritized. Responsibility for security issues thus no longer lies exclusively with the security forces and is instead shared with various State institutions with different responsibilities that must be effectively coordinated in order to cover all dimensions encompassed by this approach.

57. The new approach entails far-reaching changes to current military and policing practices and principles as well as the use of mechanisms that enable coordination between

⁴¹ Communication received on 14 February 2023.

all State institutions involved. OHCHR is providing the Government with technical advice on how to ensure that human rights are duly incorporated into this new security model.

58. The decision to suspend bombing directed at high-value targets where children and adolescents have been identified as being present is an important step forward.⁴² OHCHR has observed shortcomings in monitoring and information verification mechanisms and accountability processes. Resolving these issues would allow for greater transparency and certainty in intelligence reporting. In November, the Government announced the country's endorsement of the Safe Schools Declaration.

59. OHCHR welcomes the Constitutional Court's decision to assign jurisdiction in respect of the massacre in El Tandil, Tumaco, allegedly committed by members of the security forces in 2017, to the ordinary courts.⁴³ This represents an advance in the application of international standards regarding jurisdictional competence to hear human rights violations allegedly committed by members of the security forces.⁴⁴ It is noted, however, that these international standards are not applied consistently by all judicial bodies, and that this could increase thresholds of impunity and compromise the administration of independent justice.

60. OHCHR has provided advice and technical assistance for the reform of the national police to give greater prominence to human rights. This advice was intended primarily to ensure that policing principles incorporate international human rights standards as a central focus of all manuals, directives and operational orders; that communication with communities is improved and effective communication channels are established or strengthened; that the exercise of the right to peaceful assembly is managed in accordance with international human rights norms and standards; and that international human rights standards are reflected in the disciplinary system, particularly when conduct is to be investigated and prosecuted within the ordinary justice system.

V. Civic space

A. Situation of human rights defenders

61. High levels of violence against human rights defenders continued during 2022, with OHCHR receiving 256 allegations of murders of human rights defenders. In 116 of these cases, it was able to verify the existence of a link between the victims' human rights work and their death; for the other 102 cases, verification efforts were inconclusive.⁴⁵ In the verified cases, 9 of the victims were women (3 Indigenous women, 1 women of African descent, 1 campesino woman and 1 transgender woman) and 107 were men (23 Indigenous man, 14 men of African descent and 52 campesino men). Various non-State armed groups are assumed to be responsible for 73 per cent of the verified killings.

62. In 2022, OHCHR noted a significant increase in alleged killings of members of the community action committees linked to the community and territorial control activities of non-State armed groups, particularly in the departments of Arauca, Bolívar and Putumayo. In 45 per cent of the alleged killings of human rights defenders verified in 2022, the victims were members of community action committees. This percentage corresponds to a total of 52 cases, up from 13 cases in 2021.

63. Non-State groups also used violence against Indigenous and Afro-descendant authorities, including members of the Indigenous and Cimarrona Guards, in order to

⁴² See www.infobae.com/america/agencias/2022/08/25/colombia-suspende-bombardeos-cuando-haya-menores-de-edad/.

⁴³ Constitutional Court Order No. 989/22 of 14 July 2022.

⁴⁴ See updated set of principles for the protection and promotion of human rights through action to combat impunity; [A/68/285](#); and the decision of the Inter-American Court of Human Rights of 17 April 2015, *Radilla Pacheco, Fernández Ortega et al. and Rosendo Cantú et al. v. Mexico*, monitoring compliance with judgment, p. 8, footnote 37.

⁴⁵ In 2022, the Ombudsman's Office documented 215 killings of social leaders. The Institute for Development and Peace Studies documented 189 cases.

undermine their authority and organizational processes. OHCHR verified allegations of the killing of brothers Marcos Fidel and Albeiro Camayo, and also of Guillermo Chicame, Miller Correa, Luis Tombé, Yemi Chocué and a young boy named Breiner Cucuñame, all members of the Nasa community in Cauca department. In Nariño department, the Office verified allegations of the killing of five Indigenous leaders and guards forming part of the Awá community, namely Juan Orlando Moriano, John Faver Nastacuas, Carlos José García, Gerardo Pai and Carlos García. In Chocó department, it verified the cases of Luis Champuro, a member of the Wounaan people, Sercelino Lana, of the Embera people, Julio Cárdenas, of the Barrios Unidos Local Community Council, and Fredy Mena, of the La Playa Community Council.

64. In the Magdalena Medio region, OHCHR verified allegations of the killing of Teófilo Acuña, Jorge Tafur and Luis Quiñones, who were campesino leaders working to defend land and the environment. In Casanare department, it verified the alleged murder of Luz Marina Arteaga, who supported communities in their struggle for access to land and worked as a municipal ombudsman in Orocué.

65. OHCHR called for protection measures and investigative action in respect of 682 cases of threats and attacks against human rights defenders, of whom 501 were men, 163 were women, with these attacks in some cases potentially constituting gender-based violence, 8 were members of the LGBTIQ+ community and 10 were organizations. It highlighted in particular: a car bomb attack against 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 department in January; a bomb attack on the Nasa Paéz Indigenous reserve in Huila department; and the bomb attacks targeting the mayor of Cumbal, in April, and the governor of the Cumbal Indigenous reserve, in October, in Nariño department.

66. OHCHR is also concerned about the negative impact of the distribution of a series of pamphlets apparently signed by the “Águilas Negras” (Black Eagles) that contained threats against several human rights defenders, including members of the Regional Indigenous Council of Cauca Department, members of the student movement of EAFIT University (the School of Administration and Finance and Technological Institute) in Antioquia department, judges of the Constitutional Court who had voted in favour of the ruling that decriminalized voluntary termination of pregnancy in February and the Vice President of the Republic, at the time she was a candidate. Other pamphlets, followed by death threats, generated fear and led to the displacement of environmental defenders who had spoken up about the risks inherent in pilot fracking projects in Puerto Wilches in Bolívar department. A significant number of mayors, ombudsmen, human rights defenders and members of the Barí Indigenous community in Norte de Santander department have received death threats and have even suffered attempts on their lives assumed to be perpetrated by non-State armed groups seeking to exert territorial control.

67. OHCHR recognizes as a positive step the Government’s decision, in August, to implement, in 65 municipalities and 6 prioritized departmental capitals, an emergency plan for the protection of human rights defenders, social leaders and signatories of the Peace Agreement that had been put forward by members of civil society. The plan is structured around 6 focus areas and 49 short- and medium-term lines of action. The most visible component of the plan has been the creation of central command centres for the protection of life (*Puestos de Mando Unificados por la Vida*) to serve as local-level operational spaces through which specific preventive and protective action can be implemented. There were a number of challenges to the establishment of these centres, which were linked to the lack of a preventive approach within some local authorities, limits on the national Government’s ability to provide support for municipal mechanisms, a lack of trust between the authorities and civil society, and the structural causes of the violence in the respective territories. In some municipalities, however, it proved possible to introduce processes that will offset some of the risks factors affecting human rights defenders.

68. OHCHR hopes that the emergency plan will serve as a basis for the adoption of a comprehensive and coherent public policy on prevention and the protection of human rights defenders that is developed with input from civil society and ethno-territorial authorities. A key goal of such a policy should be to strengthen municipal ombudsmen’s offices, as the

main authority responsible for human rights at the local level, especially in municipalities with the highest rates of violence and multidimensional poverty.

69. OHCHR received a large number of complaints relating to the implementation of individual and collective protection schemes. The complaints concern delays in the implementation of protection measures, a tendency to downplay levels of risk in risk analysis studies, a failure to adapt measures to the realities of the respective territories and to properly incorporate ethnic and gender perspectives, and failings in the implementation of the measures. OHCHR is of the view that the proceedings under way before the Constitutional Court in response to *amparo* petitions filed by several human rights defenders represent a unique opportunity to thoroughly review the individual and collective protection system of the National Protection Unit.⁴⁶ Such a review should not be postponed.

70. There is also a need to revive the national system of safeguards by organizing national round-table consultations for the formulation of a national policy of safeguards for human rights defenders. Additionally, the national and departmental authorities must make greater efforts to revive regional round-table working groups and make them effective forums for addressing the main risk factors that prevent human rights defenders from carrying out their work. With a few exceptions, in the past, the operational efficacy of regional round-table working groups has been affected by a lack of political will, the absence, at the regional level, of authorities with decision-making power and clear methodologies for following up on and fulfilling commitments, and a lack of broad civil society representation, especially representation of ethnic peoples.

B. Right of peaceful assembly

71. The current Government has taken a number of significant steps to comply with international human rights standards on the right to peaceful assembly. As part of the reform of the national police force, an overhaul of the Mobile Anti-Riot Squad to prioritize dialogue and ensure differentiated use of force, as a last resort only, and accountability, was announced. However, the reform of the Squad must be the result of a broad participatory process to which a diverse range of civil society actors contribute, and should include fundamental changes such as a revision of its protocols for the use of force and less-lethal weapons and a reinforcement of the internal oversight mechanisms that guarantee strict compliance with international standards. It is also crucial that mechanisms for preventing sexual and gender-based violence against women, girls and LGBTIQ+ persons and investigating the acts of this nature that were committed in 2021 are strengthened. OHCHR was present at a meeting between the National Police commander and young persons drawn from the “front lines” during which they shared recommendations based on their personal experiences.⁴⁷

72. In the first half of 2022, OHCHR documented 110 cases in which persons were detained and deprived of their liberty in connection with the national strike protests in 2021 (95 men and 15 women). The arrests were carried out by court order, as a result of an investigation carried out by the Attorney General’s Office drawing on information provided by the National Police. The Attorney General’s Office included conspiracy to commit a criminal offence among the charges brought in 85 of the cases registered and terrorism in 54 of the cases. In some cases, particularly serious criminal offences such as torture, kidnapping, attempted murder and murder were also included among the charges. Most of those facing charges are young persons aged between 18 and 28 years old who are living in vulnerable situations and are alleged to have participated in protests or so-called “resistance rallies” (*espacios de resistencia*) in the country’s main cities.

73. OHCHR notes that the use of criminal offences such as terrorism and conspiracy to commit an offence by the Attorney General’s Office and the execution of arrests on key dates when young persons habitually gathered to protest stigmatize those involved in protests and

⁴⁶ See Constitutional Court Order No. 538/22 of 6 April 2022.

⁴⁷ See https://twitter.com/NoticiasCaracol/status/1565862788802781185?s=20&t=_qXrym-NndVjpmWXRJKg4Q.

create an environment in which the full and free exercise of the right to peaceful assembly is compromised.⁴⁸ To address this situation, in December the Government issued Decree No. 2422,⁴⁹ creating a cross-sectoral commission empowered to recognize as spokespersons for peace citizens belonging to social and humanitarian organizations against whom arrest warrants have been issued.

74. In contrast with the progress achieved in the investigation of persons who participated in the protests, OHCHR noted that there has been slow progress towards the prosecution of cases of human rights violations committed by members of the security forces during the national strike in 2021.⁵⁰ Of the 46 cases of death during protests occurring between April and July 2021 that OHCHR has verified, 13 are in the trial phase, 29 are under investigation and 3 have been discontinued. In one case, no information was obtained. The Public Prosecutor's Office has charged 10 members of the security forces, 5 of whom are senior officers. In the 28 cases (of the total 46) in which the security forces were involved, no persons have been deprived of liberty and no convictions have been secured.

75. In relation to the cases from 2021 referred to in the previous paragraph and the 14 persons who were deprived of their lives in the context of the September 2020 protests, a working group composed of representatives of the Ministry of Defence, the Police Inspectorate, the Public Prosecutor's Office, the Attorney General's Office and OHCHR has been established to expedite the investigations and the prosecution of the public security officers allegedly responsible.⁵¹ The establishment of channels for dialogue between the mayor's office of Bogota, the Ministry of Defence and the victims' families is also a positive 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 reinforce the presence and capacities of civilian authorities and institutions, including ethno-territorial authorities, in the territories most affected by the violence and to enhance the coordination of local-, departmental- and national-level actions taken to address the conflict and violence;**

(b) **Calls for immediate measures to de-escalate the violence and mitigate its impacts to be agreed upon in the talks and/or negotiations with non-State armed groups and/or criminal organizations, and for international norms and standards on victims' rights and the fight against impunity to be taken into account;**

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

(d) **Calls for greater community involvement in the implementation of rural reforms, plans for the social management of rural property and policies promoting access to land for rural and campesino women, and for action to ensure that the acquisition of land by the State does not fuel speculative activity;**

(e) **Urges the State to promote and strengthen forums for dialogue on the implementation of aspects of the Peace Agreement related to comprehensive rural reform and drug policy, including the National Round Table for Monitoring Development Programmes with a Regional Focus;**

⁴⁸ See statement of Juliette De Rivero in the public hearing of the commission for the verification of guarantees and the human rights of persons captured during the protest, House of Representatives, available at www.hchr.org.co/pronunciamientos/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/.

⁴⁹ www.infobae.com/tag/decreto-2422-de-2022/.

⁵⁰ See https://www.hchr.org.co/documentoseinformes/documentos/Colombia_Documento-lecciones-aprendidas-y-observaciones-Paro-Nacional-2021.pdf.

⁵¹ See [A/HRC/46/76](#).

(f) Calls on the Ministry of Agriculture and Rural Development, the National Land Agency and other bodies active in the sector to develop a programme of priority access to land for campesino women;

(g) Calls for adequate resources to be allocated for the effective implementation of the Escazú Agreement;

(h) Urges the State to strengthen community involvement in the Comprehensive National Programme for the Substitution of Illicit Crops and to link it more closely to the comprehensive rural reform process, the regional approach and the implementation of the land access programme;

(i) Urges the State to incorporate the recommendations of the Truth Commission into existing and future public policies, and to ensure the continuation of the proceedings entailing acknowledgement of responsibility before the Special Jurisdiction for Peace that are vital for accountability and the fight against impunity;

(j) Urges the State to implement a comprehensive and transparent public policy for preventing and responding to enforced disappearance. This includes strengthening the National Institute of Forensic Medicine and Forensic Sciences and the Disappeared Persons Genetic Profile Bank and reinforcing the effectiveness of the Urgent Search Mechanism;

(k) Urges the State to provide the administrative, budgetary and legal conditions necessary to ensure that the penalties imposed by the Special Jurisdiction for Peace safeguard the rights of victims and ensure guarantees of non-repetition;

(l) Urges the State to adopt and implement a public policy for dismantling criminal organizations and an action plan for the National Commission on Security Guarantees that takes into account the recommendations of the Truth Commission, complies with international human rights obligations and involves civil society;

(m) Urges the Government to revive and strengthen the bodies that enable the participation of ethnic minorities and facilitate ongoing and participatory follow-up, at the regional level, of the implementation of the ethnicity-related aspects of the Peace Agreement.

(n) Urges the State to issue regulations for implementing Act No. 70 of 1993 and adopt a methodology for guaranteeing the right to prior consultation, in accordance with international standards, in all decisions affecting Indigenous and Afro-descendant Peoples, including decisions related to the implementation of the Peace Agreement;

(o) Calls for intensified efforts to guarantee access to comprehensive care for survivors of sexual and gender-based violence in the context of the conflict and ensure that stigmatization is prevented. The prevention of gender-based and sexual violence must be prioritized in the areas most affected by the conflict;

(p) Urges the Ministry of Defence to effectively implement the policy of zero tolerance of sexual violence, especially in areas affected by violence and armed conflict;

(q) Urges the State to adopt comprehensive, differentiated measures to prevent, and provide an early response to, the recruitment of children and adolescents in the context of the conflict, including measures to prevent recruitment for the purpose of sexual exploitation and to enhance protective spaces in homes, at school and within the community.

(r) Urges the State to undertake a review and amendment of legislation relating to intelligence activities, with broad civil society participation, that considers the adequacy of oversight and information analysis mechanisms and incorporates grounds for declassifying intelligence information when there are consistent signs 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) Encourages the State to press ahead with the reform of the security sector, applying the new human security-centred policy and using measurable and objective indicators that allow for differential, gender and ethnic approaches, in order to bring

about substantial change in military and policing practices and principles; and calls for the establishment of inter-agency coordination mechanisms to enable the effective introduction of the human security-centred policy;

(t) Renews its call for the State to move forward with the process of transferring the National Police to a civilian ministry outside the Ministry of Defence, as announced;

(u) Urges the Government to adopt and implement, as part of the national safeguards process and with broad civil society involvement, a national policy for the protection of human rights defenders capable of responding to needs in the areas of prevention, protection, the fight against impunity and the non-stigmatization of human rights 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 adopt the bill to strengthen the human rights activities of the ombudsmen's offices in municipalities in categories five and six, where communities continue to experience high levels of violence;

(x) Urges the Attorney General's Office to move forward, in a thorough, prompt, independent, impartial and effective manner, with the investigation of alleged human rights violations and abuses and violations of international humanitarian law, including violations committed during the 2021 national strike, particularly killings perpetrated in the context of protests, serious injuries, including eye injuries, and gender-based violence, and to bring the alleged perpetrators to justice;

(y) Urges the Attorney General's Office to ensure that human rights norms and standards are respected in the prosecution of violent acts committed during protests, and that criminal offences are interpreted and applied in accordance with the acts being prosecuted.
