

Advance Unedited Version

Distr.: General
26 February 2020

Original: English

Human Rights Council

Forty-third session

24 February–20 March 2020

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

The present report assesses the human rights situation in Colombia in 2019, with a focus on the situation of human rights defenders, the use of the military in situations related to public security, the fight against impunity, and inequalities in the enjoyment of economic, social and cultural rights. It also assesses the implementation of the human rights aspects of the Peace Agreement signed between the Government of Colombia and the Revolutionary Armed Forces of Colombia – People's Army (FARC-EP). The report puts forward recommendations to contribute to improving the human rights situation.

* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is circulated in the language of submission and in Spanish only.

** The report was submitted late to reflect developments that occurred in November and December 2019.

Annex

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

I. Introduction

1. The present report assesses the human rights situation in Colombia between 1 January and 31 December 2019. As per the Agreement for Ending the Conflict and Building a Stable and Lasting Peace, signed between the Government of Colombia and the Revolutionary Armed Forces of Colombia - People's Army (FARC-EP) (Peace Agreement),¹ the report also assesses the implementation of human rights aspects of the Peace Agreement related to transitional justice, security guarantees, comprehensive rural reform and victims' rights.

2. In 2019, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia conducted 1,151 field missions, 376 capacity-building activities for State institutions and civil society, and followed up on 250 cases of alleged human rights violations.

3. OHCHR provided technical assistance to State institutions at the national, departmental and municipal levels, notably the Office of the Ombudsman, the Office of the Attorney General, the Office of the Procurator General, the Ministry of Defence and the National Land Agency. It also collaborated with the special procedures of the Human Rights Council and the Inter-American Human Rights System.

4. On 30 October, the host country agreement between the Government and OHCHR was renewed until 31 October 2022.

II. Context

5. OHCHR stresses the importance of continuing the efforts to advance in the implementation of all chapters of the Peace Agreement, in a comprehensive and sustained manner, especially in rural areas and with a particular focus on victims' rights and general enjoyment of human rights. As this is a long term process, continuing support and commitment of the Colombian society and authorities is necessary, as well as support from the international community. OHCHR recognizes the efforts undertaken by the Government and FARC-EP to advance in the reintegration of ex-combatants. According to the latest report of the UN Verification Mission in Colombia, the number of former FARC-EP members who are currently in academic activities has risen from 2,461 in January to 5,059 in October.² While the vast majority of former members of FARC-EP remained committed to the peace process, OHCHR was deeply concerned that a number of former commanders, including two head negotiators, returned to arms.³

6. OHCHR continued to observe persistently high levels of violence generating serious human rights violations. Of particular concern were attacks against human rights defenders, indigenous peoples and an increase in cases of alleged arbitrary deprivation of life, as well as grave human rights violations committed against children in the context of violence and

¹ See Peace Agreement's points: 3.4.3; 3.4.7.4.2; 5.1.2, paras. 60 and 62 related with 53(d); 6.3.4 and 6.4.2.

² S/2019/988, para. 41.

³ <https://colombia.unmissions.org/comunicado-de-prensa-de-la-misi%C3%B3n-de-verificaci%C3%B3n-de-la-onu-en-colombia-agosto-292019>.

armed conflict. OHCHR consistently highlighted the need to address, especially in rural areas, structural causes of violence, which are linked to lack of access to human rights.⁴

7. According to the police, the national homicide rate in 2019 was 25 per 100,000 persons, which reflects an endemic level of violence.⁵ OHCHR registered 36 massacres,⁶ involving 133 deaths, the highest number recorded by the Office since 2014. The departments most affected were Antioquia, Cauca and Norte de Santander, where ongoing disputes to control illicit economies were a major cause of this violence.

8. The National Liberation Army (ELN) operated mainly in Antioquia, Arauca, Cauca, Chocó, Norte de Santander and Nariño, persistently breaching international humanitarian law. On 17 January, ELN perpetrated an attack with improvised explosive devices against a police academy in Bogotá, killing 22 persons and triggering the breakdown of dialogue between the Government and ELN. The United Nations System in Colombia condemned this attack.⁷

9. Other violent groups continued to perpetrate threats, homicides and other serious human rights abuses, and to cause displacement. Based on OHCHR observation related to the criteria of intensity and organization,⁸ such groups, for example the Popular Liberation Army (EPL) in Cauca and Norte de Santander, and groups composed of former members of FARC-EP in Caquetá, Meta and Guaviare, would not currently be categorized as armed groups under international humanitarian law.

10. Criminal groups, such as the Autodefensas Gaitanistas de Colombia (or “Clan del Golfo”), the Caparros and La Mafia, and transnational criminal organizations, employed extreme violence in disputes over the control of illicit economies. These groups operated mainly in Antioquia, Cauca, Chocó, Córdoba, Guainía, Huila, La Guajira, Magdalena, Nariño, Norte de Santander, Putumayo and Valle del Cauca.

11. Efforts to establish a comprehensive State presence, particularly of civilian authorities, including the Office of the Attorney General and the police have been insufficient, especially in rural areas. The five Strategic Zones for Comprehensive Intervention established by the Government through Decree 2278 of 2019 were created to address this vacuum. However, OHCHR observed that State presence in these areas has remained predominantly military and that the pace of establishing a stronger presence of civilian authorities was slow.

12. On 27 October, regional elections were held to elect departmental governors and assemblies and municipal mayors and councils. During the electoral process, OHCHR documented the killing of seven candidates. Nonetheless, the elections day was peaceful compared to previous regional elections. Political parties and social movements other than the currently governing coalition won several important positions, including the mayor’s offices in Bogotá and Medellín.

13. OHCHR observed that women and LGBTI persons continued to face challenges to participate in electoral processes. Women represented 37.2 per cent of the candidates,⁹ and two women were elected as governors (6.2 per cent) and 132 as mayors (12 per cent),

⁴ A/HRC/34/3/Add.3, para. 45; A/HRC/37/3/Add.3, paras. 14-15; A/HRC/40/3/Add.3, paras. 11, 18-19 et al.

⁵ The World Health Organization considers there is endemic violence when the homicide rate is above 10 per 100,000 inhabitants.

⁶ A massacre occurs when three or more persons are killed in the same incident (same place and time) by the same alleged perpetrators.

⁷ <https://nacionesunidas.org.co/noticias/las-naciones-unidas-en-colombia-repudian-atentado-contra-la-escuela-de-cadetes-de-policia-general-santander/>.

⁸ ICTY, Prosecutor v. Boskoski, Case IT-04-82-T, Judgement (Court of First Instance) of 10 July 2008, paras. 199-203; ICTY, Prosecutor v. Haradinaj, Case IT-04-84-T, Judgement (Court of First Instance) of 3 April 2008, para. 49.

⁹ <https://mlr.vicpresidencia.gov.co/Paginas/prensa/2019/Con-mas-mujeres-elegidas-a-cargos-publicos-se-fortalece-la-democracia-Vicpresidenta.aspx>.

compared to five and 134 respectively in 2015.¹⁰ LGBTI persons represented only 0.06 per cent of the candidates.¹¹ Nevertheless, the number of elected LGBTI persons increased from six to 22 compared to 2015 and include the mayor of Bogotá.

14. OHCHR values the efforts of the Government to address the flux of nearly 1.7 million Venezuelan migrants who arrived in Colombia since 2015. OHCHR also values the adoption of measures, policies and allocation of resources aiming at guaranteeing the human rights of this population.

15. During 2019, mostly peaceful protests occurred in Barranquilla, Bogotá, Cali, Medellín, Neiva, Pasto, Popayán, and in some rural areas. Protesters opposed government policies related to pensions, labour and tax reforms, and called on authorities to fight corruption, implement the Peace Agreement and resume dialogue with ELN. In some cases, OHCHR noted with concern that the police responded disproportionately to isolated incidents of violence.¹²

III. Situation of human rights defenders

16. Defending human rights continued to be a high-risk activity in Colombia.¹³ In 2019, OHCHR documented 108 killings of human rights defenders, including 15 women and two LGBTI defenders. Whereas statistics convey the gravity of the problem, reducing the analysis to figures conceals the structural causes of violence against human rights defenders.

17. Of the 108 killings documented by OHCHR, 75 per cent occurred in rural areas; 86 per cent in municipalities with a multidimensional poverty index above the national average; 91 per cent in municipalities where the homicide rate indicates the existence of endemic violence; and 98 per cent in municipalities with the presence of illicit economies and ELN, other violent groups and criminal groups. Fifty-five per cent of these cases occurred in four departments: Antioquia, Arauca, Cauca and Caquetá. The sectors most affected continued to be those defending the rights of communities and ethnic groups, amounting to 65 per cent of all killings and sustaining a trend documented by OHCHR since 2016.

18. The killing of an Embera indigenous defender in April in Riosucio, Chocó, was emblematic. This municipality was marked by a high level of multidimensional poverty, endemic violence and the presence of ELN and criminal groups fighting to control drug trafficking, illegal mining and smuggling of migrants. The defender was killed because his advocacy on behalf of his community clashed with the interests of these groups. His killing exacerbated the marginalization of his community and decreased the likelihood of a new leadership stepping forward.

19. The rigorous application of the Office of the Procurator General's Directive 002 of 2017¹⁴ holds the promise of increasing the protection and recognition of the legitimacy and importance of human rights defenders.

20. OHCHR welcomes President Duque's recognition of the legitimacy and importance of human rights defenders.¹⁵ Nevertheless, human rights defenders participating in judicial proceedings involving high-level State officials and members of the military continued to be harassed. In September, OHCHR documented a case in Bogotá in which a defender

¹⁰ https://www.registraduria.gov.co/IMG/pdf/boletin_rnec_-_onum.pdf.

¹¹ Candidatos abiertamente LGBTI en cara a las próximas elecciones regionales. Caribe Afirmativo.

¹² See paras. 86-91 below.

¹³ <https://www.hchr.org.co/index.php/informacion-publica/comunicados-de-prensa/440-ano-2019/9115-cidh-y-las-presencias-de-onu-derechos-humanos-reiteran-su-llamado-para-la-creacion-de-un-ambiente-propicio-y-seguro-para-quienes-defienden-los-derechos-humanos-en-la-region>.

¹⁴ A/HRC/37/3/Add.3, para. 18.

¹⁵ <https://id.presidencia.gov.co/Paginas/prensa/2019/190613-No-podemos-dejar-liderazgo-social-sea-estigmatizado-ninguna-forma-estigmatizacion-puede-ser-permitida-ni-tolerada-Pr.aspx>.

involved in a judicial process regarding an alleged arbitrary deprivation of life was threatened. Sensitive information concerning the case was later stolen.

21. OHCHR continued to document attacks against representatives of Community Action Councils (JACs).¹⁶ Especially in rural areas, JACs serve as the main body for communities' political participation and the promotion of development and human rights initiatives. While noting a significant reduction from 2018, when it verified 46 cases, OHCHR documented 30 killings of representatives of JACs in 2019.

22. Killings of women human rights defenders increased by almost 50 per cent in 2019 compared to 2018. On 5 January, in Magdalena, an Afro-Colombian woman who was defending land allocation and the rights of forcibly displaced women was killed because she denounced the presence of a criminal group. The prompt and effective implementation of the Comprehensive Programme of Guarantees for Women Leaders and Human Rights Defenders¹⁷ should serve as an important tool for prevention, protection and investigation of attacks against women defenders.

23. In 2019, the Fundación para la Libertad de Prensa registered 113 threats and 360 attacks against media workers. OHCHR documented the killing of two journalists in Arauca and recorded attacks against journalists in Cesar, Magdalena and Bogotá.

24. In 2019, several mechanisms, such as Roundtables for Life, Leading Life Campaign and Summit for Social Dialogue, explored how to better protect human rights defenders and build consensus concerning key challenges. Colombia has a normative framework to prevent and address attacks against human rights defenders. However, coordination among State institutions - particularly between national and regional levels - to ensure the full implementation of this framework, remained a serious challenge. The Timely Action Plan initiated by the Ministry of Interior in December 2018 was developed to improve such coordination. To increase the effectiveness of this Plan, broader and more sustained participation of regional authorities and civil society should be prioritized.

25. Colombia maintained other mechanisms relevant to the protection of human rights defenders. The National Commission on Security Guarantees should be more regularly convened in order to fulfil its full role pursuant to the Peace Agreement, particularly concerning the dismantlement of criminal groups that succeeded the paramilitary organizations and were often responsible for killings of human rights defenders. The Intersectoral Commission for Rapid Response to Early Warnings (CIPRAT) should sharpen its focus on human rights defenders, especially by defining coordinated and concrete measures to implement actions based on recommendations of the Ombudsman's early-warning system.

26. The Ministry of Interior's National Protection Unit (UNP) made significant efforts to respond to the extraordinarily high demand for individual protection measures. Still, measures granted were not always adequate for the rural contexts in which most human rights defenders were killed. In 2019, six human rights defenders were killed in rural areas of Cauca, Chocó, Nariño and Risaralda despite protection measures. Prevention and early warning should be prioritized over temporary, individual and reactive protection measures, which do not address the structural causes behind the attacks.¹⁸

27. OHCHR highlights the need to increase collective protection measures. Such measures constitute a prevention mechanism, inasmuch as they seek to address risks faced by communities and organizations through the coordination of different authorities to advance human rights guarantees. Whereas the 2019 budget for collective protection measures represented merely 0.22 per cent of the budget of UNP, the implementation of collective protection measures was often hampered by coordination issues between national, departmental and municipal institutions.

¹⁶ A/HRC/37/3/Add.3, para. 43.

¹⁷ <https://colombia.unwomen.org/es/noticias-y-eventos/articulos/2018/06/comunicado-programa-garantias>.

¹⁸ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23518&LangID=E>.

28. OHCHR appreciated the efforts of the Office of the Attorney General to investigate the cases it reported and noted some progress in 55 per cent of these cases, all of which occurred between 2016 and 2019.¹⁹ However, challenges persisted in the prosecution of intellectual authors of attacks against human rights defenders.

29. In order to increase their effectiveness, prevention strategies, such as the Comprehensive Public Policy on Guarantees for Human Rights Defenders and the preventive aspects of the current concept for a Human Rights National Action Plan, should recover the broad, diverse and inclusive participatory processes they envisaged. Furthermore, the authorities should focus on identifying and comprehensively addressing structural causes of violence, which affect human rights defenders.

IV. Access to justice and fight against impunity

A. Integrated System for Truth, Justice, Reparation and Non-recurrence

30. OHCHR observed progress in the implementation of the Integrated System for Truth, Justice, Reparation and Non-recurrence established by the Peace Agreement. Throughout 2019, the system extended its territorial reach by establishing 66 field presences, thus facilitating victims' participation.

31. The mechanisms of the Integrated System made positive efforts to include an ethnic perspective in their work in order to guarantee prior, free and informed consent, in accordance with international norms and standards. Protocols on relations with indigenous peoples and for coordination between the special indigenous jurisdiction and the Special Jurisdiction for Peace (JEP) were adopted. Furthermore, indigenous peoples had central roles in processes regarding the clarification of truth and the search for disappeared persons.

1. Special Jurisdiction for Peace

32. OHCHR welcomed the approval of the statutory law on 6 June, which provides JEP with a firm legal standing. OHCHR provided technical advice to JEP to ensure its procedures would comply with international human rights norms and standards, in particular on victim's participation, protection of archives and restorative justice. Key advances were observed related to cases of gross human rights violations prioritized by JEP (known as "macro-cases"),²⁰ for example the recovery of victims of alleged arbitrary deprivation of life and enforced disappearances buried in Dabeiba, Antioquia. OHCHR encourages the prioritization of additional macro-cases, such as those involving sexual violence and enforced disappearances.

33. On 3 September, JEP excluded seven former FARC-EP commanders from its jurisdiction, owing to their non-compliance with prerequisites established in the Peace Agreement. The Office of the Attorney General has assumed and prioritized the investigations of alleged crimes committed by these persons.

34. Threats and attacks against victims, their families and alleged perpetrators and their representatives involved in proceedings before JEP were reported to OHCHR. Guaranteeing the security of all concerned, particularly through comprehensive protection measures and by systematically and effectively investigating such threats and attacks, remains urgent.

¹⁹ The accused had been convicted in 16 per cent of the cases; 20 per cent were at trial stage; indictments had been issued in 7 per cent of cases; and a valid arrest warrant had been delivered in 11 per cent of cases.

²⁰ <https://www.jep.gov.co/Infografas/conozcalajep.pdf>.

2. Special Unit for the Search for Persons deemed as Missing in the Context of the Armed Conflict

35. OHCHR recognizes the efforts of the Special Unit for the Search for Persons deemed as Missing in the Context of the Armed Conflict (UBPD) to prioritize the participation of families. It commends the participation of victims, including those in exile, civil society organizations, LGBTI persons and organizations, ethnic groups and State institutions in the formulation of the National Search Plan.

36. UBPD and the National Institute for Forensic Medicine coordinated to locate victims of disappearances and address challenges in the identification and custody of unidentified bodies. OHCHR recognizes the collaboration of former members of FARC-EP in the search for disappeared persons and their efforts to contribute to reparations for victims.

3. Commission for the Clarification of Truth, Coexistence and Non-recurrence

37. During the course of 2019, the Commission for the Clarification of Truth, Coexistence and Non-recurrence (CEV) collected approximately 5,500 testimonies from victims and their families, thereby contributing to a deeper understanding of the armed conflict. With OHCHR's participation, CEV promoted dialogue towards non-recurrence. It also conducted activities for the recognition of victims, with the participation of human rights defenders, women and LGBTI victims of sexual violence and, jointly with UPBD, with families of victims of enforced disappearances.

B. Victims and Land Restitution Law

38. OHCHR welcomed President Duque's announcement that the period of implementation of the Victims and Land Restitution Law will be extended.²¹ In a public hearing before the Constitutional Court, OHCHR emphasized that any reform to this Law should take into account progress made in guaranteeing victims' rights.²²

39. During 2019, OHCHR facilitated dialogues between and provided technical advice to the Land Restitution Unit and indigenous peoples and Afro-Colombian communities on 14 land restitution processes potentially benefitting 6,647 families. Still, in some regions, such as Antioquia, Arauca, Catatumbo, Sur de Bolívar and Urabá, progress in land restitution was hindered by the dominance of illicit economies on land subject to restitution.

C. Access to justice

40. Access to justice remained a challenge, perpetuating cycles of impunity and violence. The Office of the Attorney General is present in almost half of Colombia's municipalities. Nevertheless, it continued to face difficulties to reach rural areas, especially in Antioquia, Arauca, Amazonas, Caquetá, Cauca, Chocó, Guaviare, Huila, Meta, Nariño and Vaupés, greatly affecting its capacity to guarantee access to justice for all. This limited presence was attributable to insufficient material, technical and human resources, and especially the lack of effective protection so that prosecutors and investigators could safely conduct their work in rural areas. An excessive workload also limited prosecutors' capacity to conduct investigations. An insufficient number of judicial police officers and long delays with forensic support services exacerbated the situation.

41. OHCHR observed instances of authorities in Antioquia, Arauca, Guaviare and Nariño not applying the Office of the Attorney General's protocol regarding situations of

²¹ <https://id.presidencia.gov.co/Paginas/prensa/2019/Presidente-Duque-anuncia-que-presentara-al-Congreso-proyecto-de-ley-con-mensaje-de-urgencia-para-prorrogar-10-anos-191011.aspx>.

²² <https://www.hchr.org.co/index.php/informacion-publica/pronunciamientos/intervenciones-de-la-direccion/442-ano-2019/9106-intervencion-de-la-oficina-en-colombia-de-la-alta-comisionada-de-las-naciones-unidas-para-los-derechos-humanos-audiencia-publica-sobre-la-ley-1448-de-2011-d-13170>.

alleged enforced disappearance, in particular relating to the immediate initiation of urgent search procedures.

42. OHCHR documented cases of alleged arbitrary deprivation of life by members of the military and police.²³ In following up on these cases, OHCHR was concerned that the military criminal justice system continued to request jurisdiction over such investigations. In some instances, the Office of the Attorney General even referred cases to the military justice system. In the case of El Tandil, Nariño, the Office of the Attorney General did not take the necessary actions to retain the case within its jurisdiction.

43. According to international norms and standards, the military justice system should not investigate, prosecute and sanction those responsible for alleged human rights violations. Such cases should always remain under the ordinary justice system.²⁴ OHCHR urges the Office of the Attorney General to retain jurisdiction over cases of human rights violations. OHCHR further urges the Superior Council of the Judiciary to adhere strictly to international norms and standards when determining the competent jurisdiction.

44. OHCHR welcomes the Directive 003 of the Office of the Procurator General prohibiting a statute of limitations on disciplinary investigations of State crimes, crimes against humanity and human rights violations. In addition, OHCHR highlights the need for human rights records to be reviewed in the process of appointing State officials, both civil and military, to prevent individuals involved in gross human rights violations from holding public positions.

V. Security and human rights

45. OHCHR observed an increased resort to the military to respond to situations of violence and insecurity. Despite existing protocols, norms and public policies regulating the participation of the military in situations related to public security,²⁵ these were not fully applied in a range of settings,²⁶ such as in rural areas in Arauca, Antioquia, Caquetá, Cauca, Córdoba, Cesar, Chocó, Meta, Nariño and Norte de Santander. Nor were they fully applied in urban centres, such as Convención, Medellín, Santa Marta and Valledupar, where the military conducted anti-narcotics operations and other law enforcement activities. Military training, equipment and the nature of military duties are inappropriate in such circumstances. According to police statistics,²⁷ homicides increased in municipalities in Arauca, Norte de Cauca, Catatumbo and Sur de Córdoba, despite an increased military presence.

46. According to jurisprudence of the Inter-American Court of Human Rights, the police should be responsible for maintaining public order and democratic governance. While the participation of the military may be justified in circumstances of serious threats, its use must be extraordinary, exceptional, justified, temporary, restricted and subordinated to civilian authorities.²⁸ The oversight provided by civilian authorities must ensure that the military complies with the principles of exceptionality, proportionality and necessity.²⁹

²³ See para. 49 and ss. below.

²⁴ See Human Rights Committee CCPR/C/104/D/1914-16/2009; CCPR/C/79/Add.74; CCPR/C/79/Add.2; CCPR/C/79/Add.76; Also see Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity, E/CN.4/2005/102/Add.1; Report of the Special Rapporteur on the independence of judges and lawyers, A/68/285; and Inter-American Court of Human Rights, Monitoring the compliance with sentences in the cases of Radilla Pacheco, Fernández Ortega and Others, and Rosendo Cantú and Other vs. México, footnote 37, p. 8, 17 April 2015.

²⁵ Law 1801 of 2016, article 170.

²⁶ https://www.esmic.edu.co/recursos_user///Disposicion%20002%20RDE%20Uso%20Fuerza%20Bicentenario%202019.pdf.

²⁷ <https://www.policia.gov.co/delitos-de-impacto/homicidios>.

²⁸ See http://www.corteidh.or.cr/docs/casos/articulos/resumen_370_esp.pdf and A/HRC/31/66.

²⁹ UN Code of Conduct for Law Enforcement Officials, articles 1 and 3. See also the analysis of Human Rights Council's special procedures in:

47. Directives 015 of 2016 and 037 of 2017 opened the door to the use of the military against groups that did not meet the standards of application of international humanitarian law and led to serious human rights violations.³⁰ For example, on 4 February in Ituango, Antioquia, two persons, allegedly members of a criminal group, were killed by the military during an undercover anti-narcotics trafficking operation. OHCHR calls on the authorities to comply strictly with international norms and jurisprudence applicable to criminal groups and other violent groups.

48. On 15 September, the General Command of the Colombian Armed Forces' announcement³¹ establishing anti-riot squads composed of professional soldiers raised questions concerning Colombia's respect for the Inter-American Commission on Human Rights' guidance³² related to the responsibility of the police, rather than the military, to maintain public order. On 30 September, in Barranquilla, the military intervened during student protests at Atlántico University, using potentially lethal force, when there was no imminent threat to life or serious injury. Whereas no serious injuries occurred on this occasion, the use of such force in these circumstances sets a worrying precedent.

49. OHCHR documented 15 cases of alleged arbitrary deprivation of life in Antioquia, Arauca, Bogotá, Cauca, Guaviare, Meta, Nariño, Norte de Santander, Santander and Valle del Cauca. This was the highest number of such cases OHCHR recorded since 2016. In 13 cases, the deaths appeared to have been caused by unnecessary and/or disproportionate use of force. According to information documented by OHCHR, in 11 cases the deaths occurred in military operations related to public security involving anti-narcotics and law enforcement activities. In six cases, the deaths were preceded by law enforcement activities that potentially could have allowed for the arrest of the suspects and thus avoided their killing. In one case, OHCHR observed that weak command and control appeared to result in the killing and attempted enforced disappearance of one person. The military was allegedly responsible in 10 cases and the police in four, while there was alleged joint responsibility for one killing. In all 15 cases, the Office of the Attorney General initiated investigations, but these did not appear to follow the Minnesota Protocol.³³

50. On 22 April, in Convención, Norte de Santander, an army corporal killed a former FARC-EP member who had demobilized under the Peace Agreement. This killing was allegedly perpetrated on the order of a colonel. The corporal and other soldiers attempted to disappear the body by burying it in a clandestine grave. The Office of the Attorney General made significant advances in the investigation, including with respect to the role of the colonel. The corporal directly responsible for the killing was convicted and sentenced to 20 years of imprisonment, while a lieutenant who collaborated with the investigation was removed from the military.

51. On 27 July, in La Lizama, Santander, a soldier allegedly killed a 17-year old boy in front of a military base during a search operation related to small-scale drug trafficking. On 28 May, in San José del Guaviare, two former FARC-EP who had not demobilized under the Peace Agreement and were allegedly members of other violent groups were found dead after having been arrested by the police. On 19 September, in Toledo, Norte de Santander, the military shot a former municipal councilwoman and beneficiary of UNP protection measures and killed her bodyguard. This occurred during an operation to recover a stolen vehicle. The military reportedly opened fire when the councilwoman was exiting the car, with her hands up, and after the bodyguard had identified himself.

52. Notwithstanding the Ministry of Defence's zero-tolerance policy with regard to sexual violence, OHCHR documented three cases of sexual violence allegedly perpetrated

³⁰ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22535&LangID=E>

A/HRC/40/3/Add.3, para. 87, A/HRC/37/3/Add.3, para. 78, A/HRC/34/3/Add.3, para. 66.

³¹ <https://www.cgfm.mil.co/es/blog/nuevos-soldados-profesionales-hacen-parte-de-pelotones-antidisturbios>.

³² Inter-American Commission on Human Rights, 2015 Annual Report, Chapter IV.A, para. 38.

³³ Available at <https://www.ohchr.org/EN/Issues/Executions/Pages/RevisionoftheUNManualPreventionExtraLegalArbitrary.aspx>.

by the military, in Arauca, Guaviare and Meta. OHCHR also documented cases of unlawful detentions, in Antioquia, Arauca and Guaviare. In some cases, these unlawful detentions allegedly involved torture and ill-treatment.

53. OHCHR received information documenting that, on 8 April in Valdivia, Antioquia, members of a criminal group and other violent groups not only participated in an official military operation, but did so carrying weapons. Further, these individuals participated in actions falling within the prerogative of official authorities, such as conducting searches and seizures and detaining persons. In doing so, they illegally detained two farmers, whom they subsequently ill-treated. These detentions were later declared illegal by the judiciary. The responsibility for crimes and human rights violations committed by individuals who are not State agents, but act as such during official operations is incumbent upon the State.³⁴ In this case, the responsibility extends to the chain of command responsible for the operation.

54. OHCHR documented cases of alleged torture and ill-treatment by the police in Antioquia, Arauca, Bogotá, Huila and Putumayo. In Antioquia, the police allegedly arrested a man and put him in a cell with members of a criminal group, while telling them that he was a member of a rival criminal group. The police reportedly let the other detainees beat him before themselves beating him and using electric shocks to obtain information. The investigations of the Office of the Attorney General concerning these cases require the full application of the Istanbul Protocol.³⁵

55. OHCHR values its ongoing dialogue with the Ministry of Defence on cases of alleged arbitrary deprivation of life and other military and police actions that could constitute human rights violations. Despite differences regarding the analysis and conclusions on these cases, OHCHR reiterates its willingness to continue this dialogue.

56. Police continued to recruit civilians to eradicate illicit crops. This practice exposes civilians to loss of life or injury due to the presence of anti-personnel mines and unexploded ordnance among the crops. Between January and November, 24 civilians and 8 anti-narcotics police officers were affected by such devices in Tumaco, Nariño, while eradicating illicit crops.

57. Regarding corruption, OHCHR received information regarding possible cases involving members of the police and the military in Amazonas, Antioquia, Caquetá, Chocó, Cauca, Cesar, La Guajira, Magdalena, Nariño, Huila, Putumayo and Valle del Cauca. This possible corruption could have compromised the effectiveness of the fight against the ELN, criminal groups and other violent groups. One of the most serious cases occurred in Antioquia, where at least 26 members of criminal groups were captured carrying weapons with special permits that only the military can grant.

58. OHCHR noted that police presence remained insufficient in most rural areas, especially in Amazonas, Antioquia, Arauca, Caquetá, Córdoba, Guaviare, Huila, Meta, Nariño, Norte de Santander and Sucre. The State must strengthen the institutional capacity of the police with the objective of increasing its presence in rural areas, including through the deployment of specialized units. Additionally, effective internal oversight mechanisms and the inclusion of a human rights-based approach in the execution of police duties are essential. OHCHR stands ready to provide additional technical assistance in this regard.

³⁴ ICTY, *Prosecutor v. Tadic*, Appeals Chamber IT-94-1-A, Judgement of 15 July 1999, paras. 141 and 144.

³⁵ Available at <https://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>.

VI. Economic, social, cultural and environmental rights

A. Inequality and corruption

59. During 2019, the gross domestic product increased by 3,3%.³⁶ Since 2016, multidimensional poverty increased by 1.8 per cent, with radical inequalities between urban and rural areas,³⁷ thereby affecting access to a range of economic, social and cultural rights. This increase signals a need to redouble efforts to progressively guarantee economic, social and cultural rights. According to the Economic Commission for Latin America (ECLAC), Colombia is among the three countries with the highest levels of inequality in Latin America, with a Gini coefficient of 0.51. ECLAC determined that, if the average income growth and wealth distribution remained the same from 2008 until 2017, Colombia would not meet the Sustainable Development Goal of reducing extreme poverty to three per cent by 2030.³⁸

60. Corruption adversely affected the State's ability to fulfil its obligation to allocate the maximum of its available resources to guarantee economic, social and cultural rights. The National Development Plan 2018-2022 recognizes that "corruption has a devastating effect on development in communities and regions."³⁹ The Office of the Comptroller General indicated that it only monitored 17 per cent of the national budget and recovered merely 0.4 per cent of funds embezzled annually.⁴⁰ The Office of the Attorney General revealed that the cost of corruption in the health sector alone was approximately USD 295 million.⁴¹ OHCHR regretted that, as of December 2019, Congress had approved only four of 24 anti-corruption bills that had been considered.⁴²

B. Inequality and discrimination

61. The percentage of people living in multidimensional poverty was three times higher in rural than urban areas.⁴³ The percentage of rural households without access to drinking water was almost 16 times higher than in urban areas and illiteracy was almost four times higher, evidencing an increase compared to 2018.⁴⁴ Indigenous peoples and Afro-Colombian communities, the majority of whom live in rural areas, are disproportionately affected by such discrimination. The five departments with the highest levels of multidimensional poverty were Chocó, Guainía, La Guajira, Vaupés and Vichada,⁴⁵ which have the highest representation of indigenous peoples and Afro-Colombian communities.⁴⁶

62. The Committee on the Elimination of Discrimination against Women expressed concern regarding Colombia's gender wage gap, as women continued to earn less than men,

³⁶ <https://www.dane.gov.co/index.php/estadisticas-por-tema/cuentas-nacionales/cuentas-nacionales-trimestrales>.

³⁷ https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2018/cp_pobreza_multidimensional_18.pdf.

³⁸ ECLAC, *Panorama Social de América Latina*, 2018, p. 21.

³⁹ *Bases del Plan Nacional de Desarrollo 2018-2022*, p. 45.

⁴⁰ <https://www.eltiempo.com/justicia/investigacion/contralor-carlos-felipe-cordoba-la-contraloria-no-funciona-es-ineficiente-y-obsoleta-404536>.

⁴¹ <https://www.fiscalia.gov.co/colombia/noticias/el-sector-de-la-salud-ha-perdido-en-billon-de-pesos-por-hechos-de-corrupcion-fiscal-martinez-neira/>.

⁴² <https://transparenciacolombia.org.co/wp-content/uploads/veeduria-anticorrupcion-boletin-7.pdf>

⁴³ https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2018/cp_pobreza_multidimensional_18.pdf.

⁴⁴ A/HRC/40/3/Add.3, para. 60.

⁴⁵ https://www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2018/cp_pobreza_multidimensional_18.pdf.

⁴⁶ <https://www.dane.gov.co/files/investigaciones/boletines/grupos-etnicos/presentacion-grupos-etnicos-2019.pdf>.

with a salary gap of 19 per cent.⁴⁷ In addition, 13.1 per cent of women were unemployed, compared to 8.1 per cent of men.⁴⁸

63. OHCHR observed huge challenges to fulfilling the right to health in rural areas. The maternal mortality rate in Amazonas, Chocó, La Guajira, Vaupés and Vichada showed a slight decrease in 2019⁴⁹ compared to 2018.⁵⁰ However, this rate was still higher than for the rest of Colombia. In rural areas of Amazonas, Antioquia, Arauca, Caquetá, Guainía, Putumayo and Vaupés, there were no health centres accessible to the populations or facilities were in poor conditions, lacking personnel and medication.

C. Comprehensive Rural Reform

64. The Peace Agreement set out an agenda of comprehensive rural reform, with the effective participation of communities at all stages. Its stated objectives are to eradicate extreme poverty, reduce the gaps between rural and urban areas, and promote equality by strengthening rural economies and improving access to land for peasant families and communities. This reform was initiated in 2017 with the adoption of norms to promote the formalization of land titles and land allocation.

65. To achieve its objectives, the Comprehensive Rural Reform envisaged the establishment of a range of plans, entities and mechanisms, including the Multipurpose Cadaster,⁵¹ Development Plans with a Territorial Approach (PDET),⁵² a Land Fund⁵³ and National Plans for Comprehensive Rural Reform.⁵⁴

66. On 30 August in Ovejas, Sucre, 1,158 land titles were provided to local communities, thanks to an initial pilot plan to implement the Multipurpose Cadaster.⁵⁵ OHCHR hopes that progress will be achieved in the other 22 municipalities included in the pilot plan.

67. In 2018, 16 PDETs were formulated with high levels of community participation, including indigenous peoples and Afro-Colombian communities. While this generated significant hope for the effective implementation of PDETs, during the reporting period, OHCHR observed few advances and minimal coordination with other relevant programmes, such as the Collective Reparation Plan contained in the Victims and Land Restitution Law and the Comprehensive National Programme for the Substitution of Illicit Crops (PNIS).

68. While two National Plans for Comprehensive Rural Reform were approved in 2018,⁵⁶ no advances were observed in 2019.

69. Rural reforms should lead to more equitable access to land and improvements in the enjoyment of the right to an adequate standard of living. Such advances hold the promise of

⁴⁷ CEDAW/C/COL/CO/9, para. 35.

⁴⁸ https://www.dane.gov.co/files/investigaciones/boletines/ech/ech_genero/bol_eje_sexo_may19_jul19.pdf.

⁴⁹ https://www.ins.gov.co/buscadoreventos/BoletinEpidemiologico/2019_Boletin_epidemiologico_semana_47.pdf, p. 6.

⁵⁰ <https://www.ins.gov.co/buscadoreventos/BoletinEpidemiologico/2018%20Boletin%20epidemiológico%20semana%2047.pdf>, p. 9.

⁵¹ Tool that seeks to establish a clear land registration system and to provide information on the physical, legal and economic aspects of the land.

⁵² Its objective is to carry out rural reforms through participatory planning, particularly in 170 municipalities most affected by the conflict.

⁵³ The Land Fund was created for free distribution of land to rural people without land, or with insufficient land.

⁵⁴ These Plans seek to eradicate extreme poverty and reduce rural poverty by 50 per cent developing specific plans related to rights such as access to healthcare, education, housing and environment.

⁵⁵ <https://id.presidencia.gov.co/Paginas/prensa/2019/Ovejas-primera-gran-jornada-masiva-registro-predios-municipio-nuestro-pais-piloto-Catastro-Multiproposito-190830.aspx>.

⁵⁶ National Road Plan of the Transport Ministry and National Electrification Plan of the Mining and Energy Ministry.

contributing to resolving the structural causes of violence. In this regard, the Comprehensive Rural Reform should be supported by an adequate budget to fully implement all of the plans, entities and mechanisms established in the Peace Agreement, rather than a limited focus on PDETs. However, the 2020 budget was reduced for all the institutions responsible for implementing the Comprehensive Rural Reform.⁵⁷

D. Environmental rights

70. The ratification, on 26 August, of the Minamata Convention on Mercury was a positive development. Mercury contamination however persisted, including in the river basins of the Apaporis, Atrato, Caquetá, Cauca and Nechí rivers. This particularly affected indigenous peoples, Afro-Colombians and farming communities.

71. In December, Colombia signed the Escazú Agreement⁵⁸ (Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean). Ratification and implementation of this Agreement should improve the protection of environmental defenders.

72. In Antioquia, OHCHR documented the negative impact of the Hidroituango dam on the rights to work, water, food, an adequate standard of living and a healthy environment of the fishing communities in Cáceres, Cauca, Nechí, Tarazá and Valdivia. Indigenous peoples and Afro-Colombian communities were particularly affected. After an emergency related to the construction of the dam, the countermeasures dried the Cauca River, causing fish to die on a massive scale, destroying crops and the disappearance of water sources, affecting communities' rights to work, food and water.

73. On 30 December, the Ministry of Justice published a draft decree to resume aerial fumigation of illicit crops with glyphosate.⁵⁹ The Committee on Economic, Social and Cultural Rights had previously noted with concern the "negative consequences of anti-narcotics measures such as the effect of aerial fumigation on food security, adverse health impacts and denial of livelihoods."⁶⁰ OHCHR highlights the recent determination, in a joint report by the Government and United Nations Office on Drug and Crime (UNODC), that 95 per cent of families participating in PNIS fulfilled the voluntary eradication requirement, whereas 0.4 per cent returned to the cultivation of illicit crops.⁶¹

VII. Gender, ethnic peoples and persons entitled to special protection

A. Sexual and gender-based violence

74. According to the most recent information available from Colombia's National Institute for Forensic Medicine, in 2018 the rate of sexual violence was 52.3 victims per 100,000 inhabitants, which was 4.02 points higher than in 2017, and was the highest in 10 years. Of the total number of victims, 85.6 per cent were female and 14.4 per cent were male. The average age of victims was 12.⁶²

75. OHCHR documented 13 cases involving 15 female victims, including 13 minors, in Antioquia, Arauca, Caquetá, Guaviare, Meta and Nariño. In ten of these cases, the alleged

⁵⁷ <https://www.dejusticia.org/column/una-paz-austera/>.

⁵⁸ https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf.

⁵⁹ <https://www.semana.com/nacion/articulo/con-borrador-de-decreto-el-gobierno-activa-su-ruta-hacia-la-reanudacion-del-glifosato/646647>.

⁶⁰ E/C.12/COL/CO/5, para. 28.

⁶¹ Informe No. 19 Programa Nacional Integral de Sustitución de Cultivos Ilícitos – PNIS, 12 November 2019.

⁶² <http://www.medicinalegal.gov.co/documents/20143/386932/Forensis+2018.pdf/be4816a4-3da3-1ff0-2779-e7b5e3962d60>.

perpetrators were members of ELN, criminal groups and other violent groups, while members of the military were allegedly involved in three cases. OHCHR is aware that the Office of the Attorney General initiated investigations concerning the latter three cases.

76. The authorities' response to sexual and gender-based violence remained insufficient. OHCHR noted that some authorities in Antioquia, Arauca, Guaviare and Nariño were unaware of the Office of the Attorney General's protocol concerning cases of sexual violence. In Arauca, the Office of the Attorney General denied access to justice to a disabled woman victim of sexual violence, specifically by not providing an interpreter who could have allowed her to provide testimony. In Guaviare, the police failed to activate the mandatory urgent search protocol for a disappeared indigenous girl who was a victim of sexual violence.

B. Sexual and reproductive rights

77. Nineteen per cent of children born between January and September 2019 were born to mothers under the age of 19.⁶³ To avoid such a high incidence of teenage pregnancies, the State should take measures to guarantee full access to sexual and reproductive rights.

78. Legislative bill 11 of 2019, which remained before the Senate in December 2019, was of concern. This bill aims to regulate conscientious objection regarding abortion, euthanasia, and same-sex marriage, in particular by allowing healthcare workers to invoke moral principles to deny medical assistance. If adopted, it would negatively affect access to legal abortion services and treatment for complications arising from unsafe abortions.⁶⁴

C. Rights of indigenous peoples and Afro-Colombian communities

79. On 11 November, after 17 years of efforts and following a forensic identification, the remains of 78 Afro-Colombian victims of the Bojayá (Chocó) church massacre of 2 May 2002⁶⁵ were returned to their families for traditional burial. OHCHR promoted the coordination of State institutions to support this process.

80. Guaranteeing the right to free, prior and informed consent for indigenous peoples and Afro-Colombian communities remained a challenge, in particular as the implementation of the relevant procedures of the Ministry of Interior did not meet international standards. OHCHR observed this situation in Putumayo with the Nasa and Quicwa peoples, in Guainía with the Piapoco and Sikuani peoples, and in Norte de Santander with the Bari people.

81. Illegal economic activities of criminal groups and other violent groups negatively affected the use of traditional lands. Cases which OHCHR observed in 2019 affected the Wiwa Seyamuke Arimaka indigenous community in La Guajira, the Awá and Eperara-Siapidara peoples in Nariño, and the Afro-Colombian community councils along the Pacific coast of Nariño.

82. OHCHR is deeply concerned by the high number of killings of indigenous people in Cauca. In 2019, the National Institute of Forensic Medicine registered an increase of almost 52 per cent in homicides of indigenous people in Cauca compared to 2018.⁶⁶ Between January and November 2019, OHCHR registered the killing of 66 members of the indigenous Nasa people in northern Cauca, including 13 indigenous authorities and other

⁶³ https://www.dane.gov.co/files/investigaciones/poblacion/bt_estadisticasvitalas_Ilttrim_2019pr-27-septiembre-2019.pdf.

⁶⁴ CEDAW/C/COL/CO/9, paras. 37-38.

⁶⁵ In 2002, approximately 104 persons seeking refuge in a church were killed in the explosion of an improvised explosive device fired by FARC-EP during a confrontation with the United Self-Defense Forces of Colombia (a paramilitary group). See: <https://www.hchr.org.co/documentoseinformes/informes/tematicos/bojaya.pdf>.

⁶⁶ <https://docs.google.com/viewerng/viewer?url=http://www.wradio.com.co/docs/201911148225997a.pdf>.

Nasa leaders. Urgent, effective and culturally appropriate prevention and protection measures for these communities need to be taken in consultation with the indigenous authorities.

D. Rights of persons with disabilities

83. OHCHR commends the adoption of Law 1996 of 2019, which recognizes that persons with disabilities above 18-year old have full legal capacity. This new law complies with the recommendation of the Committee on the Rights of Persons with Disabilities.⁶⁷ The challenge remains to guarantee respect for the legal capacity provided for in the Law, including by facilitating access to legal resources to ensure that persons with disabilities can make their own decisions.

E. Children

84. OHCHR observed an increase in the use of children by criminal groups and other violent groups, as well as their forced recruitment by ELN in Antioquia, Arauca, Caquetá, Chocó, Guaviare, Meta and Norte de Santander. In addition to the abuses and violations these children experienced, this exposes them to grave risks arising from military and police actions against these groups. OHCHR documented the case of a 15-year old boy who was killed during an operation against an ELN commander conducted in Antioquia on 29 June. OHCHR also documented the killing of three girls and four boys in the context of military bombings against other violent groups⁶⁸ in Caquetá and Guaviare on 30 August. OHCHR also recorded the killing of 19 children (16 boys and three girls) by criminal groups in Antioquia, Caquetá, Nariño and Norte de Santander.

F. Rights of LGBTI persons

85. Despite legislation and jurisprudence protecting their rights, violence and discrimination against LGBTI persons continued. Between January and November 2019, NGO sources reported the killing of 45 LGBT persons.⁶⁹ In its 2018 report, the National Institute of Forensic Medicine recorded 45 killings of LGBT persons and 237 cases of sexual violence against individuals belonging to the LGBT community.⁷⁰ Over 34 per cent of victims were lesbians, 33.75 per cent were gay men and 22.36 per cent were bisexual women.⁷¹ OHCHR documented the killing of a bisexual woman human rights defender that occurred on 16 May in Ocaña, Norte de Santander. The victim had previously received threats related to her sexual orientation. OHCHR also documented two cases that occurred in Cesar and La Guajira, where a total of seven victims were physically abused, humiliated and threatened with rape by police officers.

VIII. Right to peaceful assembly

86. In late November, a campaign of social protests was initiated across Colombia. While these were predominantly peaceful, there were isolated instances of violence against the police, public and private infrastructure, and protesters. Barranquilla, Bogotá, Cali, Medellín, Neiva, Pasto and Popayán saw the largest protests, yet protests also took place in rural areas. Whereas the social movements leading the campaign continued as of the

⁶⁷ CRPD/C/COL/CO/1, para. 31, 2016.

⁶⁸ See above para. 9.

⁶⁹ Colombia Diversa, Sistema de Información de Violencia contra Personas LGBT-Sin Violencia LGBT. Data do not include intersex persons.

⁷⁰ This institution does not take into account intersex persons.

⁷¹ <http://www.medicinalegal.gov.co/documents/20143/386932/Forensis+2018.pdf/be4816a4-3da3-1ff0-2779-e7b5e3962d60>.

finalization of the present report, OHCHR presents the following information related to its observation of protests from 21 November to 12 December.

87. Some members of the Police's Mobile Anti-Riot Squadron (ESMAD) did not comply with international norms and standards on the use of force. Previously, OHCHR had explicitly expressed concerns regarding ESMAD rules of engagement.⁷² OHCHR documented what appeared to be the arbitrary deprivation of life of an 18-year-old student in Bogotá by an ESMAD agent armed with a 12-gauge rifle loaded with a beanbag. Protesters in Bogotá, Cali and Medellín suffered ocular or cranial injuries owing to beatings or impacts from projectiles shot by security forces. According to the Ministry of Health, between 21 and 26 November, at least 36 protesters and four members of the security forces suffered injuries that required hospitalization.

88. Throughout the course of the protests, some police officers also reportedly perpetrated acts that may amount to ill-treatment and torture of protesters, including forced nudity, death threats with racist undertones and repeated beatings. Some protesters were allegedly arrested and beaten by members of the police, taken to police stations and forced to admit to violent behaviour and pay fines. In Bogotá, OHCHR documented a case involving the beating, resulting in severe head injuries, of a young woman by five police officers as she was filming a documentary of the protests. While a formal complaint was filed with the Office of the Attorney General, the victim's treatment was qualified as abuse of authority.

89. OHCHR is concerned that most of the detentions conducted during the protests resulted from the frequent use of an administrative provision called "transfer for protective purposes".⁷³ This provision gives extensive discretionary powers to the police to limit the right to liberty. This was observed by OHCHR during a peaceful and silent demonstration on 7 December at Bogotá's airport. According to the police, 1,662 persons were detained in application of this provision nationwide between 21 November and 12 December.

90. The protests also featured several attacks on journalists and representatives of alternative media outlets. Between 21 and 23 November, the Fundación para la Libertad de la Prensa reported at least 32 cases of alleged physical attacks or obstruction of journalists nationwide. Twenty-three of these cases were reportedly attributed to the police and nine to protesters. OHCHR documented three cases of alleged excessive use of force and four cases of arbitrary detention affecting journalists.

91. 48 hours prior to the first protests,⁷⁴ the judicial police conducted at least 36 searches against alternative media outlets, artists' associations, non-governmental organizations and students' houses in Bogotá, Cali and Medellín. These searches were conducted under instructions of the Office of the Attorney General. Charges were pressed in only two cases and both of the accused were released from custody after their court hearings, because the evidence produced could not be further probed. As of the finalization of this report, the judiciary has declared 10 of the searches illegal. Several organizations affected informed OHCHR that they believed the operations were intended to intimidate protesters and hinder the enjoyment of the right to peaceful assembly.

IX. Recommendations

92. **The High Commissioner for Human Rights reiterates the recommendations made in previous reports and adds the following recommendations:**

(a) **Calls upon the State to continue making progress in the implementation of all chapters of the Peace Agreement in comprehensive and sustained manner, with an emphasis on the provisions concerning gender and ethnicity and the participation**

⁷² A/HRC/25/19/Add.3, para. 80.

⁷³ Article 155 of Law 1801 of 2016.

⁷⁴ <https://www.hchr.org.co/index.php/informacion-publica/comunicados-de-prensa/440-ano-2019/9121-pronunciamiento-sobre-el-paro-nacional-del-21-de-noviembre>.

of victims, especially to fulfil their rights to truth, justice, reparation and guarantees of non-recurrence.

(b) Encourages the State to accelerate the implementation of the Comprehensive Rural Reform contained in the Peace Agreement in coordination with other planning processes and instruments, such as the Collective Reparation Plan and the Programme for the Substitution of Illicit Crops.

(c) Calls upon the State to increase efforts to establish a stronger presence of State civilian authorities in rural areas.

(d) Encourages the Office of the Attorney General to broaden its investigations into attacks against human rights defenders, especially with respect to identifying and prosecuting the intellectual authors of such attacks.

(e) Recommends the increased use of collective protection measures. On the part of the National Protection Unit, this requires allocating sufficient resources and establishing criteria for co-responsibility between national, departmental and municipal authorities to address structural causes of violence. Achieving this increase may require support, including through resources, from the international community. The new regional authorities should prioritize collective protection measures in their planning processes, such as the development plans and Comprehensive Plans for Security and Citizen Coexistence, and allocating sufficient resources for their full implementation.

(f) Calls on the State to restrict, to the greatest extent possible and in accordance with international norms and standards, the use of the military in situations related to public security, including protests. In line with the need to strengthen the police's institutional capacity, OHCHR recommends transferring oversight of the police to the Ministry of Interior.

(g) Urges the State to initiate thorough, independent and effective investigations into cases of alleged excessive use of force by ESMAD during recent social protests. It also calls for an in-depth transformation of ESMAD, including the review of protocols on the use of force and less lethal weapons and ammunitions, to ensure compliance with international norms and standards.

(h) Urges the State to reduce impunity and address the challenges related to access to justice by guaranteeing that all human rights violations are duly investigated and alleged perpetrators prosecuted.

(i) Calls on the relevant authorities to ensure compliance with international norms and standards in the investigation of violations of the rights to life and personal integrity where members of the military and/or the police are allegedly involved, and to ensure that the ordinary justice system retains jurisdiction over such investigations.

(j) Encourages the Office of the Attorney General to consistently and comprehensively apply the Minnesota and Istanbul Protocols when investigating violations reportedly involving the military and/or the police.

(k) Urges the Ministry of Interior to further pursue existing regulatory proposals concerning free, prior and informed consent with indigenous peoples and Afro-Colombian communities.

(l) Calls on the new regional authorities to prioritize programmes and projects to guarantee the effective enjoyment of human rights in their development plans.

(m) Urges national, departmental and municipal authorities to respond swiftly and effectively to the recommendations contained in the Ombudsman's early warnings. To improve responses, the Ministry of Interior should implement a system of indicators to evaluate the impact of the State's response to the Ombudsman's early warnings.