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الدورة السادسة والأربعون

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التقرير السنوي لمفوضة الأمم المتحدة السامية لحقوق الإنسان

وتقارير المفوضية السامية والأمين العام

حالة حقوق الإنسان في كولومبيا

تقرير مفوضة الأمم المتحدة السامية لحقوق الإنسان * * *

موجز

يصف هذا التقرير الذي أعدته مفوضة الأمم المتحدة السامية لحقوق الإنسان حالة حقوق الإنسان في كولومبيا في عام 2020، مع التركيز على الأمن وحقوق الإنسان، والحيز المدني، والوصول إلى العدالة، ومكافحة الإفلات من العقاب وعدم المساواة في التمتع بالحقوق الاقتصادية والاجتماعية والثقافية، بما في ذلك في سياق جائحة مرض فيروس كورونا (كوفيد-19). ويقدم التقرير أيضاً تنفيذ جوانب حقوق الإنسان في اتفاق السلام الموقع بين حكومة كولومبيا والقوات المسلحة الثورية الكولومبية - الجيش الشعبي. ويتضمن التقرير توصيات بشأن سبل تحسين حالة حقوق الإنسان في البلاد.

* يعمم موجز التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فيُعمَّم باللغة التي قُدِّم بها وباللغة الإسبانية فقط.

** قُدِّم هذا التقرير بعد انقضاء الموعد النهائي لتضمينه أحدث المستجدات.



الرجاء إعادة الاستعمال

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 between 1 January and 31 December 2020. In accordance with the peace agreement signed between the Government of Colombia and the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP),¹ the High Commissioner also examines the implementation of those human rights-related aspects of the peace agreement related to transitional justice, security guarantees, comprehensive rural reform and victims' rights.

2. In 2020, the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia were affected by the coronavirus disease (COVID-19) pandemic. OHCHR nevertheless continued to monitor the human rights situation and to provide technical assistance to a wide range of State institutions at the national, departmental and municipal levels. It conducted 183 field missions and held 798 capacity-building activities for State institutions and civil society. OHCHR also collaborated with the special procedures of the Human Rights Council and the inter-American human rights system.

II. Context

3. In response to the COVID-19 pandemic, the Government of Colombia issued two decrees, one in March and the other in May, declaring a nationwide economic, social and environmental state of emergency.² The preventive isolation ordered to address the health crisis affected the rights to work, to an adequate standard of living and to education. The health emergency particularly affected populations already vulnerable, such as women, people living in rural areas, people of African descent and indigenous people, thereby deepening social inequalities.

4. OHCHR appreciates the measures taken by the State to incorporate a human rights-based approach in its response to the pandemic, as reflected in several reports presented by the Government.³ OHCHR also values the sustained efforts of the Government to address the influx of nearly 1.8 million Venezuelan migrants since 2015.

5. Colombia continued to face endemic violence, despite a reduction in the national homicide rate from 25 homicides per 100,000 persons to 23.7 homicides per 100,000 persons from 2019 to 2020. In various parts of Colombia, violence intensified and territorial and social control by non-State armed groups and criminal groups increased. The National Liberation Army (ELN) responded to the call by the Secretary-General of 23 March for a global ceasefire, but only for one month. The homicide rates per 100,000 inhabitants reported by the National Police were particularly alarming in the departments of Cauca (53.71), Chocó (54.31), Putumayo (42.8) and Valle del Cauca (45.17).

6. The lack of a comprehensive State presence in those parts of the country limited the State's capacity to comply with its duty to protect the population and ensure basic rights, including the rights to life, access to justice and participation in public affairs, as well as economic, social and cultural rights. OHCHR observed an increase in the number of massacres and human rights violations against human rights defenders, primarily in

¹ Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace (S/2017/272, annex II). See, in particular, sects. 3.4.3, 3.4.7.4.2, 5.1.2, 6.3.4 and 6.4.2.

² Decree No. 417 of 17 March 2020 and Decree No. 637 of 6 May 2020.

³ See www.derechoshumanos.gov.co/Paginas/DDHH.aspx.

municipalities with high levels of multidimensional poverty, where illicit economies that fuel endemic violence flourish.

7. By creating five strategic zones for comprehensive intervention,⁴ the Government has sought to start establishing a more comprehensive State presence in the above-mentioned areas. The deployment of civilian institutions and authorities is crucial for the prevention of violence and the expansion of human rights guarantees.

8. In 2020, the Comprehensive System of Truth, Justice, Reparation and Non-Repetition continued to make significant progress. OHCHR is concerned, however, that public statements continue to be made questioning the suitability of System institutions and staff and that legislative proposals have been presented to abolish the Special Jurisdiction for Peace.

III. Security and human rights

A. Security situation and human rights

9. In 2020, OHCHR documented 76 massacres⁵ involving 292 deaths, including of 23 women, 6 girls, 18 boys, 7 indigenous people and 10 people of African descent. Five additional cases are still in the process of being documented. In 66 per cent of the cases, the alleged perpetrators were members of criminal groups. The number of massacres has grown constantly since 2018, with 2020 recording the highest number since 2014. The departments most affected were Antioquia, Cauca, Nariño and Norte de Santander, with 62 per cent of the incidents. The Government informed OHCHR that it had established a special unit to coordinate the State's response to these cases.

10. The United Nations Verification Mission in Colombia also verified the killing of 73 former members of FARC-EP, amounting to a total of 248 such homicides since the peace agreement was signed in November 2016.⁶ On 17 August, the United Nations country team in Colombia and the Mission issued a joint statement expressing concern at the occurrence of massacres and the continuous killing of human rights defenders, social leaders and former FARC-EP fighters.⁷

11. In 2020, according to the Office for the Coordination of Humanitarian Affairs of the Secretariat,⁸ violence caused 94 mass displacements involving 25,366 people. Of the 94 displacements, 76 per cent occurred in Antioquia, Chocó and Nariño. Moreover, also according to that Office, at least 74,312 people were confined by restrictions imposed on the movement of populations by non-State armed actors and criminal groups for reasons unrelated to the COVID-19 pandemic.

12. OHCHR is concerned about the lack of progress in the adoption of a public and criminal policy, as foreseen in section 3.4.3 of the peace agreement, to dismantle criminal organizations, including those referred to as successors of paramilitarism and their support networks. While the National Commission on Security Guarantees, which was mandated under the peace agreement to develop such a policy, has convened meetings,⁹ to date the Government and the civil society actors represented in that entity have not agreed on a policy. The Government has suggested that existing public policies are sufficient, while civil society representatives have developed and proposed a new set of public policy guidelines for

⁴ Decree No. 2278 of 16 December 2019.

⁵ For the OHCHR definition of massacre, see E/CN.4/2000/11, para. 27. See also E/CN.4/2001/15, para. 88.

⁶ S/2020/1301, para. 10.

⁷ See www.hchr.org.co/files/comunicados/2020/Comunicado-conjunto-ONU-Agosto-17-2020.pdf.

⁸ See www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/infografia_situacion_humanitaria_ene-dic_2020_vf.pdf.

⁹ Created by Decree No. 154 of 3 February 2017.

dismantling criminal groups in accordance with Decree No. 154 of 2017¹⁰ for consideration by the Commission.

13. The effective implementation of the early warning system of the Office of the Ombudsman would significantly contribute to the prevention of violence. Several massacres and homicides committed in 2020 occurred despite the risks identified by the Ombudsman. OHCHR reiterates the importance of the inter-institutional commission established in 2020 by the Office of the Ombudsman and the Office of the Procurator General to monitor responses to early warnings and to continue to advise the State on the coordination of a more impactful response.

B. Violations by public security forces and prison authorities

14. OHCHR welcomes the ongoing dialogue with the Ministry of Defence on cases of alleged human rights violations by the military and the police and reiterates its willingness to continue that dialogue and provide technical assistance.

15. In 2020, OHCHR received allegations about 42 cases¹¹ of arbitrary deprivation of life involving public security forces and prison authorities that resulted in the death of 73 people, including two women, seven boys, three indigenous people, five people of African descent and two members of the lesbian, gay, bisexual, transgender and intersex community. Police officers were allegedly implicated in 30 cases, involving 37 victims; military officials were allegedly implicated in 11 cases, involving 13 victims; and prison authorities were allegedly involved in one case that resulted in 23 deaths. Of the 42 cases, 38 occurred during military and police operations and four while victims were in State custody; 13 of the 42 incidents occurred in the context of protests. The Office of the Attorney General initiated investigations in all cases.

16. Of the 38 cases related to military and police operations, 11 occurred when officers were participating in prevention and law enforcement activities, executing arrest and search warrants, or engaged in the eradication of illicit crops and the fight against criminal groups. OHCHR reiterates that the participation of the military in such operations should be exceptional, justified, temporary, restricted and subordinated and complementary to the work of civilian authorities.¹² Moreover, military personnel participating in law enforcement operations should be considered as law enforcement officials subject to international human rights norms and standards on the use of force.¹³

17. In the four incidents that occurred while the victims were in State custody (in prisons or provisional detention centres), 33 persons lost their lives. In one of the cases, on 21 March, 23 detainees died at La Modelo prison in Bogotá due to the alleged disproportionate use of force by prison guards during a riot. The other three cases occurred in Arboletes (Antioquia), Cúcuta (Norte de Santander) and Soacha (Cundinamarca), inside three *centros de atención inmediata* of the National Police. According to the information obtained, 10 people died, eight of whom from burns while confined in their cells.

18. OHCHR has documented three cases of torture and ill-treatment allegedly perpetrated by members of the police and the military in Antioquia, Cesar and Guaviare. In one case, a young victim was tortured allegedly because he was homosexual.

¹⁰ See <http://es.presidencia.gov.co/normativa/normativa/DECRETO%20154%20DEL%2003%20FEBRERO%20DE%202017.pdf>.

¹¹ In 13 departments: Antioquia, Atlántico, Arauca, Bolívar, Cauca, Cesar, Cundinamarca, Huila, Magdalena, Nariño, Norte de Santander, Putumayo and Valle del Cauca.

¹² See Inter-American Court of Human Rights, *Case of Alvarado Espinoza et al. v. Mexico*, judgment of 28 November 2018 (executive summary available in Spanish at www.corteidh.or.cr/docs/casos/articulos/resumen_370_esp.pdf). See also A/HRC/31/66; the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, arts. 4–6; and the Code of Conduct for Law Enforcement Officials, arts. 1 and 3.

¹³ See the commentary in subparagraphs (a) and (b) to article 1 of the Code of Conduct for Law Enforcement Officials.

19. OHCHR welcomes the zero-tolerance policy of the Ministry of Defence with regard to sexual violence and highlights the need for its urgent implementation, in the light of documented cases involving members of the military and the police in Nariño, Risaralda and Valle del Cauca in 2020. OHCHR notes that, in two of those cases, the victims were three indigenous girls (one in Risaralda and two in Nariño).

20. OHCHR has received allegations – publicized in the national media – about the irregular use of military intelligence capabilities against 130 people, including for the surveillance of politicians, judges, journalists and human rights defenders. The State has indicated that it has taken administrative and disciplinary measures, including by changing the chain of command and dismissing 12 officials, and that it has referred the matter for investigation to the relevant judicial authorities.

IV. Civic space

A. Situation of human rights defenders

21. Defending human rights remains a high-risk activity in Colombia. In 2020, OHCHR registered the killing of 133 human rights defenders. Owing to restrictions related to the pandemic, OHCHR was able to document only 53 of those cases¹⁴ and continues to verify 80.¹⁵ In 9 per cent of the documented cases, women were the victims, in 21 per cent, indigenous people were the victims and, in 4 per cent, people of African descent were the victims.

22. Human rights defenders were killed primarily in areas with insufficient State presence: 72 per cent of cases occurred in Cauca, Chocó, Norte de Santander, Putumayo and Valle del Cauca;¹⁶ 77 per cent in rural areas; 91 per cent in municipalities with high levels of multidimensional poverty; 94 per cent in municipalities where the homicide rate points to the existence of endemic violence; 96 per cent in municipalities where illicit economies flourish; and 85 per cent in departments where the United Nations Office on Drugs and Crime has identified enclaves of cocaine production.

23. Of the verified cases, 25 per cent were reportedly committed by criminal groups: 15 per cent by FARC-EP dissident groups, 13 per cent by ELN and 4 per cent by the police or the military.

24. OHCHR also received information about 795 threats and attacks¹⁷ against human rights defenders. In 67 per cent of cases, the victims were men; in 26 per cent, they were women; and, in 2 per cent, they were lesbian, gay, bisexual, transgender and intersex persons. Moreover, 44 per cent of the cases occurred in rural areas, 14 per cent in Bogotá and 42 per cent in other urban areas. The highest numbers of cases were reported in Bogotá and Cauca. In 2020, the Freedom of the Press Foundation registered 449 violations against journalists, including 152 threats,¹⁸ and OHCHR documented the killing of two journalists.

25. OHCHR appreciates the efforts made by the Office of the Attorney General to investigate reports of attacks against human rights defenders. It notes the progress made in the investigation of 47 per cent of the cases that occurred in 2020 and 64 per cent of the cases

¹⁴ OHCHR focuses its observation on two factors: the victim's work in the defence of human rights, pursuant to Human Rights Council resolution 53/144, and whether the main hypothesis behind the killing is connected to such activity.

¹⁵ Other figures show a rising trend. According to the Office of the Ombudsman, 139 human rights defenders were killed in 2020 (134 in 2019), while Somos Defensores (a group of non-governmental organizations) recorded 135 victims.

¹⁶ In the past three years, Antioquia and Cauca have reported the highest number of killings of human rights defenders.

¹⁷ Those attacks refer to cases of disappearances, kidnappings, surveillance, stigmatization and attacks against their lives.

¹⁸ See www.flip.org.co/index.php/es/atencion-a-periodistas/mapa-de-agresiones.

that occurred between 2016 and 2019.¹⁹ OHCHR welcomes the 20 convictions achieved in 2020 against those who killed human rights defenders and, as at December 2020, awaits the adjudication of another 97 cases. While welcoming the arrest of the intellectual authors in 10 cases of attacks against human rights defenders in 2020, OHCHR is concerned about persistent challenges in the identification and prosecution of the intellectual authors in other cases and underscores the need to dismantle the criminal structures supporting them.

26. The National Protection Unit of the Ministry of the Interior has continued to receive numerous requests for protection measures, and OHCHR recognizes its efforts to respond to those demands. In 2020, the Unit issued protection measures to 3,749 human rights defenders and social leaders. Delays in the notification of decisions and implementation of the protection measures, however, coupled with issues about their suitability, especially in rural areas, have increased the risks for human rights defenders. In 2020, four human rights defenders were killed in four departments despite protection measures.

27. The work done by the Committee for Risk Assessment and Recommendation of Measures for women should be strengthened and the protocol contained in the Comprehensive Programme of Safeguards for Women Leaders and Human Rights Defenders should be implemented comprehensively with a view to guaranteeing the mainstreaming of gender, ethnic, intersectoral and territorial dimensions.

28. Moreover, greater coordination among institutions at the national, departmental and municipal levels, in consultation with communities, is critical to implementing collective protection measures that address structural risks and to strengthening and complementing the communities' self-protection measures.

29. OHCHR urges the Office of the Procurator General to rigorously apply the guidelines for the effective protection of the rights of human rights defenders, political and social leaders and their organizations set out in its Directive No. 002 of 22 June 2017.

30. OHCHR recommends the continuity of mechanisms such as the Round Tables for Life, the Lead Life Campaign and the Summits for Social Dialogue, which have provided opportunities for local human rights defenders to engage with and encourage the authorities to fulfil the State's obligations to ensure their protection.

B. Right of peaceful assembly

31. On 9 September, a man died from having been subjected to excessive use of force by the police in Bogotá. That incident led to two days of protests against police violence, some of which spiralled into riots. Several police officers responded with force, using their weapons, including lethal ones (see para. 15 above). According to the District Oversight Office, those actions resulted in 11 arbitrary deprivations of life.²⁰ In addition, OHCHR recorded 581 persons injured, including 61 by firearms. Of those injured, 56 per cent were members of the public and 44 per cent were police officers.

32. OHCHR has received information indicating that, during those incidents, 10 human rights defenders wearing vests clearly identifying them as such were transferred to temporary detention centres and two were allegedly physically assaulted. Furthermore, OHCHR recorded two incidents of sexual violence during the protests allegedly committed by police officers in two *centros de atención inmediata* of the National Police and six cases of physical attacks by the police against journalists covering the protests.

33. On 22 September, the Civil Chamber of the Supreme Court issued a judgment instructing measures to be taken to guarantee the right of peaceful assembly and highlighting the systematic, violent and arbitrary intervention by the public security forces during

¹⁹ See www.fiscalia.gov.co/colombia/informe-sobre-victimizacion-a-personas-defensoras-de-derechos-humanos/.

²⁰ See [www.veedurriadistrital.gov.co/sites/default/files/files/Publicaciones%202020/Informe_EI%2009%20y%20el%2010%20de%20septiembre%20en%20Bogota%20\(29092020\)%20V.F.PDF](http://www.veedurriadistrital.gov.co/sites/default/files/files/Publicaciones%202020/Informe_EI%2009%20y%20el%2010%20de%20septiembre%20en%20Bogota%20(29092020)%20V.F.PDF).

protests.²¹ It ordered the Ministry of Defence to apologize for the excessive force used by the National Police's mobile anti-riot squad during the protests that began on 21 November 2019; to form a working group to reform the regulations on the use of force; to incorporate mandatory compliance with relevant international and national standards into existing norms; to publicly explain, within a period of no more than six months, the incidents during which the use of lethal weapons or other violent actions led to violations of the rights to life and to the integrity of the person; and to suspend the use of 12-caliber rifles.

34. On 24 September 2020, the Administrative Tribunal of Cundinamarca ordered the establishment, as a provisional measure, of a working group to produce a report containing recommendations for addressing the incidents of 9 and 10 September and preventing their reoccurrence. On 5 October, the Tribunal ordered the Government to develop a protocol and take urgent measures to guarantee the right of peaceful assembly.

35. OHCHR subsequently engaged with the Ministry of Defence by offering technical assistance to prevent cases of disproportionate use of force and guarantee the right of peaceful assembly. On 9 November, during a meeting with the Presidential Adviser on Human Rights and International Affairs, OHCHR offered technical assistance to the working group created in response to the judgment of the Supreme Court to reform the protocols on the use of force in accordance with international standards.

V. Access to justice and fight against impunity

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

36. On 22 October, the United Nations High Commissioner for Human Rights met the heads of the entities constituting the Comprehensive System of Truth, Justice, Reparation and Non-Repentation and acknowledged the significant achievements of those institutions, as well as the courage of all those who continued to work for the truth to be known.²²

37. In 2020, the System made progress in implementing its mandate despite the restrictions related to the pandemic. Anticipating an increase in deaths owing to COVID-19, the Unit for the Search for Persons deemed Missing in the context of and due to the armed conflict made recommendations to public cemeteries and morgues to prevent unidentified bodies from disappearing or being physically damaged, mixed up or dispersed. Despite the health emergency, victims and those who had submitted themselves to the jurisdiction of the Special Jurisdiction for Peace continued to participate in the System. Many others, however, were not able to participate fully either because of a lack of Internet connectivity or because of distrust in online channels.

38. OHCHR welcomes the coordination between the mechanisms constituting the System. The precautionary measures ordered by the Special Jurisdiction for Peace to protect public and clandestine burial sites in Antioquia, Caldas, Cesar, Huila and Sucre required the mechanisms to work together to protect the bodies of possible victims of enforced disappearance and extrajudicial executions and ensure their identification and dignified return to their relatives. The measures also involved local authorities, the Office of the Attorney General and the National Institute of Legal Medicine and Forensic Sciences, including in terms of identification, delivery of information and accountability. That coordination contributed to alleviating the pain and uncertainty experienced by the families of victims.

39. OHCHR recognizes the significant efforts made by the System to promote accountability and fulfil victims' rights, which is why it is dismayed by the public statements that have been made seeking to discredit the impartiality and independence of the System's constituent institutions and individuals, putting them at risk. Victims who have participated

²¹ See <https://cortesuprema.gov.co/corte/index.php/2020/09/22/corte-suprema-ordena-medidas-para-garantizar-derecho-a-protesta-pacifica/>.

²² See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26411&LangID=E.

in the System and submitted to the jurisdiction of the Special Jurisdiction for Peace are also at risk. Furthermore, OHCHR is concerned about draft legislation introduced to Congress in October 2020 seeking to terminate the Special Jurisdiction for Peace.²³ The proposed abolition of a core institution of the peace agreement seriously endangers victims' rights to truth, justice and reparation.

40. OHCHR is concerned that the high levels of violence are discouraging victims, their representatives and those who have submitted to the jurisdiction of the Special Jurisdiction for Peace from participating in the System. Coordination between the System and the Office of the Attorney General, the judiciary, security bodies and other relevant State institutions would enhance the implementation of security measures to guarantee protection.

1. Special Jurisdiction for Peace

41. More than 300,000 victims have been accredited by the Special Jurisdiction for Peace, which reflects a high level of interest in participating in its proceedings. The over 300 reports submitted to the Special Jurisdiction for Peace by victims and State institutions have been a crucial source of information for the implementation of its mandate. OHCHR welcomes the extension of the deadline for reports to be presented to the Special Jurisdiction for Peace until September 2021²⁴ and urges the prioritization of additional "macro-cases", notably those involving sexual violence, enforced disappearances and forced displacement.

42. OHCHR recalls that any benefits granted to those who submit to the jurisdiction of the Special Jurisdiction for Peace should contribute to the realization of victims' rights, thereby ensuring the centrality of victims as foreseen in the peace agreement.

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

43. In 2020, the Commission for the Clarification of Truth, Coexistence and Non-Repetition made progress in fulfilling the rights to truth and non-repetition,²⁵ as reflected in the 220 hearings and social dialogues that were held, in the acts that were performed, with the participation of 4,700 persons (62 per cent women and 38 per cent men), to dignify and recognize victims and the individual and collective testimonies that were received from 19,809 persons. All the above has contributed to acknowledging responsibility for human rights violations and breaches of international humanitarian law. FARC-EP has recognized its responsibility for recruiting children and kidnapping. The statements made by the former paramilitary leader Salvatore Mancuso about his responsibility, and that of the State, in the killing of indigenous leader Kimy Pernía, and the statements made by former FARC-EP commanders about their responsibility in the killing of political leader Álvaro Gómez Hurtado and other crimes of national importance, have all sparked contentious public debates.

44. The fight against impunity requires guaranteeing the right to truth.²⁶ All sectors of society, including the business, military and political sectors, should urgently provide any relevant information they have to allow the Commission for the Clarification of Truth, Coexistence and Non-Repetition to fulfil its mandate, which will end in November 2021. OHCHR calls upon State institutions to urgently provide the Commission with the most complete and detailed information available.²⁷

²³ See <http://leyes.senado.gov.co/proyectos/index.php/proyectos-de-acto-legislativo/cuatrenio-2018-2022/2020-2021/article/24-por-el-cual-se-deroga-la-jurisdicion-especial-para-la-paz-y-se-dictan-otras-disposiciones> and <http://leyes.senado.gov.co/proyectos/index.php/proyectos-ley/cuatrenio-2018-2022/2020-2021/article/328-por-el-cual-se-deroga-la-ley-estatutaria-de-la-jurisdicion-especial-para-la-paz>.

²⁴ See <https://www.jep.gov.co/Sala-de-Prensa/Paginas/JEP-amp%20C3%ADa-el-plazo-para-que-las-organizaciones-de-v%20C3%ADctimas-entreguen-sus-informes.aspx#:~:text=La%20JEP%20amp%20C3%ADa%20el%20plazo,15%20de%20marzo%20de%202021>.

²⁵ See A/HRC/24/42.

²⁶ See General Assembly resolution 68/165.

²⁷ See <https://comisiondelaverdad.co/actualidad/noticias/comision-verdad-barreras-para-acceso-informacion-que-enfrenta>.

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

45. The capacity of the State to fulfil its obligations to guarantee victims' rights in the case of missing persons will depend on the effectiveness of the search process, in respect of which the Unit for the Search for Persons deemed Missing faces historical challenges. After a review of the search methods used by the Office of the Attorney General and the National Institute of Legal Medicine and Forensic Sciences, the Unit was able to identify the obstacles faced by those institutions in the past in relation to coordination, cooperation and data exchange for the identification of recovered bodies, which enabled it to make progress in the search process.

46. The Unit made significant progress in 2020, particularly with the launch of a national search plan and the inauguration of an advisory board, which includes organizations of victims and forensic specialists. Furthermore, the Unit began to implement a strategy to determine the total number of disappeared persons by crosschecking the databases of the National Registry of Missing Persons and the National Centre for Historical Memory. The Unit also implemented 18 regional plans²⁸ to search for 807 missing persons and identified 63 possible sites. In the context of the search plan for Magdalena (Caldas region), the Unit took 182 biological samples from families of persons deemed missing.

B. Victims and Land Restitution Law

47. OHCHR welcomes the extension for 10 years of the Victims and Land Restitution Law (Law No. 1448 of 2011), the increase in the budget of the Unit for Assistance and Comprehensive Reparations for Victims and the progress made in providing care to victims. The extension of the law is an opportunity to make headway in the areas of reparation and restitution through efficient coordination with the Comprehensive System of Truth, Justice, Reparation and Non-Repetition and adequate implementation of the peace agreement, particularly as regards the development programmes with a territorial focus.

48. So far, the land restitution policy has included 6,153 judicial rulings – including 19 for ethnic peoples – in response to 11,786 administrative requests presented by victims since 2012, benefiting 74,812 persons. Close to 39,939 restitution requests have yet to be decided upon.²⁹ OHCHR encourages the Government of Colombia to accelerate the effective realization of the right to land restitution, especially the compliance with the judicial rulings.

C. Access to justice

49. The judiciary plays a crucial role in the protection of human rights. The 115 rulings of the Constitutional Court on the constitutionality of the legislative decrees issued by the Government to address the health emergency are worth noting (see para. 4 above). The recent ruling by the Supreme Court on the right of peaceful assembly demonstrates that international standards and recommendations on the protection of human rights are being incorporated (see para. 33 above). The 2020 rulings by the Council of State to protect vulnerable ecosystems, such as the river basins in Tolima or the bay of Cartagena, have also been valuable. Moreover, the Constitutional Court has repeatedly called for the rights of prisoners to be guaranteed, but challenges – such as particularly high levels of overcrowding and access to health care – persist and have been exacerbated by the pandemic. Decree No. 546 of 14 April 2020 has benefited 989 of some 4,000 potential beneficiaries.

50. To break the cycles of impunity that foster violence, access to justice must be guaranteed for all, including those in rural areas. OHCHR has continued to observe the limited presence of the Office of the Attorney General in rural areas of Amazonas, Antioquia, Arauca, Caquetá, Cauca, Chocó, Guaviare, Meta, Nariño and Norte de Santander. The reduced number of judicial police officers, the delays in processing evidence and the

²⁸ The regional plans cover the Pacific coast regions, Arauca, Antioquia, Casanare, Meta, Cundinamarca, Cesar, Huila, Caquetá, Nariño, Sucre and Valle del Cauca.

²⁹ Submission from the Unit for Land Restitution, 8 January 2021.

excessive prosecutorial workloads are affecting access to justice. In 40 per cent of homicides in Arauca, the bodies were removed by funeral homes.

51. Former paramilitary leaders imprisoned outside Colombia began to return in 2020. The judiciary should continue to investigate and prosecute those responsible of unsanctioned crimes and the State should continue to take the measures necessary to prevent released former paramilitaries from evading their responsibilities in Colombia. That would contribute to guaranteeing victims' rights to truth, justice and reparation.

VI. Economic, social, cultural and environmental rights

A. Inequality and corruption

52. The COVID-19 pandemic triggered a decrease in the gross domestic product of 9 per cent in the third quarter of 2020 compared to the same period in 2019.³⁰ The Multidimensional Poverty Index (MPI) in 2019 was already 17.5 per cent, 1.6 per cent lower than in 2018,³¹ while the Gini coefficient went from 0.517 in 2018 to 0.526 in 2019.³² According to the Economic Commission for Latin America and the Caribbean (ECLAC), and based on an analysis in 15 countries, Colombia remains one of two countries with the highest levels of inequality in the region. ECLAC determined that the Gini coefficient could increase to 2.9 per cent owing to the crisis generated by the pandemic and notes that women are particularly vulnerable, given their overrepresentation in the informal labour market.³³

53. OHCHR acknowledges the measures taken by the Government to address the impact of the pandemic on economic and social rights by, for example, allocating resources to small businesses for payroll support, expanding programmes to protect formal employment and initiating the productive alliances for life programme, which will prioritize rural women and youth working in the agricultural sector.

54. OHCHR welcomes the agreement between the Office of the Attorney General, the Office of the Procurator General and the Office of the Comptroller General to implement the "transparency for the emergency"³⁴ programme, a coordinated effort to oversee the public resources used to address the health emergency and ensure their adequate allocation. Under the agreement, the Office of the Attorney General reported having indicted 14 mayors and initiated investigations for embezzlement against the governors of Amazonas, Arauca, Bolívar, Casanare, Cesar, Chocó, Guaviare, Magdalena, San Andrés, Sucre, Tolima, Valle del Cauca, Vaupés and Vichada (43.75 per cent of the country's governors).³⁵ The impact of corruption on economic, social and cultural rights in those departments has been particularly serious, as in 78.57 per cent of those areas the MPI is higher than the national average. The Office of the Comptroller General announced that it had evidence of cost overruns in contracts amounting to 150 million United States dollars.³⁶ Furthermore, the Office of the

³⁰ See www.dane.gov.co/index.php/estadisticas-por-tema/cuentas-nacionales/cuentas-nacionales-trimestrales.

³¹ See www.dane.gov.co/index.php/estadisticas-por-tema/pobreza-y-condiciones-de-vida/pobreza-y-desigualdad/pobreza-monetaria-y-multidimensional-en-colombia-2019.

³² See www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2019/Boletin-pobreza-monetaria_2019.pdf.

³³ See https://repositorio.cepal.org/bitstream/handle/11362/45527/S2000325_es.pdf?sequence=5&isAllowed=y.

³⁴ See www.procuraduria.gov.co/portal/Procuraduria-adelanta-813--procesos-disciplinarios-en-27-gobernaciones-y-396-alcaldias-por-presuntas-irregularidades--con-los-recursos-para-atender-la-emergencia-sanitaria-por-covid-19---.news.

³⁵ See www.fiscalia.gov.co/colombia/noticias/fiscalia-general-de-la-nacion-imputara-y-solicitar-medidas-de-aseguramiento-contra-10-alcaldes-citara-a-interrogatorio-en-calidad-de-indiciados-a-3-alcaldes-mas-y-a-3-gobernadores/ and www.fiscalia.gov.co/colombia/fiscal-general-de-la-nacion/fiscalia-general-de-la-nacion-imputara-al-gobernador-suspendido-de-choco-cuatro-alcaldes-dos-oficiales-y-un-suboficial-del-ejercito-nacional-por-presuntas-irregularidades-de-contratacion-durante-la/.

³⁶ Office of the Comptroller General, press release No. 091, 16 July 2020.

Procurator General initiated 813 disciplinary proceedings in 27 governors' offices and 396 mayors' offices related to alleged embezzlement of public resources allocated to the health emergency.³⁷

B. Inequality and discrimination

55. Before the pandemic, Colombians were already facing structural barriers hindering their full enjoyment of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights. In 2019, the percentage of people living in multidimensional poverty was 2.8 times higher in rural areas than in urban areas³⁸ and the percentage of rural households without access to drinking water was 14.7 times higher than that of urban households. While the national illiteracy rate decreased by 2.1 per cent, in rural areas it was 3.4 times higher than in urban areas.³⁹ The MPI was 18.9 per cent for households headed by women, compared to 16.6 per cent for households headed by men.⁴⁰

56. The national unemployment rate between September and November 2020 was 14.6 per cent, a 4.8-point increase compared to the same quarter in 2019.⁴¹ Gender inequality with respect to the right to work also increased:⁴² the unemployment rate during that quarter was 10.9 per cent for men and 19.6 per cent for women.⁴³ In 2019, the difference between the unemployment rates for men and women for the same quarter was of 5 per cent.⁴⁴ In 2020, unemployment and gender inequality levels were the highest they had been during the previous 10 years.⁴⁵ The Government has informed OHCHR that it has taken regulatory measures to address gender inequality in the workplace.⁴⁶

57. The pandemic has exacerbated the precarious situation regarding the right to health. The Government has allocated additional resources to the health sector and increased the capacity of hospitals and intensive care units in several departments. OHCHR is concerned, however, that disparities related to the availability, accessibility, acceptability and affordability of health services already observed in previous years⁴⁷ continued to affect those with low levels of income, women and people living in rural areas, including indigenous peoples and people of African descent. OHCHR appreciates the willingness of the Ministry of Health and Social Protection to have a dialogue to find solutions based on a human rights approach.

58. The population of Amazonas Department, 57.7 per cent of which is indigenous, experienced the highest COVID-19 infection and mortality rates.⁴⁸ San Rafael hospital, the only public hospital in the departmental capital of Leticia, received support from the Ministry of Health and Social Protection⁴⁹ only after complaints were made about the precariousness of the facilities and the lack of supplies. The inhabitants of remote indigenous communities have had no access to health services. The Hitnü (Arauca) and Barí (Norte de Santander)

³⁷ See www.procuraduria.gov.co/portal/Procuraduria-adelanta-813--procesos-disciplinarios-en-27-gobernaciones-y-396-alcaldias-por-presuntas-irregularidades--con-los-recursos-para-atender-la-emergencia-sanitaria-por-covid-19---.news.

³⁸ See www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2019/Presentacion_rueda_de_prensa_ECV_e_IPM_2019.pdf.

³⁹ Ibid.

⁴⁰ See www.dane.gov.co/index.php/estadisticas-por-tema/pobreza-y-condiciones-de-vida/pobreza-y-desigualdad/pobreza-monetaria-y-multidimensional-en-colombia-2019#pobreza-multidimensional-nacional-y-departamentos.

⁴¹ See www.dane.gov.co/files/investigaciones/boletines/ech/ech/bol_empleo_nov_20.pdf.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ See also Decree No. 810 of 4 June 2020.

⁴⁷ A/HRC/43/3/Add.3, para. 63; and A/HRC/37/3/Add.3, para. 52.

⁴⁸ As of 29 December 2020, Amazonas had the fifth-highest rate of infection (4,100.2 cases per 100,000 inhabitants) and the highest mortality rate (1,581.9 per 1 million inhabitants) in Colombia. See www.paho.org/es/documentos/reporte-situacion-covid-19-colombia-no-202-29-diciembre-2020.

⁴⁹ See www.derechoshumanos.gov.co/Paginas/DDHH.aspx.

peoples have experienced similar obstacles in gaining access to health care, including access to adequate nutrition. Acute malnutrition among children under the age of 5 years has led to preventable and treatable diseases. It was only in September 2020 that COVID-19 prevention programmes started to be implemented among the Hitnü people.

59. In Chocó, a department with a majority ethnic population (70 per cent are people of African descent and 15 per cent are indigenous peoples), only two hospitals⁵⁰ serve 520,296 inhabitants.⁵¹ Both are located in the capital city of Quibdó, making access almost impossible for the rural population, who must travel for days to reach the city. In addition, there is limited access to drinking water in the whole department. In January, five Wounaan indigenous children died of diarrheal disease and acute respiratory infection associated with sanitation and nutrition problems.⁵² The municipalities on the coast in the departments of Cauca, Nariño and Valle del Cauca face similar problems in guaranteeing access to health care and drinking water.

60. OHCHR is concerned about the lack of labour rights guarantees for health-care professionals, three quarters of whom are women.⁵³ Already in 2017, the Committee on Economic, Social and Cultural Rights had expressed concern about the lack of medical supplies in hospitals, a problem that has become more evident during the pandemic.⁵⁴ In June 2020, the National Superintendent of Health reported that the health personnel in Chocó were owed up to five months' salary.⁵⁵ As of December, they were still owed four months' salary.

61. According to the Office of the Procurator General, the debt owed in salaries and benefits to staff of the Rosario Pumarejo Hospital in Valledupar (Cesar) was affecting those health-care workers' right to a living wage.⁵⁶ OHCHR has observed a lack of payment and biosecurity guarantees in the Eduardo Arredondo Daza Hospital in Valledupar (Cesar), the San Rafael Hospital in Leticia (Amazonas) and the Erasmo Meoz University Hospital in Cúcuta (Norte de Santander). Alleged corruption in the latter, where resources were reportedly used for personal gain, has also affected Colombians' right to gain access to health care.

C. Comprehensive rural reform

62. OHCHR has observed progress in some areas of the comprehensive rural reform agenda, including the addition of more than 1 million hectares to the Land Fund since it began operating.⁵⁷ Since 2018, however, only 63,480 hectares of lands administered by the Fund have been delivered to 4,750 families.⁵⁸

63. OHCHR highlights the importance of the "population-based triage system" created by the National Administrative Department of Statistics and other institutions, in coordination with the United Nations. This tool contains demographic and socioeconomic indicators on the 16 subregions and 170 municipalities that participate in development programmes with a territorial focus.⁵⁹ The tool will also make it possible to identify the main challenges and to measure progress in the implementation of those development

⁵⁰ One is a first-level hospital, the other is a secondary-level hospital.

⁵¹ See www.funcionpublica.gov.co/documents/418537/1205912/2017-04-28_Choco_depto.pdf/4e6aaf24-b1d9-4a97-8854-6ee103dfbd7a.

⁵² See www.minsalud.gov.co/Paginas/en-estos-momentos-no-hay-una-epidemia-activa-en-choco-minsalud.aspx.

⁵³ See www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/TH/politica-nacional-talento-humano-salud.pdf.

⁵⁴ E/C.12/COL/CO/6, paras. 61–62.

⁵⁵ See <https://www.supersalud.gov.co/es-co/Noticias/listanoticias/supersalud-interviene-nuevo-hospital-san-francisco-de-asis-en-choco>.

⁵⁶ See www.procuraduria.gov.co/portal/Procuraduria-pide-a-gobernador-_e_-de-Cesar-cancelar-deuda-con-el-Hospital-Rosario-Pumarejo-de-Lopez-por-_26.686-millones.news.

⁵⁷ See www.agenciadetierras.gov.co/2020/05/07/fondo-de-tierras-para-la-paz-alcanzo-el-1-millon-de-hectareas/.

⁵⁸ Office of the Presidential Advisor for Stabilization and Consolidation, <http://www.portalparalapaz.gov.co/publicaciones/1112/informes-de-gestion/>.

⁵⁹ Decree No. 893 of 28 May 2017.

programmes. The areas where the development programmes are to be implemented comprise 36 per cent of the national territory and are home to 13.3 per cent of the population. The MPI of their rural inhabitants is 57 per cent.⁶⁰ Furthermore, the triage system has shown that the main demands of young people affected by the development programmes with a territorial focus are related to education, employment and sexual and reproductive health.⁶¹

D. Environmental rights

64. OHCHR has observed military operations to destroy dredgers used in illegal mining in the Caquetá River (Caquetá) and in the Puré River (Amazonas). In Amazonas, the State has developed a comprehensive public health strategy to address mercury exposure that is still pending approval and must be agreed to by the indigenous authorities. OHCHR urges the State to reach an agreement with the indigenous authorities and to promptly endorse the strategy so as to address the impact of mercury contamination on the Miraña and Bora peoples, as already noted in previous reports.⁶²

65. In a case involving the deviation of the Bruno stream by the mining company Cerrejón,⁶³ the Office of the Comptroller General identified shortcomings in the work of the Ministry of the Environment and Sustainable Development, the Regional Autonomous Corporation of La Guajira and the National Authority of Environmental Licences.⁶⁴

66. The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment has reported that open-pit mining operations by the same mining company in Tajo Patillo, close to the Wayuu provincial indigenous reservation, were causing health problems among the local communities.⁶⁵

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

A. Sexual and gender-based violence

67. Between 25 March and 31 December 2020, the 155 hotline for women victims of gender-based violence received 21,602 calls about domestic violence, an increase of 103 per cent compared with 2019.⁶⁶ According to the Office of the Presidential Adviser for Women's Equity, that increase was due to the lockdown (preventive isolation) measures ordered to address the pandemic.⁶⁷ The Office also reported a decrease of 52 per cent in medical and legal records on this type of violence and a decrease of 71 per cent in complaints made to the Office of the Attorney General, owing to obstacles in accessing those services during the pandemic.⁶⁸

68. Having monitored the situation in 23 of the country's 32 departments, the Office of the Ombudsman reported problems in the State response to gender-based violence, such as lack of technological resources in the *comisarías de familia* (entities at the district or

⁶⁰ See www.dane.gov.co/index.php/estadisticas-por-tema/demografia-y-poblacion/triage-poblacional-territorial-de-colombia-2020.

⁶¹ Ibid.

⁶² A/HRC/40/3/Add.3 and A/HRC/43/3/Add.3.

⁶³ Constitutional Court, judgment SU698 of 28 November 2017.

⁶⁴ See [Contraloria.gov.co/contraloria/sala-de-prensa/boletines-de-prensa/boletines-de-prensa-2020/-/asset_publisher/9IOzephPkrRW/content/persiste-amenaza-de-vulnerar-derechos-a-la-salud-al-agua-y-la-seguridad-alimentaria-de-comunidades-indigenas-afectadas-por-proyecto-de-desviacion-del-?inheritRedirect=false](http://contraloria.gov.co/contraloria/sala-de-prensa/boletines-de-prensa/boletines-de-prensa-2020/-/asset_publisher/9IOzephPkrRW/content/persiste-amenaza-de-vulnerar-derechos-a-la-salud-al-agua-y-la-seguridad-alimentaria-de-comunidades-indigenas-afectadas-por-proyecto-de-desviacion-del-?inheritRedirect=false).

⁶⁵ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26306&LangID=E.

⁶⁶ See http://www.observatoriomujeres.gov.co/archivos/publicaciones/Publicacion_92.pdf.

⁶⁷ Information provided by the Office of the Presidential Adviser for Women's Equity to the OHCHR office in Colombia.

⁶⁸ Ibid.

municipal level tasked with addressing domestic violence)⁶⁹ to provide online assistance to victims, insufficient rooms in shelters to receive victims, the collapse of the hotline network and lack of access to forensic assessments.⁷⁰

69. OHCHR received information regarding three cases of sexual violence in Antioquia, Caquetá and Guainía: one against a girl, allegedly committed by a group of FARC-EP dissidents; one against a transgender woman, allegedly by a criminal group; and one, of sexual exploitation, involving 40 victims, including three indigenous women, allegedly implicating members of the judiciary, the police and teachers.

B. Sexual and reproductive rights

70. Of all children born in the third quarter of 2020, 18.3 per cent were born to mothers under the age of 19, compared to 19.2 per cent in 2019.⁷¹ OHCHR recommends that the State continue its efforts to prevent teenage pregnancies and guarantee access to sexual and reproductive rights, in line with the recommendations of the Committee on the Elimination of Discrimination against Women.⁷²

71. OHCHR expresses concern about bill No. 008 of 2020, which could, if adopted into law, adversely affect the sexual and reproductive rights of women. The bill seeks to limit abortion by invoking the right to conscientious objection enshrined in article 18 of the Constitution and thereby to allow health institutions to refuse to provide abortion-related services. If adopted, the bill could create additional obstacles to the voluntary interruption of pregnancy and the treatment of complications arising from unsafe abortions.⁷³ OHCHR notes that bill No. 11 of 2019, which had similar objectives, was not passed by Congress.

C. Rights of indigenous peoples and communities of African descent

72. Violence by non-State armed groups and criminal groups has affected indigenous peoples and people of African descent, especially in Cauca, Chocó, Putumayo, Nariño and Valle del Cauca. OHCHR has observed with concern the killing of members of the Awá people⁷⁴ and the killing and forced displacement of members of the Nasa peoples and of people of African descent in Cauca, as well as of indigenous peoples in voluntary isolation in Amazonas and neighbouring departments, who are at high risk because of the violence caused by the presence of illegal miners and drug traffickers in their territory along the Puré River, on the border with Brazil.

73. Indigenous peoples and communities of African descent do resort to legal measures to have their rights enforced, for example when establishing, reorganizing and expanding indigenous reservations and when claiming collective land titles for communities of African descent. Especially worrying are the situations of indigenous peoples at risk of physical and cultural extinction in Amazonas, Guainía, Norte de Santander, Putumayo and Vaupés.⁷⁵

74. The lack of access to ancestral lands by the Arhuaco, Kankuamo, Kogui and Wiwa indigenous peoples is of concern. These peoples are taking legal action in an attempt to stop private citizens from undermining their territorial rights to an area of land known as the

⁶⁹ Law No. 1098 of 8 November 2006, art. 83.

⁷⁰ Office of the Ombudsman, “Consolidado información matriz de seguimiento a la atención de casos en el marco del aislamiento preventivo por el COVID 19”, delivered to OHCHR in response to a request for information, April 2020.

⁷¹ See www.dane.gov.co/files/investigaciones/poblacion/bt_estadisticasvitalas_IIItrim_2020pr.pdf.

⁷² CEDAW/C/COL/CO/9, para. 34.

⁷³ *Ibid.*, paras. 37–38.

⁷⁴ According to the report by the Thematic Protection Group, in which the field office of OHCHR in Nariño participates, the killing of 17 members of the Awá people were recorded, including three leaders and authorities.

⁷⁵ The indigenous authorities of the Guainía, Mirití-Paraná and Pirá-Paraná Rivers, for example, had to resort to a writ for the protection of their lands to be registered as indigenous territories, based on Decree No 632 of 11 April 2018.

“black line”,⁷⁶ which comprises 348 sacred sites and sources that provide water to the departments of Cesar, La Guajira and Magdalena.

75. The year 2020 marked the twenty-seventh anniversary of Law No. 70 of 27 August 1993, which recognizes the rights of people of African descent in Colombia. The sections of the Law on the use of land and environmental protection and planning and on the promotion of economic and social development, however, have not yet been regulated. This has facilitated the usurpation by third parties of lands for which collective land titles have been requested and halted economic and social development, especially along the Caribbean and Pacific coasts and in the Cauca River valley.

76. The guidance on prior consultation issued on 9 September 2020⁷⁷ and the Government’s draft law on that topic partially reflect international standards on the right to prior, free and informed consultation of indigenous peoples and communities of African descent. Greater efforts need to be made to effectively guarantee this right.

D. Rights of people with disabilities

77. OHCHR welcomes the efforts made by the Superior Council of the Judiciary and the Ministry of Justice to provide training to those working in the justice sector on Law No. 1996 of 26 August 2019, which recognizes the full legal capacity of persons with disabilities. OHCHR recommends that the State continue its efforts to promote the Law and train relevant public officials. It reiterates the need to hasten the formulation of regulations for the Law.

E. Children

78. The pandemic has affected children’s access to schools and to online education, which was obstructed by the lack of Internet connection in 71.8 per cent of rural households,⁷⁸ primarily affecting indigenous children and children of African descent.⁷⁹ This situation also increased the exposure of children to violence.

79. Children continue to be used by criminal groups and other violent groups in Antioquia, Cauca, Meta and Valle del Cauca. OHCHR has observed the forced recruitment of children in Antioquia allegedly by ELN and in Caquetá allegedly by a FARC-EP dissident group. In addition, OHCHR has recorded the killing of a boy in Norte de Santander, allegedly by ELN, and of a girl in Antioquia, attributed to criminal groups. Children recruited or used by non-State armed groups and criminal groups are also exposed to risks arising from military actions against these groups, as observed by OHCHR in Antioquia, Chocó and Norte de Santander. Moreover, children have been injured and mutilated by anti-personnel mines in Norte de Santander, allegedly set by ELN and the Popular Liberation Army (EPL); in Antioquia, allegedly by ELN; and in Nariño, by an unidentified group.

F. Rights of lesbian, gay, bisexual, transgender and intersex persons

80. The Office of the Ombudsman has reported an increase in violence against lesbian, gay, bisexual, transgender and intersex persons during the pandemic, including 76 homicides and femicides between January and December 2020.⁸⁰ Between January and August, the Office of the Ombudsman initiated processes to address 388 cases of violence against lesbian, gay, bisexual, transgender and intersex persons, compared to 309 cases in 2019.⁸¹ There was

⁷⁶ See Decree No. 1500 of 6 August 2018.

⁷⁷ See Presidential Directive No. 8 of 9 September 2020.

⁷⁸ See www.dane.gov.co/files/investigaciones/boletines/tic/bol_tic_hogares_2018.pdf.

⁷⁹ See www.dane.gov.co/files/investigaciones/boletines/grupos-etnicos/presentacion-grupos-etnicos-2019.pdf and www.dane.gov.co/files/investigaciones/boletines/grupos-etnicos/presentacion-grupos-etnicos-poblacion-NARP-2019.pdf.

⁸⁰ See www.defensoria.gov.co/es/nube/comunicados/9551/En-pandemia-aumentaron-los-homicidios-y-la-violencia-contra-personas-Lgbti-LGBTI-cifras-Defensor%C3%ADa-del-Pueblo.htm.

⁸¹ Office of the Ombudsman, letter delivered to OHCHR No. 20200401003604241.

also an increase in obstacles to access to justice when filing complaints and in institutional barriers.⁸² The Office of the Ombudsman found that the main obstacles were the prejudiced criteria applied by some public officials and the lack of financial resources.⁸³ In November, the Ministry of the Interior launched an action plan for implementing the national policy for lesbian, gay, bisexual, transgender and intersex persons. OHCHR reiterates the importance of its expedient implementation.

VIII. Recommendations

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

(a) Calls upon the State to redouble its efforts to implement all the chapters of the peace agreement and to promote structural changes that will contribute to improving the human rights situation;

(b) Urges the State to increase its efforts to establish a stronger integrated State presence, to quell violence in the most affected territories, prevent an increase in territorial and social control by non-State armed groups and criminal groups, protect the population, and provide essential services;

(c) Reiterates that the National Commission on Security Guarantees should adopt, as a matter of urgency, a public policy to dismantle criminal organizations, including those referred to as successors of paramilitarism and their support networks, responsible for homicides and massacres of human rights defenders and leaders of social or political movements;

(d) Urges non-State armed groups and the State to comply with their obligation to respect international humanitarian law, reiterates the Secretary-General's call to all actors of the conflict, and those that generate violence, to cease hostilities and welcomes any negotiation of humanitarian accords aimed at protecting the civilian population and consolidating peace;

(e) Urges the national and local authorities to take swift and effective measures to respond to the Ombudsman's early warnings, offers OHCHR technical assistance to help the Ministry of the Interior to improve the effectiveness of the State's response to those early warnings and reiterates the importance of implementing participatory collective protection measures;

(f) Encourages the Office of the Attorney General to continue to strengthen its special investigation unit's ability to identify and sanction the direct and intellectual authors of attacks against human rights defenders and those who signed the peace agreement and to dismantle criminal structures;

(g) Calls upon State institutions to respond to peaceful protests in accordance with international norms and standards, and offers OHCHR technical assistance in this area; and urges the police to rigorously integrate international norms and standards on the use of force in its protocols and procedures, in line with the landmark decision of the Supreme Court of 22 September 2020, and to increase transparency and accountability in cases of abuse, including by sanctioning those responsible for the violations that occurred during the protests held in Bogotá on 9 and 10 September;

(h) Reiterates that, in accordance with international norms and standards, the State has a duty to ensure that all investigations of human rights violations allegedly committed by members of the military or the police are conducted by the ordinary criminal justice system;

⁸² See www.defensoria.gov.co/es/nube/comunicados/9551/En-pandemia-aumentaron-los-homicidios-y-la-violencia-contra-personas-Lgbti-LGBTI-cifras-Defensor%C3%ADa-del-Pueblo.htm.

⁸³ Office of the Ombudsman, letter delivered to OHCHR No. 0200401002838431.

(i) Urges the Office of the Attorney General and the Office of the Procurator General to make progress in the criminal and disciplinary investigations of deaths in custody mentioned in the present report;

(j) Urges the State to preserve the autonomy and independence of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition, as an essential contribution towards a sustainable and lasting peace; urges all State institutions to coordinate and cooperate with the System to enable the fulfillment of its mandate, in accordance with the peace agreement; and urges the State to ensure the effective protection of those that constitute the System and of the victims and witnesses who participate in it;

(k) Also urges the State to increase its efforts to ensure the availability, accessibility, acceptability and affordability of public health services for all, in line with international human rights standards, including for victims of gender-based violence, and to guarantee labour rights for health-care workers;

(l) Reiterates the importance of strengthening the National Institute of Legal Medicine and Forensic Sciences to ensure that victims of sexual violence have access to its services, especially in rural areas, and to continue to strengthen the network of shelters for victims;

(m) Urges the Ministry of Defence to further strengthen its zero-tolerance policy on sexual violence and to prevent, sanction and eradicate sexual and gender-based violence by members of the military and the police;

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

(o) Reiterates the need to guarantee the right to territory of indigenous peoples and people of African descent, and emphasizes the importance of paying particular attention to peoples at risk of physical and cultural extinction, notably by implementing the national system for prevention and protection of indigenous peoples in voluntary isolation,⁸⁴ in accordance with international guidelines;

(p) Urges the State to promote, recognize and continue to support the autonomous and participatory formulation of protocols on relations between indigenous peoples and people of African descent and third parties, and to effectively guarantee the right to prior, free and informed consultation;

(q) Invites the State to ratify and implement the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

⁸⁴ Decree No. 1232 of 17 July 2018.