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Cooperation with United Nations mechanisms and bodies

1. The peace process intensified cooperation with the United Nations (UN) within the framework of UN political missions. The first mission coordinated the Tripartite Monitoring and Verification Mechanism¹ and the second² will observe the reintegration of former guerrillas and their security. Between July and November of 2014 the UN accompanied forums³ and delegations of victims to the peace dialogue table.⁴
2. Colombia has received few visits from special procedures⁵ and has been examined by six human rights Treaty Bodies.⁶ In 2017, the government rejected visit requests from the Special Rapporteur on the Human Rights of Internally Displaced Persons and the Special Rapporteur on the Rights of Persons with Disabilities,⁷ despite the fact that these rapporteurs have a permanent invitation. Neither have the requests for visits of the Working Group (WG) on Mercenaries or the UN Special Adviser on the Prevention of Genocide been accepted.
3. Colombia has not ratified the optional protocols to the International Covenant on Economic, Social and Cultural Rights (ICESCR), nor those of the Committee against Torture (CAT).⁸ In their Final Observations, the Committee against Forced Disappearance, the Committee for the Elimination of Racial Discrimination (CERD) and the CAT called upon the Colombian state to accept their competencies in communications and investigative procedures.⁹

Peace and Armed Conflict

4. The peace talks between the government of President Santos and the FARC guerrilla group and their culmination with the signing of the Final Peace Agreement on November 24, 2016,¹⁰ are viewed as positive. Also of value, both during the peace process and in the Final Agreement, are efforts to respond to some of the major structural causes of the conflict, as well as opportunities for civil society participation, especially by the victims. Even so, criticism has been expressed because this participation was not adequate or sufficient.
5. It is noteworthy that during the bilateral cease-fire between the FARC and the government and the signing of the peace agreements, there was a decrease in certain indicators of violence, such as kidnappings and homicides.¹¹ However, the number of murders of social leaders and human rights defenders increased between 2013 and 2017 (see paragraphs 52-57)
6. The phase for the laying down of individual weapons ended on June 26, 2017.¹² There is concern about the existence of FARC dissidents, although their number remains small at 276 people.¹³
7. During the process for the laying down of weapons, in the first 5 months of 2017, the murders of 3 FARC members and 10 of their relatives were reported.¹⁴ There are serious safety concerns for the reincorporation phase.
8. Peace talks have begun with the National Liberation Army (ELN), however, military action continue to be carried out by the ELN and armed clashes with neo-paramilitary groups with serious effects on the civilian population. The ELN has also committed kidnappings and attacks on oil infrastructure.¹⁵

9. Neo-paramilitary groups continue to commit serious and massive violations of human rights and international humanitarian law (IHL),¹⁶ including assassinations of leaders, child recruitment, laying of anti-personnel mines, forced displacement and confinement of communities.¹⁷
10. The conflict has increased in the Pacific region and the Colombian State has not provided adequate protection for the civilian population. In the department of Chocó more than 6,000 people were forcibly displaced from their homes and 7,000 people were confined in their territories between March 2016 and May 2017.¹⁸ Clashes between the ELN and neo-paramilitary groups led to the displacement of 3,549 people on the Pacific coast in the first months of 2017.¹⁹
11. Power vacuums in territories left by the FARC in the context of their demobilisation are the subject of dispute between the ELN and neo-paramilitary groups. These groups promote economic interests and carry out activities related to drug trafficking, extortion and mining²⁰ in areas such as the San Juan River basin, the city of Buenaventura and the department of Chocó.²¹ The insufficient presence of the State aggravates this situation.²²
12. Ensuring the effective participation of civil society, including victims, women and ethnic minorities, is essential at every stage of the peace agreement implementation process. Also fundamental is the rapid and full implementation of security guarantees for victims and demobilised persons from the FARC²³ as provided for in the Peace Agreement and the dismantling of paramilitarism, together with a commitment to provide the resources and technical support necessary to achieve this.

Neo-paramilitarism (see Annex 1)

13. During the period analysed, the presence and persistent activity of neo-paramilitary groups²⁴ was reported and they have become stronger after the demobilisation of the FARC. Although there are regional differences in their characteristics, the “paramilitary phenomenon” remains strongly in force.²⁵ This situation is recognised in the Peace Agreement where several sections are dedicated to the dismantling of its structures.²⁶
14. The Colombian state’s failure to recognise neo-paramilitarism, its links at the local and regional levels with political and economic sectors and with the state security forces²⁷ and, at the same time, the lack of progress in investigations against threats and murders perpetrated by the paramilitaries, increases the risk for those who oppose their interests.
15. In 2016, neo-paramilitary groups were present in 31 of Colombia’s 32 departments.²⁸
16. There is a national threat of armed violence related to the reconfiguration of power in regions where there is a high level of conflict over land, resources and illegal economies. Regions affected by this phenomenon are characterised by weak local governments, by disputes over control between several actors in the conflict, by the significant presence of the state security forces and by counterinsurgency plans.²⁹
17. Neo-paramilitary groups systematically violate humanitarian spaces to attack civilians and social leaders, for example in Puente Nayero (Buenaventura) and the Peace Community of San José de Apartadó (Urabá).³⁰ These violations occur in a context of strong militarisation within these territories, which in the specific case of San José de Apartadó includes a police base within the village, a few metres from the place where violations have occurred.³¹

18. This situation is aggravated by the fact that the links between the security forces and neo-paramilitary groups persist in several regions of Colombia³² and because the Colombian Government is not consistent in recognising the existence of the phenomenon and its implications.

Forced Displacement

19. Colombia has 7.4 million internally displaced persons, the largest number in the world³³. Between 2013 and 2016, cases of *new displacements* decreased. In 2016, 202,000 people were displaced, 171,000 of them because of the armed conflict.³⁴ From January to June 2017, there were 42 mass displacements.³⁵ Displacement continues to disproportionately affect the indigenous and Afro-Colombian population. In areas where the FARC-EP has withdrawn,³⁶ the State has left the population unprotected against the presence of neo-paramilitary groups and the ELN.³⁷

20. The implementation of Law 1448 of 2011 on Victims and Land Restitution (Victims' Law) has been insufficient. By June 8, 2017, 213,807 hectares had been returned, of at least 8 million hectares that were dispossessed or abandoned for reasons related to the conflict, and with 6 ethnic restitution sentences representing 63.5% of these lands.³⁸ Between 63.8 and 80% of displacement victims live in poverty and between 33% and 35% in extreme poverty.³⁹

21. The Constitutional Court once again considers that the government has not yet made sufficient efforts with regard to prevention, protection, education, justice and non-repetition to overcome the "Unconstitutional State of Affairs" caused by displacement,⁴⁰ despite recognising some progress.

22. Legal and illegal economic projects are a factor in displacement and prevent returns.⁴¹ The State does not guarantee the rights of those affected by the activity of companies.⁴² The Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz* - JEP) does not include sufficient tools to punish economic actors responsible for displacement and other crimes.⁴³

IHL and anti-personnel mines

23. Colombia has a broad regulatory framework⁴⁴ to deal with the effects of anti-personnel mines (APM), unexploded ordnance (UXO) and improvised explosive devices (IED). Between 2013 and May 2017, 1,015 people (civilians and public security forces) were impacted by APM-UXO-IED. Of these, 58 civilians and 74 military personnel were killed.⁴⁵ According to official figures, 98% of accidents occur in rural areas; 38% are from the civilian population; 87% are men and 10% are victims are children.⁴⁶ Since 2013, there has been a decrease in the number of victims in accidents caused by Weapon Contamination; the current peace process with the FARC has contributed to a notable reduction of accidents due to weapons contamination in the country.

24. Non-state armed actors such as the ELN and the neo-paramilitary group known as the *Autodefensas Gaitanistas de Colombia* (AGC) persist in planting and installing IED and APM and leaving abandoned war munitions, causing displacement, confinement and restriction of access to hunting and fishing areas.⁴⁷

Economic, social and cultural rights

Rights of indigenous and Afro-descendant peoples

25. Indigenous and Afro-Colombian peoples continue to be disproportionately affected as the primary victims of human rights violations committed by different state and illegal armed actors. These violations include killings and serious pressure on their territories which threatens their autonomy and ancestral rights.
26. Of the 378 human rights defenders who were murdered between 2002 and 2016 in Colombia, 123 were indigenous and 24 Afro-descendants.⁴⁸ Between 2015 and 2017, every hour an indigenous person was a victim of forced displacement; each day 4 indigenous people were confined in their lands; and every month 39 leaders and indigenous authorities were threatened.⁴⁹
27. Between January and November 2016, at least 75 children died in the department of La Guajira due to malnutrition.⁵⁰
28. From 2013 to March 2017 at least 140 Embera Katío children from the Alto Andágueda indigenous territory in Chocó also died from normally curable diseases.⁵¹ Approximately 85% of the Afro-Colombian population lives in conditions of poverty and marginality, without access to all basic public services.
29. 3.4% of the Colombian population is indigenous: 102 indigenous peoples in total, 87 of which are recognised by the state. There is a high risk of physical and cultural extinction: 64 indigenous peoples are threatened as a result of armed conflict,⁵² agroindustrial or mining interventions in their territories or due to demographic and cultural issues related to territorial pressure.⁵³ In addition, 190,619 indigenous people have been the direct victims of the armed conflict, which has affected their traditions and customs.⁵⁴ The Constitutional Court issued specific measures of protection in Order (*Auto*) 004 of 2009, ordering the elaboration of Safeguarding Plans for each indigenous people. To date, not one Plan has been approved.
30. Afro-descendant communities represent 10.6% of the Colombian population. They were also declared at high risk in *Auto* 005 of 2009. There has been no significant progress to safeguard these communities.
31. There are 688 applications for the legal protection of indigenous territories.⁵⁵ Most have been ongoing for more than 20 years.⁵⁶ Delays are reported in the titling and extension of indigenous territories and Afro-Colombian collective territories.⁵⁷
32. With regards to the fundamental right to self-determination and prior consultation, there have been no prior consultations in several cases where mining titles have been granted, or in relation to the declaration of Indigenous and Black Community Mining Zones and strategic mining areas clearly violating ILO Convention 169.⁵⁸ Mega-projects (mining, infrastructure, agribusiness, etc.) are concentrated in the territories of indigenous and Afro-Colombian communities. They cause environmental and cultural damage and affect the rights of these communities. Illegal armed groups dispute the control of ethnic territories for economic activities, sometimes facilitated by alliances with public and private agents.⁵⁹ The situation of the Awá people, who live in the department of Nariño, is of particular concern. In this region is the largest number of hectares planted with coca leaves can be found, as well as 9 different illegal armed groups.⁶⁰

33. Land restitution for indigenous and Afro-descendant victims has not progressed. Six years after the 2011 Victims' Law and Decrees 4633 and 4635⁶¹ only 6 collective territories have a final restitution sentence, including 3,600 families living on 135,711 hectares.⁶² Some sentences have yet to be complied with.⁶³ Three years after the expiration of the Victims' Law, the progress in the restitution of ethnic territories does not exceed 16%⁶⁴ and shows structural failures in the response of the state and the absence of a differential approach. Ethnic communities continue to suffer from their lands being stolen or legalised to third parties, and from the persecution of their leaders. The restitution policy has been extremely complex due to the lack of formalisation and reorganisation of ethnic territories.⁶⁵ Decree 2333 of 2014 has not been effectively implemented to date.⁶⁶
34. The lack of participation of ethnic peoples in the negotiation process between the government and the FARC is of concern. The invitation to develop the ethnic chapter (paragraph 6.1.12) came at the last moment. There was a lack of consultation and of a differential ethnic approach in the regulations presented to the *Fast Track* mechanism.

Right to food – land and territory

35. Colombia is still the most unequal country in the region in terms of access to land, with 81% of land concentrated in the hands of 1% of the population.⁶⁷ With a Gini coefficient of 53.5⁶⁸ Colombia was ranked 11th among the most unequal countries in the world in 2015. The issue of property distribution is intrinsically linked to the social inequality that persists in the country.
36. In rural areas there are particularly high poverty rates (38.6% live in poverty), inadequate services and limited economic opportunities.⁶⁹ Land distribution and social inequality have played a central role in the Colombian conflict.⁷⁰
37. The National Development Plan 2014-2018 (NDP) (Law 1753 of 2015) includes an institutional land reform to the detriment of human rights.⁷¹ In sentence C-035 of 2016,⁷² the Constitutional Court declared unconstitutional several provisions of the NDP related to strategic projects and extractive activities, as it found that they violate environmental rights and access to land and territory.⁷³
38. Law 1776 of 2016 on Zones of Interest in Rural Economic and Social Development (ZIDRES Law) contradicts the peace agreement, because it allows businesses to form associations with small-scale farmers to develop agro-industrial projects. This makes it possible for businesses to access and accumulate the nation's uncultivated lands, to the detriment of land access for small-scale farmers, Afro-descendants and indigenous people.⁷⁴ The protections in Law 160 of 1994 related to the allocation of uncultivated lands are therefore eliminated, in contradiction with the provisions of the Peace Agreement in the matter of land distribution.
39. There are at least 124 conflicts related to extractive projects.⁷⁵ The government also seeks to authorise fracking,⁷⁶ a technique that involves high water usage and subsurface damage.
40. Hydrocarbon exploitation and the granting of mining titles increased; mining concessions rose from 1.1 million hectares in 2002 to 4.9 million hectares in 2015. When added to lands granted for hydrocarbon exploration, this figure rises to a total of 25.5 million hectares.⁷⁷ These activities have caused serious socio-environmental effects such as the eviction of communities, damage to soils, reduction of flora and fauna and serious contamination of water sources.⁷⁸ Today, rivers in 21 departments of Colombia are contaminated with mercury caused by mining activity. Because of this contamination, women are advised not to breastfeed, in environments where poverty does

not allow for the substitution of breast milk. The state does not compensate for medical treatment needed as a result of this pollution.⁷⁹

41. Colombia is characterised by very low public spending on the environmental sector; namely 0.5% of total expenditure.⁸⁰
42. Only 20% of the 42.3 million hectares of land suitable for agricultural use are actually devoted to agriculture.⁸¹
43. Poverty levels increased in 2016 after a period of reduction between 2002 and 2015.⁸² Although the Government has determined to prioritise measures to address poverty, inequality and access to basic services,⁸³ non-compliance with these priorities led to mass protests in May 2017 in the Pacific Coast and Chocó⁸⁴ where 62.8% of the mostly Afro-descendant and Indigenous population lives below the poverty line⁸⁵ and structural racism against this population is reported.⁸⁶

Right to life, liberty and personal integrity

Enforced disappearance

44. The number of cases of enforced disappearance has declined in recent years, but the phenomenon continues to exist.⁸⁷ The National Registry on Enforced Disappearance (*Registro Nacional sobre Desaparición Forzada*) recorded 105 cases of forced disappearance in 2015.⁸⁸ There are 46.970 direct victims of Enforced Disappearance in Colombia and 120.584 indirect victims since 1970.⁸⁹
45. Despite the magnitude of the phenomenon, Colombia lacks a single register with differentiated figures on enforced disappearances.⁹⁰ The group responsible for purging state files (*Mesa Técnica de Depuración*), installed on January 30, 2014, has to date failed to deliver consolidated figures from its process of cross-referencing, analysis and purging of files.⁹¹
46. 97.91% of investigations by the Public Prosecutor's Office into enforced disappearance are still at the preliminary stage.⁹² Added to this impunity is the fact that Colombia has not yet accepted the competence of the Committee on Enforced Disappearances to receive complaints of cases of disappearance by victims and other states parties.⁹³
47. The definition of the crime of enforced disappearance in the Penal Code does not distinguish between disappearances committed by state action or omission, or by individuals.⁹⁴
48. It is also of concern that attacks continue against victims' relatives and / or human rights defenders who investigate or report cases of enforced disappearance.⁹⁵
49. Victims' organisations have expressed concern that the Search Unit for Persons Believed to be Disappeared (*Unidad para la Búsqueda de Personas dadas por Desaparecidas - UBPD*), created by the Peace Agreement between the Government and the FARC and regulated by Presidential Decree 589 of 2017, is not a high level institution and lacks the autonomy agreed at the negotiating table with participation from the victims.⁹⁶ This calls into question the ability to search for and locate people who may be alive and / or to identify and recover remains.⁹⁷

Gender-based violence

50. The situation of insecurity for human rights defenders in Colombia is alarming: 51 defenders, including 10 women, have been killed in Colombia since 1 December 2016, when the implementation of the Final Agreement began. In this period more defenders have been killed than in 2011, 2012, 2014 and 2015,⁹⁸ in fact there is a 72% increase in murders. The victims of these murders are mainly leaders, either from local neighbourhood processes, the LGBTBI community, other community processes, small-scale farmers or victims' organisations.⁹⁹
51. Violence against women and girls outside the armed conflict continues to increase, without the State having a coordinated response or a human rights approach to prevent and eradicate it.¹⁰⁰ Every 32 minutes a woman is assaulted as part of domestic violence; every 12.6 minutes, at least one woman is raped by her partner or ex-partner; every 30 minutes a woman is a victim of sexual violence in Colombia; every day, 21 girls between the ages of 10 and 14 are victims of sexual violence.¹⁰¹
52. All armed actors in Colombia have committed sexual offences. The state security forces are alleged to have committed the largest number of these crimes.¹⁰²
53. The Special Jurisdiction for Peace (JEP) must develop an effective response for women who have experienced sexual violence. To date, the laws passed, namely the Law on Amnesty and Pardon of 2016 (Amnesty Law), Decree 706 and Legislative Act 01 of 2017 present obstacles for victims to access justice.¹⁰³ Impunity for these crimes encourages their repetition. There is concern that the impunity created by Law 975 of Justice and Peace of 2005 (Law of Justice and Peace) will be repeated due to the victims' fear of reporting and the lack of confessions by the aggressors.¹⁰⁴

Right to freedom of expression and protest

Human rights defenders

54. Despite the fact that Colombia accepted 33 recommendations on human rights defenders in the second UPR cycle,¹⁰⁵ the situation for those who defend human rights continues to be highly critical. In the period under review, there has been a progressive increase in attacks against this group and a significant increase since the signing of the Peace Agreement between the FARC and the Government of Colombia. The Human Rights Ombudsman's Office documented the murder of 156 defenders and social leaders between January 1, 2016 and March 1, 2017, in addition to 5 cases of enforced disappearance and 33 cases of attacks.¹⁰⁶ The We are Defenders Program (*Programa Somos Defensores*) reported that the rate of murders increased by 30% compared to the previous year.¹⁰⁷ Although figures on the number of aggressions differ,¹⁰⁸ the fact that there has been an increase is undeniable.¹⁰⁹ It is of concern that senior representatives of the Colombian state have declared that attacks against defenders are not systematic in nature.¹¹⁰
55. Since 2013 most of the killings have been concentrated in rural areas of the country and carried out against three groups:¹¹¹ (i) land and territorial rights defenders, mega-project opponents and environmentalists; (ii) victims and the organisations that accompany them;¹¹² (iii) peacebuilding activists and those who lead¹¹³ processes for social and political capacity-building.¹¹⁴ Within these categories, factors related to ethnicity and gender increase the vulnerability of groups such as indigenous people, Afro-descendants and women. It is important to reiterate here the vulnerability of women defenders. Over the last five years, women's movements have become more visible, particularly due to their proposals and work during the negotiations between the FARC and the

Colombian Government, and they have achieved important progress like the exclusion of amnesties and pardons in cases of sexual violence committed in the context of the armed conflict.¹¹⁵ In a society strongly characterised by patriarchy, the strengthening and greater publicity regarding the role of women has contributed to an increase in threats and aggressions against them.

56. Among those responsible for these aggressions are the neo-paramilitary groups¹¹⁶ that have emerged since the demobilisation of the United Self-Defence Forces of Colombia.
57. High rates of impunity persist. Despite specific progress, impunity for threats stands at around 100%. This affects the repetition of events, increasing the vulnerability of defenders.¹¹⁷
58. There are serious gaps in guarantees for defenders and in effective public policies for prevention and protection. It is important to highlight the lack of implementation of collective prevention and protection measures envisaged by the Ministry of the Interior.¹¹⁸
59. There are concerns related to cuts and corruption scandals¹¹⁹ in the National Protection Unit responsible for protection schemes for defenders and others, as well as concerns related to its shortcomings: slowness in risk assessment studies and in the implementation of approved schemes; the lack of agreement with the beneficiary on measures to be taken; the absence of clear criteria when defining risk; the lack of a true differential approach.¹²⁰

Environmentalists

60. There is a sharp increase in crimes against environmentalists, especially in connection with the installation of extractive industry megaprojects. There are 37 documented cases of environmentalists killed in 2016¹²¹ (26 in 2015¹²²), making Colombia the second most dangerous place to be an environmentalist among 24 countries analysed worldwide, an observation shared by Special Rapporteur Michel Forst.¹²³
61. Indigenous peoples are particularly vulnerable. In 22 of the reported cases, responsibility is attributed to neo-paramilitary groups.¹²⁴

Journalists

62. 373 attacks against press freedom have been documented in 2016 alone: these include judicial harassment, attacks on the press, and internet censorship. There is also an increase in violations against journalists: from 123 in 2013¹²⁵ to 150 in January and July 2017.¹²⁶ 15 of the 19 cases of stigmatisation reported were committed by public officials between January and July 2017. There were also 39 attacks on the press by the state security forces.¹²⁷ Self-censorship and the lack of guarantees from the State for news coverage also affect press freedom in Colombia.¹²⁸

Trade unionists

63. The human rights situation for trade unionists continues to be serious, although there has been a decrease in the number of attacks against this group, from 385 in 2014 to 192 in 2015.¹²⁹ Neo-paramilitaries continue to be the main perpetrators (72.4% of cases), followed by state agents

(18.9%).¹³⁰ The trend is towards less violence, more focused on union leaders: the percentage of attacks on leaders (39.65%) rose to 70.8% in 2015.¹³¹

Situation of lawyers

64. Smear campaigns continue to be waged against lawyers which increases their risk, and their work is at times described as a “legal war”.¹³² The military doctrine of the “internal enemy” has also filtered through to other state institutions and accusations of “legal warfare” hamper the work of lawyers and make them the target of stigmatisation and other aggressions.¹³³

Right to freedom of protest

65. In the period under consideration, serious violations of the right to freedom of expression were reported. These violations disproportionately affected small-scale farmers, indigenous people and Afro-descendant populations who participated in multiple demonstrations in rural areas.¹³⁴

66. During the National Agrarian Strike in 2013; the Agrarian, Ethnic and Popular *Minga* (collective protest) in 2016 and the civic strike in Buenaventura in 2017, there were reports of murders, mass arbitrary detentions, numerous injuries, forced disappearance and torture.¹³⁵ There were also cases of police violence against women,¹³⁶ girls¹³⁷ and people with disabilities.¹³⁸

67. The high rates of deaths and injuries are caused by the use of ‘low-lethality’ weapons¹³⁹ such as tear gas cartridges fired at point blank range or filled with shrapnel, bullets, glass or screws and the systematic use of firearms by the state security forces during protests.¹⁴⁰

68. Senior government officials continue to delegitimise social protest publicly and in the media.¹⁴¹

69. The application of restrictive legal norms to freedom of protest¹⁴² is cause for concern: the Citizen Security Law¹⁴³ makes it a criminal offence to block roads,¹⁴⁴ which leads to mass prosecution,¹⁴⁵ increasing the situation of prison overcrowding in the country.¹⁴⁶ The new Police Code¹⁴⁷ imposes conditions on demonstrations¹⁴⁸ and opens the door to arbitrary arrests.¹⁴⁹

Administration of justice, fight against impunity and Rule of Law

Independence of justice

70. Influence peddling between the executive branch and the judicial branch is worrying.¹⁵⁰ The “revolving doors” between senior government officials and the judiciary do not guarantee the separation of powers.

71. Officials from the judicial branch and members of their families continue to suffer assaults, smear campaigns and murders.

72. There are numerous cases¹⁵¹ of a lack of institutional support and protection for officials investigating high-risk cases such as extrajudicial killings and “false positives” - extrajudicial killings committed by the state security forces or illegal groups where the victim is presented as a guerrilla / fallen in combat.

73. There are reports of cases of abuse against lawyers, witnesses and victims at critical points in the judicial process.¹⁵²

Impunity

74. The level of impunity for human rights violations in Colombia exceeds 90%. By December 2016, there were 2,315 open investigations into extrajudicial killings cases and only 133 persons convicted.¹⁵³ The Attorney General's Office has also opened 12,056 cases of enforced disappearance from 2012 to April 2016. As of May 2016, 97.9% of these were at the preliminary investigation stage with only 0.89% at the prosecution stage.¹⁵⁴

75. As of September 2016, only 180 people had been sentenced under the Justice and Peace Law,¹⁵⁵ despite the fact that 4,408 persons were originally accepted into the Law's jurisdiction and that more than 30,000 paramilitaries participated in the demobilisation.¹⁵⁶ During the proceedings under this law there were 15,591 requests for information to other branches of justice due to the incrimination of third parties¹⁵⁷ in the paramilitary statements. However, there is no information as to whether any significant investigation of these cases has been carried out.

76. Despite the historic role of military criminal justice in the promotion of impunity, this jurisdiction has been given more powers since the previous UPR. Legislative Act 01 of 2015 (hereinafter LA01) grants military courts the jurisdiction to hear cases of crimes committed outside combat and against civilians.¹⁵⁸ For crimes committed by military personnel related to the conflict, IHL applies. In this regard, the Constitutional Court has stated that both IHL and HR must be applied.¹⁵⁹ Law 1765 of 2015 that reforms the Military Penal Code also extends military criminal jurisdiction.¹⁶⁰

Risks of impunity in transitional justice

77. The Comprehensive System for Truth, Justice, Reparation and Non-Repetition (*Sistema Integral de Verdad, Justicia, Reparación y No Repetición* - SIVJRNR) created by the Peace Agreement contains some new risks: in LA01 the concept of command responsibility used violates international standards,¹⁶¹ as it is limited to the "effective control of respective conduct" when the international norm speaks of "effective control of the forces under responsibility".¹⁶²

78. LA01 also refers to, but does not define, "offences committed on account of, on or in connection with the conflict".¹⁶³ Without this definition, it is feared that only IHL standards could be applied to state agents in cases of human rights violations.¹⁶⁴ LA01 also provides for "differential treatment" without defining what this means for state agents, which opens the door to privileged treatment, ignoring their greater responsibility.¹⁶⁵ There is concern that LA01 omits a reference to International Criminal Law in its legal classification of state agents.¹⁶⁶

79. The JEP can only address a limited number of cases, focusing on the most serious and representative behaviours.¹⁶⁷ It is feared that non-prioritised cases will be abandoned.¹⁶⁸ In

addition, there is concern that the JEP's competence regarding third parties is limited to their active or determined participation, contrary to the concept of guilt in International Criminal Law.¹⁶⁹

80. The Amnesty Law allows for the transitional freedom of State agents convicted of serious crimes¹⁷⁰ without the victims being able to intervene¹⁷¹ and without setting deadlines for their appearance before the JEP. Nor does the law specify criteria for noncompliance / loss of benefits, including some important benefits such as parole.¹⁷²
81. Decree 706 of 2017 provides for the suspension of arrest warrants for members of the security forces,¹⁷³ including persons who have failed to appear in criminal proceedings.¹⁷⁴

Extrajudicial killings

82. One of the most serious and massive human rights violations in Colombia has been “the arbitrary deprivation of life by agents of the State, or with the complicity, tolerance or acquiescence of these, without a judicial or legal process that provides for it”.¹⁷⁵ To date, the Public Prosecutor's Office has registered more than 4,000 investigations¹⁷⁶ into cases of extrajudicial killing.
83. Although there has been a reduction in extrajudicial killings in 2016, the phenomenon persists.¹⁷⁷ In 2015 there were 65 new cases, 16 of those ‘false positives’.¹⁷⁸ In 2017, there were new cases of killings of small-scale farmers during military operations¹⁷⁹ and 2 FARC guerrillas were murdered¹⁸⁰ during the Bilateral and Definitive Ceasefire and Cessation of Hostilities.

Prohibition of torture

Prisons situation

84. In May 2016, the Ministry of Justice declared a state of emergency in prisons, in light of problems related to medical services. The lack of health services has been responsible for the deaths of hundreds of prisoners and the proliferation of epidemics in recent years.¹⁸¹ Overcrowding has increased and, according to official figures (INPEC), overcrowding stands at 54.8%. There is serious concern about extreme levels of prison overcrowding in Riohacha (405.0%), Cali (208.5%) and Santa Marta (361.5%).¹⁸²
85. The persistent practice of prolonged isolation in Special Treatment Units (*Unidades de Tratamiento Especial* - UTE) has been observed, and a lack of effective monitoring and control mechanisms to prevent this violation from occurring.
86. The abuse of force and use of reduced lethality weapons is of concern. The arbitrary use of tear and pepper gas in prison cells is frequent. In most prisons there is no separation between accused and convicted persons.

Reparation and rehabilitation of victims of torture

87. It is important to mention the underreporting of cases of torture and ill-treatment due to factors such as the absence of criminal classification for cruel, inhuman or degrading treatment, the recurrent use of minor offences (abuse of authority, personal injury), and the lack of recognition and application of the Istanbul Protocol. This has led to an absence of specialised and comprehensive programs for reparation and psychosocial support for victims of torture and other ill-treatment.¹⁸³

¹ [Resolution 2261 of the United Nations Security Council](#), 26 January 2016.

The Security Council unanimously approved the establishment of a political mission of unarmed international observers to monitor and verify the laying down of weapons and to form part of the tripartite mechanism for monitoring the bilateral and definitive cease-fire and cessation of hostilities. The Mission began operations on December 2, 2016 and is led by Jean Arnault, Special Representative of the Secretary General. It is currently composed of 448 observers (58 of them women) from 19 countries deployed in 8 regional offices and 26 local offices.

Report of the Secretary General on the United Nations Mission in Colombia. [S/2017/539](#), 23 June 2017.

² Resolution 2366 of the United Nations Security Council of 10 July 2017. [S/Res/2366 \(2017\)](#)

³ United Nations Development Program in Colombia: [Todo sobre los Foros Regionales y el Foro Nacional sobre Víctimas](#), 13 August 2014.

⁴ United Nations Development Program in Colombia: UNDP Colombia website: [Todo sobre encuentros de delegaciones de víctimas con Mesa de Conversaciones](#), 25 September 2014.

⁵ In 2015, the Special Representative of the Secretary General on Sexual Violence in Conflict and the Special Representative for Children in Armed Conflict visited Colombia.

⁶ 2015: Committee on the Rights of the Child (CRC), Committee on the Elimination of All Forms of Racial Discrimination (CERD), Committee Against Torture (CAT); 2016: Committee on the Rights of Persons with Disabilities (CRPD), Committee on Enforced Disappearances (CED) and Committee on Civil and Political Rights (CCPR).

⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR). [Country visits of special procedures of Human Rights Council since 1998](#).

⁸ Human Rights Council: Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia during the year 2016. [A/HRC/34/3/Add. 3](#), March 2017.

⁹ CED/C/COL/CO/1 (Art. 11, 12), CERD/C/COL/CO/15-16 (Art. 42) , CAT/C/COL/CO/5 (art.29)

¹⁰ [Final Agreement to end the armed conflict and build a stable and lasting peace](#). 24 November 2016.

¹¹ The increase in violence against HRDs is in direct contrast to the declining trend of conflict violence for example in 1999 the annual per capita homicide rates was 62 per 100,000 people by 2014 it had declined to 27 per 100,000 people. The annual number of kidnappings decreased from over 3,000 in 1999 to less than 300 in 2014.

ABColumbia: Briefing, [Security of Human Rights Defenders and Communities](#), 28 May 2016.

InSight Crime: [2016 Homicide Round-up](#). 16 January 2017.

¹² United Nations Mission in Colombia: [United Nations Mission Receives The Balance Of Individual Arms From The Farc-Ep In Accordance With The 29 May Road Map](#), 26 June 2017; ABColumbia: [FARC Finalise Laying Down of Arms](#), 27 June 2017.

¹³ Figure up until 23 June 2017. Report of the UN Secretary General to the Security Council, [S/2017/539](#), paragraph 39, 23 June 2017.

¹⁴ Ibid.

¹⁵ Reuters: [Ataque del ELN paraliza bombeo por oleoducto colombiano Caño Limón-Coveñas](#), 27 April 2017.

¹⁶ Intimidatory graffiti messages from the AGC in Llano Rico, Curvaradó, the Peace Community of San José de Apartadó and the urban centre of Belén de Bajirá.

Espacio de Cooperación para la Paz: [Informe de la Misión Bajo Atrato](#), 15 June 2017.

¹⁷ Human Rights Watch: Colombia: [Armed Groups Oppress Riverside Communities](#), 7 June 2017.

UNHCR: [Forced displacement growing in Colombia despite peace agreement](#), 10 March 2017.

¹⁸ UNHCR: [Growing forced displacement in the department of Chocó, western Colombia](#), 13 May 2016.

¹⁹ UNHCR: [Forced displacement growing in Colombia despite peace agreement](#), 10 March 2017.

²⁰ Regarding the relationship between illegal armed groups and illegal and criminal mining activities, see UNODC: Colombia. [Explotación de oro de aluvión. Evidencias a partir de la percepción remota](#), June 2016.

See also, classification by Luis Jorge Garay. Grupo de Diálogo sobre Minería en Colombia: [Propuestas para una visión compartida sobre la minería en Colombia](#), April 2016.

²¹ Human Rights Watch: Colombia: [Armed Groups Oppress Riverside Communities](#), 7 June 2017.

²² Human Rights Ombudsman's Office (*Defensoría del Pueblo*) [Informe de riesgo N° 010-17 A.I.](#) 18 March 2017.

²³ [Peace Agreement](#), chapter 5, 24 November 2016.

²⁴ Indepaz: [El complejo paramilitar se transforma](#), March 2017.

²⁵ El Espectador, [La magnitud del fenómeno paramilitar](#), 21 April 2016.

²⁶ [Peace Agreement](#), Chapter 3.4, 24 November 2016.

²⁷ Sindicato de Defensores y Defensoras de Derechos Humanos de la Defensoría del Pueblo (SINDHEP): [Carta pública a Carlos Negret Mosquera](#), 8 February 2017.

²⁸ Indepaz: [El complejo paramilitar se transforma](#), 4 March 2017.

²⁹ Indepaz: [Medidas urgentes de protección de comunidades y líderes sociales](#), 14 December 2016.

³⁰ Banco de Datos de violencia política. Revista Noche y Niebla #53 enero – junio 2016, 9 August 2016, p. 26-27.

³¹ Banco de Datos, *ibid*.

³² El Espectador. ["En algunas regiones de Chocó falta más compromiso de la Fuerza Pública": obispo de la Diócesis de Quibdó](#), 19 April 2017.

³³ Accumulated between 1985 and 2016.

UNHCHR: [Global Trends – Forced Displacement](#), 2017.

³⁴ Internal Displacement Monitoring Center: [Global Report on Internal Displacement](#), 2017. There is variation in the figures. The statistics report displaced persons late, since the state body the Single Victims' Register (*Registro Único de Víctimas* - RUV) only includes cases already reviewed. In addition many people only report to institutions a few months after the events have occurred.

³⁵ UNHCHR: [Global Trends – Forced Displacement](#), 2017.

³⁶ OHCHR: [Oficina de la ONU para los Derechos Humanos preocupada por aumento de la violencia en contra de líderes, lideresas, defensores y población que habita zonas rurales](#), 2 December 2016.

³⁷ In March 2017, more than 6,000 people, mostly belonging to indigenous and Afro-descendant communities, were forcibly displaced in the department of Chocó because of clashes between armed groups that in some cases have been identified as ELN and Autodefensas Gaitanistas.

Amnesty International: [Annual Report 2016/2017](#), 2017;

Colombia Plural: [Desplazamientos masivos, la guerra sigue en el Chocó](#), 7 March 2017; Amnesty International: [Urgent Action: Colombia: Paramilitary Incursion in humanitarian zones](#), 17 March 2017.

³⁸ [Unidad de Restitución de Tierras](#). 6 October 2016.

Forjando Futuros: [Así va la restitución – infograma](#), 8 June 2017.

Amnesty International: [Colombia: Restoring the Land, Securing the Peace](#). 4 November 2015.

³⁹ Human Rights Ombudsman's Office. [Informe Comisión de Seguimiento Ley de Víctimas y Restitución de Tierras](#), August 2015.

Contagioradio: [En Colombia la población desplazada "es más pobre que los pobres"](#). Último acceso 4/10/2017.

Most do not have sufficient access to training and education to compete in the labour market in an urban context.

⁴⁰ Constitutional Court. [Sala Especial de Seguimiento Sentencia T-025 de 2004. Auto 373 de 2016](#)

In 2004 the Constitutional Court declared via Sentence T-025 that the displaced population is affected by an "Unconstitutional state of affairs".

⁴¹ International Displacement Monitor (IDM): [Colombia](#).

⁴² Examples of displacements from which companies have benefitted and in which there has been to date no restitution or reparation for the victims:

- 1) Plantations of oil palm in the department of Meta, documented by the NGOs Indepaz, Somo and the Inter-Church Justice and Peace Commission (*Comisión Intereclesial de Justicia y Paz*). Mongabay: [Colombia's palm oil boom marred by bloody past and violent present](#), 5 January 2016.
- 2) Coal extraction in the department of Cesar by the companies Drummond and Prodeco, as documented by the Centre for Historical Memory and the NGO PAX. Centre for Historical Memory: [La Maldita Tierra](#), 2016. PAX: [The Dark Side of Coal](#), June 2014.

⁴³ The Peace Agreement refers to economic actors as “third parties”.

Cajar et.al. [Vínculo de sectores empresariales con conflicto no se ha investigado en forma exhaustiva](#), 6 July 2017

⁴⁴ Law 1346 of 2009, approving the Convention on the Rights of Persons with Disabilities adopted by the United Nations General Assembly, Law 1448 of 2011 on the Care and Integral Reparation for Victims of Violence and Statutory Law 1618 of 2013, which establishes provisions to guarantee the full exercise of the rights of persons with disabilities. At CPA level, Law 759 of 2002 and the creation of the Directorate for Integral Action against Antipersonnel Mines – DAICMA by Decree 2150 of 2007, as well as sentences T-25 and T-469 of the Constitutional Court and their respective Orders that decree reparation and care measures with a differential approach to victims in situations of disability in the country.

⁴⁵ Action against Landmines (*Acción Contra las Minas*): [Situación de víctimas Colombia 1990 – 31 de mayo de 2017](#), 31 July 2017.

⁴⁶ Directorate for Integral Action against Antipersonnel Mines (*Dirección para la Acción Integral Contra Minas Antipersonal*). For the year 2012 Arauca became the department of Colombia with the second highest number of victims of Antipersonnel Mines - APM, for a rate of 100,000 inhabitants, most of them in a situation of disability.

⁴⁷ Delegate Ombudsman for the Prevention of Risks of Human Rights and IHL Violations (*Defensoría Delegada para la Prevención de Riesgos De Violaciones de DDHH y DIH*) Sistema De Alertas Tempranas – SAT: Nota De Seguimiento N° 001-16, 18 January 2016 and Nota de Seguimiento N° 004-17, 27 April 2017.

⁴⁸ We are Defenders Program (*Programa Somos Defensores*).

⁴⁹ Contagioradio. [Entre 2015 y 2017 un indígena fue desplazado forzosamente cada hora según ONU](#). 7 June 2017.

⁵⁰ The majority of indigenous peoples in the Guajira are Wayúu. In December 2015, the IACHR asked the Colombian government to adopt precautionary measures.

Human Rights Watch, [World Report 2017 – Colombia](#), January 2017 / Annual Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia 2016.

⁵¹ In 2013, 10 returned children died and 39 others died in the indigenous territory, all died from curable diseases such as parasites or flu. In 2014, 80 children were killed by similar diseases. Between December 2016 and mid-March 2017 22 children died in the territory.

Comunidad de Juristas Akubadaura: [Informe de Seguimiento presentado al Tribunal Superior de Antioquia en seguimiento a la sentencia 007 de 2014](#), April 2017.

⁵² National Indigenous Organisation of Colombia (*Organización Nacional Indígena de Colombia - ONIC*) [Palabra dulce, aire de vida. Forjando caminos para la pervivencia de los pueblos indígenas en riesgo de extinción física en Colombia](#), 2010.

⁵³ Observatorio por la Autonomía y los Derechos del Pueblo Indígena en Colombia: [Sus armas no lograrán extinguir nuestra palabra- Informe de riesgos de extinción de 6 pueblos en Colombia](#), December 2013

⁵⁴ Presidential Council for Human Rights (*Consejería Presidencial para los DDHH*): [“Estamos comprometidos con los derechos de los pueblos indígenas”](#): consejera Paula Gaviria, 9 August 2017

⁵⁵ 368 requests are for the constitution of indigenous territories, 297 requests for the extension of indigenous territories and 21 requests for the reorganisation of territories. According to the ONIC Land Department report, as of August 2015, there were 828 cases of requests made by indigenous peoples to the Colombian Institute for Rural Development (INCODER), which had not been resolved, on the titling, constitution, reorganisation and expansion of indigenous people's territories in the country.

⁵⁶ ONIC: [Audiencia Pública: "Pueblos Indígenas, Conflicto Armado Y Paz"](#), Congreso de la República, 3 September 2015.

⁵⁷ According to the communities, the government does not yet recognise 669 indigenous territories and 235 collective Afro-descendant land titles.

⁵⁸ Garay, L. J. [Minería en Colombia - Institucionalidad y territorio, paradojas y conflictos](#), May 2013.

⁵⁹ Indepaz, presentation in the Forum ["Cinco años después de la Ley de Víctimas y Restitución de Derechos Territoriales: Impactos sobre comunidades indígenas y afrodescendientes"](#), Bogotá, December 2016.

This forum was organised by 16 organisations, including the Lutheran World Federation, Indepaz, Cinep, Tierra Digna and Akubadaura.

⁶⁰ Observatorio ADPI, *Ibid*, 2017. ["Anexo 2: Situación Humanitaria del Pueblo Awá"](#). Hechos presentados entre 2011 – 2017".

⁶¹ Law on Victims and Land Restitution of 2011; by means of Decrees 4633 and 4635 of 2011, measures of assistance, attention, integral reparation and restitution of territorial rights are issued to victims belonging to indigenous and Afro-descendant peoples and communities.

⁶² Resguardo indígena Embera Katío Tahami del Alto Andágueda (Chocó), Resguardo indígena Embera Dobida Dogibi, territorio ancestral Eyaquera (Chocó), Resguardo Afro Renacer Negro Timbuiquí (Cauca), Resguardo Indígena Wayuu Nuevo Espinal (Guajira), Resguardo Indígena Yupka, Menkue Misaya, y la Pista (Cesar), Resguardo Indígena Yupka, Iroka (Cesar). There are 38 cases completed, and another 36 in the process of being completed. There are 28 demands for ethnic restitution of presented as of July 2017, 6 of which have reached a legal decision, and 27 orders for protection measures.

Land Restitution Unit (*Unidad de Restitución de Tierras*). [Estadísticas de Restitución de Tierras](#), 28 July 2017.

⁶³ See annex: Case of Alto Andágueda.

⁶⁴ Five orders have been partially fulfilled, according to monitoring information from the Comunidad de Juristas Akubadaura.

⁶⁵ Indepaz, presentation in the forum ["Cinco años después de la Ley de Víctimas y Restitución de Derechos Territoriales: Impactos sobre comunidades indígenas y afrodescendientes"](#), Bogotá, December 2016

⁶⁶ Decree 2333 of 2014, "Establishing mechanisms for the effective protection and legal security of lands and territories occupied or possessed ancestrally and / or traditionally by indigenous peoples in accordance with the provisions of articles 13 and 14 of ILO Convention 169, to which are added Articles 13, 16 and 19 of Decree 2664 of 1994", has not been effectively implemented to date. The ONIC has rejected what it considers to be "anti-restitution policies promoted by political, economic and military sectors, which strive to create new categories of victims with the sole interest of prolonging the inadmissible policy of dispossession and the criminalization of a law whose main objective is the dignification of victims of the armed conflict".

ONIC: [ONIC se pronuncia frente a debate sobre Ley de Restitución de Tierras](#), 28 April 2016.

⁶⁷ Oxfam: [Radiografía de la desigualdad](#), May 2017.

⁶⁸ UNDP: Global Human Development Report, 2016. Inequality in Colombia has changed a little. For example the co-efficient stood at 53.9 in 2012.

⁶⁹ WFP: [Colombia, Country Brief](#), May 2017.

⁷⁰ Alejandro Angulo Novoa: [¿Paz con Santos?](#), 16 August 2012.

⁷¹ Which closed the INCODER and created the National Land Agency (*Agencia Nacional de Tierras*), the National Rural Development Agency (*Agencia Nacional de Desarrollo Rural*) and the Agency for Renewal of the Territory (*Agencia para la Renovación del Territorio*)

⁷² [Sentence C-035 of 8 February 2016](#) of the Colombian Constitutional Court.

⁷³ Sentence C-035 of 2016, divided into five parts, develops aspects such as: reserve areas for mining development; a national system of projects of national and strategic interest; Projects of National and Strategic Interest and victims of the armed conflict; environmental licences and delimitation of high moorland areas (*páramos*). Regarding the areas reserved for mining development, the court decided that the competent authority to define areas reserved for mining must previously reach agreement with the local authorities of the municipalities where they are to be located, and ensure that they are compatible with the respective plans of territorial management. Regarding the Projects of National and Strategic Interest and victims of the armed conflict, the constitutionality of Article 50 of the National Development Plan 2014-2018 was questioned in the Court. This article establishes a provision for the non-return of lands to victims in these areas. The Court suppressed this provision, considering that the rule violates the fundamental right to integral reparation by victims of the armed conflict.

⁷⁴ Oxfam/Cinep/Codhes et.al.: [Lo que oculta el Proyecto de Ley 223](#), no date.

⁷⁵ Global Atlas of Environmental Justice, available at: <http://ejatlas.org/country/colombia>. According to figures from Funtraenergética (2011), “80% of human rights violations in Colombia occur in mining-oil municipalities (35% of the national total); 87% of forced displacement comes out of these municipalities and those which receive royalties for mining-energy production; 78% of crimes against trade unionists, 89% against indigenous people and 90% against African descendants, are committed in mining-energy areas” (Ramírez Cuéllar, 2011: 1).

⁷⁶ Fracking: a technique that starts with the drilling of a vertical well until it reaches gas or oil. According to official information, as of 2015, 7 non-conventional hydrocarbon contracts have been underwritten, and are in the exploratory stage, without the necessary environmental impact studies.

⁷⁷ Colombian Platform for Human Rights, Democracy and Development (*Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo*): [Resumen ejecutivo de la sociedad civil al vi informe del estado colombiano al comité de derechos económicos, sociales y culturales](#) – ICESCR, March 2017.

⁷⁸ DeJusticia: [La Paz Ambiental: retos y propuestas para el postconflicto](#), January 2017.

AIDA: [No más grandes represas: La verdad sobre ellas](#), no date.

⁷⁹ Observatorio ADPI: [¿Paz para quién? Defensa del territorio y minería en Colombia](#), July 2017.

⁸⁰ Lorenzo Morales: [La paz y la protección ambiental en Colombia: propuestas para un desarrollo rural sostenible](#), E-Diálogo, el Liderazgo para las Américas, January 2017.

⁸¹ National Administrative Department of Statistics (*Departamento Administrativo Nacional de Estadística - DANE*), [Tercer Censo Nacional Agropecuario](#), 2016.

⁸² DANE: [Pobreza Monetaria y multidimensional en Colombia 2016](#). 22 March 2017.

⁸³ LSE Podcast: [Interview with Juan Manuel Santos Calderón](#), 2 November 2016.

⁸⁴ Colombia Reports: [Colombia poverty and inequality statistics](#), 21 March 2017.

⁸⁵ Colombian organisations. [Comunicado público: respaldamos la movilización del Pacífico por la vida digna y la paz Bogotá](#), 24 May 2017.

⁸⁶ Ibid.

⁸⁷ Committee on Enforced Disappearances: [Concluding observations on the report presented by Colombia article 29 \(1\) of the Convention](#). Paragraph 19. October 2016.

⁸⁸ Office of the United Nations High Commissioner for Human Rights: Annual Report on the situation of human rights in Colombia in 2015. 22 March 2016.

The report refers to the 105 new cases of forced disappearance according to the National Registry of Disappearances (*Registro Nacional de Desapariciones*).

⁸⁹ Unidad de Atención y Reparación Integral a las Víctimas del Conflicto Armado. [Red Nacional de Información](#). Fecha de corte 1 de septiembre 2017.

⁹⁰ Other registers: International Committee of the Red Cross: [Opinión: Colombia no podrá aprender de sus errores si se olvida de los desaparecidos](#), 17 June 2016. “In Colombia there are almost 80,000 people reported as disappeared, according to official registers of the Network of Disappeared and Cadavers Information System (*Sistema de Información Red de Desaparecidos y Cadáveres - SIRDEC*)” [our translation].

National Centre for Historical Memory (*Centro Nacional de Memoria Histórica*): [Hasta Encontrarlos](#): El drama de la desaparición forzada en Colombia, November 2016. *According to this report, there are 60,630 documented cases of victims of enforced disappearance.*

⁹¹ Colombia-Europe-United States Coordination Group (*Coordinación Colombia Europa Estados Unidos - CCEEU*): [Informe alterno sobre la situación de las desapariciones forzadas en Colombia presentado ante el Comité contra la Desaparición Forzada de Naciones Unidas](#), 8 September 2016.

⁹² CCEEU, *ibid.*

⁹³ United Nations Office of the High Commissioner on Human Rights: [Ratification status Human Rights Bodies by Country](#). [last entry 12 July 2017]

⁹⁴ Committee on Enforced Disappearances: [Concluding observations on the report presented by Colombia article 29 \(1\) of the Convention](#). Paragraph 15. October 2016.

⁹⁵ Case of the threats against Andrea Torres from the Fundación Nydia Érika Bautista. International Federation of Human Rights (FIDH). [Colombia: Hostigamiento y amenazas en contra de la Señora Andrea Torres Bautista](#), 3 June 2015.

Case of the smear campaign against Yanette Bautista from the Fundación Nydia Érika Bautista. Semana: [“Uribe no puede tener pruebas de lo que no he hecho”](#), 18 September 2014.

⁹⁶ United Nations Department for Development: [Víctimas de Desaparición Forzada presentan documento de recomendaciones en La Habana](#), 16 March 2016.

⁹⁷ Móvico. [La Unidad de Búsqueda de Personas Desaparecidas no será una Entidad de Alto Nivel como se firmó en el Acuerdo Final de Paz](#), 30 March 2017.

⁹⁸ Corporación Humanas. Boletín: Since October 1, 2012, the month that the Negotiations Table was installed, and April 30, 2017, 48 women defenders were murdered in the country. This represents an increase of between 3% and 6%, in the total number of murders of women human rights defenders in the country. The percentage women defenders murdered has increased in relation to the total.

⁹⁹ In particular women community leaders from local community processes and LGBTI women were the most affected in their right to life, representing 28%; 13.5%; and 13%, respectively, of the total number of women defenders killed.

¹⁰⁰ According to figures from the National Institute of Forensic Medicine and Forensic Sciences (*Instituto Nacional de Medicina Legal y Ciencias Forenses - INML-CF*), the percentage of increase in domestic violence between 2013 and 2014 was 11.91%, while for 2015 it was 4.9% with respect to the previous year and 17.4% compared to 2013. With regards to sexual violence, with the exception of one source, the tendency to increase in recent years stands out; according to the INML-CF between 2013 and 2014, sexual violence increased 2.59% and in 2015, 5.06% with respect to the previous year and 7.79% with reference to the year 2013. In 2015, 20,839 medical-forensic examinations were carried out for alleged acts of sexual violence. Of the total, 17,723 corresponded to women, or 85.05%; and 3,116 men, or 14.95%. Of the 17,723 cases registered by INML-CF in 2015, 15,114 correspond to girls and adolescents, that is, 85.28% of the total number of women attacked. Within this group, girls who are between 10 and 14 years of age are the most affected (47.31%), followed by those who are between 5 and 9 years old (25.74%). Legal Medicine and forensic science. Children and adolescents victims of violence. (access August 21, 2017) INML-CF. [Niños, niñas y adolescentes víctimas de violencia](#). (accessed on 21 August 2017)

¹⁰¹ Corporación Sisma Mujer: [La erradicación de las violencias contras las mujeres: un paso definitivo hacia la paz](#) - Informe Especial, Boletín No. 11, 25 November 2016.

¹⁰² According to Sisma Mujer's Bulletin 11, of the total number of expert reports on women survivors of sexual violence, with regards to the alleged perpetrators from 2007 to 2015, members of the armed forces, police, judicial police and intelligence services were the main suspects responsible for sexual violence in the context of sociopolitical violence during this period, with 36.13% of cases against women (353). Within this category, the police were the greatest perpetrators with the highest number of cases (61%, i.e. 215 cases), followed by the Military Forces (28%, i.e. 99 cases).

¹⁰³ Colombia is yet to provide justice to the victims of sexual violence documented in the reserved annexes of Constitutional Court Orders 092 of 2008 and 09 of 2015.

¹⁰⁴ Currently the Office of the Public Prosecutor reports a total of 52 sentences of which only 7 are related to sexual violence.

¹⁰⁵ Coordination groups and international organisations: [Informe de la situación de derechos humanos en Colombia 2013-2018. Exámen Periódico Universal Colombia 2013](#), October 2012.

¹⁰⁶ Human Rights Ombudsman (*Defensoría del Pueblo*): Informe Especial de Riesgo: Violencia y amenazas contra los líderes sociales y los defensores de derechos Humanos, 31 March 2017.

¹⁰⁷ Programa Somos Defensores. [¡Agúzate! – Informe Semestral enero-junio 2017](#), August 2017.

¹⁰⁸ Whose figures vary, depending on the definition itself of “human rights defender”: The We are Defenders Program (Programa Somos Defensores) reported 80 killings of activists during the year 2016.

Programa Somos Defensores. [Informe Anual 2016](#) “Contra las cuerdas”, February 2017.

According to the Cumbre Agraria, there were 94 murders.

Cumbre Agraria: Informe de Derechos Humanos y Vulneración al Derecho Internacional Humanitario 2016, p. 2.

Office of the United Nations High Commissioner for Human Rights (OHCHR): 63 murders in 2016 compared to 25 murders in 2015.

OHCHR: Annual Report on the situation of human rights in Colombia, 2016, p. 10 and 11. The Ombudsman’s Office (*Defensoría del Pueblo*) has recorded 156 homicides, 33 attacks and at least 500 threats against leaders and human rights defenders between January 1, 2016 and March 5, 2017.

Human Rights Ombudsman’s Office (*Defensoría del Pueblo*): [Informe Especial de Riesgo: Violencia y amenazas contra los líderes sociales y los defensores de derechos Humanos](#) p. 23, 24 y 28.

Indepaz recorded 117 killings in 2016.

Indepaz: [Informe Anual 2016](#). Organisations agree that the increase in murders against leaders and defenders is indisputable.

¹⁰⁹ We Are Defenders Program (*Programa Somos Defensores*), Annual Reports: D de Defensa, 2013; La Divina Comedia, 2014; El Cambio, 2015 Contra las cuerdas, 2016.

Year	Total aggressions	Killings	Attacks	Gender
2013	366	78	39	77% men 23% women
2014	626	55	41	65% men 35% women
2015	682	63	35	61% men 39% women
2016	481	80	49	68% men 32% women
2017 (until June 2017)	335	55	32	76% men 24% women

¹¹⁰ Contagio Radio, [Asesinatos de líderes sociales son práctica sistemática: Somos Defensores](#), 9 December 2016.

¹¹¹ Oidhaco, PBI Colombia: [The situation for human rights defenders turned critical in 2016](#), March 2017.

¹¹² Particularly vulnerable are those who make requests for restitution of land usurped by paramilitary and business violence.

¹¹³ Social, community leaders, members of the Communal Action Boards, etc.

¹¹⁴ Particularly alarming is the situation of men and women belonging to the Patriotic March (*Marcha Patriótica*) movement: of the social leaders murdered since the announcement of the Final Agreement in November 2016, many belonged to this movement, which, moreover, since it was founded in 2012,

has reported the murder of at least 140 of its members and endless threats, attacks and attempted murders.

¹¹⁵ Corporación Humanas and CIASE: [Vivencias, aportes y reconocimiento a las mujeres en el proceso de paz en la Habana](#), 2017.

¹¹⁶ We are Defenders Program (*Programa Somos Defensores*), [Contra las Cuerdas, informe Anual 2016](#), February 2017.

¹¹⁷ In this context, it is important to point out the qualification of the United States Department of State regarding the clarification of the facts. In its 2016 annual report, it once again warned that Colombia has an ineffective judicial system and that many people accused of human rights abuses are “high-level state agents and former members of paramilitary groups”.

Bureau of Democracy, Human Rights and Labour: [Country Report on Human Rights Practices for 2016: Colombia](#), p. 1.

¹¹⁸ Ministry of the Interior, [Resolución 1085 de 21 de agosto de 2015](#).

¹¹⁹ La Silla Vacía: Christina: [De escoltas y descaros: otra indignación 2016](#), 13 December 2016; Revista Semana: [Se prenden alarmas por fiebre de escoltas](#), 21 January 2017.

¹²⁰ Presidential Council for Human Rights (*Consejero Presidencial para los Derechos Humanos*): 2016, p. 33.

¹²¹ Global Witness: [Defenders of the Earth, Annual Report 2016](#), July 2017.

¹²² Global Witness: [On dangerous ground, annual report 2015](#), June 2016.

¹²³ Michel Forst, UN Special Rapporteur: [Antepusieron la verdad al poder y fueron asesinados y asesinadas a sangre fría](#), 2016.

¹²⁴ Ibid.

¹²⁵ Flip: [Mapa de violaciones a la libertad de prensa, Report 2013](#).

Violations include threats, assaults, murders, defamation, stigmatisation, information theft, attack on infrastructure, displacement, illegal detention, attempted murder, etc.

¹²⁶ Flip: [Mapa de violaciones a la libertad de prensa](#), information updated to 14 July 2017.

¹²⁷ Ibid.

¹²⁸ IACHR (2017) Public Hearing: [Situation of the right to freedom of expression in Colombia](#) (video), 6 July 2017.

¹²⁹ Ens: [Voces que no callan](#), 2016.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² A high-ranking official insinuated that the José Alvear Restrepo Lawyers’ Collective (CCAJAR) would replace the FARC as the “internal enemy”. International Caravana of Jurists: [The search for peace based on justice and human rights in Colombia Report of the V International Caravana of Jurists](#), November 2016; Colectivo de Abogados José Alvear Restrepo (CCAJAR): [Nuestra oportunidad es la vida, nuestra lucha es la esperanza: Eduardo Carreño Wilches](#), 18 December 2015.

¹³³ CCAJAR, Abogacía Española, [“Abogacía en riesgo. Reynaldo Villalba, de CCAJAR, analiza la situación en Colombia”](#), 21 February 2017.

¹³⁴ Cinep. Ibid, 2014. Data on Social Struggles from CINEP recorded 171 struggles throughout the year (2013), whose participants were: small-scale farmers in 42% of these struggles; settlers on urban-rural borders in 32%; indigenous people in 14%; rural population displaced because of the armed conflict in 7% and, finally, Afro-Colombians in 5% of these struggles.

¹³⁵ During the National Agrarian Strike in 2013, 262 arbitrary arrests were made, 12 people killed, 21 people wounded with firearms, 485 wounded with other types of elements, 4 disappeared, and 51 cases of indiscriminate attacks against the civilian population, a situation reported by the Human Rights Commission of the National Agricultural and Grassroots for Dialogue and Agreements (*Comisión de Derechos Humanos de la Mesa Nacional Agropecuaria y Popular de Interlocución y Acuerdos - MIA*). Colombia Informa: [Informe del Paro Nacional Agrario a sus 22 días](#), 11 September 2013.

During the Agrarian, Ethnic and Grassroots *Minga* protests in 2016, three people were reported as having been killed by the police, 80 were injured and 151 arrested.

ONIC: [Informe de DDHH de la Cumbre Agraria 2016 evidencia la grave situación de Derechos Humanos en Colombia](#), 9 December 2016.

During the Civic Strike in Buenaventura in 2017, the use of firearms against the demonstration and low-lethality weapons such as tear gas were reported, causing 300 injuries, 10 with firearms.

Colombia Plural. [La “respuesta militar” del Gobierno a Buenaventura: 300 heridos, 10 con arma de fuego](#), 1 June 2017.

¹³⁶ Semana: [Castigan la fuerza desmedida del Esmad](#), 10 September 2015.

¹³⁷ El Heraldo: [Destituyen a dos agentes del Esmad por abusos a estudiantes de Las Misericordias, en Soledad](#), 5 September 2015.

¹³⁸ El Espectador: [ESMAD usa gas lacrimógeno en protesta de personas con discapacidad](#), 19 April 2017.

¹³⁹ The use of these weapons is regulated under Resolution 00448 of 2015 of the National Police, which regulates the use of “non-lethal” weapons but has not prevented the large number of people wounded or even killed through their use.

¹⁴⁰ OMCT. [Colombia: La falta de reparación integral a las víctimas: serio obstáculo para la erradicación de la tortura en Colombia](#), 11 July 2017.

¹⁴¹ Case of César Jérez. El Tiempo: [Un geólogo estudiado en Europa, el vocero de campesinos del Catatumbo](#), 4 July 2013.

Case of the denial of the strike: President Santos commented on the 7th day of the agrarian strike, that it did not exist and that the small-scale farmers’ protest was infiltrated (by illegal armed groups). Semana: ‘Santos: “[El tal paro agrario no existe](#)”, 25 August 2013.

¹⁴² Inter-American Commission on Human Rights (IACHR): [Criminalization of human rights defenders](#), 31 December 2015.

¹⁴³ Law 1453 of 2011 – Law on Citizen Security

¹⁴⁴ The reform of the Penal Code, in particular article 353 A ([artículo 353 A](#)), typifies “*actions to obstruct public roads*”.

¹⁴⁵ Oidhaco: [Ley de Seguridad Ciudadana. Criminalización de la protesta y penalización de la vida de los ciudadanos](#), December 2013.

¹⁴⁶ CCEEU and Móvice: [Informe sobre protesta social y derechos humanos](#), 31 October 2013.

¹⁴⁷ Law 1801 of 29 July 2016, which creates the National Police and Social Coexistence Code (*Código Nacional de Policía y de Convivencia*).

¹⁴⁸ Art. 53 of Law 1807 of 29 July 2016 establishes that a minimum of 3 people must indicate in writing, with 48 hours’ advance notice the proposed route (art. 53).

¹⁴⁹ El Espectador: [Ante Corte Constitucional demandarán nuevo Código de Policía](#), 20 June 2016.

¹⁵⁰ One concrete case is the election of the Legal Secretary of the President’s Office from 2010 to 2017 as magistrate in the Constitutional Court. Javier Giraldo M.: [Carta abierta a las Instituciones del Poder Público del Estado colombiano](#), 11 April 2017.

La Silla Vacía: [Perfil Cristina Pardo Schlesinger](#), 4 April 2017.

¹⁵¹ Prosecutor Maria Nancy Ardila Pedraza and her family are living under threat following the release of a file that led to the investigation of the Clan Usuga, and because of the inability of the State to protect Ms Pedraza, she has been forced to give up her work. [International Caravana of Jurists: The Search for Peace based on Justice and Human Rights in Colombia: Report of the Fifth International Caravana of Jurists](#), November 2016, Case Study 8 (16): Prosecutors 66 and 67 from Bucaramanga have not been given protection to carry out investigations in rural areas.

¹⁵² The main witness in this case, who testified against a member of the state security forces was the victim of serious attacks and was threatened with death if she declared. [International Caravana of Jurists, The Search for Peace based on Justice and Human Rights in Colombia: Report of the Fifth International Caravana of Jurists](#), November 2016, case study 2 (10).

¹⁵³ OHCHR. Annual Report 2016. 16 March, paragraph 78.

¹⁵⁴ Dirección de Políticas Públicas, Fiscalía General de la Nación: Respuesta a derecho de petición por Comisión Colombiana de Juristas, No. de radicado 20155300038843, 11 May 2016, cited in: Mesa de Trabajo sobre Desapariciones Forzadas Coordinación Colombia - Europa – Estados Unidos: [Informe](#)

[Alterno sobre la situación de las Desapariciones Forzadas en Colombia presentado ante el Comité contra la Desaparición Forzada de Naciones Unidas](#), September 2016.

¹⁵⁵ Law created to regulate the demobilisation of the paramilitaries.

¹⁵⁶ The majority of people convicted have appealed, according to Amnesty International: [Annual Report 2016/2017](#).

¹⁵⁷ For example, state officials, politicians and / or economic actors.

¹⁵⁸ By granting the jurisdiction to hear cases of crimes committed in connection with and in the exercise of military service.

¹⁵⁹ This refers to “the investigation and prosecution of punishable conduct of the members of the Armed Forces in relation to armed conflict” [our translation]. Sentence C-084/16 of the Constitutional Court, of 24 February 2016.

¹⁶⁰ IACHR, [Annual Report 2015](#). Chapter V. Follow up of Recommendations. Art. 133-140, 142.

¹⁶¹ José Miguel Vivanco, Human Rights Watch: [Letter to Colombian Congressman Telésforo Pedraza Ortega](#), 25 January 2017.

The International Criminal Court (ICC) Prosecutor, Fatou Bensouda, has also expressed concern.

Semana: [El acuerdo de paz de Colombia demanda respeto, pero también responsabilidad](#), 21 January 2017.

¹⁶² Article 28 of the Rome Statute. Colombia is a State Party to the Rome Statute of the International Criminal Court.

¹⁶³ The Peace Agreement establishes that the JEP will deal with “crimes committed caused by, on occasion of or in direct or indirect relation to the conflict”. By not defining what these crimes are, Legislative Act 01 does not distinguish between “attacks that are part of military hostilities” and “sociopolitical violence”. Movement of Victims of State Crimes (*Movimiento de Víctimas de Crímenes de Estado* - MOVICE). [Intervención en Audiencia Pública de la Corte Constitucional sobre el Acto Legislativo 01 de 2017](#) – Exp. RPY-003, 6 July 2017.

¹⁶⁴ Other problems related to this lack of definition highlighted by MOVICE are: that the state’s responsibility is diluted in terms of human rights violations and that historical memory is distorted with reference to state responsibility, perverting guarantees of non-repetition etc.

MOVICE, *ibid*.

¹⁶⁵ As guarantors of constitutional order.

¹⁶⁶ This reference to International Criminal Law is made in Legislative Act 01 in relation to other actors. In addition, this benefit for state agents is not stipulated in the peace agreement. *See* MOVICE, *ibid*.

¹⁶⁷ The Attorney General’s Office (*Fiscalía*) estimates that the JEP could receive 32,433 processes. *El Tiempo*. [Jurisdicción de Paz costaría alrededor de 2 billones](#), 3 March 2016.

¹⁶⁸ The branches of the existing justice system prepare the documentation of cases that could be heard by the JEP. Meanwhile there has already been a case where a judge stepped aside from a decision-making process, leaving the decision in the hands of the JEP. *See* on the decision of the Ninth Judge of Bogotá who decided not to make a decision in a case of extrajudicial executions or ‘false positives’ in the municipality of Soacha, Cundinamarca, accepting the request made by the defence of six former military officials to leave the investigation in the hands of the JEP.

El Espectador: [Juez de Bogotá se apartó de decidir en caso de falsos positivos de Soacha](#), 28 March 2017.

Amnesty Internacional: [The Human Rights Situation in Colombia. Amnesty International’s written statement to the 34th session of the UN Human Rights Council](#), 1 February 2017.

“The authorities must focus on ensuring that investigating “the most serious and representative” cases, as is stipulated in the peace agreement, is not used as a pretext for abandoning the investigation of certain cases”.

¹⁶⁹ [Rome Statute](#), Article 25 c) defines as criminally responsible those who “For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission”.

¹⁷⁰ The decision on transitional freedom is taken in the meantime by the executive secretary of the JEP and a Sentence Enforcement Court.

¹⁷¹ One example is the Freedom of General Uscategui (retired), who also announced that what he wants from the JEP is not a review of his case, which implies that there would be no contribution to the truth, one of the requirements for the JEP.

CCAJAR and Humanidad Vigente: [Libertad de Uscategui atenta contra derechos de las víctimas](#), 8 May 2017.

¹⁷² CCAJAR, CCEEU, MOVICE: [Concepto sobre Ley 1820 de 2016 presentado a la Corte Constitucional](#), 24 March 2017.

¹⁷³ Decree Law adopted on 3 May 2017 ([Decreto ley adoptado el 03 de mayo 2017](#)) by which special treatment is applied to the members of the state security forces in accordance with the principles of prevalence and non-availability of the Integral System of Truth, Justice, Reparation and other provisions. This decree law refers to aspects of implementation of Legislative Act 01 and the Amnesty Law.

¹⁷⁴ In addition to offering arbitrary benefits for these people, these benefits contradict what is established in the Amnesty Law which states that only provides freedom after five years of deprivation of liberty have been served in cases of serious crimes.

CCAJAR et al: [Intervención ciudadana ante Corte Constitucional sobre Decreto Ley 706 del 3 de mayo de 2017](#), 2 June 2017.

¹⁷⁵ Generalised formulation of the IACHR in view of the difficulty of finding a specific legal definition “Extrajudicial execution is a violation that can be consummated, in the exercise of power of the state agent’s role, in isolation, with or without political motivation, or even more seriously, as an action derived from an institutional pattern” [our translation].

Humberto Henderson: [La ejecución extrajudicial o el homicidio en las legislaciones de América Latina](#), Revista IIDH, Vol. 43.

¹⁷⁶ El País: [Así se fabrican guerrilleros muertos](#), 26 March 2014.

¹⁷⁷ Noche y Niebla #54, p. 19, Noche y Niebla #53, p. 18. Falsos Positivos son asesinatos de civiles indefensos por parte del ejército, que se denominan falsamente como “muertes en combate”.

¹⁷⁸ CCEEU. [Ejecuciones Extrajudiciales en Colombia 2015: Continuidad y encubrimiento](#). 7 de septiembre 2016.

¹⁷⁹ AHERAMIGUA: [Asesinado líder social presuntamente a manos del ejército](#), 11 April 2017.

Solidaridad Jurídica: [Ejército colombiano asesina a campesinos en el Sur de Bolívar](#), 16 November 2016.

¹⁸⁰“(…) members of the National Army, noticing the presence of guerrillas in the vicinity of Santa Rosa, and without any request, proceeded to lash out at them, resulting in the murder of two members of the Farc, to such an extent that a guerrilla who had been wounded was ruthlessly killed in trying to help one of her comrades”. El Espectador: [los detalles de la muerte de dos guerrilleros en el sur de Bolívar](#), 16 November 2016.

¹⁸¹ Between 2013 and 2015 1,255 detainees died from natural causes, many of them due to a lack of timely medical assistance.

¹⁸² INPEC: [sección Estadísticas](#), consulted on 1 August 2017.

¹⁸³ El Diario. ["Hay que sacar el dolor, cuando uno no habla con alguien piensa bobadas, como quitarse la vida"](#). 17 August 2017

