

**AUTORITARISMO, GUERRA Y PANDEMIA** 

Balance del segundo año de gobierno de Iván Duque

# CONCLUSIONS AND RECOMMENDATIONS

he second year of Ivan Duque's government has been characterized by an increase in violence in the country. The United Nations Human Rights Office in Colombia recorded 33 massacres and at least 97 homicides of human rights defenders in the first half of 2020. The UN Verification Mission in Colombia registered the homicide of 41 people in the reincorporation process during the same period.

The national government's handling of the pandemic caused by the global COVID-19 outbreak has further highlighted the deep social inequalities and authoritarian nature of the president and his party. Duque's measures have been aimed at strengthening the financial sector rather than guaranteeing the right to healthcare and a basic subsistence income for vulnerable social sectors.

The government's failure to comply with its commitment to implement the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (hereinafter the Peace Agreement) signed in 2016 may explain many of the serious problems that have intensified and deepened in the country. These include violence with an increase in the number of massacres; inequality; poverty; a serious risk in terms of the balance of power; fiscal management; deforestation; and setbacks for rights such as peace, life, liberty, non-discrimination, healthcare, education, food, access to water and more. This report shows that emerging from the various crises requires committed urgent efforts from the country's political, social and economic forces. Below are recommendations to address these issues that express the point of view of national human rights platforms.

#### Overcoming the pandemic of authoritarianism

The exceptional measures adopted by the government of Iván Duque to tackle COVID-19 enabled the president and his party to use the extraordinary powers conferred to the executive branch to govern and legislate by decree without timely and effective political or judicial controls. This facilitated his enactment of measures that affected rights and which he had not managed to get approved before this time due to not having the necessary

congressional majorities, as well as major social mobilization efforts that rejected them. President Duque's government has also been able to favor the financial sector to the detriment of the healthcare system and the majority of Colombians who are not supported by any social relief program.

It is urgent that the Congress of the Republic exercise political control and use its powers to review, modify and repeal a significant amount of the regulations issued by the executive branch of government. There is also an urgent need for the Constitutional Court to exercise its control and conduct a more rapid examination of every regulation with substantive declarations that support the necessary counter measures required by the serious health emergency situation.

The measures taken by the national government to address the global COVID-19 outbreak have been deficient and misguided. Its arrival in the country was not contained when it could have been; necessary adjustments were not made to meet needs in terms of testing, training medical personnel and expanding hospital coverage; and resources were not allocated to research possible treatments, to which ancestral knowledge could have contributed. As long as the central actors in healthcare continue to be the Health Promotion Entities (EPS), the system will continue to grow weaker. A broad debate is required with participation from Colombian society in order to reform the healthcare system from a public health perspective and overcome its prevailing support for the market and financial intermediation.

Internet connection difficulties, the lack of pedagogical support for teachers, and limited differentiation regarding distance and quarantine measures have affected the *right to education* for a very significant

percentage of children and young people in the country. The overall damage to human development due to this situation remains unclear. However, the government has ignored proposals from the educational sector, including waiving tuition fees for students at public universities; reviewing these costs for private universities and schools; pedagogical support and adaptation of curricula, programs and evaluations, among other materials.

In terms of the serious economic effects of the pandemic, it is important to start with the decrease of more than 10% in the country's gross domestic product (GDP). Moreover, if the number of unemployed persons reported by the agency responsible for statistics (DANE) is added to the newly inactive persons (data from May 2020), more than 8 million people have left the labor market, resulting in a severe unemployment rate of 32%. Despite this situation, the measures that the government has taken to date are aimed at providing economic guarantees, first to financial institutions and second to large corporations and holding companies. (At the time of writing this report, the government had recently approved a loan to the Avianca aviation company for 370 million US dollars. This amount is higher than the budget of the Ministries of Science and Technology, Culture and Sports, among others). Micro, small and medium enterprises (which generate 90% of employment in the country) have been left behind, as have workers and the healthcare system.

In addition to a careful examination of the consequences of these measures, this situation requires structural tax reform that adheres to the constitutional principles of vertical progressiveness, horizontal equity and administrative efficiency. The first step that needs to be contemplated is the immediate dismantling of the tax benefits provided in the unfortunately named Growth Law.

Another challenge facing the national government is guaranteeing an income for the millions of people living in poverty who have been in social isolation since March 20, 2020 as they are unable to work from home and have lost their jobs. A viable alternative has been proposed by different political, academic and social sectors: providing a universal basic income. In addition to being a powerful instrument for social justice, its potential for maintaining minimum standards of dignity and rights in Colombian society is incalculable. It would undoubtedly contribute to satisfying the fundamental rights to food, quality water, and dignified living conditions for marginalized populations that are suffering from hunger and malnutrition and are without access to potable water and basic sanitation.

The use of technology to facilitate personal data collection by both national and local governments needs to be more closely examined. First, transparency must be ensured for the design, rollout and implementation of technological solutions. There is a need to indicate why they are being implemented, how they work, and how they support national or local epidemiological strategies to control the pandemic. There needs to be a high level of transparency that enables people to monitor and control the implementation of these technologies, as well as to identify their eventual success or failure, improvement or discontinuation. Governments must base their decisions on a rights impact analysis, which goes beyond compliance with data protection standards. This requires mitigating the potential tension between the right to public healthcare and other rights. Technological solutions should be

implemented on a voluntary and complementary basis with a trial and evaluation period. Furthermore, exceptional commitments are required from those who develop and manage these solutions, so that they do not share or use this data in any areas not related to the health emergency.

The crisis generated by COVID-19 has also demonstrated the fragility of border regions and areas with a limited presence of the State. The situation in the departments of Amazonas, Chocó and the Archipelago of San Andrés, Providencia and Santa Catalina is paradigmatic. In addition to not having basic healthcare facilities, most of the people living in these departments are ethnic and Raizal communities. The State must work with these population to agree on the measures required to strengthen the healthcare system and fully guarantee their rights. The State must also strengthen the prior consultation mechanism during the pandemic, which is indispensable for the adoption of measures that take into account the specific characteristics of these territories.

### Achieving effective guarantees for humans rights defenders

The aim of the government's actions in different areas is to impose a state of fear that prevents the population from acting collectively to improve their living conditions. This can be seen with the increase in repressive violence, the assassination of social leaders, the growing powers of military and police forces to contain social discontent and protest through their aggressions, as well as the use of illegal and extra-institutional methods (illegal espionage, extrajudicial executions, support of paramilitary groups). Using the argument of guaranteeing social isolation and obligatory confinement,

new powers have been granted to the military with a subsequent militarization of the country. Acts of aggression against citizens by state security forces and paramilitary groups continue to rise.

All of these factors have led to a noticeable deterioration of human rights and affected the situation of those who defend them. A public policy designed with broad participation that incorporates differential and territorial approaches is needed to guarantee the rights of human rights defenders in every region of the country. An assessment needs to be carried out using a multi-causal analysis of the problem in order to design an assertive policy that will address this problem. The focus of this policy should be on human security and this needs to be prioritized more than security based on the militarization of territories. The comprehensive implementation of the guarantee mechanisms established in the Peace Agreement, including the National Commission for Security Guarantees and a public policy that prohibits stigmatization and ensures guarantees for social protest are fundamental for creating safe environments for human rights defenders. Awareness-raising campaigns about the value, recognition and legitimacy of social leaders are key to preventing risks to human rights defenders and their protection, in addition to providing them with guarantees.

Carrying out an assessment of existing institutional services in terms of guarantees and the results of the implementation of the Timely Action Plan (PAO) is necessary. This will create a solid base of data for deliberation and will facilitate the collection of information from each territory in the country. Judicial and monitoring bodies' investigations into attacks against human rights defenders should be analyzed within the broader context and not as iso-

lated cases. Patterns and modus operandi need to be identified, as well as their recurrence, persistence and systematization. The structures responsible and interests behind the crimes must be identified and material and intellectual authors need to be prosecuted in order to prevent these crimes from being repeated.

Female human rights defenders in Colombia continue to face disproportionate and extreme gender-based risks that affect them differently. The Comprehensive Program of Guarantees for Female Leaders and Human Rights Defenders (PIGMLD) was approved as a public policy instrument. Through a participatory design process, the Intersectoral Commission of Guarantees for Women Leaders and Human Rights Defenders designed the PIGMLD 2019-2022 Action Plan. To ensure the implementation of the actions included in the plan the following conditions need to be met: technical and budgetary autonomy must be guaranteed;, governments must be involved as first responders for risk situations; and a mechanism must be established for selecting women human rights defenders who will benefit in a timely manner from the measures established in the plan. Moreover, a specific institutional service for women defenders must be available from the entities responsible for the action plan. Finally, a formal mechanism must be established for the participatory monitoring of the PIGMLD that includes organizations from the women's social movement.

In its 2019 session, the CEDAW Committee expressed its concern regarding the violations of the rights of lesbian, bisexual and trans women in Colombia, highlighting, "widespread discrimination, threats and aggression." To combat these practices, the Committee formulated seven recommendations that the Colombian State

must comply with. These include: training public officials responsible for processing marriage applications to guarantee the rights of same-sex couples; adopting measures to ensure compliance with Constitutional Court Ruling T-478 of 2015 and the inclusion of programs to teach LBT women's rights as part of the national peaceful coexistence system in schools; and implementing a national public policy to guarantee the effective exercising of the rights of LGBT people (Decree 762 of 2018). Drawing on active participation from human rights organizations, especially those working on the rights of lesbian, bisexual and trans women, the Interior Ministry must develop a program and timetable to achieve progress with designing an action plan that will be coordinated by all of the institutions responsible for its implementation. Investigation and monitoring bodies should include specific guidelines for investigating attacks against the LGBT community and women human rights defenders. The protection measures that guide the National Protection Unit (NPU) should take into account the differentiated risks and needs of LGBT defenders.

During the second year of Ivan Duque's government, illegal operations by military intelligence and state security agencies continued, demonstrating the systematic nature of these practice. Structural reform of the state security forces, their security doctrine and their promotion procedures is required. The declassification, correction, and release of files of individuals and human rights organizations collected by state security agencies would contribute to the non-repetition of these practices. Furthermore, legislative measures aimed at providing citizens access to information about these activities are needed. The institutional system of civic control and accountability must be strengthened to prevent the use of State intelligence, counter-intelligence and new digital technologies for political persecution and to commit human rights violations and crimes against humanity. Measures must be promoted that contribute to the *demilitarization of social life* and the dismantling of corrupt networks within military forces. These must include protection and full guarantees for people within state security forces who demand transparency and rectitude in military institutions, as well as the investigation, clarification of responsibilities and prosecution of criminal elements in their ranks.

There is evidence that the risk of homicide and threats against traditional ethnic authorities have increased as a response to the defense of their territories and the control they have attempted to exercise over their collectively owned land. Free and informed prior consultation is a fundamental right tied to the physical and cultural survival of indigenous peoples and nations and is connected to their ancestral territory and nature. Fzor this reason, restricting the scope of indigenous peoples' participation affects decisions about their material and symbolic possibilities for life and increases the risk of their physical and cultural extermination. The violation of their human and collective rights has been systematic in Duque's government. This is evidenced by at least 84 murders of indigenous community leaders, guards and members of ethnic authorities. There is an urgent need for the collective territories to be demilitarized and compliance with the Final Agreement, as well as the adoption of public policies to guarantee and protect indigenous peoples. The national government must act in accordance with international covenants and the Political Constitution and guarantee their right to participation, respect and prior consultation, as well as the laws of their self-government known as the *Pact* 

to Return to the Origin and that has been approved by the government authority.

Deforestation affects every region in the country, its ecosystems and populations. There is an urgent need for the Office of the President of the Republic to comply with the orders issued by the Constitutional Court regarding the deforestation of the Amazon, where this practice is concentrated. These include forming an action plan and an Intergenerational Life Plan. These commitments were delegated to the Ministry of the Environment, but no progress has been made. In addition, the proposal from the Attorney General's Office to declare an ecological and climatic emergency should be welcomed. This would involve prohibiting business activities in deforested areas, among other measures. Creating a land registry of rural property ownership in the country and the use of these lands is fundamental. This would make it possible to tax the unsuitable and unproductive use of land and strengthen strategies for the community management of forests instead of attacking and revictimizing the populations that live in or near these areas. In addition to the land registry, agricultural policies that contribute to social and ecological justice need to be formulated and implemented, as established in the Peace Agreement.

### Necessary democratic guarantees

In the second year of Ivan Duque's government, the *links between political elites, drug trafficking and paramilitaries* were exposed. This was shown in several cases, including: José Guillermo Hernández Aponte, alias "Ñeñe," and the possible purchase of votes for Duque's campaign during the second round of the presidential election in 2018; and links between

Guillermo León Acevedo, alias "Memo Fantasma", a well-known paramilitary drug trafficker and a company owned by the Vice President of the Republic and her husband. In July 2020, it was discovered that the vice president's brother was convicted of trafficking heroin in 1997 in the United States and that this information was never made public, a requirement for all public officials. Colombia's political regime has been built on these connections since the 1980s and ending them is the only way to end the war. To achieve this, social mobilization needs to continue and grow, in addition to broadening society's rejection of the power built through these alliances. At the same time the justice system needs to be strengthened so that these links can be dismantled.

Close ties between highly-ranked government officials and the leaders of the country's largest companies have resulted in an unnatural relationship between the public and private sectors. This has accentuated the loss of public assets and has led to public interest being co-opted by large private companies. It is necessary to put an end to these practices through increased citizen participation in the creation of public policies, open dialogue with all sectors in society and the adoption of transparency mechanisms for public officials such as the declaration of conflicts of interest, releasing information about the sources of political campaign financing and other measures.

On October 25, 2019, elections for local city and municipal authorities were held. When compared to the national elections these had a larger participation of citizens. This was notable in a country with a high rate of voter abstention. This can be explained in part by the large amounts of resources invested in these campaigns, which evidences the need to strengthen

mechanisms for monitoring, controlling and investigating licit and illicit sources of campaign funding. In conflict zones where the State's presence is minimal, voter abstention is very high, even in local elections. In these territories, redistributing and increasing voting centers so that they are located in population centers that are far from municipal capitals is necessary. The success of candidates from what are known as significant citizen groups (GSCs for their initials in Spanish) in these elections showed that they had more time to campaign than traditional political parties and movements. This shows that the rules of the game need to be adjusted and these GSCs must be regulated. Finally, the gap in terms of women's political participation continues to be very high. There was a high level of non-compliance with the regulations that require 30% female candidates, which need to be monitored and sanctioned.

In the area of social protests, there is an urgent need for the comprehensive implementation of Point 2 of the Peace Agreement on political participation and the creation of spaces for democratic participation. The Peace Agreement defines normative adjustments to guarantee social mobilizations and peaceful protests. Another central component is establishing a dialogue roundtable to discuss the document presented by the National Unity Committee during the November 2019 national strike, as well as the resolution of the demands contained in this document. It is also essential to promote public debate on dismantling the Mobile Anti-Riot Squad (ESMAD).

The *Unconstitutional Conditions* of prisons were decreed by the Constitutional Court and have continued for years will not be solved by a, "reactive, incoherent, inefficient and populist" criminal policy

that favors excessive and indiscriminate increases in the length of sentences, the creation of new crimes for prosecution and the restriction of alternative measures to imprisonment. This punitive argument is not inaction against crime but involves strengthening the capacity of the Public Prosecutor's Office to investigate and lay charges, so that the structures and networks responsible for the most impactful crimes can be dismantled while guaranteeing the rights of victims and fighting impunity. In a democracy, penalties must be proportional to the damage caused. As such, criminal policy must begin to understand the criminal and penitentiary system as a re-socialization process and not as an exercise to annihilate those who violate the law. There is an urgent need for public debate with participation from civil society that discusses elements such as the use of preventive detention while people under investigation are being prosecuted. International law obliges States to respect, protect, and guarantee human rights, with life and health being fundamental rights. This is all the more true for people who are imprisoned as they are both citizens and under the care of the State, which means that the State has a dual obligation to guarantee their rights.

#### The urgency of peace

In terms of implementing the Peace Agreement, the national government's systematic failure to achieve compliance has become increasingly evident. On occasion, this non-compliance is expressed in paralysis. At other times, in reforms to the methodology used. And sometimes in the use of security policies that are deceptively named so that they appear to be part of the implementation of the Agreement. In addition to the lack of progress, this reports highlights the policies

that promote counter-reforms for structural issues such as agriculture. President Duque will go down in national history as the man who once again oversaw the return of widespread violence to the country and failed to comply with one of the most important agreements that the Colombian State has ever reached with the support of the international community. A detailed plan is urgently needed to facilitate visible progress with the implementation of the Peace Agreement, and to lead the country towards a transition. The national government must make a commitment to support and provide resources to the institutions created within the framework of the Peace Agreement, undertake the comprehensive rural reform defined in the Agreement and adopt a policy of dismantling paramilitary structures in addition to ensuring the pending regulatory reforms.

Duque's government has appeared to implement the Final Agreement through a policy that can be aptly characterized as a simulation of implementation, which ignores the comprehensive nature of this process and seeks to ignore or reduce its reformist, democratizing and social transformation objective. It has also imposed a defunding policy for these initiatives, which can be verified by comparing the resources initially mandated for the Implementation Framework Plan and the 2018 Medium-Term Fiscal Framework with those allocated by this government. This is in addition to the ineffectiveness of the Peace Budget Plan to effectively monitor the resources used for its implementation.

The government's *PDET* zones are aligned with the Strategic Integrated Intervention Zones (ZEII) or "Future Zones". These are based on a vision of territories inscribed in the doctrine of national security and the internal enemy and focuses which problems are conceived as being related

to public order. These are to be resolved through the combination of militarization processes with civic-military actions. There is an urgent need to return to the path of community participation for the development of these areas and to understand that these populations' demands are focused on the guaranteeing of rights, goods and services, and not towards the militarization of their territories.

In post-pandemic scenarios and for the Peace Agreement and its comprehensive implementation, Colombian society has amassed important resources to address the social problems aggravated by COVID-19. This accumulation is closely linked to the goal of achieving a complete peace. An imperative for building peace in Colombia is facilitating the idea of a "political solution" with rebel organizations that are still engaged in an armed uprising and creating mechanisms that will address the criminal structures involved in illegal economies.

Although many societal sectors continue to insist on the need for negotiation between the government and the National Liberation Army (ELN), this possibility seems increasingly remote. Meanwhile, communities in areas such as Chocó, Catatumbo, northern Cauca, and the Pacific region of Nariño continue to suffer the consequences of armed confrontations between the guerrilla group and military forces. Two initiatives have been proposed to alleviate the serious situations faced by these communities, at least temporarily: Territorial Humanitarian Agreements and the fulfillment of Resolution 2532 of July 1, 2020 approved by the United Nations Security Council, which requires UN member states to promote an immediate and global ceasefire of armed conflicts and wars, whatever their circumstances may be. This was conceived as a humanitarian ceasefire in favor of the population to help manage the COVID-19 pandemic.

While the Peace Agreement and legislation for its implementation do not include specific measures for territorial entities. nor grant a leading role to mayors and governors, a significant number of these political actors have expressed their commitment to building territorial peace. This is an achievement that can be partly attributed to the work carried out by social organizations in the territories, which have implemented advocacy and social mobilization strategies in order to obtain commitments from local governments to peacebuilding. It appears that a significant feature of the next two years will be the contrast between a central government that evades responsibility for implementing the Peace Agreement and local leaders and social organizations that resort to the tools they have available to support it.

## Bridging the gap between regions

One of the most serious problems in the department of Chocó continues to be the actions of armed groups and military forces committed against the local population. Local organizations have been demanding that insurgent groups, other illegal armed actors and state security forces remove children and adolescents from their ranks "as a humanitarian gesture" in their bid to build peace and stop actions that lead to human rights violations and breaches of IHL such as confinement, forced displacement and sexual violence. These organizations are also demanding that the President of the Republic name a team of experts to resume dialogue with the ELN and other illegal armed groups so that they can facilitate the implementation of the Peace Agreement and achieve Point 5 of the *Humanitarian Agreement Now* for Chocó: "Dismantle the illegal structures present in the territories."

In the department of Putumayo, the presence and actions of paramilitary groups, FARC dissidents and drug trafficking groups from Nariño have been on the rise since 2018. As in other regions of the country, the actions of these armed groups have found an important ally in the confinement measures decreed by the national government in March 2020. Violence against the population has increased and their armed control of the territory continues to expand. In this complex context, acts of aggressions against populations occur daily, not just at the hands of paramilitary groups, dissidents, and drug traffickers, but also those committed by state security forces, which concentrate their actions against communities, especially those with coca farmers. This complicated context has been aggravated by the non-compliance of various agreements with coca growers and the return of forced eradication.

As of late 2017, mass displacements have returned to southern Cordoba, which had not happened on this scale since 2011. This is in addition to massacres, homicides, forced disappearances and threats of forced recruitment, as well as acts of violence against the civilian population. This violence is occurring despite the presence of more than 4,000 state security force members who patrol the region. For this reason, social organizations have rejected the idea that this is a "Future Zone," and instead have demanded that the national government implement all of the initiatives established in the Regional Transformation Action Plan (PATR for its initials in Spanish). The community initiatives reflect a territorial development proposal focused on the granting of social

rights such as the right to land, territory, healthcare, education, water and food, while taking into account ethnic, gender and generational differences. The PATR demonstrates a commitment to rural, family and community economies and has the goal of transforming the factors that generate violence by carrying out actions in reconciliation scenarios that guarantee comprehensive reparations. However, there are various interpretations on how to achieve this and the current territorial debate is situated between implementing a PDET that organizes each zone in terms of its economic potential or a PDET that protects the lives of the communities.

The department of Antioquia continues to suffer from socio-political and systematic violence against leaders and human rights defenders, which has been ongoing for several decades. This aggression has been the result of the installation of the counterinsurgency doctrine, which refers to all people who demand social change, peacebuilding and the guaranteeing of human rights as enemies.

The response from Ivan Duque's government to the situation in the Bajo Cauca region of Antioquia has been militarization, forced eradication and the Timely Action Plan. This institutional policy does not include dialogue with communities and organizations about their needs and ignores the demands made over the last two years: the complete implementation of the Peace Agreement; dismantling of paramilitary groups; non-militarization of territories and people's lives; negotiation with the ELN; social investment in municipalities; and investigation and prosecution of those responsible for aggressions against leaders.

The *Unconstitutional Conditions* declared by the Constitutional Court in 2017 in re-

lation to the *department of La Guajira* continue. The humanitarian crisis, as well as the department's social, economic, and corruption problems continue unabated. To overcome this crisis, the Court's orders must be immediately complied with.

In the *department of Cauca*, the organizations that are part of the Territorial Committee for Guarantees have emphasized the fact that the direct causes of the humanitarian crisis are structural due to political and (legal and illegal) economic disputes, as well as private interests that would lose power if the Final Agreement is fully implemented, as this would entail creating mechanisms for new forms of governance and enriched social dynamics.

Catatumbo is the region most visited by President Iván Duque and the site of the pilot program for the Presidential Council for Stabilization and Consolidation, which is being implemented through the Development Programs with a Territorial Approach (PDET). However, it is also a militarized territory where communities have reported four extrajudicial executions carried out by soldiers from the national army during the last two years. The rural population is demanding that the national government comply with the commitments made with communities and in the Peace Agreement regarding the substitution of crops for illicit use and that it makes clear progress with the PDETs. The government's only response to the demands from Catatumbo's communities has been the implementation of programs such as "Future Zones" and Sustainable Catatumbo. Instead of offering economic outlets and production alternatives to coca leaf farming, these programs strengthen the military presence in the region and attack the weakest link (coca farmers) while ignoring the structures tied to drug trafficking, distribution and consumption.



Este libro continúa la reflexión de hace un año sobre un mismo personaje: un aprendiz, un aprendiz de embrujos. Aprendió a ejercer la perversidad de los embrujos, pero, él mismo, a nadie fascina, ni atrae con especial fuerza; no embruja; más bien, genera algo parecido al rechazo y a la incredulidad. No habría, en principio, ninguna razón para hablar de alguien así, pero se trata del presidente de Colombia, que lleva dos años y tendrá otros dos para hacer lo que hace: desgobernar. De eso hablan estas páginas, de un desgobierno que es un ejercicio devastador de autoritarismo y guerra en medio de una pandemia mundial y la exacerbación de las desigualdades.

Diversas plataformas de derechos humanos, sectores sociales y personas, también con miradas territoriales, muestran en estas páginas la forma como Iván Duque hace todo para acabar un acuerdo de construcción de paz que aceptó el país y para agudizar el conflicto en todas sus formas. Y que con él, ningún derecho humano está, como dicen en un artículo, ni a paz, ni a salvo.









Con el apoyo de:

