

TWENTY-FOURTH REPORT OF THE SECRETARY GENERAL TO THE
PERMANENT COUNCIL ON THE ORGANIZATION OF AMERICAN STATES
MISSION TO SUPPORT THE PEACE PROCESS IN COLOMBIA (MAPP/OAS)

The following report is presented pursuant to resolution CP/RES. 859 (1397/04), in which the Organization of American States (OAS) instructs the Secretary General to report periodically to the Permanent Council on the work of the Mission to Support the Peace Process in Colombia, hereinafter “MAPP/OAS” or “the Mission.”

The mandate of the MAPP/OAS derives from the agreement entered into by the Government of Colombia and the General Secretariat of the Organization of American States, hereinafter “GS/OAS,” on January 23, 2004, as well as resolution CP/RES. 859 (1397/04) of the Permanent Council, adopted on February 6, 2004. This mandate has been broadened and extended seven times.^{1/} It was most recently extended until December 31, 2021.

The MAPP/OAS works to support peacebuilding in Colombia on a daily basis. This work is carried out directly in the territories most affected by the internal armed conflict, supporting communities, public entities, indigenous authorities, Afro-descendant communities, social, women’s, and civil organizations, religious communities, the security forces, victims of the armed conflict, human rights defenders, community leaders and ex-combatants, at the municipal, departmental, and national levels.

The information presented in this report reflects the findings made by the GS/OAS through the MAPP/OAS as a result of its monitoring and support of peacebuilding efforts in Colombia during the period from February 1 to August 31, 2017. By way of exception, some references are made to relevant events outside that timeframe.

Pursuant to resolution CP/RES. 859 (1397/04) numbered paragraph 3, the MAPP/OAS consults the Inter-American Commission on Human Rights (IACHR) prior to the publication of this report in order to hear its observations on the functions for which it is responsible, and so the two OAS authorities work together and supplement each other’s information.^{2/}

The support of the international community is vital for the MAPP/OAS to be able to carry out the activities in its mandate. The GS/OAS therefore wishes to thank the donors and friends of the MAPP/OAS, including in particular the Basket Fund countries—Germany, Canada, Spain, the United States, the Netherlands, and the United Kingdom—whose political and financial support make the Mission’s operations possible. The GS/OAS also wishes to acknowledge the contributions of Korea, Sweden, Switzerland, Turkey, and the European Union, as well as the Spanish Agency for International Development Cooperation (AECID), the German Agency for International Cooperation (GIZ), the

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1. The Mandate has been broadened and extended by the signing of Additional Protocols to the initial Agreement on January 15, 2007, January 19, 2010, December 23, 2010, October 3, 2013, December 15, 2014, September 27, 2016 and December 19, 2017.
 2. This report presents a detailed analysis of the monitoring and support provided by the MAPP/OAS and also covers some of the topics and concerns identified by the Inter-American Commission on Human Rights (IACHR) in its monitoring of the general human rights situation and discussed in Chapter V of its 2017 Annual Report, “Follow-up on recommendations made by the IACHR in the report *Truth, Justice, and Reparations: Fourth Report on the Situation of Human Rights in Colombia* (IACHR, Truth, Justice and Reparations Report (2013)).”

United States Agency for International Development (USAID), and the Swedish International Development Cooperation Agency (SIDA).

During the period from February 1 to August 31, 2017, MAPP/OAS carried out a total of 1,507 field missions, of which 1,041 involved monitoring activities and the remaining 466 were to conduct follow-up work. These missions were conducted in 627 populated centers in 190 municipalities in 17 departments of the country; they included municipal capitals, villages, rural districts, indigenous reservations, and community councils.

1. GENERAL CONSIDERATIONS

The GS/OAS thanks the national government and the Colombian people for their trust in the Organization of American States through the renewal of the mandate of the MAPP/OAS until 2021. This is a welcome affirmation that renews the Organization's commitment to Colombia as it moves toward peace. The GS/OAS would also like to specially acknowledge President Juan Manuel Santos, who has been a great ally of the organization and a tireless worker in the pursuit of peace. During his administration, President Santos has believed in the work and capacity of the OAS in Colombia and has provided support for the effective performance of the Mission's work.

During the period covered by this report, significant progress has been made on issues of great relevance to the peace process. The Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, entered into by the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* [Colombian Government and the Revolutionary Armed Forces of Colombia – People's Army] (FARC-EP), has made it possible to reduce the number of lives lost to violence, opened the doors to forgiveness, and laid the foundations for justice and reconciliation. Through the issuance of numerous decrees, laws, the acceleration of legislative procedures, provisions on reintegration, security guarantees, victims' rights, social and rural development, the creation of new bodies and opportunities for participation, the mobilization of institutional mechanisms, and the opening up of political spaces for the actors in the conflict, efforts have been made to implement important aspects of the Peace Agreement.

However, various provisions of the Agreement, especially those needed to address the root causes of the conflict—such as the rural question, more equitable access to land and territories, the development of the areas hardest hit by violence, and the political participation of victims, among others—have proven difficult to develop. They present a major challenge for institutions, since neglecting these issues may jeopardize what has been achieved thus far. There needs to be an adequate response to these causes and an impact on their underpinnings; otherwise, manifestations of force or crime, subsidiary to the government deficit, may reemerge and quickly gain ground, prolonging the wait for a final consolidation of peace in the territories.

While the national Government has been making great efforts, the challenges of the implementation phase in the territories are so daunting and of such complex proportions that the most vulnerable areas are still not reaping the benefits and dividends of peace. In this regard, the Agreement has not yet succeeded in preventing the forced displacement of indigenous peoples and Afro-descendant communities from their territories; the attacks on and murders of social leaders and land claimants, among others. The IACHR has expressed its concern regarding the persistence of violence

against human rights defenders, social leaders, and journalists in Colombia,^{3/} which is intended to undermine their work.

The GS/OAS thus reiterates its call to expedite measures aimed at bridging structural inequity gaps and creating viable economic conditions and options for communities. It also insists on the need to strengthen or reestablish the State's presence in the most remote areas, to work toward the coordination and consistency of the institutional response, to be more effective in the fight against corruption, and to create conditions for the development of social processes and political participation. Likewise, the GS/OAS considers it necessary to take decisive action to break the cycles of violence, intensify the fight against illegal economies, and definitively halt the effects on the civilian population.

In our 22nd Report, covering the period from September 2015 to February 2016, the GS/OAS warned of the perceived risks of political polarization caused by positions on the Final Accord. Today we have seen that, despite several appeals, this context has not changed substantially. Likewise, the current political and social situation poses several challenges that may have an impact on the process. A transitional stage marked by a change in national leadership, the persistence of illegal economies, and violent environments has the potential to impact the post-conflict period, the future, and the consolidation of the peace process. Therefore, the GS/OAS renews its call for unity and encourages the Colombian people and citizens to stand together for peace.

New phases of the peace process are emerging, and the next—and no less complex—task is to promote national reconciliation, which must necessarily be accompanied by a policy of truth, justice, and reparation. The GS/OAS agrees that genuine reconciliation should establish and collectively acknowledge the causes and effects of the conflict. In this regard, the institutional structure of a comprehensive system for truth, justice, reparation, and non-repetition, and monitoring bodies such as the National Commission on Security Guarantees, the Commission for the Establishment of the Truth, and the Unit for the Search for Missing Persons, are key elements in keeping the victims at the center of the processes and in seeking reconciliation.

The strengthening of Colombian democracy was reinforced by the holding of national and regional elections in March, and presidential elections for the 2018-2020 term in May and June. Unquestionably, this was one of the most important elections in the history of the republic. This was the first election where the FARC-EP was not present as an active guerrilla group, and where it participated in the electoral contest as the political party *Fuerzas Armadas Revolucionarias del Común* (FARC), within the framework of an institutional process. However, this significant event was preceded by the perpetration of acts of violence against members of the FARC political party and presidential pre-candidates, and there were riots against political demonstrations in public spaces. In this regard, the GS/OAS reiterates its invitation to the political sectors to always strive to overcome differences through healthy debate and to unite around the highest national interests.

The GS/OAS reaffirms through the MAPP/OAS its commitment to continue supporting Colombia at this stage, and reiterates its appeal for the international community to continue to support, assist, and strengthen the process so that peace can be achieved in the future. Today more than ever, peace is not an option but a moral, ethical, humanitarian, economic, and social imperative.

3. IACHR, Office of The Special Rapporteur expresses concern over stigmatization and violence against journalists in Colombia, July 26, 2017; IACHR Condemns the Killing of Bernardo Cuero in Colombia, June 16, 2017, available at: http://www.oas.org/en/iachr/media_center/PReleases/2017/077.asp; IACHR Examines Progress and Challenges in the Protection of Human Rights Defenders in Colombia, March 6, 2017, available at: http://www.oas.org/en/iachr/media_center/PReleases/2017/023.asp.

Status of the process with the *Ejército de Liberación Nacional* [National Liberation Army] (ELN)

The GS/OAS welcomes the resumption of the Fifth Round of talks between the delegations of the national government and the ELN. To resume the discussion on the points agreed in the Agenda is an act of enormous significance and sends a clear message that both delegations are willing to move forward in the pursuit of a comprehensive peace. Under this scenario, the GS/OAS renews its support and cooperation in the peace process being advanced, and calls on the parties to move forward resolutely in the quest for peace in Colombia, strengthening, adjusting, and redoubling their commitments and efforts.

The GS/OAS also underscores the active participation of the Church, civil society, and the international community, encouraging the resumption of the Working Group and the continuation of efforts to strengthen and consolidate the peace talks.

The current context demands continued hard work to strengthen dialogues and to continue building peace. Progress is needed on agreements that can de-escalate the conflict and restore trust among the parties. A comprehensive bilateral ceasefire with appropriate verification mechanisms to ensure that it reaches the territories, and coordinated action, is key to guaranteeing the stability of the process and bringing relief to the communities most affected by the conflict. It is also important to continue on the path taken with regard to point 1 of Society's Participation in Peacebuilding, which attained a significant level of development that served to galvanize mobilization around the peace process.

State of violent dynamics, justice, and territorial peace

The constant monitoring conducted by the MAPP/OAS shows that the violence is ongoing and the criminal environments are unrelenting. The dispute between the ELN guerrillas, Organized Armed Groups (GAO), and Organized Crime Groups (GDO)^{4/} over territorial control, increases proportionally in the territories left by the FARC-EP, and is accentuated in areas where natural resources and the conditions for criminal activities are conducive to their interests, and where the State does not have an effective presence. These confrontations lead to direct harm and forced displacement with serious humanitarian consequences.

These criminal groups exercise a violence that mutates and is adapted to different areas of the country, encompassing new territories and replicating different styles of violence and ways in which illegal armed actors can be integrated. Criminal gangs with a presence in economically depressed areas are also being added to the criminal network. They seek to exploit the territory's resources and related economy for their illegal purposes, as well as to regulate social practices, types of interactions, and

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4. Name given by the Colombian Government in Permanent Directive No. 15 of 2016 of the Ministry of National Defense. The Directive defines GAOs as groups which "under the direction of a responsible command, exercise over a part of the territory such control as to enable them to conduct sustained and concerted military operations"; on the other hand, it defines GDOs as "structured groups of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious offense or offenses established in accordance with the Palermo Convention, with a view to obtaining, directly or indirectly, an economic or other material benefit." It identified the Gulf Clan, *Los Pelusos*, and *Los Puntilleros* as GAOs. It placed other groups with more limited structural, armed, and bellicose capacity, such as *Los Rastrojos*, *La Constru*, and *La Empresa*, among many others, in the GDO category.

conflict resolution mechanisms. Their complex structure is based on a set of relationships, constituting territorial powers that threaten to co-opt governments and local representative political bodies in order to gain access to fiscal resources. Their actions in the face of the measures taken by the security forces have led to forced displacements, in certain areas affecting indigenous peoples and Afro-descendant communities in particular.

The concentration of FARC-EP ex-combatants in the transitional local zones for normalization (ZVTN) and transitional local points for normalization (PTN), now known as territorial training and reintegration spaces (ETCR),^{5/} led to a more extensive deployment of the security forces with the intention of guaranteeing security conditions in those territories left by the FARC-EP. Despite this deployment, a climate of unlawfulness associated with criminal economies persists in some of these areas, which has led other armed illegal actors to remain or arrive due to the favorable economic and strategic conditions in certain territories.

In other areas, there have been reports of the active presence of so-called FARC-EP dissidents who expressed their intention not to continue with the peace process or who were not recognized by the guerrillas as members or spokespersons. In addition to this phenomenon, there has been a territorial reconfiguration that has led to armed confrontation between illegal armed actors disputing territorial control and the proceeds of illegal economies.

A situation of utmost concern is the persistence of attacks against leaders, representatives, or activists from human rights, victims', social, civic, community, women's, ethnic, or peasant organizations. These impacts are brought about by various actors, in very different territorial contexts and for different reasons, with a greater effect on rural areas and on local grassroots leadership, such as the Community Action Boards (JACs) or similar organizations. The most significant impact is murder, but forced displacements, threats, confinements, and other coercive measures also have serious repercussions insofar as they are carried out in order to prevent people from performing leadership functions, lodging complaints, and demanding social, economic, and political rights.

The Peace Agreement has served to create favorable conditions for the development of justice in various territories, while at the same time facilitating communities' participation in formal channels for the resolution of their differences or demand for rights, thus strengthening the institutional framework and the resolution of disputes through ordinary mechanisms. The GS/OAS also highlights the actions taken by the national government to expand the justice system in areas that were previously under the influence of the armed conflict, especially in places where the FARC-EP used to be present, and highlights the coordination between the regular and indigenous justice systems, through actions developed by the Superior Council of the Judiciary (CSJ) and the bodies of the Special Indigenous Justice System, as a principle of the multi-ethnic and pluricultural nature of the Colombian State.

The comprehensive national illegal crop substitution program [*Programa Nacional Integral de Sustitución de Cultivos de Uso Ilícito*] (PNIS) has been making sustained progress in the territories in furtherance of the goals set by the national Government. The program has affiliated a significant number of families and is a strategic and longer-term alternative to eradication actions. However, the GS/OAS notes the distrust that exists in the communities regarding program adherence and execution,

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5. On August 1, 2017, through Decree No. 1274 of 2017, it was established that the transitional local zones for normalization and the transitional local points for normalization would become territorial training and reintegration spaces, in order to continue the process of reintegrating former FARC-EP combatants. These spaces will serve to train members of the FARC-EP, prepare productive projects, and meet the technical training needs of the surrounding communities in a community reintegration model.

and the need for the State to coordinate an institutional response that addresses issues such as access to land, the settlement of peasant communities on collectively-owned, protected, or vacant lands. New provisions are also needed to specify the number of hectares to be replaced, the types of growers, the inclusion of non-cultivating families in the program, and the judicial approach to smallholders. The impact and tensions created by forced eradication in communities must also be taken into account. In this regard, the IACHR has received information on the lack of coordination between the forced eradication strategy and the strategy of voluntary substitution of illegal crops, the social conflict it causes, as well as the lack of prior consultation with indigenous peoples and Afro-descendant communities for the implementation of these activities as part of the Peace Agreement.

The development programs with a territorial focus (PDET) are the Government's bid to reduce differences in the territories as a substantial contribution to the construction of a firm and lasting peace. The participatory preparation of the PDETs is perceived by the communities as an opportunity for advocacy, planning, and contact with institutions; the GS/OAS considers that in order to continue reinforcing these spaces, it is necessary to emphasize their character as a forum for dialogue rather than primarily an informative one between institutions and communities. This can help to improve knowledge of the expectations and needs of the communities, in order to help them make better decisions according to the realities of each territory.

2. MONITORING OF SECURITY CONDITIONS AND TERRITORIAL DYNAMICS

2.1. Territorial dynamics of the ELN

In previous reports, when the peace process with the FARC-EP was concluding its negotiation phase and moving toward its approval and subsequent implementation, the GS/OAS drew attention to the positioning of the ELN in the areas where it had been present.

At that time, it was noted that these dynamics had a particular impact on departments such as Chocó. In the Darien region, for example, the armed confrontations between this guerrilla group and the Gulf Clan [*Clan del Golfo*]⁶ have had serious humanitarian impacts on the civilian population as a result of displacement, confinement, and other effects. In this regard, the GS/OAS expresses concern about the massacre in the community of El Carrá, in the district of El Litoral del San Juan, where ELN members murdered four civilians, accusing them of being members of the Gulf Clan.

Just as there have been clashes between the ELN and the Gulf Clan, similar dynamics have been identified between the guerrillas and armed groups recognized as FARC-EP dissidents on the Pacific coast of Nariño, where such disputes have led to the displacement of civilians, particularly affecting the communities of the municipality of Icuandé.

The GS/OAS has also observed the increasingly evident presence of the ELN in the northern part of the department of Cauca. In the municipalities of El Tambo, Caloto, and Toribío, the guerrillas have clashed with and harassed security forces. The presence of the ELN has also been observed in municipalities of Valle del Cauca such as Bolívar, Buenaventura, El Dovio, Trujillo, and Cairo, and this dynamic has already sparked a number of clashes with the National Army, such as those that have occurred in El Dovio.

6. The document will refer to the Gulf Clan, using the name given by the Colombian Government to this organized armed group. However, this group is recognized in the territories as *Autodefensas Gaitanistas de Colombia* [Gaitanista Self-Defense Forces of Colombia] (AGC).

In other regions where the ELN shared a presence with the FARC-EP—and had greater influence than the FARC-EP—such as the department of Arauca, the changes observed by the GS/OAS have been in terms of the group strengthening its control and attempting to consolidate itself as an actor that regulates everything from the population's behavior to the security of rural areas, through repressive and coercive action against those who may disturb the peace of the communities.

Parallel to this dynamic, we have identified harassment and attacks by the ELN, particularly against the security forces. These actions have been concentrated in municipalities such as Fortul, Saravena, Arauquita, and Arauca (Arauca); Vianí (Cundinamarca); La Gloria (Cesar); Hacarí, Teorama, and Tibú (Norte de Santander); Samaniego and Cumbal (Nariño), and Sipí (Chocó).

In addition, hostile actions against journalists have been observed in areas of ELN influence. Restrictions were placed on the work of journalists from a national media outlet in the municipality of El Tambo (Cauca); similarly, in June the ELN detained two Dutch journalists working in Tibú (Norte de Santander). Added to this are the attacks on the oil infrastructure, particularly involving several sections of the Caño Limón Coveñas and Transandino pipelines in the departments of Arauca, Boyacá, Norte de Santander, and Nariño.

With regard to the talks between the Colombian government and this guerrilla group, the GS/OAS has identified moderate optimism in many communities about the process. However, the continuity of armed actions and the considerable levels of belligerence on the part of some ELN fronts reinforce negative perceptions about reaching a comprehensive agreement with the unlawful armed group. Thus, for example, the ELN's armed actions and capacity to cause harm, especially to the security forces and the country's oil infrastructure, continued until mid-2017.

The definition and implementation of the Bilateral, Temporary, and National Ceasefire and Cessation of Hostilities (CFHBTN) between the parties during October 2017 and January 2018 contributed to the improvement of security conditions in some areas such as Catatumbo and Arauca. However, in departments such as Nariño, Cauca and Chocó, there were armed actions that affected the civilian population. In particular, the GS/OAS regrets the murder of Aulio Isarama Forastero, an indigenous governor and member of the Embera-Dobbida people of the Alto Baudó municipality (Chocó). His death also had repercussions on the ¡Ya! Humanitarian Agreement in that department, promoted by the social and ethnic-territorial organizations in August 2017. The GS/OAS deeply regrets these incidents and urges the Colombian State to continue to conduct the appropriate investigations to establish individual responsibility and develop actions to prevent the recurrence of such crimes.

In contrast to the final days of 2017 and early 2018, which were relatively calm thanks to the CFHBTN, once the ceasefire ended, there was a marked escalation of offensive actions by the ELN, in the form of attacks on former members of the FARC-EP in Santacruz de Guachavés (Nariño) and Arauquita (Arauca); clashes with other illegal armed groups such as those that occurred in Riosucio (Chocó); Bolívar (Cauca); Cáceres (Antioquia); Magüí Payán, Policarpa, and Cumbal (Nariño); and hostile actions against the security forces in Teorama and Tibú (Norte de Santander); Soledad and Barranquilla (Atlántico); Valdivia (Antioquia), and Santa Rosa del Sur (Bolívar).

In response, the security forces have developed strategies to neutralize this escalation, which is why they have also increased their control and offensive actions against the ELN. Notable events in this context included the death of alias Arturo Pimpón in combat in Pisba (Boyacá), and the bombings and clashes against ELN forces in Chitagá and Pisba (Norte de Santander), as well as in Valdivia and Cáceres (Antioquia).

2.2. Crime dynamics

2.2.1. Main dynamics of groups identified as FARC-EP dissidents

The GS/OAS has identified the continued presence of individuals or groups who, following the completion of the disarmament process in August 2017, continued to call themselves FARC-EP. This aspect not only represents a risk factor for the security of the communities, but also opens a window of opportunity for the rise of criminal dynamics and creates uncertainty regarding the credibility and expectations for the success of the process between the government and the guerrillas.

The GS/OAS acknowledges the efforts of the Colombian State to define and confront these groups, one of which is their identification under the category of “residual FARC-EP structures.”^{7/} However, it has been perceived that the civilian population identifies these structures in some cases as FARC-EP dissidents and in others as “the guerrillas.”

In view of these incidents of dissidence, the GS/OAS has observed that in addition to the groups that formally and publicly declared the continuation of their struggle through arms, such as the 1st Front in the department of Guaviare, the civilian population has identified members of the FARC-EP in their communities who never moved to the ZVTN and PTN, currently known as ETCR. Faced with this latter situation, although not all cases point to the exercise of criminal activities or involvement by these people, the prevailing sentiment is that members of the demobilized guerrilla group continue to have an armed presence in areas where it previously exerted its influence.

In departments such as Meta, Guaviare, and Caquetá, the information obtained by MAPP/OAS refers to groups or structures that have replicated the names, *modus operandi*, funding sources, and discourse used by the FARC-EP. In these cases, the communities and institutions express consistent views on the fear that the dynamics of the conflict will continue despite the disappearance of the FARC-EP as an armed actor.

In other cases, the continued presence of the so-called militia members in the territories, in addition to creating uncertainty with regard to their possible participation in the disarmament, demobilization, and reintegration process, has also created perceptions that nothing has changed in the context of the peace process with the FARC-EP. In this context, the civilian population continues to link the actions of these people to the criminal dynamics that are present in their territories. This situation has been observed in the Pacific Coast of Nariño with the epicenter in the municipality of Tumaco (Nariño).

In other regions, such as the department of Guaviare, southern Meta, and northern Antioquia, there is still a perception that dissident networks are being maintained in order to continue to exercise control over the population and to form a kind of FARC-EP reserve should the process of implementing the Final Agreement fail. Some institutional and community sources describe the profile of those who remained in command of the dissidents, as former and trusted members of the old FARC-EP military structure. Consequently, different sectors of the population in these departments consider this to be the reason why some ex-combatants who are in the process of reintegration and transition to a political party do not perceive a threat in the actions of these dissidents. However, this perception is not common to the whole territory, because in other areas of the country, such as the department of

7. Through Directive 037 of 2017, issued by the Ministry of National Defense, the Colombian Government characterized those groups composed of former FARC-EP members as Residual Organized Armed Groups (GAOR).

Antioquia, the authorities themselves have identified that FARC-EP dissidents have been the perpetrators of attacks against former members of the guerrilla group who are now in the process of reintegration.

Through the Mission, GS/OAS has determined that the presence of these groups is not always perceived as negative. In some areas of the departments of Meta and Guaviare, sources consulted indicated that the presence of persons or groups that were part of the FARC-EP could protect the areas from the arrival of other armed groups and maintain the dynamics of the illegal economy of the territory, with an actor that is already known; they also considered it favorable for the regulation of intra-community conflicts. This view is shared in departments such as Caquetá, with particular emphasis on the limited presence of the State in the region and the long period during which the FARC-EP played a regulatory role in crime and conflict.

With regard to the way in which these structures operate, it has been commonly heard that these groups seek to keep a low profile by wearing civilian clothes and not visibly carrying weapons. This, in addition to creating difficulties for the authorities, reflects the territorial rationale in departments such as Guaviare and southern Meta, where the existence of another armed actor would no longer be openly identified.

Given the complications that these groups have evidenced in rebuilding the weakened drug trafficking networks following the FARC-EP's departure from the territories, one alternative in terms of funding has been to continue engaging in extortion. An upward trend has been identified with respect to the number of people extorted, the sums demanded, and the frequency of collection. In some municipalities of Caquetá and Guaviare, merchants and cattle ranchers have expressed concern about the increase in the sums collected, and about the fact that they are being collected every six months rather than annually, as the FARC-EP had done in the past. In addition, in some cases, "retroactive" collections are being made for extortion sums that were not paid at the end of 2016.

Just as dissident groups bear a resemblance to the organizations and forms of interaction imposed by the FARC-EP in Meta, Caquetá, and Guaviare, there are also examples where this connection is much less clear, as evidenced in the speech with which these groups have addressed the communities. Such is the case of Puerto Guzmán (Putumayo), where there is a dissident group that has refused, for example, to intervene in community conflicts despite the fact that this was a common practice of the FARC-EP, thus demonstrating to the community that it has an exclusive interest in drug trafficking. Similar dynamics are identified in the Nariño mountain range, where the efforts of the identified dissident group have been aimed at aligning itself with the different drug-trafficking structures operating in the area, although its intention to exercise social control by imposing or reestablishing norms of coexistence previously regulated by the FARC-EP is also beginning to be seen.

In the department of Cauca, the actions of these groups are perceived in a more complex way. In the rural area of Santander de Quilichao, in June and July 2017, people reported seeing alleged FARC-EP members who, despite not identifying themselves as guerrilla dissidents or by any particular name, continued to demand extortion payments, impose rules, and call meetings. The situation has been similar in the municipalities of Inzá and Páez even since the beginning of 2017, when the existence of a group of FARC-EP ex-combatants who did not take part in the peace process was acknowledged; they also continued to extort money from the communities and control illicit crops in the area.

In this same department, in the municipalities of Morales and Suárez, a group of dissidents from the FARC-EP was also identified as seeking to maintain territorial control by limiting the movement of the communities. This group argued to the communities that it rejected the peace

agreement because it lacked guarantees for their transition to a lawful status. Specifically in Morales, reference was made to the existence of an armed group identified as the “1st Front of Guaviare,” made up of approximately 30 armed individuals. Different sources in the municipality agreed that they were neither people from the area nor former members of the Jacobo Arenas Mobile Column of the FARC-EP, which had long been influential in the sector.

Additionally, in mid-2017 in the municipality of Corinto (Cauca), there was concern about the gradual departure of militiamen and other members of the FARC-EP from the Monterredondo ZVTN in Miranda. This, together with the fact that those who did not move to the ZVTN remained in the territory, raised concerns in the communities about their possible connection to the structures of the ELN and the *Ejército Popular de Liberación* [People’s Liberation Army] (EPL), which had no recent history in the northern part of the department.

These dynamics in northern Cauca are closely related to those found in Valle del Cauca, where the municipality of Jamundí has seen dissident elements of the Ambrosio González Company of the Sixth Front and the Manuel Cepedas Vargas Urban Front of the FARC-EP involved in confrontations with the National Army.

In the department of Nariño, two different phenomena are apparent. Some groups in the urban and rural areas of Tumaco with an influence on the Pacific coast have been identified as FARC-EP militiamen. However, they were not recognized by the FARC-EP as such, and therefore were unable to take part in the peace process. They continue to engage in criminal activities such as drug trafficking, and to hinder the process of substituting and eradicating illicit crops. Additionally, there is evidence of the emergence of new structures made up of FARC-EP dissidents and ELN members in the coastal municipalities of Nariño, such as El Charco and Tumaco, where self-styled groups such as “*Guerrillas Unidas del Pacífico*” [“United Guerrillas of the Pacific”] or “*Gente del Orden*” [“People of Order”] have continued to collect extortion payments, steal supplies such as fuel, and exert control over the territory.

In addition, we have the dynamics of the mountain range and the foothills of the department of Nariño, where in mid-2017, in the municipality of Cumbitara, reference was made to the emergence of an armed group reportedly composed of dissidents from the 29th Front and the Daniel Aldana Mobile Column of the FARC-EP, led by alias Vaca.^{8/} In this context, a dispute was identified between this organization and the ELN’s company Héroes del Sindagua over control of the lower Patía, the foothills, and the pass between the mountain range and the coast. It is also known that at the beginning of June this network convened a meeting in the rural area of the municipality of Magüí Payán (Nariño), in which coca paste producers and alias Cuadrado, the most prominent drug trafficker in the area, took part in order to coordinate actions to facilitate the outbound shipment of cocaine to the Pacific, through control of the Patía River.

At the same time, in the department of Antioquia, reports from some sectors of the population of Briceño referred to the presence of FARC-EP members still operating in the area. In this regard, it was not known whether they were a dissident group or whether they were acting at the direction of FARC-EP leadership, but it was known that they continued to forcibly recruit adolescents and young people, to whom weapons were being given.

In Dabeiba, the GS/OAS, through the MAPP/OAS, learned of the escape of three members of the 5th Front of the FARC-EP of the ZVTN of Llano Grande Chimiadó, who were reportedly leading a

8. Commander killed in August 2017.

group of 15 dissidents dressed in civilian clothes and carrying long guns and small arms. Some sources indicated that this group was located in the towns of La Balsita and Camparrusia, and in the village of Chachafrutal, a point of special interest due to the possible existence of caches of weapons and explosive material. It was similarly mentioned that the militia members of the 34th Front who were not concentrated in the ZVTN had formed an alliance with members of the Gulf Clan to facilitate drug trafficking in the area of Cañón de la Llorona. It was alleged that the former FARC-EP militiamen were responsible for the processing of coca and the subsequent delivery of the product to members of the Gulf Clan, while the latter were responsible for securing the shipment's departure to Panama.

Additionally, different sources referred to the escape of members of the FARC-EP in the department of Norte de Santander during the transfers of combatants to the ZVTN in Tibú. Other sources indicated that shortly before the beginning of this process, several members of the 33rd Front received orders from their commanders to remain in the rural area of La Gabarra, in order to keep an armed reserve in case of any contingency. In this area, some accounts circulated indicating the presence of a group of people who were part of the FARC-EP and who did not participate in the disarmament process. This group, which consists of no more than 25 people, has been spotted in areas close to the Venezuelan border.

In view of other dynamics, people in the department perceive that *Los Pelusos*^{9/} are gaining strength in the Catatumbo region. According to various sources consulted by the MAPP/OAS, this situation could be related to links between combatants who belonged to the FARC-EP and who, following its demobilization, decided to join the ranks of the aforementioned organized armed group.

In the municipality of Arauquita (Arauca), information was obtained on the strengthening of a dissident group from the 10th Front, which also reportedly has a presence on the Venezuelan border. Various sources commented that this group could be made up of between 100 and 300 people, under the command of alias Anderson and Serrucho, deserters from the Front who reportedly kept the organization's assets and money.

According to other reports, that dissident group issued a statement confirming its presence in Arauca, Casanare, and Boyacá. This information was reportedly intended for demobilized FARC-EP members. In addition to these dynamics, there are also aspects related to the demobilization of militia members. This sector of the FARC-EP was expected to enter the ZVTN in June, and did in fact do so. Nevertheless, there is still concern in different sectors that these people may not have continued their reintegration process in the ETCRs, and the assumption is that they are potentially linked to dissident groups.

Another common element in several of the monitored territories where dissident groups are presumed to be present was the tendency to attribute responsibility for any criminal act to the actions of these groups. For this reason, at the local, regional, and national levels, its image as an armed group with armed capacity and the exercise of power continues to be reinforced. This has been conducive to the emergence of criminal groups that use the FARC-EP's name to create greater fear and impact through their actions, and to facilitate illegal actions such as the collection of extortion payments. For instance, in El Paujil (Caquetá), a group was identified that presented itself as a dissident group to extort money from the villagers, and the "true dissidents" said it was a criminal group that had nothing to do with their organization.

9. The name given by the Colombian State will be used when mentioning *Los Pelusos*. However, this GAO is known in the territory as the *Ejército Popular de Liberación* [People's Liberation Army] (EPL).

Finally, on this issue, GS/OAS underscores the authorities' efforts to dismantle these structures, carrying out operations whose main results have been the neutralization of several leaders of these groups in San Vicente del Caguán (Caquetá), Tumaco (Nariño), Mapiripán (Meta), and Calamar (Bolívar).

2.2.2. Principal dynamics of groups identified as GAO and GDO

The Colombian government characterized the criminal groups that emerged after the demobilization of the self-defense forces in two broad dimensions: Organized Armed Groups (GAO) and Organized Crime Groups (GDO). As GAO, it identified the Gulf Clan, *Los Pelusos*, and *Los Puntilleros*.¹⁰ It placed other groups with more limited structural, armed, and bellicose capacity, such as *Los Rastrojos*, *La Constru*, and *La Empresa*, among many others, in the GDO category.

There are perceived impacts on the organizational and economic structure of these groups within the framework of the operations carried out by the security forces. In this vein, Operation Agamemnon in Urabá Antioqueño, Darien Chocoano, and Southern Cordoba against the Gulf Clan are examples of important achievements by the institutions of the State in the fight against that organization.

However, despite progress in the weakening of illegal armed structures, in some regions both the Gulf Clan and *Los Pelusos* have independently managed to sustain a certain structural, armed, bellicose, and far-reaching capacity. In the case of the Gulf Clan, this has allowed it to engage in violent confrontations against other illegal armed groups, particularly the ELN in the Darien and Southern Chocó; in the case of *Los Pelusos*, this capacity for war has been demonstrated through attacks against the security forces.

At the same time, it was observed that the Gulf Clan has managed to develop a degree of armed and criminal capacity, either by strengthening its armed structure or by making use of other criminal groups, in order to carry out violent actions against the security forces, particularly against the National Police. *Plan Pistola*¹¹ is the manifestation of that criminal capacity. Other groups such as *Los Puntilleros* and *Los Rastrojos* have also maintained their geographic position, avoiding the loss of territorial control through confrontations or alliances with illegal armed actors with greater capacity. *Los Puntilleros* maintain their presence in some regions of the departments of Meta and Vichada, while *Los Rastrojos* are still on the border between Norte de Santander and Venezuela, where they are in an ongoing, open dispute against the Gulf Clan.

Similarly, in the southwestern regions of the country, such as Cauca, Nariño, and Putumayo, the GS/OAS observes a territorial reconfiguration of illegal armed actors made up of GDO, dissidents, guerrillas, common criminals, and drug-trafficking mafias, which combine a complex diversity of interests. In this scenario, in Putumayo, there is still a perception that the *La Constru* group continues to lead criminal activities.

10. In the territory they are identified as continuations of the Meta Bloc and the Libertadores del Vichada Bloc.

11. *Plan Pistola* ["Pistol Plan"] is the term used by the Colombian authorities to refer to attacks by illegal armed actors, in this case the Gulf Clan, specifically targeting members of the National Police. Generally, this strategy has been used to retaliate against the security forces after they have carried out operations resulting in the death of some leader of the illegal structure. It consists of attacks with firearms on uniformed personnel who are alone or in small groups, by snipers or individuals acting alone, which entails low levels of risk for the assailants.

The income produced by illegal economies and the fact that some of these areas are corridors of criminal activity, or areas where the security forces have limited presence and control, continues to pose risk factors for the emergence, reconfiguration, or expansion of these illegal armed groups. In this regard, the potential profit that these groups can obtain from the legal and informal economies of the territories, particularly from actions such as extortion, cannot be overlooked. In addition, following the disappearance of the FARC-EP as an armed actor, the possibility of controlling resources such as mining, drug trafficking, smuggling, and extortion, among others, as part of the source of financing for other illegal armed groups, is evident.

Along the same lines, the GS/OAS draws attention to the serious humanitarian consequences of the armed conflict between the Gulf Clan and the ELN in the department of Chocó, specifically in municipalities such as Riosucio, Lloró, Alto Baudó, Medio Baudó, and Bajo Baudó. Likewise, the GS/OAS warns of the consequences of armed confrontation between the GAO and the authorities, insofar as it has led to population displacements such as the one that occurred in El Litoral del San Juan (Chocó), which particularly affected the ethnically diverse groups living in this area. However, the repercussions have not been solely in the context of armed confrontations; on occasion, the mere presence of the illegal armed actor has sparked fear, leading to displacement of the kind that occurred in Bajo Atrato. As already mentioned by the MAPP/OAS, this dynamic has been repeating itself in the territory since at least 2015, when both groups began to dispute territorial control in the Chocó Darien, resulting in massive displacement and confinement.

There are also concerns about the continuing offensives against the security forces, in particular the so-called *Plan Pistola* carried out against members of the National Police by the Gulf Clan. These attacks were launched by the GAO after the authorities killed alias Pablito, one of the group's commanders, in the area between Arboletes and Necocli (Antioquia). In addition to the region of Urabá, the epicenter of several of these actions, homicides and attacks against the National Police occurred in northeastern and lower Cauca, Antioquia, in the Magdalena Medio region, as well as in rural areas of Medellín (Antioquia), Quibdó (Chocó), Neiva (Huila), Montería (Córdoba), Cartagena (Bolívar) and Sincelejo (Sucre). Similarly, the escalation of hostilities through actions such as attacks on police patrols by this armed actor is alarming. The concern is not only related to the effects on members of the security forces but also to the risks that these events represent for the civilian population.

In addition to the areas mentioned, the GS/OAS obtained information on Gulf Clan attacks in urban areas of Cartagena (Bolívar), Quibdó (Chocó), Sincelejo (Sucre), Neiva (Huila), and Montería (Córdoba), as well as in the rural area of Medellín (Antioquia), where the actions were carried out by smaller structures, but with the influence of the GAO. This situation reflects the group's capacity to act in a network and produce effects by using smaller gangs. In this area, the wide range of criminal activity in cities is seen as an aspect that favors this type of work.

With regard to the presence of *Los Pelusos* in the department of Norte de Santander—a group also recognized by different sectors of the Catatumbo community as PLA—the population of the region perceives an increase in its armed actions, especially against the security forces. Harassment of the security forces was reported in Sardinata, Teorama, Tibú, and Hacarí. There were also hostile actions against the civilian population, as happened in some rural areas of the municipality of Teorama, where the armed group has established rules governing behavior and relations between the communities.

In addition to the repositioning in Catatumbo, in other regions such as the northern part of the department of Cauca, particularly in Jambaló, Toribío, Morales, and Suárez, armed actions by a group

that calls itself the PLA have been reported. In these municipalities, the perception of the communities is that this group is made up of ex-combatants and militia members from the FARC-EP who did not move to the ZVTN and PTN, or who left after relocating there.

On the other hand, the MAPP/OAS continues to observe the existence of criminal activities that, despite being more limited in geographical terms, maintain their influence through the control of drug trafficking in the urban environments of small municipalities. This is the case of the group identified as *La Constru* in the municipalities of Puerto Caicedo and San Miguel (Putumayo).

Another manifestation identified in local areas, but with strong impacts on the security conditions of the territories, is the *Los Rastrojos* group in the department of Norte de Santander, specifically in the border area between Colombia and Venezuela, in rural areas of the municipalities of Villa del Rosario, Puerto Santander, and Cúcuta. In that region, the group has been fighting with the Gulf Clan for control of border crossings used to smuggle various goods. This dynamic of confrontation is interpreted as an attempt by the latter group to expand its control from Urabá to other Colombian regions. In other parts of the country, the dispute between these two groups has taken the form of armed clashes, as was the case in some rural areas of Cúcuta during the months of June and August.

Against this backdrop, the GS/OAS appreciates and recognizes the progress made by the Colombian State to counteract the effects of these criminal manifestations. The continuation of Operation Agamemnon, directed against the Gulf Clan, is noteworthy in this regard, having resulted in the neutralization of three important leaders of this armed group, to wit, alias Pablito, alias Culo de Toro, and alias Gavilán; these events took place in northern Urabá and the Chocó Darién. While acknowledging these advances, the GS/OAS expresses its concern over the effects that the handling of these operations by the media has had on the civilian population. This is because the success of several operations has been attributed to the information provided by the civilian population, immediately making the communities targets of the illegal armed groups.

Finally, the GS/OAS underscores the approach that the security forces have taken to the situations of insecurity brought about by the dispute between *Los Rastrojos* and the Gulf Clan in the metropolitan area of Cúcuta. In this context, through joint operations between the Armed Forces and the National Police, actions have been taken that have had an impact on the capacity of these groups; in this area, the capture of members of the Gulf Clan in municipalities such as Cúcuta and Villa del Rosario (Norte de Santander) is of particular note.

The operational outcomes achieved by the Colombian authorities have also included major seizures of drug shipments, such as those made in May and August in Ipiales (Nariño) and Buenaventura (Valle del Cauca). Results included the discovery in November of twelve tons of cocaine being stockpiled by the Gulf Clan in the Urabá region, which was the largest drug seizure in Colombia's history.

2.3. General perceptions on the deployment and actions of the security forces

The GS/OAS would like to highlight the efforts of some military units to change their approach to community relations. Although there are still instances where the civilian population is stigmatized, in other cases it has been possible to create spaces for dialogue and acknowledgement between the security forces and society. These spaces, which are systematically maintained and adopted as a protocol for ongoing relations with local communities, are undoubtedly an important step in the reestablishment of ties based on trust and legitimacy between the population and the security forces.

Recognizing the importance of the above in strengthening peacebuilding processes in the territories, we must also note that in situations where the intervention of the security forces directly or indirectly affects populations, such as activities for the forced eradication of illegal crops, the opening of those spaces for dialogue has been considerably more difficult in some areas of the country. However, in the face of social protests or mobilizations of communities that feel affected by these processes, there has been an increasingly widespread tendency on the part of the authorities to avoid confrontation, suspend eradication efforts, and leave the area. This strategy has been viewed positively by the communities.

On the other hand, in areas such as the department of Caquetá, where the security forces are carrying out forced eradication activities, some communities report that the National Army's arrival is aimed at carrying out these activities, without offering protection or creating scenarios for building trust with the civilian population. This perception is compounded by the fact that, although there are obvious difficulties in the permanent establishment of state institutions throughout the national territory, some communities still have the impression that once the FARC-EP left, the National Army did so as well.

Although the presence of the security forces is not constant in these areas, in regions such as Lower Cauca there has been a positive assessment of the rapid response of the authorities to situations of risk. At the end of 2016, for example, in the rural area of the municipality of El Bagre (Antioquia), the incursion of a group of armed men was cause for fear in the community, but there was a timely response from the security forces, who arrived in the area hours after learning of the situation. The Comprehensive Action initiatives carried out and promoted by the National Army in regions affected by the armed conflict, such as Caquetá and Sur del Tolima, are also viewed positively. The GS/OAS underscores these efforts to attract public and/or private initiatives that can promote community participation in these territories.

With regard to the National Police, the GS/OAS through the MAPP/OAS has identified a positive perception of the work of the Peacebuilding Unit (UNIPPEP) in the municipalities that hosted the ZVTN and PTN. In broad terms, the uniformed personnel of this unit are identified in the territories as qualified and prepared professionals, which is a departure from the notion that the assignment of police to these municipalities has historically been part of a punitive framework.

Finally, the reformulation of strategies by the security forces to identify changes and challenges in security matters for Colombia is viewed in a positive light. In this regard, the GS/OAS notes the implementation of the Strategic Plan for the Consolidation and Stabilization of the Military Forces [*Plan Victoria*] and the Safe and Peaceful Communities Plan of the National Police as strategies to generate faster and more effective responses to the security conditions of communities and territories. Similarly, the development of the Horus Plan by the Armed Forces is highlighted as an effort to ensure the optimum and effective presence of the security forces in some municipalities, including at the village level, with a view to protecting social leaders.

With respect to anti-drug trafficking efforts, the GS/OAS highlights the creation of the Strategic Review and Innovation Committee (CREI) on the fight against drug trafficking, the inter-sectoral communication forum called the Unified Command Post (PMU), and the Comprehensive Strategic Operational Centers against Drug Trafficking (CEOs), as a component of cohesion and coordination.

It also welcomes the ongoing participation of the Ministry of National Defense in the National Commission on Security Guarantees for the construction, formulation, and assessment of the permanent Plan of Action to combat and dismantle the criminal acts and organizations responsible for

murders and massacres, that attack human rights defenders, social movements, and political movements, or that threaten or attack those who participate in the implementation of the Peace Accords.

In addition, we would like to highlight the coordinated work undertaken with other entities such as the General Command of the Military Forces, the National Police, the Office of the Inspector General, the Office of the Attorney General (FGN), the MAPP/OAS, the Office of the High Commissioner for Peace (OACP), the Office of the United Nations High Commissioner for Human Rights (UN Human Rights), the United Nations Verification Mission in Colombia, and others, to identify sources of funding and patterns of criminal activity in criminal organizations.

2.4. Dynamics related to social conflict

In terms of the handling of social conflict, in the territorial context, it is important to highlight the performance and presence of the Ministry of the Interior in fostering opportunities for social dialogue and negotiation. It is committed to supporting citizens and ensuring a presence at the central level of the national government, through the Vice Ministry for Participation and Equality of Rights, which, together with other bodies such as the Observatory for Citizen Security and Public Order of the Ministry of the Interior, addresses the issues of conflict, social dialogue, and institutional coordination.

The GS/OAS also acknowledges the efforts made by the Center for Social Dialogue, Early Warning, and Conflict Resolution [*Centro de Diálogo Social, Alertas Tempranas y Solución de Conflictos*] (CEDISCO) of the Presidency of the Republic with the aim of ensuring social stability and good relations between the national government and social actors. Such efforts not only feed into a coordinated and inter-institutional strategy for the identification of scenarios of social conflict, but also focus on the development of strategies for dialogue and consensus building.

The GS/OAS further recognizes the work of the Constitutional Court, which in Constitutional Judgment No. 223 of 2017 explicitly stated the fundamental nature of the rights to peaceful public assembly and demonstration, noting that these rights are also enshrined in Article 37 of the Constitution of Colombia and Article 15 of the American Convention on Human Rights. The case law of the Court has reaffirmed the interrelation and interdependence between the fundamental rights of assembly, peaceful public demonstration, freedom of expression, and political rights. In this context, the Court's decision is decisive for protecting and guaranteeing the right to social protest in the country.

The GS/OAS was able to observe a significant number of social mobilizations and marches called by different groups, unions, and civil society organizations to demand rights such as access to public services, as well as progress on the commitments made by the national government in the framework of previous mobilizations. These demonstrations have posed a formidable challenge to Colombian institutions because of the need to coordinate the demands expressed in the various social mobilizations and the implementation of complex public policies such as the comprehensive counter-narcotics strategy. In this context, although many sectors of society have stated that they are more comfortable about expressing their needs and demands, they reaffirm the need to strengthen the spaces for democratic and participatory dialogue between society and the Colombian State, particularly in view of the State's need to consolidate its institutional presence throughout the national territory.

During the first half of 2017, regional mobilizations were held in the municipalities of Quibdó (Chocó) and Buenaventura (Valle del Cauca) in the Colombian Pacific region, demanding the construction of road infrastructure and basic sanitation works, in order to ensure access to rights such as health and education for their populations. After weeks of demonstrations and various impacts on

the economy and public order, senior representatives of the national government were able to reach agreements with the mobilized communities on how to deal with the issues at stake.

Likewise, in northeastern Antioquia, specifically in the municipalities of Remedios and Segovia, communities and local authorities were forced to cease activities due to several weeks of demonstrations related to the exploitation and commercialization of precious minerals such as gold. This scenario of social conflict has been common in this and other regions of the country where the rural economy is buoyed by ancestral, and sometimes unlawful, mineral exploitation practices. This situation of social conflict has heightened tensions, given that small miners believe they are adversely affected by formalization and commercialization policies, and demand opportunities for dialogue with the national government in order to organize and protect themselves from a large-scale mining policy. Communities living in municipalities with hydrocarbon exploration and exploitation sites are similarly situated, and in departments such as Cesar, Meta, and Putumayo, they are mobilizing to draw attention to environmental impacts and the regulation of employment policies in these sectors of the economy.

The GS/OAS is concerned about the delay and the failure in certain areas to establish spaces for dialogue, a situation that has led to a rise in social tensions and the escalation of events that have affected the safety and rights of demonstrators—either because of the actions of illegal armed actors who have infiltrated protest and social mobilization activities, or because of the actions of the security forces when, in the performance of their duties, they have resorted to the excessive use of force, disregarding the principles of distinction and proportionality.

Likewise, other expressions of citizen mobilization became evident when multiple national and regional social organizations coalesced around three themes: the Days of Indignation, the Strike for Life and Peace, and the National Indigenous Minga. These demonstrations were monitored in departments such as Arauca, Caldas, Cauca, Cauca, Cesar, Nariño, Norte de Santander, Putumayo, and Valle del Cauca, and despite having been called and promoted by very diverse organizations and communities, they all voiced a common complaint: the lack of significant progress in the implementation of agreements previously agreed upon with both the national and local governments. They also demanded the implementation of the Final Agreement signed between the Government and the FARC-EP, and called for the rights of human rights defenders and social leaders to be respected and guaranteed.

It is important to highlight the work carried out by CEDISCO and the Ministry of the Interior in the unfolding of these events. These entities have received and listened to the demands of the organizations in the mobilization process, allowing for an assertive dialogue between the parties, shorter mobilization periods, and the construction of agreements with the participants. In addition, inter-agency work organized within the framework of the Strategy Room of the Ministry of the Interior helped to counteract escalating violence and the excessive use of force during the demonstrations. Despite the fact that no loss of human life was reported, the episodes of violence have left a considerable number of demonstrators and members of the security forces injured.

In terms of dialogue and participatory construction, the GS/OAS emphasizes how civil society and Colombian institutions have used and placed importance on citizen participation mechanisms such as popular consultations. Based on these mechanisms, new scenarios for managing the territory through social spaces have been established, as well as mechanisms for addressing the scenarios of social conflict associated with investment and development projects in a peaceful and constructive manner, in accordance with resolution AG/RES. 2833 (XLIV-O/14), “Inclusive Dialogue for Effectively Dealing with Social Conflicts in Investments for Integral Development.”

In keeping with the above, the GS/OAS urges the Colombian State to address, with a rights-based approach and through dialogue and other mechanisms for the prevention and alternative resolution of conflicts, current social tensions in relation to mining and energy exploitation in departments such as Antioquia, Cesar, Meta, Bolivar, and Putumayo, as well as in relation to lands and territories, with special emphasis on the existing tensions between the ethnic and rural population in departments such as Cauca, Nariño, and Norte de Santander.

One of the policies that has triggered the greatest social unrest has been the reduction of illicit crops, given that these have been concentrated in areas with high levels of vulnerability and unmet basic needs, leading to the emergence of those crops as the main and sometimes only source of livelihood for the population in many rural areas. This situation has been most evident in geographic areas where coca paste continues to be the currency of exchange for the acquisition of fundamental goods. In this regard, although there are multiple potential alternatives for the agricultural use of the soil, the difficulties in marketing any other product are also clear, given the lack of road infrastructure, transportation costs, and market conditions for the sale of agricultural products, among other factors.

The planting of crops for illicit use leads to deforestation and the resulting harm to protected ecosystems. The monitored regions include the Sierra de la Macarena National Natural Park, the Nukak Natural Reserve, and the Serranía de Chiribiquete National Natural Park in the departments of Meta, Guaviare, and Caquetá. In the above-mentioned areas, the loss of primary forests and the coverage of secondary forests is evident, increasing the risk of fragmentation and loss of connectivity of strategic ecosystems, as well as an expansion of the agricultural frontier. This has been exacerbated by the weak oversight capacity of territorial authorities, regional environmental authorities, and National Parks over deforestation in protected areas. This, in addition to the lack of Land Management Plans (POTs), Basic Land Management Plans (PBOT), and Land Management Schemes (EOT), intensifies the disregard for the appropriate use of the land, so that rural communities cling to the activity that is most profitable in the short term, planting illegal crops and raising livestock, thereby fueling social and socio-environmental conflicts.

In this context, the Office for the Substitution of Illicit Crops of the Office of the High Presidential Commissioner for the Post-Conflict Period began activities for the development of the PNIS, conducting 860 municipal outreach events and reaching 82 collective voluntary crop substitution agreements in 85 municipalities of the country. These agreements covered approximately 127,000 families and an estimated 85,000 to 90,000 hectares of coca leaf. For the implementation of the PNIS and the care of the beneficiary families, the Colombian government entered into an important strategic partnership with the United Nations Office on Drugs and Crime (UNDOC), an agency that had been supporting the Colombian State in several illegal crop substitution programs in previous years.

The official figures of the PNIS, published in eight UNDOC reports, show that this program has made progress in comparison with the previous ones. The program has enabled the Colombian Government to establish a presence in the rural areas of 85 municipalities heavily affected by violence and the dense presence of illicit crops. They also report that 53% of the 54,027 families involved in the program have begun to receive the monthly payment. The most advanced are the five pilot projects with which the PNIS was launched more than a year ago, and those that are already receiving the fourth and fifth payments, that is, completing the assistance phase. This approach by the State has raised considerable expectations and created a window of opportunity for the families that earn their living from illicit crops to have access to mechanisms that will enable them to work toward converting their sources of income.

However, the GS/OAS, through the MAPP/OAS, has noted distrust on the part of the communities regarding the State's compliance, given the slow pace of the program's implementation. This factor is compounded by the presence of illegal armed actors that boost illicit economies and have an impact on those who exercise leadership in the voluntary substitution processes.

Despite the progress made by the Office for the Substitution of Illicit Crops, several matters related to the implementation of the PNIS, such as the need for comprehensive rural reform, require an institutional framework for dealing with issues such as access to land and the settlement of peasant communities within the collective territories of Afro-descendant communities, indigenous reservations, national parks, and vacant government land. Similarly, clear regulations are required on aspects such as the maximum number of hectares to be replaced per family unit, the difference between small and large growers, and the link between substitution programs and non-farming individuals and families whose income is derived from the drug production chain,^{12/} among other issues.

Parallel to these concerns is the need to specifically address and define the criminal treatment of small farmers currently facing legal proceedings. In view of this particular issue, the GS/OAS has seen an increase in the number of cases in which peasants have been prosecuted for crimes linked to drug trafficking, a situation that deepens the distrust of many communities toward State entities and their policies.

The Ministry of National Defense has reported that the forced eradication strategy led by the security forces is progressing well, given that its results have surpassed the target set for 2017. Such progress, however, is perceived by the communities as a process that provokes clashes and is disjointed from the implementation of the PNIS, since forced eradication directly affects their economy without offering a sustainable alternative.

In this context, for rural communities whose basic subsistence depend on coca cultivation, forced eradication operations without the implementation of the PNIS have elicited widespread rejection of the eradication efforts of the security forces. This rejection has led to blockades, protests, demonstrations, and major mobilizations in areas where manual eradication campaigns have been carried out. Within the framework of the monitoring carried out by the MAPP/OAS, manual eradication operations were conducted in 45 municipalities covered by the Mission in the departments of Antioquia, Arauca, Bolívar, Caquetá, Cauca, Cesar, Chocó, Córdoba, Guaviare, Meta, Nariño, Norte de Santander, and Putumayo, during which heavy clashes occurred in Bolívar, Guaviare, Nariño, Meta, Norte de Santander and Putumayo, claiming the lives of both civilians and members of the security forces.

At the same time, in the framework of the implementation of the PNIS, ethnic communities have expressed their dissatisfaction with the lack of prior consultation on the coordination of activities—a requirement set forth in the Final Agreement for the coordination and implementation of the voluntary illicit crop substitution strategy. This was one of the elements that prompted the mobilization of the National Indigenous Minga, which also expressed complaints regarding breaches of previously signed agreements between the national government and ethnic groups, the need for guarantees of human, territorial, and environmental rights, and budgetary guarantees for compliance with the agreements, among others. With respect to these mobilizations, the GS/OAS applauds the agreements reached within the framework of the National Indigenous Minga, and hopes that these

12. For example: coca leaf harvesters, cooks, day laborers, and others.

commitments will be met in order to move forward in the fulfillment of the agreements and guarantees for the collective rights of all indigenous peoples.

2.5. Dynamics of impacts on social leadership

The GS/OAS commends the creation of coordination spaces and bodies within State institutions to offer security guarantees to leaders, representatives, and activists of human rights, victims, social, civic, community, and peasant organizations. In this regard, the efforts and progress made by the National Commission on Security Guarantees, the Elite Corps of the National Police, and the National Protection Unit are acknowledged, as are the actions of the security forces, departmental and local authorities, and other State institutions that, within their areas of competence, contribute to an understanding of the phenomenon and to the mitigation of security risks in arenas of participation.

The Mission acknowledges and appreciates the efforts of the National Subcommittee on Security Guarantees to support the work of the National Commission on Security Guarantees. Since January 2017, territorial sessions have been held to conduct follow-up, establish intersectoral coordination, and promote institutional coordination for the implementation of the Permanent Action Plan against criminal organizations, evaluate the institutional response, and coordinate the preparation of technical roundtables to monitor and guarantee the application of differential and territorial approaches in the measures taken.

With respect to the advancement of the Permanent Action Plan for Dismantling and Combating Criminal Organizations and Conduct, and the design of a public policy on crime that addresses the criminal dynamics that threaten the implementation of the agreement and peacebuilding, the National Commission on Security Guarantees created four technical commissions: a Commission on Policy Adjustments, a Commission on the Identification of Sources of Financing, a Commission on Institutional Response and Impact Measurement, and a Commission on Differential, Territorial, and Gender Approaches, which will provide: i) Recommendations for reforms that will help eliminate any possibility that the State, its institutions or agents may create, support or maintain relations with the organizations that are the subject of Decree Law 154 of 2017; ii) Recommendations for amending or repealing the regulations that directly or indirectly allow and/or promote the creation of the organizations and acts that are the subject of Decree Law 154 of 2017; iii) Report on the characterization of the value chain of criminal organizations that are the subject of Decree Law 154 of 2017; and iv) Diagnostic document on the framework for attacks on social leaders and human rights defenders.

Regarding the Elite Corps' investigative work regarding impacts on social leaders, the most significant actions taken include 117 arrests, 28 cases under investigation, three open investigations, and one case in which a judgment has been handed down. The GS/OAS also acknowledges the effort to create spaces for coordination between institutions and with the communities through the Territorial Roundtables on Guarantees, Working Groups, and Justice Committees in the territories. The decentralized deployment of 117 investigators throughout the country to determine the facts surrounding the violence directed at social leaders in the territories is also acknowledged and viewed positively.

With regard to the actions of the Ministry of National Defense aimed at fostering the capabilities of the security forces to guarantee the safety of people in social leadership positions, it is recognized that the Unified Command Post (PMU) has been set up to coordinate information and actions to prevent incidents against social leaders. The National Police Strategy for the Protection of Vulnerable Populations (ESPOV), which sets out guidelines and parameters for prevention and the

protection of individuals, groups, and communities, particularly leaders and human rights defenders, is also welcomed.

Despite these advances, the GS/OAS reiterates its concern about the security situation of representatives of communities and persons involved in social protest actions, given the ongoing murders, threats, attacks, forced displacement, and stigmatization of this population. As mentioned in previous reports, the GS/OAS recognizes that although it is impossible to identify a national pattern or trend that would explain all these cases, there are some common aspects, depending on the leader's activity.^{13/}

With respect to this phenomenon, it has been observed that violent actions are perpetrated by a wide range of actors and are directed at different types of leaders. It is also noted that the phenomenon of violence is characterized by its multicausality, meaning that a variety of motivations are perceived to be associated with the effects on social leadership. Similarly, it is notable that some of the activities carried out by these leaders have been negatively categorized, creating a perception in the territories that some economic, social, and political activities are somewhat stigmatized, thus hindering their development and undermining leadership. Not all leadership activities involve risk. Those most exposed are individuals in environments where one or more illegal armed group operates; where there are legal or illegal local and regional economic interests; where new political actors are positioning themselves; or where there are high rates of corruption and an absence of the State.

Within the framework of the monitoring carried out by the GS/OAS through the MAPP/OAS, it has been identified that the effects on these leaders have a collective impact, since they affect perceptions about guarantees for political participation in their territories. In some cases, the communities abstain from participating for fear that “the same thing will happen to them as to the leader.” In this context, not only has the continuity of some leaders’ activities been affected, but some organizational processes have also been discontinued, or they have continued with limited activities.

The processes most impacted by dynamics such as those described above are related to participation in the illicit crop substitution agreements of the PNIS, citizen oversight of the exploitation and management of natural resources in the territories, the development of processes for the restoration of ethnic-territorial rights,^{14/} and citizen oversight over the management of public resources and control of local governments.

2.6. Dynamics of impacts on communities

Since 2016, in the departments of Norte de Santander, Meta, Caquetá, Guaviare, Chocó, Antioquia, Nariño, Cauca, Nariño, and Putumayo, the GS/OAS, through the MAPP/OAS, has been monitoring different acts perpetrated against persons said to be related in some way to members of the FARC-EP. Thus, militiamen, family members, deserters, demobilized persons, persons involved in

13. In the 23rd Half-Yearly Report of MAPP/OEA, the patterns of these hypotheses are related to: i) a leader’s report of an armed group moving into the area; ii) complaints about the mismanagement of government resources, or assertion of rights to the use of natural resources and defense of the territory; iii) political work involving education for peace; iv) community work to create new representative spaces and/or movements; and v) public complaints about the dynamics and effects of the illegal economy when it directly benefits some unlawful armed actor.

14. Decree Law 4633 of 2011, “Establishing measures for assistance, care, comprehensive reparation, and restitution of territorial rights to victims belonging to indigenous peoples and communities” and Decree Law 4635 “Establishing measures for assistance, care, comprehensive reparation, and land restitution for victims belonging to black, Afro-Colombian, Raizal, and Palenquero communities.”

work related to the drug trafficking chain, and in general, those who have had some kind of relationship with the FARC-EP have been affected.^{15/} However, it has also been identified that peasants, leaders, social organizations, and civil servants living in areas formerly under the control of this guerrilla group are also being affected, on the presumption that they have had some kind of connection with the FARC-EP.

The rationale provided by the perpetrators of attacks on people who did in fact have a connection to the FARC-EP is usually that those people are considered useful to the functioning of illegal economies in the territories; that they are identified as having strategic information on the FARC-EP that could affect, help, or destabilize an armed actor's control in an area, or that they may be linked to national government programs. With respect to people who are not directly linked to the organization, the negative impacts are caused by the stigmatization of having inhabited areas vacated by the FARC-EP.

A spike in the forced recruitment or involvement of children and adolescents has been monitored in remote rural areas where there are few employment or personal development opportunities for young people. Illegal armed actors have continued their recruitment practices, and many have stepped up this practice in the interest of strengthening their organization and occupying territories abandoned by the FARC-EP. Similarly, there is cause for alarm at the fact that the illegal armed actors take advantage of the social and economic vulnerability of rural populations and that they have diversified their recruitment strategies according to the basic needs and characteristics of the places where these children and adolescents live.^{16/} The IACHR agrees with the Mission's concern regarding the persistent recruitment of children and adolescents, as well as femicide and the harm done to the families of Community Action Board leaders. It also appreciates the gender analysis in this regard.

Finally, GS/OAS is concerned about the continuation and, in some cases, exacerbation of violence against women and girls in Nariño, Cauca, Caquetá, Arauca, Córdoba, and Sur de Bolívar. Violent acts such as femicide, sexual violence, forced displacement, and threats are generally associated with the arrival of men in situations of armed conflict. In most cases, the women affected do not report these acts out of fear of being stigmatized or because they feel that their complaints will be ineffective. It is alarming that women leaders are often the victims of threats aimed not only at their physical integrity but also at that of their families.^{17/}

15. Impacts are mainly attributable to GAO/GDO, the ELN, and criminal structures. However, there are some known cases where they have been caused by the security forces or local government officials.

16. In Nóvita, Chocó, it was reported that the ELN offered food to children and adolescents from Afro-descendant communities in order to get them to join its ranks; in the same municipality, the ELN recruited several children and adolescents from indigenous reservations with the same strategy. Similarly, in La Macarena, Meta, and Puerto Rico, Caquetá, information has been obtained on the "voluntary" involvement of young people through the illegal actor's offer of arms and money. In Casanare, demobilized youths have been called on by illegal armed groups "inviting" them to be part of their structure. Cases of selective murder in response to the youths' refusals have been reported.

17. Examples of this situation were monitored in southern Bolívar, Arauca, and Cauca, where the threats that many women leaders have received are related to the forced recruitment of their children; likewise, in Caquetá, Nariño, Chocó, Norte de Santander, and Arauca, subsequent to the departure of the FARC-EP, women have been victimized under the guise of retaliation and revenge, where ex-combatants or demobilized combatants target women who allegedly had romantic relationships with members of their former organization.

3. MONITORING THE DYNAMICS OF JUSTICE IN THE TERRITORIES

3.1. Conditions of access to the formal justice system

The construction of a stable and lasting peace requires that policies related to security in the territories continue to be coupled with measures to facilitate citizens' access to justice and restore their confidence in it. The GS/OAS recognizes and applauds the efforts made by the Colombian State to strengthen the administration of justice in the territories in the post-conflict period.

Most notable in this context are: the Ten-Year Plan for the Justice System 2017-2027, adopted by Decree 979 of June 9, 2017, as the set of guiding principles that seek to articulate and coordinate the work of all State institutions to promote efficiency, effectiveness, and modernization in the administration of justice; the decision of the Office of the Attorney General to open new units in 189 municipalities where it did not previously operate^{18/} and to reinforce its current presence in 311 municipalities where it had limited infrastructure; and the work being carried out by the Ministry of Justice and Law to implement the local justice systems strategy, which seeks to strengthen the administration of justice from a territorial perspective.

In addition, the peace process between the national Government and the FARC-EP has created favorable conditions for the formal administration of justice in some territories. For example, in municipalities such as La Montañita, Puerto Rico, and San Vicente del Caguán (Caquetá); Mesetas and Uribe (Meta); Puerto Asís (Putumayo) and El Retorno (Guaviare), the population has shown a greater willingness to file complaints and, in general, to approach institutions, thus notably increasing the demand for their services. Similarly, the current climate of law and order in municipalities such as Puerto Caicedo (Putumayo) has allowed civil servants to visit rural areas that were previously inaccessible due to security conditions.

However, the GS/OAS is concerned that, in spite of the progress made, the conditions for access to justice still present significant obstacles—which have already been discussed in previous reports—making it difficult to satisfy the legal needs of citizens on an equal basis. In addition, the actions of illegal armed groups remain one of the main barriers to access to the formal justice system. For example, in some municipalities of Chocó where the Gulf Clan operates, commissions and working days in rural areas have been restricted as a preventive measure in view of the security situation, limiting judicial processes such as the execution of arrest warrants. Similarly, it has been reported that justice officials have limited their services to the urban areas of Saravena, Tame, Arauquita, and Fortul (Arauca); Morales and Arenal (Bolívar), Olaya Herrera, El Charco and Santa Bárbara de Iscuandé (Nariño); Amalfi (Antioquia), and El Retorno (Guaviare), due to the risks of traveling to rural areas.

Similarly, in light of the presence of illegal armed actors in municipalities such as Apartadó, Dabeiba, and Turbo (Antioquia); Riosucio, Unguía, Alto Baudó, and Sipí (Chocó), Cantagallo, Arenal, Tiquisio, and Norosí (Bolívar), Vistahermosa, Puerto Rico, and Puerto Lleras (Meta); Olaya Herrera, Santa Bárbara de Iscuandé, El Charco, Barbacoas, and Magüí Payán (Nariño); and Puerto Libertador (Córdoba), communities have told the MAPP/OAS that filing complaints with government institutions increases the level of risk to which they may be exposed, not only because they fear reprisals for approaching the authorities, but also because in some cases they assume that there may be possible links between officials and armed actors.

18. Decision announced June 30, 2017.

In addition to the distrust of some communities and the perceived inefficiency of formal justice mechanisms, there is a lack of human and physical resources, as well as frequent delays, excessive red tape, and inadequate service on the part of some public servants. In municipalities such as Puerto Gaitán (Meta), Remedios (Antioquia), Puerto Caicedo (Putumayo), and Suárez (Cauca), there is a shortage of key professionals to conduct investigations and prosecutions, such as those from the Office of the Attorney General, the Technical Investigations Unit (CTI), The Territorial Criminal Investigation and Interpol Office (SIJIN) of the National Police, the National Institute of Forensic Medicine and Science, and judges of general jurisdiction. This shortage not only increases the delays in judicial proceedings, but also makes it impossible to get arrest warrants authorized within the established time limits.

Although the low number of complaints is largely due to mistrust in the formal justice system, it also means that the crimes committed are not reflected in official statistics and are not prosecuted, thus creating a correlation between the low complaint rates and the ineffectiveness of the formal justice system. Examples of this situation have been identified in the municipalities of Samaniego and Magüí Payán (Nariño), Vistahermosa (Meta), and Valle del Guamuez (Putumayo), among others.

In addition, in other municipalities, the division of competence and jurisdiction among the institutions in charge of administering justice has made it more complex to coordinate the investigative and judicial proceedings. For instance, the judicial map for the municipality of Piamonte (Cauca) has been noted as one of the most complex in southern Colombia, since the municipal court is attached to the Superior Court of Mocoa (Putumayo) and the District Judicial Council of Pasto (Nariño), while the Attorney General's Office covers the municipality from Belén de los Andaquíes (Caquetá), and the judicial police operate from Mocoa (Putumayo).

Finally, in places where illegal armed actors have been or are present, there are still cultural patterns that favor the use of force to resolve differences. Similarly, the notion and custom of resorting to armed actors to settle or resolve disputes persists. Examples of this trend have been reported in the municipalities of Yondó, San Pablo, and Santa Rosa del Sur (Bolívar); Vista Hermosa, Mesetas and Uribe (Meta), Puerto Guzmán (Putumayo), and El Retorno and Calamar (Guaviare).

3.2. Parallel or *de facto* justice systems

One effect of the Colombian armed conflict has been the creation of parallel justice systems in which illegal armed groups, seeking to exercise social control over the civilian population, have imposed rules of conduct and penalties for noncompliance with these rules, delivering a particular concept of justice. In the framework of these systems, these groups have taken advantage of the absence or weakness of the formal system in order to meet the needs of the population, which—despite severe penalties, especially coercive ones—prefers in many cases to avail itself of these parallel systems.

The GS/OAS recognizes that with the Final Agreement, specifically since the days prior to the transfer of former FARC-EP combatants to the ZVTN and PTN, the then-armed group gave up its role as the ultimate decision-making authority in conflicts or disputes arising in the areas where they were present. This has encouraged the communities to become familiar with the services of the formal justice system, making use of its channels and turning to state or formal institutions for this purpose. However, during the concentration process, there were occasional cases in which the FARC-EP continued to be involved in the administration of justice. Examples of the above were seen in La Paz (Cesar), Villanueva (La Guajira), Vista Hermosa (Meta), and La Montañita (Caquetá), where despite

the fact that the group was in the concentration zones, it maintained its contacts with the communities, mediating conflicts and agreeing on rules for social relations in some cases.

In addition to the above, in view of the departure of the FARC-EP from territories where they had a strong presence and influence, other armed groups have entered the territory with new rules of conduct and their own systems of justice. Similarly, the *de facto* justice systems of other armed groups such as the ELN and the Gulf Clan have been maintained in the areas where they have historically had influence.

In this context, in the territories where the ELN has historically been influential, such as Saravena, Tame, Fortul, and Arauquita (Arauca), and Hacarí, San Calixto, Teorama, and El Carmen (Norte de Santander), the group has continued to dispense justice, mainly through selective killings or expulsions from the territory, based on the ill-named rationale of “social cleansing,” against thieves, drug users, informants, or people who break the rules established by the guerrilla group. In view of the above, with the massive influx of Venezuelan citizens to the border areas of these two departments, the group has forced employers and rural property owners to limit the number of Venezuelans they can employ.

In the case of Antioquia, the ELN has consolidated a justice system in the rural area of the municipality of Amalfi and is in the process of doing so in Anorí and Valdivia, formerly under the control of the FARC-EP. In Sur de Bolívar, in rural areas of the municipalities of Santa Rosa del Sur, Arenal, Morales, Cantagallo, and Simití, the group continues to administer justice and regulate daily situations. In Chocó, in addition to maintaining its influence in the areas under its control, the group has begun to extend its control to territories cleared by the FARC-EP, such as San José del Palmar, where the number of homicides in rural areas has increased significantly from the previous year. In the border areas of Nariño, in the absence of the FARC-EP, it was clear that the communities themselves were turning to the ELN for justice, considering it more expeditious and practical, and even undermining the autonomy of the traditional authorities of indigenous councils or reservations in the municipalities of Cumbal and in the Abades Samaniego and Santacruz de Guachavés subregions.

Additionally, the impact of the Gulf Clan on the administration of parallel or *de facto* forms of justice remains largely unchanged in the north-western part of the country. In the departments of Antioquia and Chocó, the group uses “social cleansing” practices involving threats, displacements, and murders, mainly of young people involved in thefts or drug use in the urban areas of the municipalities of Apartadó and Turbo (Antioquia), as well as Riosucio and Unguía (Chocó). However, according to MAPP/OAS monitoring, the group sometimes asks communities to avail themselves of formal institutions such as the Police Department and the Family Police Station.

The Gulf Clan is particularly influential in the department of Córdoba, especially in the southern region. In this area, the group acts as a conflict resolution body and provides rules for coexistence, including punishments and fines. It also uses selective killings as part of its “social cleansing” activities. It is important to mention that information was received about these impacts in Tierralta, Puerto Libertador and Montelíbano, Córdoba, where the population has been referring to a “tense calm” since 2016, when the group decided to change its relationship with the community and lower its profile in order not to attract the attention of the authorities.

With respect to Los Pelusos or EPL, the group exercises social control in matters of justice, coexistence, and the regulation of social life in several municipalities of Norte de Santander. In Hacarí, the group's actions extend to the urban center, through the mediation of conflicts and threats to those who engage in certain behaviors; in rural areas it has imposed manuals for coexistence. In Tibú and Sardinata, it has engaged in “social cleansing” practices through the targeted killing of thieves and drug

users, issuing advance warnings of threats and restrictions in the form of leaflets. It has also regulated the arrival of citizens from the neighboring country of Venezuelan by ordering their departure from the area, although it has relaxed its position with some conditions and restrictions.

The GS/OAS through the MAPP/OAS has found that some dissident FARC-EP groups have chosen to replicate the demobilized armed group's model of justice administration. For example, in the cases of Calamar, El Retorno, and Miraflores (Guaviare), the First Front has continued with its practices of regulating coexistence and continues to intervene in conflict resolution as a second instance after the Community Action Boards, and has imposed rules and penalties that include physical punishment.

In the rural area of Dabeiba (Antioquia), FARC-EP dissidents assembled some members of the community to announce that they would regulate coexistence and punish certain types of behavior. At the same time, the group reportedly recruited a young woman it had accused of using drugs. In rural areas of El Paujil (Caquetá), after several months during which there was a power vacuum and an increase in crime and disputes in the community, a group that told the community it was comprised by units from different fronts of the FARC-EP regained social control and imposed an order similar to that imposed by the FARC-EP.

Finally, the GS/OAS is concerned that, in view of the FARC-EP's departure from areas under its control, where other illegal armed groups have not entered and where there continues to be an insufficient state response, there has been an increase in fights over conflicts of coexistence, common crime, and other problems, in view of which the civilian population has decided to take justice into its own hands, resulting in the application of penalties outside the framework of Colombian law. There was evidence of serious complaints from communities about the current power vacuums in: Anorí and Briceño (Antioquia), Santa Bárbara de Iscuandé (Nariño), Nóvita (Chocó), Puerto Guzmán (Putumayo), El Paujil, La Montañita, San Vicente del Caguán and San José del Fragua (Caquetá), Simití (Bolívar), Yondó (Antioquia), Inzá, Páez and Buenos Aires (Cauca), Jamundí, Pradera and Florida (Valle del Cauca), and Uribe and Vista Hermosa (Meta). In addition, there were occasional cases of vigilante justice in Uribe, Vista Hermosa, Buenos Aires, Briceño, and El Paujil.

3.3. Community justice systems

Communal action is key to local justice in the post-conflict period; in this regard, the GS/OAS recognizes and encourages the work and legitimacy that the MAPP/OAS has observed in the JACs of the municipalities of Piamonte (Cauca); Puerto Gaitán (Meta); Puerto Asís, Puerto Caicedo, Orito, Puerto Leguizamó, and Villagarzón (Putumayo); San José del Palmar (Chocó); Remedios and Yondó (Antioquia); Cantagallo, San Pablo, and Santa Rosa del Sur (Bolívar); El Carmen, Sardinata and Tibú (Norte de Santander) and San José, Calamar, and El Retorno (Guaviare), where the communities have been willing to resolve their conflicts through community coexistence committees. These JACs have demonstrated a high degree of coordination with the local authorities, within the framework of which the majority of unresolved cases are referred to the community justice system.

Nevertheless, as a result of the normalization of the dynamics of the armed conflict, it is clear that some JACs have been inclined to use physical violence and apply penalties that are not provided for in the Colombian legal framework. The GS/OAS is also concerned that the communities of municipalities such as Amalfi, Remedios, Cáceres, and Tarazá (Antioquia), Tierralta (Córdoba), El Charco and La Tola (Nariño), El Paujil, Solano and El Doncello (Caquetá), Puerto Concordia, Mapiripán, and La Macarena (Meta), Miraflores and San José del Guaviare (Guaviare), Curumaní and La Paz (Cesar), Puerto Guzmán and Orito (Putumayo), San José del Palmar and Riosucio (Chocó), among others, have indicated that the coexistence committees of the JACs are not in operation for

different reasons such as the influence of illegal armed actors, or shortcomings in community organization.

In addition, the GS/OAS has observed that the departure of the FARC-EP from the territories has led to the weakening of some conciliation and coexistence committees in areas where the armed group had influence. In this regard, it has been noted that the population was accustomed to the past coercive power of the FARC-EP, which is why, in the absence of its punitive power, disregard for the JAC's community regulations has increased; this has been observed especially in municipalities such as El Paujil, Solano, and El Doncello (Caquetá), Puerto Concordia, Mapiripán and La Macarena (Meta), San José del Palmar (Chocó) and Miraflores and San José del Guaviare (Guaviare).

In the territories where illegal armed groups are still present, the GS/OAS has observed that they continue to have an impact on the regulation of community conflicts by the JACs. The JACs in those places are forced to change how they interact with the community, including acting as the lower instance before conflicts are resolved by the armed groups, modifying their coexistence manuals, or even operating according to manuals imposed by these groups. This has been observed to a greater extent in municipalities such as Cáceres, Zaragoza and Tarazá (Antioquia), San José del Palmar (Chocó), San Miguel (Putumayo), and Puerto Concordia (Meta).

4. MONITORING COORDINATION BETWEEN THE SPECIAL INDIGENOUS JURISDICTION, THE ORDINARY JUSTICE SYSTEM, AND THE TRANSITIONAL JUSTICE SYSTEM

The GS/OAS reiterates that the collective right of indigenous peoples to resolve their conflicts in accordance with their own procedures, and under a system of rules and values developed by them in accordance with their own cosmogonies and worldviews, is a right that has been expressly recognized both nationally and internationally. A recent development in the Western Hemisphere in this regard has been the adoption of the American Declaration on the Rights of Indigenous Peoples at the OAS General Assembly on June 15, 2016.

In the Colombian context, the existence and validity of the special indigenous jurisdiction (JEI) is enshrined in the Constitution of 1991, which also orders the enactment of a statutory law to establish the types of coordination between this special jurisdiction and the national judicial system. The GS/OAS regrets that, after 26 years of the Constitution and four failed attempts at passing the coordination law, its enactment has not yet been possible.

In the absence of specific legislation, the GS/OAS appreciates the work that the Constitutional Court has done to develop a comprehensive body of case law with a view to establishing guidelines for resolving jurisdictional conflicts between the JEI and the ordinary courts. Similarly, the GS/OAS welcomes the actions being taken by the Superior Council of the Judiciary (CSJ) to build a solid policy of coordination between the national judicial system and the JEI in order to consolidate the operation of indigenous peoples' legal systems, in keeping with the principle that Colombia is a multi-ethnic and multicultural State.

In this regard, the GS/OAS, through the MAPP/OAS, continued to support and assist the National Commission for the Coordination of the National Judicial System and the JEI.^{19/} It has also

19. Permanent body for dialogue, coordination, planning, and monitoring of public policies of the judicial branch on matters related to the JEI.

promoted the establishment or reactivation of the Departmental Committees for Interjurisdictional Coordination in Cauca, Nariño, Guainía, and Putumayo as spaces for dialogue between indigenous authorities and ordinary justice authorities at the local and national levels to identify and address the different problems surrounding conflicts of jurisdiction in each region.

By supporting the MAPP/OAS in its previous initiatives, the GS/OAS has identified a general lack of awareness about the existence of indigenous jurisdictional autonomy, especially at the territorial level, including from government authorities. In this context, many justice authorities identify indigenous peoples' law as a way of evading criminal responsibility in the ordinary justice system, on the grounds that they are lax systems that do not tend to impose effective penalties against perpetrators. This not only ignores the established constitutional order, but also undermines pluralism and may lead to the stigmatization of indigenous justice authorities.

In addition, in many indigenous communities, national judicial authorities are perceived as a risk to autonomy, creating a barrier that prevents both jurisdictions from coordinating. In this context, the GS/OAS highlights the progress made in terms of coordination between the Office of the Attorney General and the indigenous justice authorities of Cauca, which has resulted in fluid and effective cooperation.

Moving toward harmonization between systems must involve an appreciation of each other as equals, a relationship and dialogue between ordinary and indigenous justice authorities as peers, and the proximity to create spaces for coordination and interaction. Although these spaces are being developed at the national and departmental levels, a process of mutual training on legal and judicial systems, including at the municipal level, needs to be initiated.

The GS/OAS considers that, in order to understand indigenous law, it is important to break with the inherent paradigms of Western law and criminology. To this end, it is important to highlight the consolidation of training modules by the Rodrigo Lara Bonilla Judicial School, which, through a rigorous pedagogical approach, aim to raise awareness of indigenous law and provide legal tools to deal with different scenarios of conflict of jurisdiction and competence. The GS/OAS also encourages the creation of spaces for interaction between indigenous peoples and associations in order to achieve synergies between their legal systems. Within this framework, the GS/OAS acknowledges the proposal to consolidate a single set of procedural rules for the Wounaan, Embera Dóvida, Embera Katío, Embera Chamí, Tule, and Zenú peoples in the department of Chocó.

The GS/OAS also recognizes the active participation of the National Penitentiary and Prison Institute (INPEC) in the inter-jurisdictional coordination spaces. This participation led, among other aspects, to the INPEC establishments allowing the entry of ancient tools of the Murui people of Puerto Leguizamo (Putumayo), such as the coca leaf and *ambil* [tobacco paste], into their facilities. The authorization of the entry of these materials was based on respect for the cosmogonies and the customs and practices of the inmates.

Visits to various prisons and penitentiary establishments housing indigenous populations have shown that the occupational plan, which includes work, study, and teaching activities, consists of general activities for all inmates, without any differential perspective based on gender or ethnic origin.

In addition, the GS/OAS encourages the creation of a space where it is possible to organize and coordinate at the inter-institutional and interjurisdictional levels to establish harmonization centers to receive members of indigenous communities—even if they are in pretrial detention in the ordinary justice system, and provided that the traditional authorities so request—allowing for the application of their own justice procedures and helping to reduce prison overcrowding. In this regard, the

establishment of the La Samaritana healing center for the Murui people of Puerto Leguízamo is viewed positively. In this exercise, it is important that the requirements for the accreditation of the harmonization centers be defined taking account of the particularities of each town or reservation, since homogenization could create barriers to the transfer of indigenous peoples to their territories.

The implementation of the Special Jurisdiction for Peace (JEP) pursuant to the Final Agreement will pose new challenges, which will require efforts to achieve effective coordination between this new transitional justice mechanism and the JEI. In this context, the GS/OAS believes it is necessary to review the cases of members of indigenous peoples who have been linked to the armed conflict, in order to verify whether they have already been tried within the framework of their communities' own law.

Finally, despite the difference in the penalties imposed between the ordinary justice system and the JEI, those indigenous justice measures that seek healing or harmonization within the framework of restorative justice^{20/} can be replicated by the Special Tribunal for Peace, provided that a higher degree of satisfaction is achieved for the victims.

5. MONITORING PRISON CONDITIONS IN TRANSITIONAL JUSTICE CONTEXTS

Given the need to assess the conditions of detention of persons who are deprived of their liberty due to their membership in or affiliation with the ELN, and in order to encourage the appropriate provision of humanitarian assistance in cases where it is necessary, the MAPP/OAS has prioritized and conducted visits to 18 prisons and penitentiaries^{21/} where ELN members are currently being held. These visits have made it possible to gather information on issues of habitability, safety, health, and the maintenance of family ties.

According to the information gathered by the GS/OAS through the monitoring visits made by the MAPP/OAS to INPEC detention centers, there are 445 individuals incarcerated because of their membership in or affiliation with the ELN; however, according to INPEC data, as of May 2017, there were only 376 such prisoners. This apparent underreporting is explained by the fact that many of those ELN-affiliated prisoners have not been accused and/or convicted of belonging to the insurgent group, but have been prosecuted for crimes such as extortion, theft, murder, and others. Similarly, it was evident that many of these people have been or are being prosecuted as members of the FARC-EP without having belonged to that illegal armed group.

20. A form of justice that, unlike retributive justice, does not seek punishment but rather the restoration of the victims' rights, as well as attention to the needs of those responsible for the crime.

21. High and Medium Security Penitentiary and Prison (EPAMSCAS-Combita, Boyacá); Metropolitan Bogotá Penitentiary and Prison Complex (COMEB); Acacias Medium Security Penitentiary and Prison (EPMSC), Yopal Penitentiary and Prison (EPC); Cali Medium Security Penitentiary and Prison (EPMSC), Jamundí Penitentiary and Prison Complex (COJAM), High and Medium Security Penitentiary and High Security Prison (EPAMSCAS –Palmira, Valle del Cauca), Barranquilla Justice and Peace Prison (EC JyP), Valledupar Medium Security Penitentiary and Prison (EPMSC), Valledupar High and Medium Security Penitentiary and High Security Prison (EPAMSCAS), Cúcuta Prison and Penitentiary Complex (COCUC), Medellín Medium Security Penitentiary and Prison (EPMSC), Isthmina Medium Security Penitentiary and Prison (EPMSC), Manizales Medium Security Penitentiary and Prison (EPMSC), Manizales Women's Prison (RM Manizales), Buen Pastor Women's Prison of Bogotá (RM Bogotá D.C.), Medellín Prison and Penitentiary Complex (COPEP), and Bucaramanga Women's Prison (RM Bucaramanga).

An analysis of the prison conditions of the 18 facilities visited showed that eight present critical health conditions, six present critical safety conditions, and only four are habitable. This was mainly due to extreme overcrowding.

In addition to the above, the GS/OAS, through the MAPP/OAS, visited four detention centers^{22/} where there are women who, because of their relationship to or membership in the ELN, are deprived of their liberty. The GS/OAS stresses the importance of bearing in mind that penitentiary and prison systems are environments in which society's patterns of gender discrimination and exclusion are replicated; thus, the values and attitudes of society are also reflected in prisons as spaces that are configured as a microcosm of the outside world, made up of people who form part of the same society, sharing the same culture, values, and prejudices.

Gender-based inequalities are common in all societies to varying degrees and measures, and are exacerbated in societies where factors such as cultural or religious norms assign women a lower status. These imbalances, social attitudes, and beliefs intensify in closed environments, where all aspects become more apparent. Therefore, the specific gender needs and demands of women are acknowledged to an even lesser degree than in society in general, going unnoticed and neglected in these contexts.

5.1. Health conditions

In addition to the health crisis that led the national government to declare a prison emergency in 2016, and the coordination problems between INPEC, USPEC, FIDUPREVISORA S.A. and FIDUAGRARIA S.A.^{23/} The monitoring carried out by the MAPP/OAS has identified several situations that affect persons deprived of their liberty because of their relationship to or membership in the ELN.

One of these situations has to do with delays and lengthy procedures in the transfer of sick inmates to specialized and emergency health centers. In this regard, the GS/OAS, through the MAPP/OAS, has learned that when prison authorities are aware that an inmate is a member of an armed insurgent group, they apply a security protocol that requires the presence and support of special groups such as the Immediate Response Group (GRI) and the Operational Command for Special Security Referrals (CORES), which causes delays even in emergency transfers to health centers.

It was also noted that it is difficult and in some cases impossible to obtain adequate treatment for diseases and illnesses resulting from the dynamics of armed conflict, such as leishmaniasis, limb injuries, mutilations, and shrapnel lodged in the body. In this context, there is also evidence of detainees being held in areas with climatic conditions that are unsuitable for certain health issues.

In the specific case of women, there is concern about the limited or nonexistent access to specialized medical care that is appropriate to their physical and biological characteristics and adequately meets their sexual and reproductive health needs. In particular, it was determined that the vast majority of this population has not received specialized medical care for about six years, and that they or their families are responsible for obtaining gender-specific health and sanitary items. Some inmates also reported the use of expired contraceptive injections, the provision of expired oral contraceptives, and the failure to provide condoms or the restriction of their entry into the facilities, which has led to an increased risk of sexually transmitted diseases.

22. COPED, RM Bogotá D.C, COJAM, and COCUC.

23. Administrators of funds for inmate health services.

5.2. Security conditions

Because members of the ELN and the FARC-EP live together within the same units of some penitentiaries and prisons, spaces for coexistence and security between the members of both armed groups have emerged. As a result of the amnesties, pardons, and special criminal treatment applied under Law 1820 of 2016, the FARC-EP population in these units has decreased, thus increasing the risk that ELN members face from groups or populations with an interest in securing control over these areas. This situation has been monitored at the Bogotá Penitentiary and Prison Complex (COMEB) “La Picota,” at the Medium Security Penitentiary and Prison (EPMSC) in Cali, and at the Cómbita High and Medium Security Penitentiary and High Security Prison (EPAMSCAS).

In addition, the ELN’s inmates have been subjected to serious offenses at the hands of illegal organized power structures run by members of the “houses,” such as the so-called “*caciques*” or “*plumas*.”^{24/} These violations increase and intensify to the extent that detained insurgents are placed in units where control has traditionally been exercised by “houses,” thus disrupting the dynamics of this *de facto* power. In this context, serious security situations have been observed in detention facilities such as Cali and Pedregal, where members of the Gulf Clan have reportedly targeted ELN inmates.

With regard to women’s security conditions, the GS/OAS, through the MAPP/OAS, has learned of serious situations such as attacks with bladed weapons and sexual harassment by other inmates. These assaults are mainly related to the readjustment dynamics that are taking place in the units as a result of the relocation and departure of members of the FARC-EP, who historically controlled these places; the attacks are reportedly motivated by the desire to gain control of the units and the illegal revenues generated therein.

5.3. Conditions of habitability

Although the overcrowding rate at the national level is a cause for concern, the conditions of ELN inmates in this respect are better than those of the rest of the prison population, given that they are held in high-security facilities with little to no overcrowding. However, some prisoners are detained in establishments with poor living conditions, such as the “La Tramacúa” High Security Prison in Valledupar, where there is a water shortage despite the high temperatures in the region.^{25/}

In addition, paragraphs 5(a) and 5(d) of the *Agreement between the National Government and the National Liberation Army to engage in peace talks* aim to “define the legal status of the ELN and its members” and “address the deprivation of liberty of accused or convicted members of the ELN,” respectively. In this context, the GS/OAS notes that the situation and legal review of both inmates and the following populations must be addressed: third-party individuals who have been prosecuted as members of the ELN; third-party individuals who have provided any assistance or collaboration to the ELN; members of the ELN who are on the FARC-EP lists or obtained *de jure* amnesty; ELN individuals who have been adjudicated as members of the FARC-EP; ELN persons who have been adjudicated as members of the FARC-EP and ELN; ELN members who have never been tried as guerrillas; ELN members who have availed themselves of the Justice and Peace Law and have not yet been able to obtain their release; and finally, relatives of ELN members who have been tried as guerrillas.

24. Inmates who “enforce the law” inside the prison units.

25. Water is provided two or three times a day, for 10 to 15 minutes at a time.

5.4. Conditions for the maintenance of family ties

In general terms, the GS/OAS through the MAPP/OAS has found that when a woman is deprived of her liberty in a penitentiary or prison facility, her family ties become especially fragile and may even be definitively broken. This is different from what usually occurs in the case of men, who, despite being similarly confined, tend to have the support of female figures, such as partners and mothers, who ensure contact with their sons and daughters and, therefore, the continuity of their family ties.

This dynamic was identified in the cases of women who are deprived of their liberty because of their relationship to and/or membership in the ELN. Most of them are mothers who are heads of households and have minor children currently in the care of relatives or close third parties. Women consistently report the breakdown of their family relationships, and the impact this has on their social and emotional lives is evident. This breakdown can be attributed mainly to the distance between detention centers and their places of origin or their families' places of residence, as well as to the additional restrictions placed on some of them because they are held in high security wings, which in itself affects a fundamental aspect of the resocialization function of punishment.

6. CRIMINAL AND PRISON POLICY

6.1. Public policy on illicit crops

The points set forth in the Final Agreement are a first step toward changing public policy on illicit drugs in the country. This Agreement has three main pillars: First, the solution to illicit crops, directly related to the point on comprehensive rural reform, with a focus on rural development; second, a public health approach to drug use, rather than resorting to the criminal justice system as has been done in the past, which has led to lengthy legal proceedings focused on those responsible for the early stages of drug trafficking; And third, a reconsideration of the way in which the various links in the drug trafficking chain are effectively pursued, investigated, and prosecuted, with the understanding that the strongest links in the chain must be pursued, giving priority to the money-laundering system and the people involved in this activity, through the effective prosecution of organized crime networks rather than the grower or consumer, and the fight against money laundering.

Within the framework of the third point, the GS/OAS applauds the introduction of the bill “developing differentiated criminal treatment for small farmers, in accordance with the provisions of transitional Article 5 of Legislative Act 1 of 2017 and numeral 4.1.3.4 of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace.” However, it notes with concern the delay in the law's enactment, despite the national Government's six-month power to issue decrees with the force of law and the two legislative terms in which the time taken to process legal and constitutional reforms through the fast track was reduced by half.

This situation creates a legal limbo for people who avail themselves of the Collective Agreement for the Substitution of Illicit Crops, leaving them without a clear legal framework to ensure that they will not be prosecuted. There is also a lack of clarity regarding the potential scope of this standard in terms of who will benefit from it. For instance, there is no clear indication of what will happen to collectors or *raspachines*; to people who are involved in the initial stage of production by having small laboratories known as “kitchens,” and to people who are not owners of the land where there are illicit plantings. It should be noted that from the perspective of those involved in the first phase of production, the actions aimed at reducing production are more heavily focused on small producers and do not deal in the same way with large producers who oppose the substitution process;

this creates uncertainty, confusion, and dissatisfaction among people who seek a legal alternative in the substitution process.

In this regard, in Puerto Rico (Caquetá), arrests were made after the signing of the Final Agreement, on the grounds that the persons detained not only had coca plants, but also had “kitchens,” which is why they could not benefit from possible differentiated criminal treatment. For the GS/OAS, the above is a risk scenario for the implementation of the PNIS, given that a considerable number of small farmers are engaged in small-scale crop transformation processes.

Public policy to reduce illicit crops requires differential approaches. In terms of gender, the role of women varies within each link of the drug trafficking chain, whether in production (planting and harvesting), transport, collection, processing, sale and consumption, or in activities that are not part of the chain but are related to it, such as preparing and bringing food to growers or gatherers. In this context, there is a heterogeneous participation between men and women, which is added to the differentiated consequences of incarceration for women, as evidenced especially in the break-up of their family nuclei and the subsequent effects on children and adolescents. It is therefore vitally important to identify penal and procedural alternatives. In this regard, the GS/OAS applauds the inclusion of an article on preferential attention in court cases for mothers who are heads of households.

Nonetheless, the GS/OAS considers that the Final Agreement has a gap in terms of prison policy, especially with regard to more vulnerable groups, such as women, children and adolescents, and older adults. The majority of women who are in prison are there for drug-related offenses, but in very few cases are they part of the strong links in the drug trafficking chain; rather, they tend to perform low-level work, such as small-scale drug distribution. The same goes for children and adolescents and older adults. The GS/OAS considers that the imprisonment of these links in the chain does not make a major contribution to the dismantling of illegal markets, but rather has devastating effects on these people and their families. It also contributes to overcrowding in the prison system, which is counterproductive to the rehabilitation of people serving sentences, not to mention that the criminal justice system is already overburdened with investigations and proceedings for the prosecution of important links or nodes in the drug trafficking networks. The situation is often aggravated when these people, especially women, have dependents, and their imprisonment results in the break-up of the nuclear family, increasing the risk of involvement in illicit markets or drug use.

The GS/OAS emphasizes and recalls that criminal law should always be seen as *ultima ratio*, the last step to be taken in dealing with conduct that is considered reprehensible. For this reason, its application must take account of the contextual situation, as well as the use of alternatives, bearing in mind that some behaviors could be legalized or decriminalized, such as the use of psychoactive substances. It is also important to consider alternatives to court or the diversion of cases to other bodies before they enter the judicial system.

Finally, the GS/OAS considers that the use of restorative justice models and non-custodial measures should also be taken into account in some cases where a judgment of conviction has already been handed down. Measures could include suspended execution of the sentence, pardon, parole, probation, or closed programs, to name a few.

6.2. Effective prosecution of perpetrators of attacks on social leaders

Threats and attacks against human rights defenders and social leaders have been a constant part of the armed conflict in Colombia. This has been well documented in the vast jurisprudence of the ordinary criminal justice system, as well as in existing Transitional Justice processes and by

international bodies. Given the vulnerability of this population group, the FGN has led the investigation and prosecution of acts of intimidation, threats, and attacks, among other offenses.

To this extent, a strong tendency to underreport has been identified. This is due to multiple factors, such as: the presence of illegal armed actors who intimidate the community to keep its members from reporting; the perception that there are “snitches” who report back to the perpetrators on who goes to file a complaint and what they say; the existence of a parallel or *de facto* justice system administered by illegal armed groups; difficulty in accessing the places where a complaint can be filed (prosecutors’ offices in other cities, for example); excessive red tape, delays or ineffectiveness of the judicial system; lack of adequate resources in the judicial system (shortage of Judicial Police, disproportionate numbers of prosecutors and judges, lack of adequate tools); confusion over technical and specialized legal language; a perception of corruption, negligence or “selective justice” on the part of justice authorities, and a deep-rooted tradition of non-reporting due to a mixture of the above-cited factors.

The Mission has also identified that there is no standard definition between communities and institutions of what would be understood as effective prosecution or as impunity. State entities agree that effective prosecution should be understood as successful cases, that is, the conviction of the perpetrator of the crime; however, there is a perception that for the investigative body, effective prosecution can be understood as the mere identification of the alleged perpetrator, without this involving an actual conviction.^{26/}

The GS/OAS highlights the efforts made by the divisions of the Office of the Attorney General, such as the Citizen Security Division, which has approached communities in many territories, such as Putumayo, Cauca, and Nariño, not only to investigate the facts but also to understand the contexts of victimization, creating a virtuous circle of information in which communities gradually gain confidence in the investigative body. This has led to favorable outcomes in the investigations, which in turn has led the Office of the Attorney General to assert that these processes have been a milestone in the fight against impunity.

Although the concept in the communities varies somewhat from the institutional concept, many agree that factors such as truth and the establishment of the facts, the acknowledgement of responsibility by the alleged perpetrator, and guarantees of non-repetition are part of what is to be understood by justice. In the opinion of the Mission, victims’ rights to truth, justice, reparation, and non-repetition must be clearly recognized and realized in these cases, and not only in transitional settings. In this regard, it is important to standardize the criteria that identify the existence of impunity and the fight against impunity in order to avoid confusion in public opinion and in the communities.

One turning point in the investigation and prosecution of crimes against human rights leaders and defenders is related to the development of the peace process between the FARC-EP and the

26. With regard to effective prosecution and the fight against impunity, the IACHR recalls that the standard established in the inter-American system indicates that the investigation must be conducted seriously to identify the perpetrators and masterminds, exhausting all logical lines of investigation and taking account of contexts including macro-criminality and joint operation; it is an obligation of means, which is not limited to the identification of the perpetrators. This includes all the safeguards to prevent impunity, as well as the non-applicability of statutes of limitations to serious human rights violations. The mere identification of the alleged perpetrators is a step in this process, which alone does not meet the standards of the inter-American human rights system in terms of establishing the facts and obtaining justice.

Colombian government. An example of this is shown in Point 3.4 of the Final Agreement, which creates a National Commission on Security Guarantees and a Special Investigation Unit of the FGN, among other bodies.

With regard to the investigation methodology of the Office of the Attorney General, it should be noted that there is a need for more effective coordination within the institution. There are three different directives: 001 (contexts and patterns), 002 (investigation and association of cases), and 011 (investigation of threats and concept of human rights defenders). However, in some regions there is no knowledge of them; in addition, some of their components are internally inconsistent. The Mission's recommendation is to harmonize Directives 001, 002, and 011 of the Office of the Attorney General, in order to clarify the definition of the research methodology to be used. It should also be noted that investigations are usually carried out in various units of the Office of the Attorney General, which have different ways of working.

Despite efforts to investigate contexts and patterns, some investigations have taken a case-by-case approach. This has made it possible to identify potential direct perpetrators, but in many cases the chain of command through which the crime was perpetrated has not been identified. In view of this, it should be stressed that an investigative process must explore all possible variables—potential beneficiaries of the crime, political, cultural, and socioeconomic contexts, among others—in order to establish, if appropriate, patterns of macro-criminality with a view to combating criminal structures through the courts.

6.3. Prosecution of social leaders

The GS/OAS through the MAPP/OAS has observed that there is a perception in the territories of an increase in the prosecution of social leaders between 2016 and 2017. Cases such as Becerril and Pelaya (Sur del Cesar), Morales, Arenal, Norosí, and Tiquisio (South of Bolivar), Arauquita (Arauca), and Tibú and Hacarí (Norte de Santander) stand out in particular. It is noteworthy that in these cases the arrests have tended to be made with large operations that have sometimes affected the inhabitants of the area. Likewise, many people belonging to the organizational and community processes have been insistent in denying that the persons captured and/or prosecuted are linked to an armed group or have committed a crime.^{27/}

The respective institutions contend that these arrests are being carried out within the framework of the fight against criminal and terrorist organizations, attacking alleged support networks so that the illegal armed group will begin to weaken. This is also complemented at the central level by the Office of the Attorney General, which collects the general information sent by the decentralized units to establish possible patterns. It is also from this level that the strategies for dismantling organized armed groups and criminal groups are carried out, leading to the investigation and prosecution of the strongest links in these organizations.

It is also evident that, since there is no clarity on the functioning of the JEP, there will be no change in the strategies of the FGN in terms of operations and the prosecution of persons who, according to the investigative processes, are part of the support networks. Additionally, there are some

27. In relation to the criminalization of human rights defenders, the IACHR has recommended that the State ensure that authorities and individuals refrain from using the punitive power of the State and its judicial bodies to criminalize them in retaliation for their human rights activities, and that it ensure that its officials refrain from making statements that stigmatize human rights defenders. The Commission also reported in 2017 on the arbitrary use of the criminal justice system against human rights defenders.

cases in which the defendant is simultaneously charged with the offenses of rebellion and criminal conspiracy; in this regard, the GS/OAS stresses the importance of examining whether the principle of *non bis in idem*, according to which no one can be tried twice for the same act, is being violated.^{28/}

Evidence in court proceedings often focuses on affidavits (usually from demobilized persons), photo array identifications, and wiretaps. In view of this fact, the GS/OAS believes that it is important to have more evidence than just testimonial evidence, because it has limitations in terms of objectivity, neutrality, and impartiality. In addition, many detainees are sent to places far away from the courts of competent jurisdiction or their home districts, making it difficult to hold hearings. It is clear that the vast majority of trials end due to the expiration of deadlines for this reason. This is a waste of time and resources for the investigative bodies, as well as a hardship for the detainees and their families.

The GS/OAS further considers that in some cases there could be an abuse of pretrial detention, which runs counter to what should be a criminal and penitentiary policy that aims to reduce prison overcrowding. Pretrial detention should be used to prevent the accused from obstructing the administration of justice and due process, if he or she is considered a danger to society, is likely to fail to comply with the judgment, or is likely to fail to appear in court as required.

6.4. Ending the Prosecution of Social Protest

The GS/OAS calls for the effective application of Article 37 of Law 1820 of 2016, in terms of declining to prosecute social protest. This need for special legal treatment for the regulation of acts arising in the context of social protest is based on the fact that this type of expression is related to a fundamental right and to the State's duty to guarantee that right in a society governed by the rule of law, as well as on the need for the possibility of recourse to an impartial and independent authority. In this regard, the GS/OAS applauds the work of the Office of the High Commissioner for Peace and the Executive Secretary of the JEP in this area, as well as the actions of the Agrarian, Peasant, Ethnic, and Popular Summit. In 2017, the IACHR issued a statement on the protests for access to economic and social rights, which include adherence to the agreements adopted by the State with the communities; it also expressed concern about the excessive use of force and repressive actions by the Mobile Anti-Riot Squad (ESMAD).^{29/}

However, major challenges have been identified in the implementation of these regulations. First, there is the complexity of identifying potential beneficiaries, as no one is certain about the number of people to whom these benefits can be applied, where they are being held (if they are in custody), and for what offenses. Second, there is the challenge of understanding social protest as broadly as possible, since, for instance, the GS/OAS has determined that there are people who have

28. The IACHR agrees with what has been said about the principle of *non bis in idem* and charges for the offenses of rebellion and conspiracy to commit a crime. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have repeatedly addressed this principle and the responsibility of the State for prosecuting an individual in different proceedings for the same acts. It is a matter of concern that these charges may result in the imposition of double punishment.

29. The Commission has recommended to the State, in addition to human rights training for ESMAD officials, that it investigate the reported acts of violence and punish the officials responsible. An assessment of ESMAD operations with a human rights approach is also needed in the context of the population's right to peaceful demonstration. The IACHR also urged the State to continue to enact legislation, policies, and programs with an ethno-racial perspective, aimed at structurally responding to the ongoing situation of discrimination and violence faced by the Afro-descendant population. It also agrees with the analysis of the effective application of Article 37 of Law 1820 of 2016 on not prosecuting protestors.

been prosecuted in connection with social protest who are not affiliated or organized on certain platforms (such as peasants during certain strikes or demonstrations). Third, there is a perception that most of the investigations carried out by the FGN do not take account of the socio-political context of the territory, nor do the files provide a contextual analysis of the arrests. This makes it difficult to identify the cases in which defendants have been prosecuted within the framework of social protest and those in which they have not. Finally, there is also no clarity on the deadline for presenting the lists.

The GS/OAS notes that the crimes listed in Article 37 of Law 1820 of 2016^{30/} do not appear to report on the realities of the judicial proceedings related to social protest. This is due to several factors, but mainly to the fact that these prosecutions have taken place in a context of armed conflict and under a criminal policy with “counterinsurgency” overtones. Thus, many people were charged with crimes such as terrorism and rebellion, which are not eligible for these benefits. In some territories, especially Sur de Bolívar, Sur del Cesar, Arauca, Antioquia, Cauca, and Norte de Santander, there is a perception about the existence of “inconsistent accusations” in relation to the stigmatization of the social movement. In this way, some people have made it known to the GS/OAS that there should also be legal benefits for these cases, which would be excluded under a literal interpretation of Article 37 of Law 1820.

Finally, it would seem that it may be more advantageous and practical for a person to apply for the benefits provided for in the ordinary law than to apply for the procedure under Article 37 of Law 1820, which is why this initiative may not work.

6.5. Submission to Justice: the case of the *Autodefensas Gaitanistas de Colombia*

The *Autodefensas Gaitanistas de Colombia* [Gaitanista Self-Defense Forces of Colombia] (AGC) or Gulf Clan have been undermined by the murder of the organization's second in command, Roberto Vargas, alias Gavilán, and his brother Efrén Vargas Gutiérrez, alias Culo de Toro, as a result of operations Agamemnon 1 and 2, which also resulted in multiple arrests, cocaine seizures, and the identification of assets subject to forfeiture. In September 2017, the leader of this illegal armed group, Darío Antonio Úsuga, alias Otoniel, posted a video on social media expressing his willingness to avail himself of the Colombian justice system and suspend all of the organization's illegal activities, as long as the necessary legal conditions were in place to grant him the necessary guarantees to achieve a dignified alternative for himself and the members of his organization.

To this end, a legal framework has been discussed for the implementation of proceedings for this type of criminal organization to hand itself over to the justice system. Thus, the Ministry of Justice and Law has been working on the draft Law for the Submission of Organized Armed Groups to Justice, which aims to restore peace, put an end to the grueling struggle unleashed by the different organizations in Colombia and achieve unity between different positions and actors through consensus within a legal framework. It also seeks to establish special conditions for armed groups to submit to and receive protection from the judicial system, considers the division and conceptual difference between organized criminal groups and organized armed groups, and seeks to strengthen investigations into crimes committed by criminal organizations through a collective approach and the individual prosecution of members.

30. Issuing provisions on amnesty, pardon, special criminal treatment, and other provisions.

In the opinion of the GS/OAS, it is important to review the legal framework for handling these cases, since there are some who affirm that Law 418 of 1997, “Establishing instruments in pursuit of coexistence, the effectiveness of justice, and other provisions,” with its respective extensions and amendments, could be sufficient to conduct proceedings with these organizations. The GS/OAS reiterates that, whichever route is chosen, a comprehensive strategy with at least four key elements in the criminal process must be taken into account:

The first of these is inter-institutional coordination with regard to criminal policy. In this regard, prior and programmatic coordination with the Office of the Inspector General and the Office of the Ombudsman is necessary. To this end, it is proposed that a technical Interinstitutional Working Group be set up to share relevant information and coordinate actions within the framework of investigation, prosecution, and/or voluntary submission to justice. The State’s response to possible mass submission and/or prosecution (legal framework, interinstitutional coordination, prisons, designation of victims in each court) must be prepared.

As a second element, it is necessary to reformulate and rethink the strategy around the prosecution of members of these groups, so that the surrender or submission of members of criminal organizations can be useful in a coherent macro-criminal investigation, and in the identification of crimes, support networks, and so on. A surrender or submission to justice must go beyond looking for more informants or informers.

Third, it is important to have a differentiated approach to the re-socialization of the people who were part of the dynamics of violence in the context of the armed conflict, who—if they lack the necessary conditions for full development through a psycho-social approach based on the five pillars of re-socialization (work, education, family, sport, and health)—are exposed to new circumstances conducive to crime,^{31/} which leads to new scenarios of violence once they regain their freedom.

Finally, it must be considered that victims need effective access to justice to obtain truth, reparation, and guarantees of non-repetition. In this process of asserting the claims of those affected, the State, and especially the criminal justice system, must provide the necessary mechanisms for the clarification of the truth and comprehensive reparation, including symbolic reparation, compensation, and the restoration of rights.

7. TERRITORIAL PEACE

The actions that aim to establish territorial peace are those intended, first, to guarantee the non-repetition of the conflict, and to implement transitional justice mechanisms within the framework of truth, justice, and reparation; they are also intended to lay the foundations for peace and sustainable development by guaranteeing inclusive and effective mechanisms for participation in the territories.

The Final Agreement between the Colombian Government and the FARC-EP and the ongoing dialogue process with the ELN^{32/} have taken into account citizen participation as a fundamental component, a task closely related to the strengthening of institutions, the training of social organizations and community leaders for an inclusive and effective implementation of the citizen participation mechanisms established in the agreements, as well as their articulation with the institutional mechanisms provided for in national laws.

31. Such as prison extortion, drug trafficking in prison, forming gangs inside prisons, etc.

32. On February 7, 2017, the public phase of the negotiations between the Government and the ELN began in Quito, Ecuador.

Thus, communities and institutions face the great challenge of setting up tools and methodologies aimed at promoting and strengthening spaces for citizen participation through the implementation of dialogue actions between actors and sectors with opposing interests in order to achieve greater inclusion in the processes.

In this respect, one of the tools established in point 1, numeral 2, of the Final Agreement is Decree 893 of 2017, which creates the development programs with a territorial focus (PDET), which is one of the main pillars of Territorial Peace. These open up an opportunity for effective participation in the construction of the PDET, a relevant phase because their successful implementation would build trust and legitimacy in the peace process. It is also hoped that the ethnic, gender, and territorial perspective will be ensured at this stage, taking into account the characteristics of the stakeholders involved, and that it will be effectively covered in the implementation phase of the PDET projects and/or programs.

In addition, the official start of the negotiations between the Government and the ELN in Quito, Ecuador, allowed for the development of the Agreement between the National Government and the National Liberation Army to engage in peace talks, point 1 of which states that “the participation of society in peace-building” will define the participation mechanism or mechanisms to be established for the implementation of the agreements. Within this framework, the parties have made progress in setting up the Participation Subgroup to determine the methodology for integrating the participation mechanism to be implemented. However, the communities are confused by the diversification of the participation mechanisms established in the Agreements between the Government and the FARC-EP, as well as in point 1 of the Agreement between the National Government and the National Liberation Army to engage in peace talks and, finally, in the operation of the current participation mechanisms in force under Colombian law, as in the case of Statutory Law 1757 of 2015.^{33/} There is also uncertainty as to how these mechanisms will be harmonized or coordinated in the territories.

In addition to inclusive citizen participation, Territorial Peace rests on the pillars of transitional justice, which are complemented in the Final Agreement through the creation of the system for truth, justice, reparation, and non-repetition (SIVJRNR), which, together with the public policy of comprehensive care, assistance, and reparation for victims, places the victims of the internal armed conflict at the forefront.

7.1. Progress and challenges for inclusive and pluralistic participation

In the territories, there are high expectations regarding the implementation of the participation mechanisms established in the Final Agreement between the national Government and the FARC-EP. In this regard, the GS/OAS observes a lack of community outreach on the part of the government regarding the methodologies and mechanisms of citizen participation. The vast majority of communities are not aware of the agreed mechanisms or spaces for participation, and also express concern that the information is not widely disseminated, resulting in unrepresentative participation processes.

An important participation scenario that emerged in the framework of the Final Agreement is the participatory construction of the PDETs, and the pilot plans for the illicit crop substitution, which the communities perceive as settings for advocacy, planning, and contact with the institutions. These spaces must go beyond the simple listening exercises and become opportunities for dialogue in which

33 Enacting provisions for the promotion and protection of the right to democratic participation.

the institutions interact with the communities, knowing their expectations and needs for making decisions in line with the realities of each territory.

Likewise, within the framework of point 1 of the Agreement between the National Government and the ELN to engage in peace talks on society's participation in the construction of peace, the GS/OAS agrees that participation is a dynamic and active, inclusive and pluralist exercise. In this regard, the efforts of civil society, led by social platforms that are national in scope, are highlighted³⁴ to prepare the territory and influence the agenda, taking concrete proposals to the negotiations in Quito in order to achieve an inclusive and pluralistic participation mechanism that will allow for the construction of a common vision of peace that fosters transformations for the nation and the regions. It is important that institutions strengthen and support these opportunities to coordinate and promote participation.

Prior to these processes, the territories already had a wide variety of spaces and processes of participation promoted by various social sectors, including peasants, Afro-descendants, indigenous peoples, women, CABs, youth groups, and students, among others. However, some of these spaces and mechanisms have been characterized by fragmented and disjointed action, which has resulted in minimal impact. Aware of this shortcoming, civil society is seeking strategies to overcome it. For example, in Cauca, the strategy called "*El tinto se va de expedición*" ["coffee on an expedition"] has been proposed, which aims to reach neighborhoods and communities by exchanging knowledge about participation in peace-building processes in a simple and friendly way. The GS/OAS has supported and promoted spaces for the organization and training of new leaders, for instance, in Arauca and northeastern Antioquia.

Another major challenge for the Colombian Government is the approach to participation methodologies in its territorial interventions, bearing in mind the mistrust in the institutional framework and the existing social fragmentation. When the GS/OAS finds an active role close to the communities through the Public Ministry, the Office of the Municipal Ombudsman identifies conditions favorable to participation, which help to build trust and reduce differences, both in a fragmented civil society and in their links with institutions. The importance of creating transparent and inclusive processes was also identified in terms of the government's approach, in order for it to avoid exacerbating tensions or deepening existing mistrust. In this regard, the GS/OAS through the MAPP/OAS has observed that in territories such as Sur de Bolívar, some social organizations have held initial meetings suggesting the need to develop agreements and synergies between social platforms in order to jointly confront the political and electoral scenario of 2018.

The indigenous and Afro-descendant communities that form part of the Ethnic Commission for Peace and the Defense of Territorial Rights in the monitoring and follow-up to the implementation of the Agreement have indicated that the spaces created for their participation within the framework of the Ethnic Chapter of the Final Agreement are not being respected, insofar as the appropriate prior consultations on the regulation of the Agreements have not been carried out. This has aggravated their mistrust of institutions and fueled assertions of noncompliance on the part of the State.

34 Networks such as the *Mesa Social por la Paz* [Social Roundtable for Peace] (REDEPAZ), *Paz Completa* [Complete Peace], and REDPRODEPAZ.

7.2. Challenges for the Commission for the Clarification of Truth, Coexistence, and Non-Repetition (CEV)

Although the CEV will be based in Bogotá, one of its main challenges is to reach the territories that have suffered the most from the internal armed conflict, and still do not know the truth about what happened, with an explanatory approach to the causes and actors that brought about the victimizing events. Victims and victims' organizations have expressed their concerns about the territorial scope, budget, and time available to the CEV to accomplish its enormous task in the areas of clarification, acknowledgement, coexistence, and non-repetition.

Accordingly, the GS/OAS considers it vitally important that the CEV envisage a territorial perspective in the implementation of its working methodology. The victims demand a rigorous clarification of the facts where there is an acknowledgement of the differentiated responsibility according to the armed actor who has committed the crime, without going into generalizations about the actors, as well as a truth that delves into the differentiated impacts of the conflict due to gender, ethnicity, stage of life, and disability. They also call for clarification and acknowledgement of the responsibilities of unarmed third parties involved, and for processes of investigation and punishment aimed at reducing the perception of impunity. The IACHR considers of utmost importance the call to examine the differentiated impacts (gender, ethnicity, age, etc.) of the conflict and the fundamental role that the CEV might play in clarifying the responsibility of civilian third parties for crimes committed in the conflict—especially in light of Constitutional Court Judgment C-674 of 2017, issued in November, subsequent to the period covered by this report, which clarifies that the participation of these third parties in the JEP is voluntary.

An immediate challenge for the CEV is to develop processes that are consistent, complementary, and well-coordinated with processes that are already underway in the communities, led by entities such as the Victim Assistance and Comprehensive Reparation Unit (UARIV), the Agency for Reintegration and Normalization (ARN), the Territorial Renewal Agency (ART), and others, in order to advocate for actions that will result in positive change for communities.

Finally, the victims of the armed conflict have expressed their interest and expectations regarding the development of educational and communications strategies so that, once the report is issued, it can be disseminated throughout Colombian society as a form of reparation and a guarantee of non-repetition.

8. MONITORING THE EFFECTIVE ENJOYMENT OF VICTIMS' RIGHTS

8.1. Restitution of lands and territory

The GS/OAS underlines the enormous complexity in terms of the institutional coordination, technical and financial resources, security guarantees, and even political will required for the implementation and effective enjoyment of the fundamental right to land restitution and the restoration of territorial rights for the victims of the armed conflict. The competent agencies involved in the process, whether at the administrative, judicial, or post-judicial stages, must join forces to improve the implementation of public policy in a manner that is zealous, comprehensive, and consistent with the principles of the rule of law and the duties of the State.

8.2 Progress of the specialized land restitution courts

The GS/OAS considers as an important step forward the temporary creation of 15 new judicial offices and an additional chamber in the Superior Court of Cartagena to handle the large backlog of

land restitution claims. These new offices have set a goal of issuing 1,680 judgments^{35/} with the aim of reducing this backlog, which has resulted from the failure to meet the legally established deadline stipulating that judgments must be issued within four months.^{36/}

The GS/OAS has been able to observe that court decisions involving opponents of the land restitution process and those related to the restoration of territorial rights to indigenous and Afro-descendant communities are among the most complex. This is due to the size of the territories, risk factors commonly associated with illegal extractive activities and/or interference by illegal armed actors, the existence of peasant communities in collective territories, and intra- or inter-ethnic conflicts. Therefore, the GS/OAS also welcomes the creation of new positions within the judicial offices to advise on and promote decisions related to ethnic communities, as well as the creation of a post in the Specialized Land Restitution Chambers of the Courts of Bogotá, Cartagena, and Medellín^{37/} to follow up on the land restitution judgments handed down by those offices.^{38/} The IACHR agrees on the need to improve institutional coordination to ensure full compliance with judgments on land restitution and the restoration of territorial rights, particularly those issued in favor of ethnic communities.

Nevertheless, we note that it may become problematic that the new offices and positions are valid for a temporary period of seven months. This is a limited period in which to surmount the serious judicial backlog in the land restitution courts, especially considering that in the six years of implementing the public policy, 3,727 judgments have been issued; this is equivalent to 6,936 restitution claims resolved, or 38.63% of the total number of claims filed. Bearing in mind that the specialized judicial offices are currently handling some 14,878 claims, it is understood that the number of claims processed amounts to 52.04% of the total number of 110,964 claims filed by the victims.^{39/}

It is worth noting that these measures to relieve this burden have involved the transfer of funds that had been allocated to the operation of the Land Restitution Unit (URT) and are now included in the budget for the Judicial Branch,^{40/} a situation that could place constraints on the functioning of the entity.^{41/} However, the URT reported that the amount was withdrawn from the items managed by the entity's fund, minimizing the impact and maintaining its operating budget.

35. In accordance with the provisions of Article 16 of Order No. PCSJA17-10671 of May 10, 2017, the total number of goals possible is 1575 decisions for the 15 Circuit Trial Courts and 105 rulings for the Court Chamber.

36. Depending on the complexity of the case, some current claims may spend more than 3 years in the judicial offices pending a final decision, contrary to the provisions of Article 91(2) of Law 1448 of 2011, which states that "The Judge or Justice shall render a decision within four months of the request. Failure to comply with the applicable time limits shall constitute a serious infraction."

37. Three of the six Courts that have Specialized Land Restitution Chambers in the country. <https://www.ramajudicial.gov.co/portal/inicio/mapa/tribunales-restitucion>

38. Order No. PCSJA17-10671 of May 10, 2017.

39. Official public figures as of February 9, 2018.

40. Through Law 1815 of December 2016 "Enacting the revenue and capital resources budget and appropriations law for the fiscal period from January 1 to December 31, 2017," the URT's budget was reduced by 12 billion pesos in order to increase the Judicial Branch's budget by the same amount and thereby create judicial offices to help clear the backlog of land restitution cases.

41. Land Restitution Unit. *Desagregación de apropiaciones presupuestales vigencia 2017* [Disaggregation of budgetary appropriations effective 2017]. Available at: <https://www.restituciondetierras.gov.co/documents/10197/794946/Desagregaci%C3%B3n+Presupuesto+Funcionamiento+2017.pdf/75be2deb-3df8-4f38-8323-8196d4bf075d>

The GS/OAS additionally welcomes the fact that most of the offices of the specialized land restitution courts have accepted the guidelines established by the Colombian Constitutional Court in Judgment C-330 and Order 373 of 2016 regarding the obligation of judges to rule on the recognition or non-recognition of second occupant status and the identification of assistance and support measures (access to land, housing, and income generation).^{42/}

The GS/OAS maintains that the assistance provided to second occupants mitigates the social conflicts arising from the land restitution processes, facilitating the reconstruction of the social fabric, the effective return of the victims, and the productive incorporation of the restored communities, and improves the possibilities for sustainability and the effective enjoyment of the victims' rights.

On the contrary, despite what is established in the case law,^{43/} cases occasionally continue to arise in some land restitution court offices where requirements are imposed over and above those set forth in Article 84 of Law 1448 of 2011, resulting in the rejection or "return" of court applications. This situation runs counter to the principle of transitional justice, which establishes the supremacy of substantive law over procedural formalities, and makes the process of land restitution more complex and cumbersome. At the same time, it hinders victims' access to the statutory judicial body for the effective enjoyment of their fundamental right to land restitution.^{44/}

The GS/OAS acknowledges the efforts of different government entities and the judicial branch in the implementation of training processes for their officials on strategic issues, as is the case of the new judicial representatives I and II of the Office of the Assistant Inspector General for Land Restitution Affairs, who were trained by the entity on the phenomenon of secondary occupation. The GS/OAS hopes that this type of training will facilitate the positive transformation of the problematic situations that arise within the framework of administrative and judicial land restitution processes.

Finally, the GS/OAS insists on the need to fine-tune the spaces and mechanisms of institutional coordination to ensure compliance with the orders contained in the judgments on the restitution of land and/or the restoration of territorial rights to ethnically differentiated communities. Much of the perception documented by the Mission, especially that of individual or collective beneficiaries, indicates that rates of compliance with orders concerning rights such as rural housing or the expansion and reorganization of collective territories, among other issues, continue to be low.

8.2.1 Restitution in areas formerly occupied by the FARC-EP

The GS/OAS welcomes the fact that the progress made in the concentration and disarmament of the FARC-EP has made it possible to implement the public policy of land restitution in areas historically controlled by this armed group, now the FARC political party. This is the case of the

42. Providing assistance to second occupants in land restitution cases is a commitment of the Colombian State under Principle No. 17 on the restitution of the housing and property of refugees and displaced persons, also known as the Pinheiro Principles, and Article 11, paragraph 1, of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), as well as General Comment No. 7 of the Committee on Economic, Social, and Cultural Rights.

43. Judgment C-330 and Order 373 of 2016 of the Colombian Constitutional Court.

44. Despite the fact that this is not a widespread phenomenon throughout the jurisdiction, it is of particular concern that the situation in the northwestern part of the country, specifically in the Urabá sub-region, has been repeated, with cases in which the same judicial application for the restitution of land has been returned up to six times, including for corrections that can be made informally during the proceedings for the restoration of territorial rights to indigenous or Afro-Colombian communities.

departments of Huila, Caquetá, Vichada, and Guaviare, as well as the micro-targeting of new areas in departments such as Meta, Tolima, and Cauca where the URT already had a presence.

Precisely in these territories, especially Caquetá,⁴⁵ Bolívar,⁴⁶ and southwestern Meta,⁴⁷ the GS/OAS through the MAPP/OAS warned against the irregular practice of FARC-EP structures “authorizing” the return and “*de facto* restitution” to victims⁴⁸ of land that was taken or abandoned. This practice creates adverse situations involving new cases of dispossession and fail to create measures to assist those possible second occupants who, being in a situation of vulnerability, are exercising their right to housing on the property; it perpetuates impunity and conceals the violations and breaches caused by the insurgent group; and finally, this practice prevents comprehensive support and reparation for the victims, since it circumvents institutional routes for the effective enjoyment of the rights to truth, justice, comprehensive reparation, and guarantees of non-repetition.

The GS/OAS cautions that when the now-political group FARC turns over the list of real properties offered for the comprehensive reparation of the victims, it will be necessary to verify that it does not contain land that was abandoned or dispossessed. If it does, those properties must be submitted to the land restitution process on behalf of the victims who so request.

8.2.2. Impact of the process on the safety of claimants and guarantees of non-repetition

The GS/OAS continues to be concerned about the impact on the lives, freedom, and safety of leaders and land restitution claimants who are victimized because of their activities. These impacts have been most severe in the departments of Córdoba, Cesar, Antioquia, Meta, and Nariño and have made individual and ethnic victims less trusting and less willing to take the restitution route or to actually return to the land once the judges have handed down their decisions.

The presence of illegal armed actors, illicit crops, illegal extractive activities, and organized criminal networks in some territories is the main risk factor for the sustainability of returns to communities that have been restored, especially the indigenous and Afro-Colombian communities in whose territories the armed conflicts persist. In this regard, the GS/OAS welcomes the efforts of the security forces in supporting the institutions in charge of the restitution process, as well as the inclusion of threats to leaders, disruptions of the process, and new instances of dispossession as criminal acts under the jurisdiction of the National Immediate Response System for the Advancement of Stabilization (SIRIE).

8.2.3. General assessment of the restitution process

The GS/OAS is pleased that in the six years of implementation of the public policy of land restitution, the Colombian State has developed a strong institutional framework, represented essentially by the URT and the judges and justices of the specialized courts. This framework has an effective presence in a large part of the national territory, with significant levels of trust from the communities, as well as procedures that are in line with due process and the historical contexts of the conflict, and it reflects in an optimal manner the international standards on the reparation of victims of dispossession and/or forced abandonment during armed conflict. Moreover, it is illustrative to note that 74.7% of all

45. La Montañita, San Vicente del Caguán.

46. Cantagallo, San Pablo, Santa Rosa del Sur.

47. Uribe, Vistahermosa, La Macarena.

48. The restitution of real property as a fundamental right of the victims includes several factors of reparation that go beyond the reconstruction of assets or the handover of dispossessed land.

applications have already received security authorizations from the Ministry of National Defense in order to move forward with the land restitution procedure.^{49/}

The GS/OAS has also seen a significant increase in the processes of reestablishing the territorial rights of indigenous and Afro-Colombian communities, primarily through the implementation of the URT's assessment processes and the issuance of protective measures by the land restitution courts.

However, the low rate of compliance with judgments and protective measures issued on behalf of ethnically differentiated communities remains a concern of the GS/OAS. In addition, the GS/OAS is struck by the high denial rate for registration the Forcibly Dispossessed and Abandoned Lands Registry (hereinafter "Registry") under the responsibility of the URT, which is a judicial prerequisite for access to land restitution justice. According to the entity's official figures, during the period from February to August 2017, 1,843 applications were registered, 4,528 were denied registration, and 6,528 are still under study. It can be inferred from the above that the trend of denial has continued, given that within the period described, 71.07% of the applications were denied; that is, 2.45 times more denials were issued than entries in the Registry.

In areas previously controlled by the FARC-EP, where restitution processes have begun to be implemented, the figures are disappointing. As an example, official figures indicate that for the analysis period in Caquetá, of the 413 applications that completed the administrative stage, only 70 (16.94%) were included, while 343 (83.05%) were excluded, or 4.5 times more negative than positive decisions.

Similarly, in areas where URT intervention has already been underway for several years, such as Meta,^{50/} Sucre,^{51/} and Córdoba,^{52/} the figures reflect a similar pattern of only 34.78% and 26.29% of registrations included in the Registry for the first two, respectively, and 52.43% for the third. According to the perceptions recorded in the territory by the regional offices of the MAPP/OAS, these figures stem from a number of different reasons, including, most notably, the fact that a large number of cases seek to resolve isolated situations of armed conflict through the special process of land restitution. It is also of particular concern that some claimants appear to attribute this volume of denials to the teams of URT officials having to deal with insufficient evidence and/or a high workload. Hence, the GS/OAS finds it advisable to randomly examine a sizable number of denials in order to analyze the decisions and thus mitigate the perceptions that cloud the entity's work. In this regard, the GS/OAS recognizes the efforts of the entity to ensure that its procedures adhere to the regulations of the Colombian legal system, with high quality standards and within the framework of the principles of restorative transitional justice.

The GS/OAS also recognizes the efforts of the URT to implement productive projects with a gender-differentiated approach in which it seeks to effectively empower women beneficiaries of restitution as important links in the goods and services supply chain as the holders of rights over restored land, and helps to shift certain cultural patterns that discriminate against women. However, it is imperative that the elimination of these cultural patterns be part of a transformation that involves Colombian society in a commitment to the eradication of gender-based violence and discrimination.

49 Public URT data as of February 9, 2018.

50 26.29 registered - 73.70 not registered.

51 34.78 registered - 65.82 not registered.

52 52.43 registered - 4756 not registered.

Likewise, GS/OAS, through MAPP/OAS, supports the URT in its efforts to implement a reconciliation strategy that makes it possible to assess and intervene in social conflicts related to land restitution. The Mission has been able to ascertain that these processes encourage the acceptance of restorative judgments and help to rebuild communities' trust in government institutions. They also enhance the reconstruction of the social fabric, mitigate tensions that may escalate into physical assaults or violent acts, and help revive the economy in the territories targeted by public policy interventions. Nevertheless, the GS/OAS recalls that the mitigation and positive handling of these conflicts is the responsibility of a complex network of local, departmental, and national institutions and entities, as it depends on the observance of the rule of law and the effective enjoyment of the fundamental rights of both victim and non-victim populations where land restitution cases arise.

Finally, the GS/OAS urges the Colombian Government to harmonize the mechanisms for institutional coordination, especially the exchange of information, in order to meet the upcoming challenges of the public policy on the restitution of lands and territories and its relationship to policies arising from the Final Agreement, including illicit crop substitution, the implementation of the comprehensive rural reform, and the formulation of development programs with a territorial focus.

8.3 Guarantees of Non-Repetition

The GS/OAS through the MAPP/OAS monitored with special attention the situation of the members of *Acción Comunal* [Community Action], recognized as a national collective reparation case, who continue to be affected in rural and urban areas by acts such as murders, threats, attacks, disappearances, and thefts. These acts are perpetrated by interests that seek to exercise control over the territories, and who see social, political, economic, cultural, and environmental demands as an obstacle to the accomplishment of their mission.

The GS/OAS received information indicating that 44 such acts have been committed against members of *Sujeto de Reparación Colectiva* [Subject to Collective Reparation] (SRC).^{53/} All of the incidents targeted active members of *Acción Comunal*, with the grassroots structure, i.e. the JACs, being the most affected, with thirty-eight (38) incidents. Of all the cases, seven in the department of Cauca and five in Nariño and Antioquia, there were 37 acts perpetrated against men and five against women.^{54/} The impacts were concentrated in Risaralda (4 cases); Cesar and Norte de Santander, (3 cases each); Atlántico, Meta, and Valle del Cauca (2 cases each); Córdoba, Cundinamarca, and Guaviare, Putumayo, and Santander (one case each). Of the total number of cases systematized by the MAPP/OAS since the joint exercise with the Community Action Organization (OAC), 31 involved leaders,^{55/} and in 13 cases the acts were found to have been directed against persons not holding leadership positions; however, three of the affected persons were former leaders.

The most common acts of revictimization were: murder, with 28 cases: six each in Cauca, three each in Cesar and Antioquia, two each in Atlántico, Meta, Risaralda, and Valle del Cauca, and one each in Caldas, Caquetá, Córdoba, Cundinamarca, Guaviare, Nariño, Norte de Santander, and Putumayo. Of these, 19 acts were committed against persons holding leadership positions and nine

53. Six in total, four of them individual threats and two mass threats, four attacks, two acts of forced disappearance, three cases of displacement, 28 murders, and one detention, for a total of 44 reported acts.

54. The two remaining acts are the collective threats.

55. Individuals on the Board of Directors (Chairperson, Vice Chairperson, Secretary, and Treasurer), Executive Secretariats or Work Committees (in charge), prosecutor, delegates to high level Community Action organizations (*Asojuntas*, Federation, and Confederation).

involved persons not holding leadership positions; 3 were former leaders and three were community leaders.^{56/} During the period there were four individual threats and two mass threats (Risaralda and Santander). All of the individual threats were directed at leaders in the departments of Antioquia and Risaralda, with one case in each location, and two cases involving JAC chairpersons in Norte de Santander. There were four attacks, the majority^{57/} of which were aimed at leaders,^{58/} and two forced disappearances, all in Caquetá,^{59/} and three cases of forced displacement in Tumaco.

Of the five cases against women, two occurred in Antioquia, two in Cauca, and one in Caquetá. The most frequent incidents were murders and attacks, with four incidents, two in Antioquia and two in Cauca, followed by one detention in the department of Caquetá. Two of the women affected were vice chairpersons of *Acción Comunal*, one was a branch chairperson and two did not hold leadership positions, but all were linked to the JACs.

It is important to highlight the actions being implemented by the national government to devise mechanisms for prevention, protection, and the promotion of monitoring in view of the impacts reported.^{60/} The GS/OAS commends the initiatives of the Ministry of the Interior and the Presidential Council for Human Rights, which have strengthened and reactivated territorial bodies to deal with the impacts in Córdoba, Cesar, Antioquia, Cauca, Valle del Cauca, and Norte de Santander.

The GS/OAS also acknowledges the National Commission on Security Guarantees, the operation of the Unified Command Post (PMU) as a high-level body to respond to the most affected territories, the Verification Protocol implemented^{61/} by the Council for Human Rights, the alerts issued by the Early Warning System (SAT), the actions taken by the Committee on Risk Assessment and Recommendation of Measures (CERREM) of the UNP, and the design of the Comprehensive Security System for the Exercise of Politics through Decree Law 895 of 2017.

8.4 Comprehensive Reparation with an Emphasis on Collective Reparation

The UARIV and the Office of the High Commissioner for Peace facilitated three early acts of acknowledgement of collective responsibility. These were an explicit acknowledgement by the FARC-EP of the acts committed in the cases of the murders of the Valle del Cauca legislators, the Bojayá massacre (Chocó), and the massacre in the La Chinita neighborhood in Apartadó (Antioquia). However, the victims expect the facts and the truth of what happened in each case to be clarified.

Likewise, the UARIV launched the “Broad Participatory Space,” both regionally and nationally, with leaders representing the victims of the different crimes perpetrated. In this regard, the GS/OAS highlights the achievement of a participatory proposal that was an important input for a possible amendment to Law 1448 of 2011.

A stalemate in victims’ rights of access to collective reparation was also monitored. In view of this, the alignment of the institutions needed for the implementation of the comprehensive plans for collective reparation (PIRC) is a challenge that has yet to be met, particularly in the implementation of the measures to be determined. In addition, delays in the hiring process, both in securing UARIV staff

56. They are not leaders but they are vital to specific issues that they have promoted in their communities.

57. 1 non-leader and 3 leaders.

58. 1 ASOJUNTAS delegate, 1 JAC Chairperson and 1 JAC Vice Chairperson.

59. 2 cases in Cartagena del Chairá.

60. Not exclusively for the Community Action organizations.

61. Instrument that documents and follows up on acts and investigations affecting human rights defenders.

members^{62/} in early 2017 and the delay in the hiring of officials, is reflected in the slow fulfillment of the commitments undertaken with those entitled to collective reparation. This situation became worrisome as it continued during the first half of the year, leaving the entity without options to take the actions required for the beneficiaries^{63/} to access their rights.

Since late 2016, the UARIV has suggested the need to review the scope of collective reparation, limiting the actions so that they can be implemented autonomously by the entity, restricting the concept of collective reparation as a means for development and concentrating on strengthening the territorial focus of cases. At the time of writing, the UARIV had not released the guidelines that would enable the victim population to become fully aware of the reformulation and new scope of collective reparations. As a result, the victims express uncertainty about the potential changes in their cases, reinforcing the perception of mistrust in the State's capacities and will to guarantee reparation. This is mainly because the PIRCs already approved can be subject to review and the damage assessments that are already being formulated must conform to these new guidelines, thereby affecting the time frame for the effective implementation of reparation actions.

The intermittent pace of collective reparation, marked by excessive delays in the completion of the process and the implementation of measures, has the additional consequence of fostering organizational processes^{64/} that are weakened or that are not active prior to the arrival of the PDETs,^{65/} where the victims' component and the collective reparation component are essential to the development of the territorial perspective.

The GS/OAS, through the MAPP/OAS, observed the continuity in the dynamics of the return of nationals from Ecuador, where the displaced victims are returning with the expectation of being covered by Law 1488/11. In this regard, the MAPP/OAS provided assistance to the Office of the Municipal Ombudsman of Ipiales in taking statements, and identified that the immediate challenge is to assess these cases for inclusion in the Single Registry of Victims.^{66/}

Finally, the GS/OAS considers it an urgent challenge for the Colombian State to promote the effective enjoyment of the rights of the victims of the FARC-EP by recognizing their status. Although the registry is currently closed to the reporting of events that occurred between 1985 and 2011, and it is

62. Especially the Ethnic Liaison Officers, as noted by the MAPP/OAS during its visit to the municipality of Dabeiba in April, where it was noted that, since November 2016, the municipality has not had an indigenous affairs liaison to provide differential assistance to this population and that there is no comprehensive liaison to provide assistance to the victim population of the municipality. This has caused the population to go to the municipal ombudsman for procedures that should be carried out by the liaison officers, increasing the workload of the office of the municipal ombudsman, which does not have sufficient equipment or adequate facilities to respond to the current demand.

63. The absence of a collective reparations officer was also monitored during the first half of 2016. The officer began working in October of that year, although the administrative extension of a 2015 contract made it possible to move forward with some actions during the first months of 2016.

64. Like the facilitating committees.

65. Comprehensive plans for collective reparations should be linked to the development programs with a territorial focus (PDET) and to the different plans and programs agreed upon, as well as to the different truth and justice efforts.

66. The deadline for the declaration of fellow citizens was June 10, 2017. However, some interpretations of the law state that these cases must already be documented as acts of God or *force majeure* before they can be included in the Single Registry of Victims.

still possible to be entered into the registry by documenting *force majeure* or acts of God,^{67/} experience has shown that the application for victim status is often made after the weapons surrender process, which is why the number of victims may increase later in time. This could put additional pressure on an already limited budget for victim reparations. The main challenge in this context is to develop foresight and outreach actions to provide real possibilities of reparation for all victims.

9. RECOMMENDATIONS

9.1. Security conditions and territorial dynamics

a. Increase the number of security forces to remain in those territories where, as a result of the territorial dynamics described above, other armed actors have moved in with the intention of controlling the areas where the FARC-EP used to operate.^{68/}

b. Continue training and awareness-raising activities for members of the security forces present in areas of former FARC-EP influence, in order to avoid the continued stigmatization or targeting of the civilian population. Compile and reinforce lessons learned within the framework of the work carried out by UNIPEP in the municipalities that host the current ETCRs.

c. Ensure that the media coverage of the achievements of the security forces does not involve the civilian population in the provision of information to the authorities for the success of their operations.^{69/}

d. Differentiate each territorial context, the specific characteristics of each population group in terms of gender or ethnicity, the urban and rural features of each territory, the presence and performance of political and institutional bodies, and the dynamics associated with the armed conflict and social conflict, in order to address the targeting of human rights defenders, social leaders, and community representatives, among other social actors.

e. Consider and identify the social, cultural, political, and economic causes and motivations that determine the impacts on social leaders, such as land disputes, the defense of territory, opposition to or participation in the substitution of illicit crops, land restitution, and extractive activities; disputes over political spaces, claims for rights; stigmatization based on ties to actors in the armed conflict, crime organizations, or government institutions, among others.

f. Develop an appropriate and unique communication strategy for the State, to avoid generalizations, avoid concealing or providing misinformation on situations involving adverse impacts, and avoid creating greater confusion and uncertainty with regard to those impacts. In particular, the polarization of the discourse should be avoided with regard to the phenomenon of impacts on social leaders. We suggest waiting for the official results of the judicial investigations and avoiding contradictory statements by the various bodies of the national government with regard to the matter.

67. For persons affected after the enactment of Law 1448 (2011), redress must be sought within two years of the victimizing act.

68. In the same vein, the IACHR is concerned about the absence of the State in the territories vacated by the FARC, the configuration of new armed groups, the actions of FARC dissidents, and the persistence of violence in these territories.

69. The IACHR agrees that the media handling of law enforcement operations should not include or place the civilian population at risk.

g. Design urgent strategies to improve the level of trust and the relationship between communities, authorities, and other economic and political sectors in the regions; of particular relevance is the relationship between the population and the security forces, which in certain regions have been perceived as stigmatizing the communities or providing insufficient protection.

h. Respond more quickly to requests for dialogue from the communities; review the protocols for action by the armed forces in scenarios of crowd control, containment, and management; and make progress in the construction of a mechanism for follow-up and monitoring of the agreements entered into between the different levels of government with the communities and social organizations regarding social mobilizations.

i. Provide differential assistance to women and ethnic groups within the framework of the illicit crop reduction policy that addresses informal land tenure and territorial conflicts; determine the legislative development of differentiated criminal treatment for small farmers; guarantee access to social benefits for all roles in the production chain linked to cultivation as a subsistence economy; and ensure the effective participation of all types of organizations in the planning, coordination, and management of the PNIS.

9.2. Justice in the territories

a. The Ministry of Justice and Law should continue its efforts to improve the conditions for access to justice and consolidate the administration of formal justice in the territories, including the continued implementation of the Ten-Year Plan for the Justice System 2017-2027 and the local justice systems strategy, taking into account the different territorial contexts and giving priority to rural areas with serious infrastructure weaknesses and high levels of mistrust.

b. The Office of the Attorney General should continue with the intervention plans being developed at the territorial level and, in coordination with the Ministry of Justice and Law and the Ministry of the Interior, seek out ways of achieving greater coherence in the division of competence and jurisdiction among the different institutions responsible for administering justice.

c. The Ministry of the Interior and the Ministry of Justice and Law should continue to strengthen community stakeholders, such as the JACs, pending the establishment of the State's presence in those areas where the communities have reported the existence of a power vacuum following the departure of the FARC-EP.

9.3. Special Indigenous Jurisdiction

a. The National Committee for Interjurisdictional Coordination should establish a road map to facilitate progress in the drafting, negotiation, and enactment of the law on coordination between the Special Indigenous Jurisdiction and the ordinary courts.^{70/}

b. The Ministry of Justice and Law and the Ministry of the Interior should provide the necessary mechanisms so that as many indigenous peoples as possible may, if they so wish, be able to

70. The IACHR has also underscored its concern about the lack of coordination with the Special Indigenous Jurisdiction (JEI) and considers that with the implementation of the Special Jurisdiction for Peace (JEP), this is a key moment to achieve the enactment of the desired statutory law and to carry out an outreach and training campaign for the autonomy of the JEI, thereby contributing to this coordination.

develop their own regulations. If necessary, create the opportunity to revise them in order to bring them more into line with the world view and the needs of indigenous peoples.

c. The Superior Council of the Judiciary should initiate a mutual training program with the indigenous court authorities in order to exchange fundamental aspects of the peoples' own law with basic aspects of the ordinary justice system.

d. The Ministry of Justice and Law, the Ministry of Information and Communication Technologies, and the Ministry of Culture should implement a strategy to raise awareness about indigenous legal autonomy and the specific rights of indigenous peoples.

e. INPEC should provide differential treatment to persons belonging to indigenous peoples and communities held in prisons and penitentiary establishments, in accordance with Article 3 of Law 65 of 1993, as amended by Law 1709 of 2014.^{71/} Similarly, it should ensure that detainees from ethnic communities are able to serve their pretrial detention or sentence in the appropriate indigenous community or reservation.

f. INPEC and the Ministry of Justice and Law should conduct a review of the pending applications of the harmonization centers in order to devise a strategy that allows community members to be transferred to their communities in the most expeditious manner if the authorities so request.

g. The National Committee for Interjurisdictional Coordination should engage in an open and specific dialogue with the JEP Secretariat so that it can make a substantive contribution to the transitional justice mechanism in terms of the values of indigenous peoples' law.

9.4. Prison Monitoring in Transitional Justice contexts

a. The Ministry of Justice and Law, INPEC, and the National Institute of Forensic Medicine and Science, should draw up an epidemiological profile of persons deprived of their liberty because of their relationship to or membership in the ELN. In addition, they should establish a national working group to provide care in cases of serious health problems.

b. INPEC and the Penitentiary and Prison Services Unit (USPEC) should guarantee specialized medical care that adequately meets the sexual and reproductive health needs of women who, because of their relationship to or membership in the ELN, are deprived of their liberty.

c. INPEC and USPEC should ensure the prompt delivery of medicines and orthopedic equipment in the particular case of persons who have belonged to the ELN and whose fronts of operation have been in jungle and wetland areas.

d. INPEC and USPEC should conduct a review of the basic services provided in some prisons, such as "La Tramacúa," and make any necessary changes in accommodations to allow for the supply of water and other basic services to inmates.

e. The Office of the High Commissioner for Peace and the Ministry of Justice and Law should assess the security situation of persons held in certain prisons in order to group ELN inmates together in secure prisons and units, taking account of proximity to their families and territorial

71. "The principle of a differential approach recognizes that there are populations with particular characteristics based on their age, gender, religion, gender identity, sexual orientation, race, ethnicity, disability status, or any other characteristic. For this reason, the penitentiary measures contained in this law will be based on this approach."

jurisdiction. In particular, with regard to women, it is recommended that channels be created to encourage the maintenance of family ties, through measures that facilitate by all reasonable means women prisoners' contact with their families, especially their children.

f. INPEC should evaluate and promote a plan or strategy to dismantle “houses” [*casas*] and “chiefdoms” [*cacicazgos*] linked to organized armed groups, mainly in the Cali, Jamundí, and Pedregal detention centers in Medellín.

g. The Office of the High Commissioner for Peace and the Office of the Ombudsman should draw up a road map for the legal review of cases, especially for those individuals who have been prosecuted as ELN collaborators.

9.5. Crime policy

a. In the prosecution of crimes against social leaders, the investigations of the Office of the Attorney General and the Elite Corps of the National Police should not be limited to the identification of the direct perpetrator; they should also seek to identify the possible masterminds.

b. Implement the strategy of prioritizing and identifying existing macro criminal patterns, with the understanding that these crimes, beyond their causes, produce a macro violation. In this context, we recommend:

- The adoption of clear protocols to investigate patterns of violations beyond establishing multi-causality in the crimes committed, as well as in the effective prosecution of their masterminds, in order to shed light on the interests underlying the murders and threats against social leaders.
- Taking internal control actions in security and investigation entities at regional and local levels, in order to identify possible corruption scenarios related to homicides and threats against social leaders.
- Monitoring procedural effectiveness so that prosecutions are not affected by procedural or substantive errors in the filing of charges.
- The prosecution of direct perpetrators must be coupled with a strategy for the pursuit and prosecution of criminal masterminds.
- Investigation methodology should take account of who benefits from the impacts on social leaders, in order to construct and investigate theories about the causes. The short- and medium-term results of these violations should be studied as an analytical component, not only to investigate the determining factors but also to elucidate the dynamics and powers-that-be that are not traditionally known in the regions.
- The strategy for dismantling GAOs should include the potential surrender of these organizations to the justice system, to include procedural safeguards for victims; truth and reparation for victims; a strategy for the disengagement of minors; the pursuit of assets; and a non-repetition strategy that includes prison resocialization and post-prison reintegration.
- Harmonizing Directives 001, 002, and 011 of the Office of the Attorney General in relation to the investigation of crimes affecting social leaders, in order to have a clearer definition of the research methodology to be used. It is

also important to communicate this coordination to local and regional prosecutors' offices.

- The Office of the High Commissioner for Peace (OACP) and the JEP should expand the mechanisms for publicizing and providing access to benefits under Article 37 of Law 1820 of 2016. They should also create a simple and prompt information transfer mechanism, where the State provides the necessary information to the entity in charge of managing the request.

c. The Superior Council of the Judiciary should conduct a procedural census of how many leaders are being prosecuted and how many have been exonerated in order to obtain a real picture of the pursuit, investigation, and prosecution of this population, determining the criminal offenses with which they are charged and whether these prosecutions fall within the directives of the Office of the Attorney General.

9.6. Inclusive and pluralistic participation and effective enjoyment of victims' rights

a. The Territorial Renewal Agency should adapt the methodology for the participatory development of the PDETs in areas where there is limited capacity for the use of preconceived tools to discuss the pillars of these development plans.

b. The Ministry of Finance and Public Credit and the Territorial Renewal Agency should guarantee the financing of the PDETs for the execution of the commitments undertaken during the development phase of the plans, taking account of the general budget, the general system of royalties, and contributions from international cooperation agencies, among others.

c. The Ministry of the Interior and other competent entities should develop communication and teaching strategies on Law 1757 of 2015, with emphasis on the modalities of participation in Colombia, the guarantee of the right to participate, and the specific requirement that all development plans include measures geared toward the participation of all persons in decisions that affect them.

d. The Colombian State should guarantee sufficient resources for the comprehensive financing of the public policy on land restitution, especially with regard to the proper functioning of the URT and the measures to relieve the backlog of cases in the specialized land restitution courts.

e. The Commission for the Follow-up and Monitoring of the Implementation of Law 1448 of 2011, in conjunction with the Land Restitution Unit, should design and implement a strategy to randomly study a representative number of the cases denied and the reasons given by that entity for the high rate of non-registration in the Forcibly Dispossessed and Abandoned Lands Registry.

f. The National Police should provide special badges and even different uniforms to members of the Land Restitution and Counterterrorism Unit (UNIRET), and give them the necessary training to specialize in supporting land restitution proceedings, as was done for members of the security forces guarding the ZVTN and PTN.

g. The Office of the Attorney General and the Land Restitution Unit should verify that the real property handed over by the FARC-EP, intended for the reparation of victims, does not contain land that has been abandoned or dispossessed. If so, it must be submitted to the land restitution process for the benefit of the victims who so request.

h. The Ministry of the Interior should strengthen the work of the Community Action Organizations, taking into account their strategic role in the participation and construction of

democratic foundations at the grassroots level, as fundamental actors in the territories' transition to legality.

i. The institutions that make up the National System for Comprehensive Victim Support and Reparation (SNARIV), as well as the territorial entities that have undertaken commitments within the framework of the Collective Reparation Plans and have a role in comprehensive care, assistance, and reparation, should take action to ensure that resources are made available to meet their commitments to the communities, as an effective means of building trust.

j. The Ministry of Finance and Public Credit and the Congress of the Republic should ensure the allocation of resources in the national budget and other public policy instruments to make comprehensive reparation for victims viable, with the inclusion of new Colombians whose status has not yet been recognized due to the fact that little time has elapsed since the FARC-EP laid down its arms.

k. The UARIV, should devise funded collective reparation plans, which will enable the collective process to be initiated and completed on an ongoing basis, strengthening the State's presence in remote territories and meeting the objective of comprehensive reparation.

l. The UARIV should develop efficient administrative and resource execution processes that strengthen the organizational capacity of the Subjects of Collective Reparations and take account of their autonomy and particularities at the different stages of the collective reparations process. The PIRCs must be developed with sufficient funding so that, in addition to initiating collective processes, they can ultimately strengthen the presence of the State in remote territories and better ensure compliance with reparations.