

TWENTY-SIXTH 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 submitted pursuant to resolution CP/RES. 859 (1397/04), in which the Permanent Council of the Organization of American States (OAS) instructs the Secretary General to report periodically on the work of the Mission to Support the Peace Process in Colombia,¹ hereinafter “the MAPP/OAS” or “the Mission.”

This report covers the period August 7, 2018 to December 31, 2018 and presents the findings of a total of 1,358 field missions conducted in 720 populated centers belonging to 197 municipalities in 23 departments of the country. These populated centers included municipal capitals, townships, villages, indigenous reserves, and community councils. During the period, the Mission logged a total of 231,767 kilometers by land and 5,473 kilometers by river.

The confidence which the national government and the Colombian people place in the Organization of American States allows it to provide strong support for peacebuilding. The General Secretariat of the OAS congratulates Colombia on its bicentennial of independence and welcomes all of the activities planned to commemorate this occasion.

The support of the international community is vital for the MAPP/OAS 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 – Canada, Germany, the Netherlands, the United Kingdom, and the United States – whose political and financial support make the Mission’s operations possible. It is also grateful for the contributions of Argentina, Italy, Norway, South Korea, Sweden, Switzerland, and the European Union.

1. GENERAL CONSIDERATIONS

This year the MAPP/OAS marks 15 years in Colombia. Its decade and a half of uninterrupted labor in the areas most affected by internal armed conflict has shown it to be a useful, impartial, and proximate tool for peacebuilding. It will continue to contribute to peacebuilding from a position of autonomy, independence, experience, and local knowledge.

The Colombian bicentennial of independence, the seventieth anniversary of the Organization of American States, and the fifteenth anniversary of the Mission provide an opportunity to renew the commitment that unites the American continent to overcome problems together, with a shared democratic purpose: the commitment to peace and the effective protection of human rights in all the countries of the Americas.

1. 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 “the GS/OAS,” on January 23, 2004, as well as from Permanent Council resolution CP/RES. 859 (1397/04), adopted on February 6, 2004. It has been broadened and renewed seven times. It was most recently renewed until December 31, 2021.

During the period of this report, the national government released its initial evaluation of the peace process and established new focuses and priorities emphasizing topics that it considers necessary to build confidence in peace in the territories, based on the principles of legality, equity, and entrepreneurship.

As outlined in the document “*Paz con Legalidad*,” [Peace with Legality], efforts will focus primarily on the reparation of victims, transitional justice, the political participation of the *Fuerzas Armadas Revolucionarias de Colombia* [Revolutionary Armed Forces of Colombia] (FARC), comprehensive rural reform, security, the social and economic reintegration of former combatants, illicit crop substitution, and demining. Differentiated gender and ethnic approaches will be applied across the board.

In addition, the Ministry of Defense recently issued the National Defense and Security Policy for Legality, Entrepreneurship, and Equity, which has a strong regional deployment component. We note that this policy adopts one of the pillars of the Organization, in that it emphasizes the importance of a multidimensional approach to security that focuses state efforts on the structural development of the territories and not just their military control.

In keeping with the resolutions and declarations of the forty-eighth regular session of the General Assembly (June 2018), which reiterate the threat to hemispheric security posed by the drug problem and emphasize the need for a multidimensional approach to it, the GS/OAS stresses the importance of designing and implementing people-oriented public policies that prioritize the public health, human rights, and gender approaches. While these elements can be seen in the recently released public policy document “*Ruta Futuro*” [Road for the Future] (December 2018), implementation of the policy must include comprehensive, balanced, multidisciplinary actions to reduce the cultivation of illicit crops and encourage the development of legitimate economies in the territories.

Furthermore, the GS/OAS remains deeply concerned by the persistence of attacks on leaders and human rights defenders. Coordinated, innovative, and effective actions are required to strengthen the competent authorities and entities and improve the prevention and protection systems.

The national government is implementing a coordinated, collaborative, and participatory strategy to fully protect the right to defend, promote, and enjoy human rights, using tools such as the Opportune Action Plan for the Protection of Human Rights Defenders, Social and Community Leaders, and Journalists (PAO). However, it must not to abandon its efforts to develop a comprehensive policy in this area.

Through the MAPP/OAS, the GS/OAS works closely with the National Commission on Security Guarantees (CNGS), the Ministry of the Interior, and other institutions to provide input and recommendations for combating this problem. Among other matters, it has drawn attention to the need to clarify the roles and functions of each institution and mechanism and to ensure effective coordination among them, as well as for solid planning that applies lessons learned to the future, updates and harmonizes general diagnostic studies, and establishes a single registry or work methodology for cases involving the killing of leaders or human rights defenders that does not confuse or weaken the actions of state institutions.

Similarly, the GS/OAS draws attention to the continued suffering of communities as a result of the internal armed conflict and criminal activities, including killings, threats, forced displacement, confinement, sexual violence, forced recruitment of children and adolescents, and landmining, not to

mention the imposition of rules of coexistence, restrictions, and punishment by illegal armed groups, which are limiting access to the formal justice system.

For this reason, the GS/OAS encourages the Colombian State to continue implementing measures to prevent the above and to assist and protect the affected civilian population. For those with special constitutional protections, particularly children and adolescents, women, and indigenous and Afro-descendant communities, it should make a special effort to include appropriate and timely assistance that takes differentiated and local perspectives into consideration.

The GS/OAS also stresses that these problems are even more urgent in the border areas of the country, where the presence and activities of illegal armed groups create risks that are further complicated by border conditions, in that they affect not only Colombian but also neighboring communities, which are in constant contact with the territory. In this context, it is necessary to remember the positive contribution of cross-border dynamics and migration flows to sustainable regional development, which should guide the focus of joint actions to effectively safeguard the rights and protect the interests of all of the members of these communities.

The GS/OAS appreciates the efforts of the Colombian Government to maintain spaces for dialogue where social conflict can be managed peacefully. In this connection, it stresses the need to continue to create spaces for dialogue with social actors, incorporating a conflict prevention approach. Community demands and claims regarding the ownership of land and territories, environmental protection, mining and energy-related disputes, and illicit crops remain the most common sources of social conflict in the territories.

The GS/OAS has noted the political will of successive governments to implement victim reparation measures as a fundamental part of the peace process and to enforce guaranteed rights. However, the institutional changes and results achieved over the years need to be strengthened and broadened. In the near future, the Colombian State as a whole needs to discuss problems such as the viability of Law 1448/2011 in view of real institutional response capacities and the magnitude of the task (including financing the assistance, care, and comprehensive reparation policies) and the establishment of avenues of effective legislative representation for victims.

The GS/OAS recognizes the progress and development achieved in the institutional architecture of the Comprehensive System for Truth, Justice, Reparation and Non-Repetition (SIVJRNR or the System), particularly with the implementation of a territory-oriented approach. This progress has had strong support from the international community. For the state, the challenge of the System is to ensure viability; regulatory, financial, and political stability, and effective access for victims. For the System's constituent entities, it is to build a broad and diverse multi-participant work model that harmonizes the nature of the component bodies, resulting in complementary and coordinated action.

Also, on Thursday, January 17, 2019, an aberrant terrorist act with tragic consequences, for which the Ejército de Liberación Nacional [National Liberation Army] (ELN) claimed responsibility, caused negotiations between the ELN and the Colombian Government to collapse. The GS/OAS condemns this attack and calls on the ELN to halt its abductions, attacks on the population, forced recruitment of children and adolescents, and attacks on infrastructure. All of these acts have had a serious humanitarian impact on Colombians and have caused incalculable damage to regional ecosystems.

The GS/OAS considers dialogue the primary and best path to peace. When conditions for dialogue and peacebuilding are destroyed, deteriorate, or do not exist, the appropriate response is not

discouragement or resignation, much less violence. Rather, it is to create or restore the conditions required to follow this path. Peace is not only a right of the peoples and an obligation of the Colombian State; it is also a moral, humanitarian, social, environmental, cultural, political, and economic imperative. In this light, the GS/OAS reiterates its readiness to contribute to continuing to build peace in Colombia.

2. DYNAMICS ASSOCIATED WITH THE ARMED CONFLICT AND CRIME

2.1. Presence and activities of illegal armed groups

In previous reports, the GS/OAS has recognized the strategies developed by the Ministry of Defense and the Office of the Attorney General (FGN) that have curbed the activities of the various illegal armed groups operating in the territories, and it notes the strategy adjustments in the government's proposed military, police, and judicial plans, which continue these policies.

MAPP/OAS monitoring shows various dynamics currently associated with organized armed groups (*grupos armados organizados*, GAOs), organized criminal groups (*grupos delictivos organizados*, GDOs), residual organized armed groups (*grupos armados organizados residuales*, GAORs), and the ELN.

GDOs such as Los Rastrojos and La Constru are still operating in the territories as facilitators or arrangers of illicit economic activities,² but they appear to have no interest or capacity to expand into other areas of the country.

As for GAOs, the group Autodefensas Gaitanistas de Colombia [Gaitainista Self-Defense Forces of Colombia], or the Gulf Clan (AGC/Gulf Clan) appears increasingly fragmented, although with influence and connections at the regional level and transnational activities on the Panamanian border. Bajo Cauca is one of the areas with higher levels of confrontation between different factions of this group, over territorial control and illicit economic activities. In 2018, armed confrontations with Los Caparrapos, who were an integral part of the AGC/Gulf Clan, had serious humanitarian consequences for the civilian population in this subregion.

These dynamics have hindered the implementation of some peace policies, including voluntary substitution of illicit crops, owing to the open opposition of the AGC/Gulf Clan and the extortion of families receiving funds under the National Comprehensive Program for the Substitution of Illicit Crops (PNIS) by Los Caparrapos and the ELN.

With respect to Los Pelusos, or the Ejército Popular de Liberación [People's Liberation Army] (Los Pelusos/EPL), no nationally recognized figure has emerged as commander-in-chief. Instead, we have seen a rapid turnover of group leaders in the territories, due to security force actions, and the rise of figures with little political training. Continued confrontation between the EPL and the ELN, primarily in Catatumbo, have had serious humanitarian repercussions and point to an increase in armed capacity with the departure of the FARC and the recruitment of former FARC guerrillas. In this connection, it is notable that the name "EPL" has popped up in a number of municipalities in northern Cauca along the Valle del Cauca border.

2. Primarily gasoline smuggling along the Venezuelan border of the Cúcuta metropolitan area (Los Rastrojos) and drug trafficking in Putumayo (La Constru). In other areas, cattle theft (Arauca), human trafficking (Chocó-Panamanian border), microtrafficking (Antioquia, Putumayo, Meta), etc.

Regarding the Los Puntilleros (Bloque Meta and Libertadores del Vichada), Bloque Meta, which had been on the decline in the territory as a result of disputes with the AGC/Gulf Clan in the Ariari and southern Meta regions, is attempting to rebuild itself despite the fact that the man considered by the authorities to be the organization's primary leader (known as "Puntilla") was killed by the National Police in December in Medellín.

As for GAORs (FARC dissidents), it appears that former FARC fighters who opted for reintegration and then reverted to crime for various reasons are banding together, joining the ranks of those who opposed the negotiations from the outset. Despite the existence of different dissident organizations, efforts to coordinate illegal activities or non-aggression agreements to share territories and control illicit economic activities cannot be ruled out.

There are currently three types of dissident organizations operating in the territory. The first consists of groups that declared themselves dissident even before the conclusion of the negotiations and did not pursue peace with the Colombian Government. They are based in Guaviare, Meta, and Caquetá, with incursions into Putumayo and Cauca. The second consists of groups that were not recognized by the leaders of the FARC and operate in Cauca and along the Nariño Pacific coast. The third type of organization could be referred to as autonomous. These are groups that did not declare themselves dissident and were not recognized by the FARC leadership but are considered dissident in many areas. They include the 36th Front in Antioquia, the 33rd Front in Catatumbo, the 10th and 45th Fronts in Arauca, and the 6th Front and the Jacobo Arenas Mobile Column in Cauca.

Regarding the ELN, the Mission finds that this group's activities are continuing to affect the civilian population, primarily as a result of ongoing disputes with Los Pelusos/EPL in Catatumbo and south-central Cesar and with the AGC/Gulf Clan in Chocó and Darien. Furthermore, although attacks on infrastructure declined in the first months of the second half of 2018, they rose again in October, targeting in particular the petroleum infrastructure in Boyacá, Arauca, and Norte de Santander. In addition, the ELN has regularly attacked the police and army directly, mostly in Arauca, where it is seeking to reestablish its influence.

2.2. Administration of justice by illegal armed groups

The GS/OAS continues to receive reports that, all over the country, the AGC, the ELN, the GAORs, the GDOs, and to a lesser extent Los Pelusos/EPL continues to administer local justice and impose restrictions and penalties. The population is unable to access the formal justice system or chooses not to, because it considers the justice dispensed by the illegal armed groups faster and more efficient. Additionally, sparsely populated rural conditions make it difficult to bring institutions – in particular, the Technical Investigation Unit (CTI) and Forensic Medicine (INMLC) – to the most remote areas, making investigations less rigorous and undermining public confidence in the system.

In a number of municipalities in the departments of Antioquia, Bolívar, Arauca, Caquetá, Casanare, Chocó, Córdoba, Nariño, Meta, Norte de Santander, Guaviare, Cauca, and especially Valle del Cauca, GAORs, GAOs, GDOs, and the ELN have filled vacuums left by the FARC and have become dispute settlers, imposing their own rules of coexistence.³ The AGC/Gulf Clan imposes de facto rules in various Colombian municipalities, including Tierralta and Montelíbano (Córdoba); Ricaurte and El Rosario (Nariño), and El Bagre, Valdivia, Ituango, and Tarazá (Antioquia).

3. They even establish the conditions for marriage and divorce and impose coercive punishment for infidelity.

Regarding GAORs, the GS/OAS has identified the imposition of rules by these illegal armed groups in various municipalities monitored by the Mission in the departments of Antioquia, Arauca, Caquetá, Casanare, Meta, Nariño, Norte de Santander, Guaviare, Cauca, and Valle del Cauca. Most often, they impose penalties and criminal enforcement measures in the context of homicides, theft, and serious crimes, which are not reported to the formal justice system. Exceptionally, when control of the population is not a priority, GAORs may decide that these crimes should be handled by the state or the community justice system, and they are the ones who tell the community which mechanism to use.

The department of Cauca is one of the areas most affected by the presence of illegal armed groups, especially GAORs and ELN cells. These groups administer justice by setting rules, imposing restrictions on mobility, and settling conflicts. Given the strength of GAOR interference in the communities,⁴ the population is afraid to turn to the formal justice system. As a result, crimes and conflicts are adjudicated by the illegal armed group, and outside agents are kept from intervening. In the parts of the department where it operates, such as Argelia and western El Tambo, the ELN has imposed rules of conduct and coexistence (primarily in rural areas), and it administers justice by imposing penalties ranging from accusations to forced displacement and death, depending on the crime and the group's discretion.

The ELN's influence extends over the north, northeast, and west of the country, across the departments of Norte de Santander, Cesar, Sur de Bolívar, Antioquia, Arauca, Chocó, Nariño, Cauca, and Valle del Cauca. The group's most frequent action is restriction of the inhabitants' mobility, especially at night, followed by imposition of rules of coexistence and, in some cases, penalties and criminal enforcement measures. Thus, illegal armed groups continue to influence social behavior and dispense parallel justice in the places where they operate, structuring penalties and incentives, and are often perceived as providing faster, more accessible justice.

2.3. Impact on communities

The GS/OAS calls attention to the persistent impact on communities of the dynamics of internal armed conflict and crime, including killings, threats, forced displacement, confinement, sexual violence, forced recruitment of children and adolescents, and landmining. It encourages the Colombian State to continue implementing prevention, care, and protection measures for the affected civilian population.

Forced displacement and confinement are associated with threats, confrontations between different illegal armed groups, and landmining by such groups. These dynamics occur primarily in disputed areas such as the Nariño Pacific coast,⁵ Bajo Cauca (municipalities of Cáceres and Tarazá); Norte de Santander (Motilón Barí indigenous reserve and municipalities of Hacarí, San Calixto, and El Tarra); and Chocó, (basins of the rivers Truandó, Curvaradó, Jiguamiandó, and Domingodó and Jurubirá-Chorí indigenous reserve, in the municipality of Nuquí).

With respect to landmining and unexploded ordinance (UXO), the GS/OAS notes the progress made on humanitarian and military demining in parts of the departments of Valle del Cauca, Antioquia, Nariño, Putumayo, Caquetá, Chocó, Guaviare, and Meta and urges the government to press forward by updating the National Policy for Comprehensive Anti-Mine Action, strengthening this policy in terms of nation-territory coordination, and assigning the Office of the High

4. In municipalities such as Patía, El Tambo, Suárez, and Caloto

5. Especially in indigenous and Afro-descendant communities

Commissioner for Peace (OACP) responsibility for problems related to the presence of anti-personnel mines.

Despite this progress, MAPP/OAS monitoring indicates that illegal armed groups continue to use landmining as a strategy in disputed territories. Landmines are also used as a barrier to the forced eradication and/or voluntary substitution of illicit crops. Because security conditions in various areas have limited the start of humanitarian and military demining, the communities perceive this problem as increasing, with the additional complication of differentiating between old and new minefields. In the case of new minefields, the only information available in the territories comes from warnings about landmining operations issued by illegal armed groups.

The GS/OAS has also identified landmining in northern Antioquia and Bajo Cauca, where there is the perception that the ELN, the AGC/Gulf Clan, and GAORs are using former FARC members to carry out this activity. In areas of confrontation such as Bajo Cauca and Catatumbo, UXO also pose a major threat to the civilian population.

In addition, the GS/OAS has received reports of serious violations of the human rights of women, girls, and adolescents and violations of international humanitarian law by illegal armed groups operating in the department of Chocó. The communities indicate that the illegal armed groups in this area subject women, girls, and adolescents to systematic harassment and physical violence. The rise in sexual violence against women has been accompanied by an increase in the forced recruitment of their sons and daughters, indicating that this population is still being affected by the armed conflict and the dynamics of crime.

Regarding forced recruitment, the GS/OAS has identified a growing perception of this phenomenon in former FARC areas where GAOs are seeking to consolidate territorial control. The AGC/Gulf Clan and Los Pelusos/EPL are enticing children, adolescents, and young adults to provide information, carry messages, and engage in drug trafficking-related activities. This has been seen mainly in the Urabá Antioqueño and northwest Antioquia subregions, Meta, Norte de Santander, Cauca, and Cesar. In addition, forced recruitment of children and adolescents by GAORs has been reported in the departments of Meta, Caquetá, and Putumayo.

Incidents of forced recruitment by the ELN have been reported in the departments of Antioquia, Chocó, Norte de Santander, and Sur de Bolívar, as well as along the Arauca-Casanare border. Recruitment is perpetrated by threatening the immediate family or by presence in schools. In other areas of the country, such as Bajo Cauca, the Nariño Pacific coast, and the departments of Meta, Cauca, and Córdoba, children, adolescents, and young adults perceive recruitment as “voluntary.” It is encouraged mainly by the severe socioeconomic conditions and this population’s scant opportunities and expectations for development in environments dominated by illegal activities.

In regard to border communities, the GS/OAS stresses the impact on children, adolescents, young adults, women, and ethnic communities. There is a growing risk of forced recruitment by the ELN and other groups, especially for Venezuelans in Arauca and Norte de Santander and for the indigenous Wayuu People in Alta Guajira. Furthermore, dynamics associated with trafficking in women and girls for the purpose of exploitation have been identified in Arauca, Nariño, Chocó, and La Guajira. Lastly, the socioeconomic vulnerability of the indigenous communities in La Guajira (Wayuu People), Arauca (Sikuani People), and Norte de Santander (Yukpa People) has led illegal armed groups to use them to carry out illegal activities such as smuggling.

2.4. Impact on social leadership

The GS/OAS values the efforts of the Colombian State to protect leaders and human rights defenders. In this connection, it notes the establishment of the Opportune Action Plan for the Protection of Human Rights Defenders, Social and Community Leaders, and Journalists (PAO) and the intersectoral Opportune Action Plan Commission; the signing of the Pact for Life and the Protection of Social Leaders and Human Rights Defenders; actions taken to develop the public policy on protecting leaders and preventing violence against them; the continuation of the National Commission on Security Guarantees (CNGS) and the Intersectoral Committee for Rapid Response to Early Warnings (CIPRAT), and the 10 percent increase in the budget of the National Protection Unit (UNP), effective 2019.

Despite the state's actions to protect social leaders, human rights defenders, and community representatives and prevent violence against them, the GS/OAS remains concerned by the persistence of attacks on this population, primarily in the departments of Cauca, Antioquia, Norte de Santander, and Chocó.

In the department of Cauca, with the departure of the FARC and the continuing perceived absence of the state, there are now signs of the formation of new illegal armed groups, which have entered these territories and begun attacking community members and leaders who present an obstacle to illicit economic activities.

Leaders and communities in northern Cauca are more vulnerable because of additional factors, including their opposition to illegal activities, the settling of accounts for alleged involvement with illegal actors in illicit activities, confrontations over territorial control, confinement of the population, and the perception that some leaders are close to illegal armed groups. Indigenous leaders are among the hardest hit. Despite the Indigenous Guards' efforts to maintain territorial control, attacks on indigenous leaders and authorities continue, including, most notably, the assassination of Edwin Dagua Ipia, governor of the Huellas reserve, in December 2018.

In the department of Antioquia, participation in government programs, a weak state presence, and the reshuffling of illegal armed groups vying to control illicit economic activities such as drug trafficking, mining, and extortion create risks for leaders and the community in general, which materialize in the form of extortion, intimidation, harassment, threats, accidents with antipersonnel mines, stigmatization, killings, and forced displacement.

According to field monitoring, the hardest hit areas are the Bajo Cauca and northern Antioquia regions, particularly the municipalities of Cáceres, Tarazá, and Ituango. Although it is impossible to assign individual responsibility for the crime in many cases, we know that the Gulf Clan, the ELN, and some GAORs have targeted leaders in this department for "collaborating" with security forces, supporting or opposing territorial or infrastructure development projects, and defending the territory.

In Norte de Santander, most of the recent attacks on social leaders and the community in general have occurred as a result of the armed confrontation between the ELN and Los Pelusos/EPL. A serious consequence of this situation is that families of illegal group members have been threatened, killed, or held (abducted) as a strategy of hurt and intimidation. Some families have experienced forced displacement to temporary shelter in order to avoid being directly or indirectly affected by the armed confrontation. The hardest hit municipalities are Hacarí, San Calixto, Teorama, and El Tarra.

In the department of Chocó, the communities perceive the killings of community members as an excessive use of violence by illegal armed groups in the territory to convey a direct message of repression and silence their claims and voices for human rights.

Particularly in the departments of Chocó and Cauca, women's groups have been persecuted, and their leaders have been subjected to threats and coercion. Unlike threats against male leaders, those received by female defenders contain sexist language, with allusions to the women's bodies and sexual insinuations, and threaten their families – primary characteristics of gender-related risk differences.

Women in the following types of organizations are threatened or killed: ethnic women belonging to Effective Victim Participation Roundtables (MPEVs) or displaced women's associations, chairs of Councils for Community Action (JACs), and women who take the lead in defending their territories and peacebuilding. The following types of violence commonly precede the above: psychological violence, followed by sexual violence in parallel with physical violence.

Regarding the phenomenon of violence, as we indicated in our previous report, the GS/OAS is not looking to establish a national pattern or trend. However, we do consider it necessary to report the risk scenarios identified by leaders working on the ground.

One of these scenarios occurs in places where there are illegal armed groups or territorial disputes among illegal armed groups. In these cases, they are reportedly stigmatized by being described as collaborating with “the enemy,” or they are pressured by the illegal armed group to make its arrival or territorial control visible in order to increase institutional presence and thereby limit the opponent's presence.

A second case occurs when social leaders promote plans for replacing dependence on an illicit economic activity or implying the involvement of state institutions. This scenario most commonly plays out against social leaders who support the National Comprehensive Program for the Substitution of Illicit Crops (PNIS), the Development Plans with Territorial Focus (PDETs), and implementation of the land restitution policy and the restoration of territorial rights.

A third scenario occurs in places where illegal armed groups have achieved a degree of territorial consolidation; the groups attack social leaders to reaffirm their control by harming those who defy their illegal authority. These attacks are designed to change the rules of coexistence and halt or eliminate the involvement or existence of community-led processes, the claiming of rights, or community cooperation with state institutions.

Social leaders are also subject to accusations and aggression in places where the departure of an illegal armed actor has allowed the leaders to enforce certain rules of coexistence by promoting oversight or resolving community conflicts.⁶

In addition to the above, there is a risk scenario related to the oversight of government management – specifically, the execution of public works and allegations of corruption. This mostly affects members of community organizations.

The GS/OAS has determined that violence against social leaders in a given area sometimes involves protection of the interests of apparently unconnected actors. In this case, it is difficult to

6. For example, adjusting boundaries or settling conflicts associated with land and territorial use and tenure

identify a single organized power structure and, consequently, very difficult to pin responsibility for the attacks on social leaders on a single organization.

In the case of the ELN, attacks on social leaders may occur as a form of control or strategy for calling attention to its organizational and political capacity in the territories. For its part, the AGC/Gulf Clan appears to use threats against leaders to maintain social and territorial control. The actions of the EPL and the FARC dissidents appear aimed at territorial control of the areas formerly held by the FARC. On the other hand, common criminals threaten social leaders to deter them from reporting crimes or to discourage communities from claiming rights that affect the criminals' land use and tenure interests and their gains from illegal activities. A climate of fear among social leaders is also useful for extortion purposes.

In 2019, the dynamics of regional elections could create additional risks for leaders in zones formerly controlled by the FARC. Prevention, monitoring, and support are required before, during, and after the vote to ensure free and fair elections with full participation by the opposition and the voters.

Additionally, the GS/OAS has identified factors that contribute to a perception of impunity in relation to barriers to the access to justice in connection with territorial justice. These factors directly affect the concept of effective judicialization and impunity for attacks on social leaders, since these judicial processes take place in the regular justice system and [form the basis of] the community's perceptions of the justice system in general.

The GS/OAS also finds that the communities and social leaders do not share the justice system's view of justice. For the communities, justice means determining the facts, preventing their repetition, and restoring the dignity of their leaders, while for the justice system, it means identifying and trying the person responsible. Thus, it is necessary not only to improve the channels of communication, but also to reconceptualize the concept of judicialization, including components such as truth, justice, reparation, and non-repetition, which are not exclusive to transitional justice.

In addition to the above scenarios for violence, we should also note the prosecution of social leaders accused of collaborating with the ELN in areas with a strong ELN presence. This generally occurs in zones where the group has historically exercised control, which means that situations of unwilling coexistence have been created that may in some cases be erroneously interpreted as collaboration.

2.5. Impact on former combatants

The GS/OAS recognizes the existence of the National Policy on the Social and Economic Reintegration of Former Members of the FARC-EP,⁷ and that the section of the national development plan on effective stabilization measures incorporates the need for full and effective reintegration of former combatants. With respect to the safety of ex-combatants, the GS/OAS notes the efforts of the Special Investigation Unit (UEI) to adjust its investigation methods to attack the organizations targeting this population.

The Mission's monitoring indicates that former members of the FARC, particularly uniformed rebels and militiamen, remain subject to attacks in departments such as Antioquia, Arauca, Bolívar, Caquetá, Casanare, Cauca, Chocó, Meta, Nariño, Norte de Santander, Putumayo, and Valle del Cauca. These attacks are apparently occurring because this population is seen as having a useful

7. CONPES document 3931 of 2018

profile for illegal economic activities and is presumed to have strategic information that could affect, destabilize, or assist the territorial control of illegal armed groups.

In addition, family members of former FARC fighters continue to be targeted as alleged “collaborators” or supporters of the FARC. Their victimization constitutes a deterrent message to the community and other groups. From MAPP/OAS monitoring, it appears that some cases are linked to the participation of former combatants in campaigning for the FARC party. In others, the attacks were carried out as disciplinary measures when the former combatants had joined other groups. Others were intended to delay projects related to the implementation of the Final Agreement.

At this critical stage in the implementation of the Final Agreement, it is vital to take concrete, priority decisions to ensure the safety of former combatants and their families, especially since this problem could become more acute when this population leaves the territorial training and reintegration spaces (ETCRs) in the latter half of 2019. Effective social, political, and economic reintegration of the former members of the FARC will promote peace in Colombia and smooth the path to reconciliation.

The GS/OAS commends the Special Investigation Unit of the Office of the Attorney-General (FGN) for its work in this area. Its interdisciplinary approach, establishment of territorial contexts, profiling of victims and perpetrators, and search for the organizations behind these killings are essential steps towards a true understanding of the attacks on this population. At the same time, it laments the serious impact that these attacks have on the reintegration process and, consequently, the guarantees of non-repetition for Colombian society. Lastly, it considers it important to strengthen the channels of communication between the FGN and the Agency for Reintegration and Normalization (ARN).

2.6. Military and police security actions

The GS/OAS commends the military and the police for their efforts to pursue and capture the principle figures responsible for the killing of social and community leaders by complementing strategies such as the Horus Plan with actions including the offering of rewards, culminating in the identification, prosecution, and exposure of the people involved in these attacks. It hopes that these results will create community confidence in the authorities and a more peaceful and secure environment for the most vulnerable communities.

The GS/OAS notes the efforts of the national government and the security forces to establish a permanent presence in the territories most affected by the internal armed conflict. However, from the Mission’s monitoring, it is clear that this presence is still not permanent and that there are major challenges for achieving effective control of these territories. It encourages further strengthening of the strategies for ensuring an effective and permanent presence, which should be coordinated with the visions for security of the communities and local and ethnico-territorial leaders.

In the view of the GS/OAS, while the multidimensional approach to the concept of security provides an opportunity to strengthen the presence of the security forces, the focus should be on strengthening the presence of the state as a whole by establishing civilian institutions responsible for services, infrastructure, education, social inclusion, and so forth. Such actions hold the possibility of structural development for the territories and, if properly implemented, can help to improve relationships and communications with the communities and to increase their trust in the state as a whole.

As indicated in previous reports, the Police Unit for Peacebuilding (UNIPPEP) has prepared the ground for the security forces in this respect, since the communities see its members as being

better prepared, more aware of the context, and more interested in good community relations. It is even developing a social conflict transformation program in five pilot municipalities: Buenaventura (Valle del Cauca), Puerto Asís (Putumayo), Chaparral (Tolima), Montelíbano (Córdoba), and Apartadó (Antioquia). The objective is to strengthen the role that the National Police plays in dialogue, as a strategy for addressing social conflicts, as well as its role in demonstrations and social protest, in the context of ensuring that rights are guaranteed and respected.

Although the local institutions and communities generally view the increased presence of security forces positively, this presence is sometimes intermittent, which makes the population more fearful of accusations from the illegal armed groups once the troops withdraw.

Furthermore, a degree of reluctance is evident in the relations that security personnel are able to establish with the community when seeking information about groups or individuals involved in criminal activity in the area. This is also due to the location of units near schools, health stations, community centers, and the sacred places of indigenous communities, which also shows disregard for their territorial autonomy.

In addition, the GS/OAS notes that, in certain territories where there has been a historical ELN presence, the security forces have accused the inhabitants of belonging to this guerrilla group or collaborating with it. Also, there have been instances of abuse of power over civilians in the context of security force control.

Lastly, although we recognize the importance and necessity of operations to combat illegal mining and drug trafficking, the perception in the communities is that these operations end up having a greater impact on family incomes than on the finances of the armed illegal groups.

3. ILLICIT CROP REDUCTION POLICY

Since 2017, the GS/OAS has been working, through the Mission, to support and monitor the implementation of the illicit crop reduction policy. The Mission has focused on monitoring the substitution and eradication processes led by the Presidential Council for Stabilization and Consolidation (formerly the High-level Presidential Advisory Office for the Post-Conflict) and the Ministry of Defense, respectively.

In the context of these activities, it is apparent that the implementation of the National Comprehensive Program for the Substitution of Illicit Crops (PNIS) in the territories has created great expectations and opened a window of opportunity for illicit crop-dependent individuals and families to access mechanisms that will allow them to convert to other income-generating activities.

The GS/OAS commends the national government's recent announcement that it will continue the program and follow through on the agreements signed with 72,015 families⁸ who have completed

8. UNODC. *Informe ejecutivo consolidado no. 15. Monitoreo y verificación de compromisos de Sustitución de Cultivos Ilícitos. – Programa Nacional Integral de Sustitución de Cultivos Ilícitos – PNIS*. [Executive and consolidated report no. 16. Monitoring and verification of commitments to replace illicit crops – National Comprehensive Program for the Substitution of Illicit Crops (PNIS)] (December 7, 2017).

implementation Stage C.⁹ However, it draws attention to the 46,523 families in approximately 30 municipalities who have demonstrated their willingness to participate in the program by signing collective agreements but have not signed individual agreements or finished the enrollment process and are currently not considered enrolled in the program as growers or pickers.

This situation has generated concern and uncertainty in the communities. The GS/OAS therefore encourages the national government to provide follow-up and a solution for these families, given the expectations generated, and to ensure that those who began the process and for various reasons did not complete all of the stages can do so.

The GS/OAS also recognizes the efforts to create a space for intersectoral communication between the Ministry of Defense and the PNIS, in the form of the Unified Command Post for drug trafficking, which meets weekly and seeks to ensure that the security forces respect the individual and collective voluntary substitution agreements. We also recognize the national government's recent announcements establishing strategies for strengthening coordination between the PNIS and, inter alia, the Development Plans with Territorial Focus (PDETs), the Plans of Action for Regional Development (PATRs), and the Substitution and Alternative Development Plans (PISDAs), in order to achieve sustainable substitution.

Nevertheless, the GS/OAS encourages the national government to continue grappling with the challenges and obstacles to program implementation which have been identified, including the mistiming of deliveries of inputs for food security projects; contracting of technical assistance and start-up delays on short-term production projects; problems formalizing title to the land and territories for substitution projects; operational shortcomings in the participatory and planning bodies specified in the PNIS, particularly the municipal commissions that provide tracking and evaluation; and definition of procedures appropriate to the needs, characteristics, and economic, cultural, and social specificities of the territories and rural communities, especially indigenous and Afro-descendant communities and women.¹⁰

The GS/OAS also urges it to clarify issues that are creating concern and uncertainty in the communities, such as the difference between small and large-scale farmers; the legal mechanisms for the criminal prosecution of small-scale farmers and other weak links in the drug trafficking chain; the restoration of the rights children and adolescents participating in the drug trafficking chain and attention to their needs based on a prevention-and-care approach; the handling of substitution in protected environmental areas such as the national parks and forest reserves established in Law 2 of 1959; and security guarantees for individuals connected with or participating in the program.

9. Methodologically, the PNIS defined a three-stage process: Stage A, strategic reconnaissance of the territories; Stage B, territorial recruitment, during which awareness-raising culminated with the signing of collective agreements; and Stage C, implementation, which includes the family pre-enrollment phase, the signing of individual agreements, and the implementation of the components of the Immediate Response Plan (PAI).

10. Bearing in mind that the procedures for the communities were based on the same model as [for] *campesinos*. They did not take into account specific worldviews, community sentiment, or the ethno-territorial and ancestral authority, nor did they guarantee the right to prior consultation or territorial autonomy. Furthermore, the program was implemented without ensuring the effective participation of women or considering their roles and work in the cocaine economy or the historical barriers preventing their effective access to land, which ultimately limits their active role in illicit crop substitution.

This last issue is especially important, given that one of the main challenges for implementing the PNIS has involved the presence of illegal armed actors in the territories. These groups energize illicit economic activity and instigate attacks on individuals who take a leadership role in the substitution process, including threats, intimidation, forced displacement, and assassination. They also instigate attacks on representatives of the institutions involved in its implementation, preventing verification of the process and support from the relevant institutions and forcing the population to delay illicit crop substitution.

In addition, monitoring indicates that the population receiving payments under the PNIS is also subject to extortion. Beneficiaries have been extorted in Meta, the Pacific coast region of Nariño, Putumayo (by GAORs), and Bajo Cauca (by GAOs).

Regarding the forced eradication strategy led by the security forces, there is continuing mistrust and, to some degree, opposition to their involvement in these efforts, resulting in clashes that have evolved into demonstrations and social protest. In addition, some communities and municipal governments have expressed concern and uncertainty about the possible resumption of the aerial spraying of glyphosate, given the environmental and health impacts of past spraying. In this regard, the GS/OAS urges the government to engage in wide and inclusive dialogue, taking communities, organizations, and local governments into account in its planning, in order to mitigate and prevent social conflict in the territories most affected by the presence of illicit crops.

Lastly, we note that the Comprehensive Policy for Confronting the Problem of Drugs (*Ruta Futuro*) is the government road map for reducing the cultivation of illicit crops. In this instance, the most immediate challenge will be to develop all public policy in this area in such a way that each plan, policy, and strategy is coordinated and harmonized on the ground, strengthening the inclusion and coordination of the voluntary substitution and forced eradication strategies in the plan of action led by the Ministry of Justice and Law.

4. SOCIAL CONFLICT

The GS/OAS notes the importance which the government attaches to the peaceful management of conflict and to constructive democratic dialogue. It welcomes the continuation of programs such as the Presidential Program for Social Dialogue and Coexistence (CEDISCO), assigned to the Office of the High Commissioner for Peace (OACP), and highlights the initiative contained in the Pact for Legality to create a permanent national conflict management system, which would be reviewed every four years. Furthermore, the national development plan addresses the resolution of inter-ethnic, intra-ethnic, and intercultural conflicts through a proposal to address them that is based on preventive intervention under the responsibility the Ministry of the Interior.

These scenarios present an opportunity to transform the conflicts, since the signature of the Final Agreement encouraged spaces for latent, pre-existing, and new social conflicts that had been contained by the armed conflict to be recognized by the communities and brought to the attention of state institutions and civil society in regional and national spaces. It should be noted that, in the first months of the current government, from August to December 2018, there were 259¹¹ events in which conflict was expressed through marches, gatherings, and demonstrations.

11. August–December 2018. Source: Presidential Program for Social Dialogue and Coexistence (CEDISCO), session of December 11–18, 2018.

In this connection, the GS/OAS has identified current and potential challenges in terms of social conflict in the regions where it has a presence. The following subjects of social unrest, which became very visible after the change in government in 2018, could be rallying points in many situations of social conflict and mobilization in 2019: the demand for guarantees of the right to life of social leaders; the illicit crop reduction policy; the rights claimed by regional and local citizens' movements; tensions in rural areas; the ethnic movement; the environmental situation; and mining and hydrocarbons.

First, the demand for guarantees of the right to life of social leaders and the fight against impunity have mobilized a large number of national, regional, and local social society organizations and platforms. Rather than denouncing the threats, persecution, and selective killings, these organizations are demanding recognition of the systematic nature of these cases and strong individual and collective measures to protect the affected population and dismantle the criminal organizations responsible.

Second, the lack of coordination between the forced eradication and voluntary crop substitution programs has combined with the perception that the government is not keeping its promises to create tensions and social mobilization, which come on top of pressure from the illegal armed groups in this particular area. Another factor that could heighten tensions is forced eradication (including aerial spraying) in departments such as Nariño, Putumayo, Norte de Santander, Cauca, and Antioquia.

Third, claims for rights have mobilized various civic and regional sectors, which are demanding, inter alia, that the government honor prior agreements. In the context of social conflict situations, the Pacific region appears to have had the highest level of social mobilization. In late 2018, this discontent erupted in multiple demonstrations and student marches against the financing law all over the country, but especially in the center.

Fourth, in rural areas tensions over land tenure and ownership have translated into inter-ethnic conflicts in departments such as Cauca and Nariño. There are also conflicts related to *campesino* settlements in forest reserve zones, national parks, and other areas of the departments of Cesar, Caquetá, Meta, and Guaviare.

A fifth area of conflict involves the demands of indigenous peoples and communities for the state to meet the commitments and demands for recognition made and accepted in the negotiations between the national government and the Indigenous Regional Council of Cauca (CRIC). The Permanent Roundtable for Concertation (MPC) ensures the continuity of the indigenous movement's political agenda on topics such as inclusion in the population census, fulfillment of the ethnic chapter of the Final Agreement, and the right to prior consultation. Black communities are still calling for regulations to implement Law 70 of 1993, as well as support for mining operations and recognition of the territories. The Indigenous Guards and the Cimarrona continue to pursue avenues for improving their operational capabilities and obtaining recognition as the expression of social control in their communities.

The sixth area is the environmental situation, which is related to the development model. This appears to be one of the areas with the most progress and unity at both the rural and urban levels. Demands for environmental protection focus on water protection; opposition to mining and petroleum operations (in particular, the anti-fracking movement); opposition to plans to build reservoirs and hydroelectric dams; and the right of ethnic communities to prior consultation.

Lastly, in the area of mining and hydrocarbons, tensions in the territories have given rise to ineffectively managed conflicts. They continue to center on difficulties in the formalization process, on the actions of the big companies, and on resistance to measures to combat illegal mining in areas where there are armed illegal groups and roundtables that are making little progress, such as the mining roundtables in Remedios and Segovia (Antioquia). With respect to the hydrocarbon industry, the communities are demanding better working conditions, the use of local labor and production, protection of the environment, and effective consensus-building processes.

The GS/OAS recognizes the mechanisms established for discussion, analysis, and agreement on institutional actions to handle and deescalate social conflict, such as the committees following up on the civil protests in Chocó and Buenaventura and the Territorial Hydrocarbons Strategy. However, it is apparent that, while these spaces have generated openness to dialogue and good interinstitutional coordination, stronger measures are needed to forestall future risk situations. It is also necessary to honor agreements and commitments made in the context of pre-existing conflicts. In this connection, the Secretariat urges the Ministry of the Interior to define a strategy for dealing effectively with the more than 2,500 commitments to the communities made by the Ministry in the 53 dialogue roundtables established in 2018.

The MAPP/OAS will continue to support the government and civil society in this work, not only by assisting in different situations but also by strengthening conflict management and social dialogue capacities at the national and territorial levels.

5. PARTICIPATION AND SOCIAL DIALOGUE

The GS/OAS notes the importance that the national development plan and its Pact for Legality attach to social dialogue and peaceful conflict management. The plan establishes citizen participation as a critical factor for avoiding violence and assigns the Ministry of the Interior responsibility for formulating a policy on social dialogue and the peaceful management of social conflict, with technical assistance from the National Planning Department (DNP). Measures of this kind are essential, since peacebuilding requires more participation, more dialogue, and more consensus among the different sectors.

In this connection, the GS/OAS recognizes the efforts of the national government to reach out to the country through various interaction and dialogue mechanisms, including *Construyendo País* and the dialogue roundtables organized to boost and propose solutions to the conflicts in the territories (16 run by the Ministry of the Interior and 18 more with the Ministry's participation). These spaces contribute to pre-existing social dialogue processes, helping to handle unresolved social conflicts for which the strategy of social dialogue has yet to produce an effective management solution. In the regions, this strategy still faces the challenge of establishing trust, promoting dialogue among different actors, and finding appropriate solutions for each territory's needs that can translate to collective, concerted action to transform social conflicts.

The GS/OAS stresses the need for the Office of the High Commissioner for Peace (OACP) to become acquainted with the peacebuilding initiatives underway in the territories through dialogue with the communities. The communities have agreed to such dialogue and have demonstrated interest in the High Commissioner's proposal to make the Departmental and Municipal Councils for Peace, Reconciliation and Coexistence (CDMPRCs and CMPRCs) spaces where the institutions and civil society can work together to devise and develop territorial plans for peace, reconciliation, and coexistence through dialogue.

However, the communities have expressed concern to the Mission regarding their effective participation in the development of new public policies and the inclusion of their proposals and territorial visions in these policies, as well as about the neglect of spaces for dialogue that already exist. We have also heard concerns about the prosecution of social leaders in areas such as Arauca, Cauca, Nariño, Valle del Cauca, Norte de Santander, and Sur de Bolívar, where some communities see these trials as a way of limiting the impact of their organizations.

Furthermore, the GS/OAS considers the Protocol for the Coordination of Actions for Respecting and Guaranteeing Peaceful Protest (resolution No. 1190 of 2018) to be an important tool for strengthening participation and ensuring the peaceful expression of cultural, political, economic, religious, and social opinions, ideas, or interests with respect to equity, territorial peace, or any other legitimate purpose. It therefore urges the effective implementation of this protocol as a means of ensuring the exercise of alternative democratic mechanisms by encouraging inclusive, diverse participation.

Regarding other forms of participation, the constitutionality of Law 134 of 1994 and Statutory Law 1757 of 2015 on the referendum (*consulta popular*) was clarified in the second half of 2018. Ruling on the constitutional competencies of the state to exploit the subsoil and nonrenewable natural resources, the Plenary of the Constitutional Court decided that referendums could not be used to prohibit mining and energy extraction activities in a given municipality or district. However, the absence of a mechanism for concertation between the national government and the territories has led the communities to use the referendum to make their voices heard. The decision has produced a variety of reactions and has created uncertainty about the use of this participation mechanism.

Thus, the GS/OAS urges the government to continue strengthening democracy through tools for democratic participation, thereby unleashing the transformative potential of inclusive and diverse participation and honoring its commitments and agreements with the communities.

6. PUBLIC POLICY ON VICTIMS AND NATIONAL PEACE

6.1. Land restitution and reinstatement of territorial rights

Law 1448 of 2011, also known as the Victims and Land Restitution Act, is the core of the public policy on attention and comprehensive reparation for the victims of the internal armed conflict. From its beginnings, and even before it was enacted, the Mission has monitored and supported its implementation, identifying and praising its accomplishments and successes while noting and cautioning about problematic situations that were detrimental to and negatively impacted the State's obligation to provide comprehensive reparations to victims of dispossession and forced abandonment in the framework of the transitional justice.

The public policy on land restitution and reinstatement of territorial rights is coming to a close, with a little less than three years to fulfill the 10 aims established in the law; this deadline has not been extended, and no legislative initiatives have been submitted that would do so. For its part, the Land Restitution Unit (URT) has projected that with the current budget, pace, and procedures in place, the administrative phase could be completed by the established deadline.

As reported by the Unit, between August 7 and December 31, 2018, judicial rulings were issued for 2,600 requests, or 29.34% of total requests received during the implementation of the public policy. This was a result of the implementation of strategies to reduce the judicial backlog since 2017, with the installation of 15 temporary courtrooms.

Regarding this, the GS/OAS has in previous reports praised the progress made toward completing the administrative phase of the land restitution processes; however, it reiterates its concern over the high rate of denials of registration in the Registry of Forcedly Dispossessed and Abandoned Lands. It also views it is problematic that a significant number of victims have not filed the corresponding requests, either because they are not aware of the law or due to fear as a result of the persistence of the armed conflict in some parts of the country, which directly impacts the effective guarantee of their rights.

Additionally, Decree 1167, issued on July 11 and which is the latest reform of the land restitution process, set a deadline of three months for filing requests for inclusion of victims in the Registry.¹² On this point, the GS/OAS is concerned that this change represents a violation of the obligation of non-regression of rights to the benefit of the victims of the armed conflict, as despite the efforts made by the URT to publicize the deadline for filing requests for inclusion in the registry, some communities, local authorities, and relevant actors—such as the Municipal Roundtables on the Effective Participation of Victims—said they were not aware of the change and its implications.

Although the GS/OAS recognizes that this measure is an opportunity for the URT to plan and manage the human and technical resources to complete the administrative phase of the public policy, the measure could be a violation of the effective enjoyment of rights, as so far, there has not been a deadline for exercising the fundamental right of victims to the restitution of lands, and it was understood that the prevailing deadline was the expiration date of Law 1448—that is, June 2021. In this regard, the GS/OAS views it as imperative to implement methodological changes at specific points of the procedure to hurry it along without affecting the rights of victims and third parties, as well as enhance efforts to collect requests on site, in the most remote rural communities.

At the same time, the GS/OAS views positively the willingness expressed by the government to continue and enhance the affirmative actions with the differentiated gender approach in the framework of the policy on land restitution and reinstatement of territorial rights. These actions are aimed at establishing, from an intersectional approach, measures within restitution processes that favor indigenous and Afro-descendant communities.

The GS/OAS has learned of a legislative initiative presented by the ruling party to amend the land restitution component of Law 1448/2011. Among other things, the bill would establish an appeals procedure for the restitution process; include forced sales as an act of victimization; and provide those opposing restitution with access to information and a chance to challenge evidence during the administrative stage. The GS/OAS, respectful of sovereignty and the freedom to legislate, trusts that the definitions in the amendment adopted by the Colombian legislative branch speed up the process while guaranteeing security, access to justice, and due process for the victims and other intervenors.

The GS/OAS recognizes the efforts of the Colombian State to implement strategies to mitigate and prevent situations of risk related to restitution processes. However, it reiterates its concern at the persistent impacts on the lives and physical integrity of intervenors in the land restitution policy,¹³ along with the low rates of investigation and prosecution of the perpetrators and

12. On this point, it should be noted that the change does not affect the procedure for reinstatement of territorial rights for ethnic communities.

13. Based on the monitoring carried out by the Mission in the priority areas, between 2017 and 2018, 30 violations of the lives and physical integrity of individuals involved in restitution processes have been reported: 14 threats, 1 attempted murder, 1 forced disappearance, and 14 homicides.

masterminds of victimizing acts of dispossession and forced abandonment established in restitution judgments. It also reiterates its concern at the low rates of compliance with orders issued in the land restitution judgments, especially those judgments reestablishing the territorial rights of indigenous and Afro-descendant communities.

Regarding this latter aspect, the GS/OAS underscores that in the collective territories of ethnic groups subject to monitoring, the risk conditions related to the armed conflict or illegal groups that profit from drug trafficking and illegal mining persist. This results in new impacts on territories subject to reinstatement, including confinement, forced recruitment of children and adolescents, sexual violence, restrictions on social life in the communities, and prohibitions on use and customs, among other grave violations of international human rights law and international humanitarian law (IHL). In this regard, the GS/OAS concludes that despite the advantages and challenges entailed in the implementation of the land restitution policy and the reinstatement of territorial rights during the peace building process, it is crucial for the Colombian Government to guarantee the presence and availability of its institutions, equitably and throughout the country, along with the effective enjoyment of rights that are central under the rule of law.

6.2. Outlook on measures to provide support, attention, and comprehensive reparations for victims

Following the initial months of the administration of President Iván Duque, it is noted that the framework of the National Development Plan makes changes to the support provided to victims. Therein, strategies are established to transfer the functions of the public policy on victims to other competent entities in order to focus efforts on measures to provide reparations to the population affected by the internal conflict.

The Plan also establishes that assistance will be provided to victims through social programs designed to overcome conditions of vulnerability under the Social Protection System,¹⁴ not through a centralized approach from within the Victim Assistance and Comprehensive Reparation Unit (UARIV), concluding that greater efficiencies can be obtained by moving from a model of providing aid to one of integration with social policy. This approach would aim to focus the UARIV on executing measures of reparation.

For victims, this decision is cause for concern due to the possibility of not being addressed as a priority population, given the existing perception that the UARIV does not have the capacity to support this transfer, based on prior coordination experience in the framework of the SNARIV.¹⁵ In this regard, it raises the possibility of needing to establish specific strategies to guarantee the non-regression of rights and their protection as subject to special constitutional protection, including assistance and attention that is adequate, timely, and pertinent, and—among other aspects—that includes a differentiated and territorial approach.

Additionally, the transition between presidential administrations has impacted the processes for ensuring victims access to rights, mainly by producing uncertainty and raising questions as to the permanence of the commitments made by government institutions. The suspicions have intensified with the issuance by the UARIV of Resolution 3143 of July 23, 2018, adopting a new operating model for Collective Reparations. According to subjects of collective reparations, the issuance of this resolution met with little agreement within the UARIV.

14. Specifically, through the System for Identifying Potential Beneficiaries of Social Programs.

15. National System of Comprehensive Care and Reparation for Victims.

As reported by the Unit, between August 7 and December 31, 2018, the payments projected were made¹⁶ for the humanitarian aid and individual compensation component.¹⁷ Regarding the compensation, it was delivered to the victims of all the victimizing events—especially forced displacement—in compliance with measures of comprehensive reparations.

The GS/OAS underscores the identification of more than 600 subjects of collective reparations. However, it also notes the persistent delays in the collective reparations procedure, which deepen mistrust in the capacity and willingness of institutions to provide reparations and lead the subjects of collective reparations to question the transformative role of reparations. These delays have to do with the difficulties accessing technical and financial resources on a timely basis to move the process forward, as well as unilateral actions taken by government institutions without taking into account or conducting processes to reach consensus with the subjects of collective reparations on the collective reparation process. Along with this, few collective reparations have actually taken place, due, among other things, to registration through agents, which adds to that perception.

Along with this, the GS/OAS underscores the challenge of administrative instability and the constant turnover of the officials who work within the UARIV. This has made it difficult to ensure the continuity of the processes or to properly follow up on progress made toward collective reparations. Every change of official means the process must be reviewed, commitments must be reaffirmed, and new guidelines must be set, and sometimes, talks are broken off and channels of communication between the subjects of collective reparations are closed.

Another challenge to be emphasized is existing limitations faced by rural populations, and specifically by rural women. They face significant difficulties in accessing effective and high-quality support, in the framework of Law 1448 and the care circuits, due to their geographical isolation and the lack of a phone signal, among other obstacles. The gender and rural approach must therefore be enhanced in the policies on victim care.

Lastly, of particular interest to the GS/OAS is the consolidation of guarantees of nonrepetition for the population affected by the conflict, especially as regards security, with the execution of measures of prevention and protection that must be deployed by the State in response to harm caused to leaders involved in seeking reparations and/or other members of the Effective Victim Participation Roundtables. They must be comprehensive in nature and transparent as far as the progress made toward investigating and prosecuting cases in which violations have occurred.

6.3. Rural Development Plans (PDETs)

Pursuant to Point 1, “Comprehensive Rural Reform,” of the Final Agreement signed by the Colombian Government and the FARC-EP, the process to structurally transform rural areas will cover the entire country. However, it was agreed to prioritize “the most vulnerable territories and the communities most affected by misery, abandonment, and conflict,” through the Rural Development Programs (PDETs).

The GS/OAS views positively that the programs’ central pillars include the recognition of the socio-historical, cultural, environmental, and productive characteristics of the rural areas (rural approach); the incorporation of the ethnic and cultural perspectives of the peoples and communities (ethnic approach); and the recognition of the specific needs of rural women (guarantee of women's

16. A total of 165,409 payments worth a total of COP\$105,840,483,540.

17. A total of 27,753 reparations payments worth a total of COP\$153,000,000,000.

rights). Likewise, it appreciates that the frameworks of the National Development Plan include a strategic approach unit¹⁸ for any intervention implemented nationwide, with the aim of rebuilding the areas most affected by the internal armed conflict and rural development. In this regard, the ART has made progress on signing the Action Plans for Regional Transformation (PATR),¹⁹ which contain a total of 32,850 initiatives.

Lastly, the GS/OAS reiterates the importance of budgeting sufficient resources for the PATRs, which, when executed transparently, could provide a significant boost to rebuilding trust in government institutions, socioeconomic development of rural areas and their residents, and consolidation of the peace. It is also crucial to allocate sufficient resources to fully comply with processes of prior consultation with ethnically-distinct groups, as a lack of budget for their implementation has become a significant barrier to the participatory application of the plans.

Regarding coordination between different authorities and institutions at the municipal and departmental level, the GS/OAS has found that despite the efforts made, the involvement of local authorities in this process must be enhanced. In different rural areas, different sources consulted state that the objectives, methodologies, and progress achieved in the framework of the PDET/PATR have not always been sufficiently socialized with local authorities, for which reason they feel marginalized from the process.

The situation has led to the underutilization of logistical and knowledge resources on weaknesses and strengths that local governments have at their disposal. At the same time, it has prevented the PDET/PATRs from coordinating with the development public policies that municipal authorities have been implementing in rural areas. In addition to leading to redundant efforts, this lack of coordination can also limit the impact of programs on the transformation of living conditions in rural areas, as the weak involvement of local and departmental authorities and institutions in building and executing the PDET/PATRs can compromise their effectiveness and long-term sustainability.

As far as coordinating with communities, important accomplishments have been identified that have broadly enabled progress on enhancing the associative, representative, and planning capacities of society in a variety of areas of community life. However, obstacles persist to full and effective participation in some rural areas, due to structural problems like territorial isolation in some areas;²⁰ barriers to effective participation for some population groups;²¹ or weaknesses in institutional strategies;²² often leading to a combination of these causes.

18. Also understood as a focus of resources on those parts of the country.

19. The PATRs cover: Putumayo, Arauca, Sur de Tolima, Sur de Córdoba, Sur de Bolívar, Montes de María, Chocó, Urabá Antioqueño, Pacífico Nariñense, Sierra Nevada – Perijá, Alto Patía and Norte del Cauca, Bajo Cauca and Nordeste Antioqueño, Macarena Guaviare, Catatumbo.

20. Communities in some areas remain outside the bounds of PDETs, particularly the most remote and difficult to access communities, where socialization strategies do not reach or do not do so appropriately. The use of technical language is another obstacle, as is the use of pre-established or inflexible methodologies that do not leave space for communities to identify their own needs and make proposals by consensus that provide them with solutions.

21. In the case of women, for example, although institutional efforts are viewed positively, the PDETs are still not seen as an opportunity to improve their living conditions and enhance their participation in the political, economic, and social life of their communities (with capacity for outreach). Likewise, they are also not seen as an instrument to empower women and provide them with skills to become

Lastly, the GS/OAS underscores that the design and execution of the PDET/PATR must ensure coordination with other political and strategic rural development processes. This coordination is especially important with the PNIS and the comprehensive community and municipal plans for replacement and alternative development (PISDA), but also with processes implemented in the framework of the policy for restoring forcibly dispossessed and abandoned lands and reinstatement of territorial rights implemented by the URT; the reorganization of the rural property under the authority of the National Lands Agency (ANT); or the environmental protection policies regulated, among other things, by Law 2 of 1959.

6.4. Women as protagonists in the local, regional, and national peace

The GS/OAS recognizes the historic election of Martha Lucía Ramírez as the first woman vice president of the Republic of Colombia. This is a sign of progress in the participation of women within political structures as fundamental to the exercise of democracy and consolidation of the peace. It likewise underscores the appointment of a cabinet with gender parity in the national-level minister positions.

The participation of women in public affairs and equal access to public positions have been recognized as fundamental rights by both the inter-American system and the universal human rights system. This participation in political decision-making positions can have a multiplier effects toward achieving equal rights; however, various sectors of society are raising the objection that the arrival of women to public offices is not in and of itself a contribution to a democracy with gender equity. They note that this will only be the case if those who hold positions of political leadership recognize the persistence of historical discrimination and inequality; support political and ideological diversity among women; respect the multiple ways in which women organize and defend their rights; and help more and more diverse women come to exercise power.

Through the Mission, the GS/OAS has held exchanges with a variety of women's organizations and organizations for the defense of human rights that also recognized the historic importance of having a woman vice president and gender parity in the minister-level cabinet positions. However, they expressed concern at the lack of clarity surrounding the relevance of building peace with gender equity within the national government agenda. They say they have expectations for the vice president's leadership as far as defending what women have achieved as protagonists in the local, regional, and national peace.

Regarding this, the GS/OAS welcomes the statements of Vice President Martha Lucía Ramírez regarding the national government's agenda of non-regression on issues of gender and sexual diversity. The message received by these groups of women in particular and by the public in general is one of respect and institutional support for the progress made toward guaranteeing the rights achieved by women and LGBTI groups in terms of case law, legislation, and public policy. Despite this, GS/OAS underscores the limited progress women have seen in rural areas in the context of the peace policy and the delayed rural/national execution of the measures with a gender approach included in the Framework Implementation Plan for the Final Agreement.

members of society on an equal footing with the men in a local population. It was specifically noted that as levels of participation increased at the municipal and sub-regional level, the number of women elected decreased significantly, as did their involvement in the regional phases.

22. The use of technical language is another obstacle, as is the use of pre-established or inflexible methodologies that do not leave space for communities to identify their own needs and make proposals by consensus that provide them with solutions.

Additionally, the inclusion of the chapter entitled “Pact for Women’s Equality” in the National Development Plan framework is underscored, along with the national government’s proposal to more than double the budget of the Presidential Council on Women's Equity (CPEM). The chapter includes eight lines on strengthening the institutional underpinning of gender in Colombia; educational and economic empowerment to eliminate gaps in the labor market; the care economy; political empowerment for participation in power and decision-making; sexual and reproductive rights; the promotion of women's right to a life free of violence; rural women as a pillar of rural development; and gender equity for peace building.

However, the GS/OAS urges the national government to decisively move forward on linking this pact to strengthening its peace policies with a gender focus, especially those policies that have set precedents within the Colombian State and that have been established in order to comply with national and international obligations on the subject. These include measures aimed at guaranteeing the rights of women victims of the armed conflict, established in Law 1448 of 2011; the Follow-up Orders to Judgment T-025/04²³; and the gender indicators established for following up on the Final Agreement.

It is also crucial to move forward on mechanisms of coordination between the Intersectional Committee on Guarantees for Women Human Rights Leaders and Defenders (Decree 1,314 of 2016) and the National Committee on Guarantees and Security, as well as guarantee the effective participation of women and their organizations in the National Guarantees Roundtable for establishing measures of protection and prevention and guarantees of non-repetition.²⁴

7. ADMINISTRATION OF JUSTICE IN RURAL AREAS

7.1. Conditions of access to justice

The GS/OAS views positively the inclusion in the National Development Plan framework of strategies aimed at ensuring access to effective and efficient justice, particularly in areas where the State’s absence and vacuums of authority have persisted. The strategies aim to enhance the presence of institutions and thereby increase their democratic legitimacy; improve the guarantee of and respect for human rights; and extend the promotion of structural change in rural areas.

In this regard, the GS/OAS recognizes the efforts made by the Colombian State to enhance the presence of its justice institutions in rural areas that are key for the post-conflict period, through strategies like those outlined in the Strategic Plan of the Attorney General of the Nation (2016-2020).²⁵ The strategies prioritize intervention in 500 of the country's municipalities over the four-year period, taking into account the crimes prioritized in all the country’s municipalities, the

23. In this judgment, the Constitutional Court found that the status of the population of people experiencing displacement was unconstitutional, ruling that their rights were being systematically violated. Based on this, it has issued a series of orders to national and local entities to meet this population's basic needs.

24. The recognition of the multiple instances of violence arising from the armed conflict and the internal dynamics of violence in the country is the basis for taking measures to protect women and girls.

25. The actions to be implemented under the strategy include appointing prosecutors in rural areas that do not have prosecutor offices; assignation of additional prosecutors when required by the workload and complexity of the work; and enhancing the methodologies on investigation and inter-agency cooperation.

presence of criminal organizations in rural areas, the needs of capacity-building noted at different levels and the need for intervention in some municipalities facing enhanced risk and vulnerability in the post-conflict period.

According to government information, the Attorney General of the Nation has been able to establish a presence in 39 municipalities. As of August 2018, 833 staff members had been transferred with support from the CTI to local offices, and the clearance rate for homicides reached 32% in the capital cities, while the national average stood at 28.78%.

The GS/OAS has observed that although the arrival of institutions has entailed a number of challenges, they have consolidated little by little, in some places improving the perception of the judicial branch in rural areas. Judicial institutions exercise a presence through the establishment of prosecutor offices where they did not exist before, including the in following municipalities: Medio Baudó (Chocó), San Miguel (Putumayo), Fortul (Arauca), El Retorno (Guaviare), and Ricaurte (Nariño). At the same time, in other municipalities where the presence is not so clear—especially in rural areas—the “Houses of Justice” (law centers) are expanding their roles, as in Pradera y Florida (Valle del Cauca), El Bagre (Antioquia), and recently, in El Doncello (Caquetá).

However, the GS/OAS notes the persistence of three aspects that continue to limit effective access to justice. The first is the difficulty that displacement poses for urban centers to carrying out legal proceedings due to the absence in a number of rural areas of police investigators or justices of the peace, and lack of access to mobile justice events. This is in addition to the poor roadway, transportation, and security conditions. Such conditions can be found in the municipalities of Tierralta (Córdoba), Simití (Bolívar), Hacarí (Norte de Santander), La Paz (Cesar), San José del Guaviare and El Retorno (Guaviare), Puerto Rico and Cartagena del Chaira (Caquetá), Ituango and Remedios (Antioquia), Ricaurte (Nariño), and Orito (Putumayo).

The second aspect is the lack of judicial investigators, both from the Attorney General's office, through the Technical Investigations Unit (CTI), and from the National Police, through the National Criminal Investigation and Interpol Directorate (SIJIN), in municipalities such as Olaya Herrera (Nariño), El Bagre and Remedios (Antioquia), Vistahermosa (Meta), Caloto (Cauca), Solano (Caquetá) Arauquita (Arauca), Orito (Putumayo), and Pailitas (Cesar). This effectively limits the ability to solve cases involving serious crimes such as homicide because evidence cannot be gathered, nor can the bodies be collected, as they are instead picked up by family members, municipal governments, or even funeral homes.

The third aspect is that many citizens do not know their rights or how to access formal justice. Specifically, access to justice for victims of sexual violence involves difficulties and risks of revictimization due to the mistrust of victims and their relatives of the justice system, as a result of a perception that investigations and prosecutions are ineffective.

Additionally, cultural factors such as shame and stigmatization that are not addressed from an approach of providing psychosocial care; widespread lack of awareness by officials regarding the procedures that must be carried out in these cases, including with the trans population, and specifically trans women; and the absence of mechanisms for effective coordination between regular justice and the special indigenous jurisdiction to prevent, address, and deal with these cases—among other aspects—reduce victims' willingness to seek justice.

In light of this, the GS/OAS highlights cases of sexual violence that have taken place in indigenous communities in the Amazonas department, especially against children and adolescents, young people, and women. The Attorney General is aware of more than 700 cases of sexual violence

that have taken place there. This figure is increasing steadily, and thus a priority must be placed on addressing the violation of the rights of children, adolescents, and women. However, the capacity is not in place to move forward in these investigations and support the victims. This is in addition to the lack of visibility of the phenomenon within the communities and poor coordination between the regular justice system and the special indigenous jurisdiction that limits the effective guarantee of victims' rights.

7.2. Community justice

An essential part of reducing the legal backlog and ensuring the justice system responds effectively is the Informal Justice Mechanisms (MNFJ), which include the Reconciliation Committees of the Communal Action Councils (JAC), the equity peacekeepers, and the tribunals run by the Community Councils. These lay the groundwork for resolving less serious conflicts within communities through processes of dialogue and community sanction.

In this regard, the GS/OAS views positively that the next four-year period is projected to include the strengthening of local and rural systems of justice, thereby improving effective citizen access to the various mechanisms of justice, thus creating the conditions for better coordination. In this regard, the GS/OAS has found that in the municipalities of Tierralta (Córdoba), Cúcuta y Tibú (Norte de Santander), Simití y Santa Rosa del Sur (Bolívar), Medio Baudó (Chocó) Fortul (Arauca), and Calamar (Guaviare), the MNFJs are functioning properly and well received by the population. For example, in Medio Baudó, the Community Console has internal rules of procedure on what measures to take depending on the seriousness of a problem, and when problems exceed its competency, they are forwarded directly to the ordinary justice system for investigation and the corresponding punishment.

However, it will be necessary to continue strengthening these bodies, as difficulties persist in two aspects. The first is a lack of training of some of the council members on equity. In different places, they have stated that they do not have the necessary knowledge to mediate the conflicts, which makes these bodies less functional. Second, de facto justice continues to interfere with community justice, which makes the operation of the committees and the equity peacemakers difficult.

8. MECHANISMS OF TRANSITIONAL JUSTICE

As underscored in its two latest reports, the GS/OAS reiterates the importance of the creation, preparation, and implementation of the Special Jurisdiction for Peace (JEP); the Truth, Coexistence, and Non-Repetition Commission (CEV); and the Special Missing Persons Unit for finding people disappeared in the context of and because of the armed conflict (UBPD). They are demonstrations of the Colombian State's commitment to implementing significant components of the Final Agreement.

The main challenge to implementing the Final Agreement, especially the Comprehensive Truth, Justice, Reparation, and Non-Repetition System (SIVJRNR or the System) is making a principal mentioned constantly in the framework of the negotiations a reality: "The victims are at the center of the agreement." This principle is relevant because it describes the reason for the existence of the various levels and measures that make up the SIVJRNR and addresses the expectations of victims regarding the process of transformation involved in compliance with the Final Agreement.

Along with this, the SIVJNR is called on to do its work comprehensively and in a coordinated fashion. Although each of its parts that comprise it have specific competencies, their work must complement that of the other parts in order to be comprehensive. The effective guarantee of the rights of victims will in large part depend on the effectiveness of channels of communication between the entities, the complementarity of their actions, and the avoidance of duplicating efforts and processes. Therefore, the GS/OAS urges the System's entities to make it a priority to define the mechanisms and methods of collaboration that are interconnected by conditionality and incentives, especially in the first phase of preparing the work plan.

According to the information provided by the government, since the launch of the JEP, progress has been made on opening 5 framework cases;²⁶ 168 reports have been received from social organizations, victims, and State institutions; 13,496 statements have been signed by witnesses; and 11,675 people have been brought before the JEP: 9687 from the FARC, 1938 from the security forces, and 38 described as other State agents. Likewise, 20 liaisons have been established in rural areas, and progress has been made on preparing a guide for presenting a report, while the guide on prioritization and selection is undergoing the prior consultation process. The gender and ethnicity committee is operating, and the committee on victim participation and effective access is being established.

In addition, guaranteeing the effective participation of victims, disseminating the mandates and scope of each of the parts of the System, and managing victims' expectations are central challenges as well. Likewise, gathering the institutional and social experience over so many years in order to take advantage of the information available, including understanding of weaknesses and identification of barriers, such as the multiple sources of information and underreporting of phenomenon such as forced disappearance or sexual violence, constitute, among other things, central elements for the success of the process.

At the same time, each part of the system must have a solid security strategy that not only guarantees confidentiality and protection of the information, but also focuses on protecting communities and victims. Additionally, conditions of vulnerability must be assessed in each location, taking into account the specific risks faced by certain groups such as women, children and adolescents, young people, people with diverse sexual orientations and gender identities, and ethnic groups.²⁷ Thus, no action in rural areas should increase risk or conflict, or lead to actions that cause harm or revictimization.

Of the three entities, the UBPD is the part of the system facing the most delays. It had not received its operating budget until August 2018, and it is currently in the process of hiring part of its work team. It has also begun talks with a variety of social organizations and actors and is establishing its methodologies and work plan for 2019. In this regard, the GS/OAS underscores the importance of moving decisively forward to consolidate this part of the System to guarantee that it and the other System entities have a budget adequate to performing their functions. The search for disappeared

26. [1] kidnapping, [2] Pacifico Nariñense, [3] extrajudicial executions, [4] Urabá, and [5] Norte del Cauca.

27. The GS/OAS views positively the establishment of specialized work teams for addressing the gender and ethnic approach within each of the entities and recognizes its importance. In this regard, it will be crucial for these teams to coordinate in prioritizing the consolidation of strategies, actions, and measures that mitigate the risk faced by the collectives and groups on which they focus and guarantee safe environments for carrying out the actions that are part of the mission.

persons will be an element of both reparations and restoration, as well as a central part of the fight against impunity.

For its part, following a preparation period, the CEV was officially launched on November 29. It has made progress on, among other things, establishing the institutional architecture, setting protocols for conducting interviews and psychosocial support, socializing working methodologies in order to receive input on adjusting them, and defining 11 macro regions within its strategy for approaching rural areas.

As far as the presentation of reports to the JEP's Chamber on Recognition of Truth, Responsibility, and Determination of Facts and Conduct (SaRVR), its aim is to guarantee access to justice for civil society organizations. The presentation of reports is a window for accessing justice whereby these organizations can bring incidents to the JEP's attention that they believe violated their rights in the context of the internal armed conflict. It also serves as a mechanism for participation in judicial processes.

Regarding this, the GS/OAS notes with concern the growing perception of limits on effective access to justice for victims who do not belong to organizations or collectives, which could limit their rights to truth, justice, reparations, and guarantees of non-repetition. It is therefore important that, based on the needs and expectations of victims, it be recognized within the SIVJRNR that the JEP is not the only forum for participation and advocacy. Rather, the other bodies and measures that comprise the System should be considered as key elements for fulfilling the rights of victims, as should the regular justice system and mechanisms such as the JEP's own Investigation and Charges Unit.

Additionally, this is an opportunity to promote organizational processes, whether based on the geographical location of the organizations and/or the types of victimizations, with the aim of establishing narratives of the conflict that are more universal and less segmented, thereby establishing practical strategies for comparing information. This also provides an opportunity to strengthen existing organizations. The GS/OAS underscores the work done on establishing context by the JEP's Analysis and Information Group, highlighting the historical and contextual rigor of the documents it has produced, which will be decisive for prosecution that addresses historical and geographical realities.

The GS/OAS reiterates its call for drawing experience and lessons from the peace and justice process as far as the procedural participation of the victims at each of the judicial stages, as well as the methodology of some legal procedures, such as open versions in which victims have a real opportunity to participate through story-telling and cross examination.

For its part, and based on the guidelines of the restorative justice paradigm and the dialogical method that guides the different procedures carried out in the framework of the JEP, the GS/OAS underscores the need for punishment to be designed based on identification of the harm, with a priority on the needs of victims, and for it to include the voices of all the victims from every territory, in a differentiated manner, and that actions be taken to enable victims to find a way out of the situation of social exclusion which led to their victimization.²⁸

28. For this measure, coordination between the JEP and the UARIV, ARN, URT, and ART is crucial for coordinating actions with other measures whose purposes are similar.

It will likewise be crucial for the JEP to coordinate with the system of obligations and duties based on collective and community restorative knowledge that transcends modern conceptions of restorative punishment, to thereby contribute to and support intercultural and interjurisdictional relationships with indigenous peoples and communities.

9. PRISON CONDITIONS IN THE CONTEST OF TRANSITIONAL JUSTICE AND THE POST-CONFLICT PERIOD

Since 2006, the MAPP/OAS has been visiting a number of national and municipal prisons holding people deprived of liberty due to their connection to or membership in illegal armed groups. The aim is to raise awareness on some situations that violate the rights to livability, access to health, food, safety, education, vocational training, and other rights, focusing on violations committed particularly against these individuals due to their connection to and/or membership in an insurgent group.

Based on multiple visits made to Colombian prisons, the GS/OAS has found that they house a variety of groups of people deprived of liberty, using their membership or non-membership in an illegal armed group as a sorting criteria. Thus, those belonging to the GAO, GDO, ELN, and FARC are divided up, as are those belonging to groups differentiated by gender or ethnicity.

While within the prisons, the members of those groups are housed based on autonomous criteria prioritizing coexistence, the criminal policy that applies to the different aspects of sentence execution and prison life itself does not take this into account, which makes resocialization difficult and has a direct impact on such activities. It has additionally been found that their treatment within penitentiaries is not properly grounded in the criminological characteristics of the members of these groups, who are mainly associated with criminal activities with significant political and social impact.

It is therefore important to move forward on defining the main components of a prison regime program, specifically on reintegration, and establish alternatives for its organization. All this should be in line with and in the framework of a penitentiary policy that focuses on the post-conflict period and building peace.

10. RECOMMENDATIONS

10.1 Dynamics associated with the armed conflict and crime

- a.** To the National Security Council, revise the classifications of the GAO and GDO, as well as Directive 037 of 2017 of the Ministry of Defense classifying the GAOR, with the aim of updating strategies for addressing these phenomenon in accordance with the constant changes that take place within these illegal structures, including schisms, disputes, or alliances with other actors.
- b.** To the National Commission on Security Guarantees and the Ministry of Justice, continue strengthening actions to further squeeze sources of financing of illegal armed groups to block the profits from legal and illegal economies from feeding these groups' growth and expansion and directly affecting the most vulnerable communities.
- c.** To the Ministry of Defense, increase installed physical capacity and personnel for controlling border areas. Also, develop strategies for attacking transnational crime in

coordination with neighboring governments so as to implement border control under a shared strategy, on the understanding that transnational crime operates between States.

- d. To the national government, extract lessons learned from the experience of the UNICEF, both in the framework of establishing and operating the transitional local zones for normalization (ZVTN) and transitional local points for normalization—now the ETCRs—as well as strategies for transforming social conflict, with the aim of replicating the positive aspects of these experiences in highly complex areas.

10.2. Impact on communities and social leadership

- a. To the Intersectoral Commission on the Prevention of the Recruitment and Use of Children and Adolescents (CIPRUNNA), activate mechanisms to enable mitigation of the risk faced by children and adolescents and young people of recruitment, by: i) strengthening the Generations of Well-being Program of the ICBF; ii) expanding the geographical reach of the My Future is Today Program of the Advisor for Human Rights of the Presidency of the Republic; iii) establishing conditions for providing comprehensive care to children and adolescents; iv) creating spaces for human rights training, focusing particularly on schools through municipal governments; v) strengthen educational establishments and their profiles as safe spaces, putting special emphasis on areas that are difficult to access and ensuring educational coverage in such places; and vi) creating opportunities for pursuing life projects, supported by the exercise of rights.
- b. To the Ministry of the Interior, Office of the Ombudsperson, and the National Protection Unit (UNP), develop a coordinated strategy of prevention and protection of social leaders. Likewise, unifying the State's information system by consolidating figures on different types of impacts on social leaders (homicide, threats, displacement, confinement, extortion, kidnapping, information theft).
- c. To the Ministry of the Interior, include a section in the policy on preventing harm to social leaders on public officials. Specifically, design measures of protection and training for officials who operate in areas where illegal groups have a presence so they know how to manage and where to find support in response to intimidation from illegal armed groups.
- d. To the judiciary, include elements such as truth, reparations, and guarantees of non-repetition in the judicial processes on harm to social leaders, thereby contributing to reducing the perception of impunity and increasing the perception that these cases are effectively prosecuted. In this measure, the truth component should include a clear intention to reveal the criminal structures responsible for harm to social leaders. Guarantees of non-repetition must contain clear elements for protecting communities; and reparations must be oriented toward recognizing the situation and not stigmatizing the grievances of the individuals affected.
- e. To the judiciary, develop channels of communication with victims and communities that do not require revelation of information that should be kept confidential in the context of judicial processes. This enables victims and communities to receive information on the status of investigations and thereby raise awareness on the judicial actions pursued and the institutions' stake in solving the facts and seeking out the truth. This would be result in the society's positive perception of effective

prosecution of harm caused to leaders, thereby reducing the perception of institutional inaction and impunity.

10.3. Illicit crop reduction policy

- a. To the High Council for Stabilization and Consolidation, develop an assertive communication strategy with communities that have not reached the implementation stage of the PNIS with the aim of answering questions on the type of support they will receive in terms of reducing illicit crops and on the future of the PNIS in their municipalities. Fluid communication between the national and local levels is crucial for reducing a population's sense of uncertainty and misinformation.
- b. To the High Council for Stabilization and Consolidation, move forward in building and implementing a security protocol to enable continuation of execution of the PNIS without endangering the beneficiaries, public officials, or members of security forces who support the crop eradication. This also takes into account a local focus that can be adapted to the individual logic and reality of each of the PNIS's priority areas.
- c. To the ART and the High Council for Stabilization and Consolidation, develop actions of pedagogy and socialization with local authorities along existing coordination procedures between the PNIS and the PDET, and disseminate the information to communities, leaders, and social organizations. Also, work in coordination in the municipalities where these programs coalesce.

10.4. Participation, social dialogue, and dynamics of social conflict

- a. To the national government, adjust the methodology for the functioning of participatory spaces to place a priority on the direct participation of communities and the representatives and clarify the role of municipal, regional, and national organizations. It is vital to involve a plurality of social actors and avoid worsening imbalances in the social dynamics, ensuring synthesis among the various interests and particularities of an area and enhancing local authorities' capacity to meet specific needs.
- b. To the national government, implement the National System for Managing Social Conflict, with interagency coordination led by the Ministry of the Interior at the national level that involves both departmental and municipal entities. The strengthening of this technical instrument for periodic follow-up contributes to preventative management of social conflict and to addressing such conflict with dialogue.
- c. To the national government, continue implementing the protocol for coordinating actions to respect and guarantee peaceful protests, thus enabling the handling of these situations from an approach of prevention and rights that is differentiated and geographically specific and guarantees the full exercise of the rights to petition and social mobilization.

10.5. Public policy on victims and national peace

- a. To the UNP, move forward with a rigorous diagnostic of the effectiveness of the individual and collective measures adopted to the benefit of the ethnic communities that are subject to protection by the entity and who have been victims of impacts on

life and personal integrity upon asserting their territorial rights. The recommendation is that the entity prioritize analysis of the observations and recommendations from community authorities, especially when the measures must follow the general principle of offering a differentiated approach as a fundamental right of ethnic communities.

- b.** To the military, redouble efforts to contain and, subsequently and in coordination with the Attorney General of the Nation, prosecute the actions of illegal armed groups that affect the areas in which the land restitution policy is being applied. Also, take steps to consult with the corresponding traditional authorities to coordinate entry into their lands and conduct the corresponding operations. The military deployment needed and the actions taken must adhere to the principles of IHL and domestic directives on it, especially the principles of distinction, precaution, and proportionality.
- c.** To the Ministry of Defense, establish specialized policing units to provide support for land restitution activities, provided with special badges that clearly identify them.
- d.** To the Colombian State, guarantee the financing for the implementation of the public policy on land restitution, especially the budget allocated to addressing the significant backlog currently facing the specialized jurisdiction on land restitution. In the same regard, it is suggested that the entities comprising the SNARIV make available the financial and human resources necessary to swiftly comply with orders issued in the restitution rulings, especially those ordering the reinstatement of territorial rights for indigenous and Afro-Colombian communities.
- e.** To the Colombian State, move forward in designing, setting a budget, and implementing the agrarian jurisdiction, and make progress on other measures such as the multipurpose cadastre and plans for a social property code. These measures would have a positive impact on the transformation of rural Colombia by facilitating the progress and sustainability of public policies on peace, such as land restitution.
- f.** To the social protection sector and the National Planning Department, take steps to clearly include a framework in the Development Plan for a government policy to provide comprehensive aid, support, and reparations to victims that entails a clear transfer of functions from the UARIV to other entities with social programs for ameliorating vulnerable conditions.
- g.** To the UARIV and other competent State entities, establish guidelines, roadmaps, procedures, and processes that are clear and timely for reestablishing victims' rights, thereby ensuring that the population affected by the conflict is included in the State's social programs. They must also include victims as actors and participants in local economies, as well as provide a vision for developing rural areas, as set forth in the National Development Plan's frameworks.
- h.** To the Ministry of the Treasury and Public Debt and the Congress of the Republic, move to allocate resources in the national budget and other public policy instruments to raise awareness on comprehensive reparations for victims; and to the UARIV, take the technical and administrative steps to enable compliance with the procedure for providing collective reparations by the deadlines stipulated for subjects of collective reparations and evidence, as well as more rapid advancement.

- i. To the UARIV, take steps to make the information and processes traceable so as to ensure that turnover of officials does not have a significant impact on the collective reparations procedure. Also, establish processes for disseminating Resolution 03143 of 2018 so the more than 600 subjects of collective reparation can be made aware of the changes to the collective reparations program.

10.6. Administration of justice in rural areas

- a. To the Office of the Attorney General of the Nation, deploy Technical Investigations Unit (CTI) teams to offices that do not have one or whose investigative capacity is insufficient, and to the SIJIN, do the same with the judicial police, with the objective of strengthening the institutional presence of the justice system in rural areas.
- b. To the Superior Council of the Judiciary (CSJ), verify the capacity of the human resources of rural judicial offices to ensure they comply with the provisions of the Sectional Councils Agreement of the CSJ, which, based on local conditions, requires courts to have at least a judge, a secretary, servers, clerks, and notifiers, where required. Also, to the Ministry of Justice and Law and officials in rural areas, facilitate access to justice for residents of rural areas by periodically sending mobile teams to those places.
- c. To the Ministry of Justice and Law, through its Office on Alternative Measures and Conflict Resolution of the Vice Minister of Justice Promotion, hold training workshops on conflict resolution for those implementing non-formal justice mechanisms—including in the JAC conflict resolution committees—as equity peacemakers or as part of the justice functions of the Community Councils.

10.7. Mechanisms of transitional justice and prison conditions

- a. To the JEP, take the measures necessary to guarantee that victims have effective access to justice. In terms of procedures, it is recommended that victim participation be fostered in all hearings and procedures. Toward this, measures should be established to enable all victims, without exception, to challenge the information offered by those testifying, whether or not they recognize the facts. Likewise, measures should be taken to provide victims with a judicial response to the violations committed regardless of whether they are part of an association or an organization. By the same token, differentiated approaches based on geographic location, ethnicity, gender, and age must be further strengthened.
- b. To the national government, coordinate the gradual and progressive establishment of the gender mechanisms provided for under the Framework Implementation Plan of the Final Agreement; establish short and medium-term policies to provide differentiated and specialized care on the rights of women, the gender approach, and intersectionality through regular interagency workshops; and establish mechanisms for providing psychosocial care with a gender approach for women, girls, and adolescents who have been victims of sexual violence in rural areas.
- c. To the national government, budget sufficient resources for the Action Plans for Regional Transformation (PATRs), which, when executed transparently, could

provide a significant boost to rebuilding trust in government institutions, socioeconomic development of rural areas and consolidation of the peace.

- d.** To the ART, enhance strategies for coordinating with municipal and departmental governments to identify opportunities for collaboration and take advantage of efforts to enable achievement of the broadest development objectives possible. Encouraging this coordination can involve, for example, calling on local governments to participate in the planning of the PDET/PATRs or in identifying opportunities to add elements to the PDET/PATRs from the local development plans in their respective areas.
- e.** To the national government, ensure that the PDET/PATR are coordinated with other processes, policies, and strategies for rural transformation, including: the PNIS, through the PISDA; the land restitution policy, processes implemented in the framework of the policy for restoring forcibly dispossessed and abandoned lands and reinstatement of territorial rights implemented by the URT; the reorganization of the rural property under the authority of the National Lands Agency (ANT); or the environmental protection policies regulated, among other things, by Law 2 of 1959.
- f.** To the national government, expand political, institutional, and financial efforts to respond adequately to its obligations in terms of implementing the measures on gender from the Framework Implementation Plan of the Peace Agreements. In particular, revitalize the administration's High Office on Gender (Decree 1,418 of 2018)²⁹ and its effective coordination with the Special Gender Unit of the CSIVI. Likewise, we urge the State of Colombia to make progress on decentralizing its policies on gender and the rights of women, including by increasing the political representation of women within power structures and decision-making positions in municipal and departmental governments. A positive result of peace building is more and better spaces for the democratic participation and representation of women in power structures.
- g.** To the Ministry of Justice, the Office of the Attorney General of the Nation, and the National Penitentiaries and Prisons Institute (INPEC), implement a penitentiary program for handling people deprived of liberty who have connections to criminal activity with significant political and social impact that, at a minimum, includes the following components: institutional coordination of the penitentiary and prison system; review of legal tools; coordination with local entities; inclusion of social actors; and establishment of an interagency council to monitor treatment in prisons.

29. Decree 1418 of 2018 "to establish the Intersectoral Commission for the incorporation of the gender approach in the implementation of the Final Agreement for the End of the Conflict and Building of a Stable and Lasting Peace, to be called the High Office on Gender of the Administration."