Violence, adverse impacts on communities, social unrest and peace
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The Organization of American States and The Mission to Support the Peace Process in Colombia thank the Colombian government and people of Colombia for their invaluable contribution to peacebuilding.

Volume III

Periodic reports of the Secretary General to The Permanent Council on The Mission to Support the Peace Process in Colombia (MAPP/OAS)

2015-2019

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Volume III, Periodic Reports of the Secretary General
Twenty-Second Report
OF THE SECRETARY GENERAL TO THE PERMANENT COUNCIL ON THE MISSION TO SUPPORT THE PEACE PROCESS IN COLOMBIA (MAPP/OAS)

The following report is presented pursuant to resolution CP/RES. 859 (1397/04), in which the Organization of American States (OAS) asks the Secretary General to report periodically to the Permanent Council on the work of the Mission to Support the Peace Process in Colombia, hereinafter “MAPP/OAS” or “the Mission,” and on its efforts to contribute to the fulfillment of the values and principles set forth in the OAS Charter and the Inter-American Democratic Charter.

The mandate of the MAPP/OAS emanates 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 resolution CP/RES. 859 (1397/04) of the Permanent Council, adopted on February 6, 2004. The mandate was broadened and its term extended through the signing of additional protocols to the agreement between the Government of Colombia and the GS/OAS on January 15, 2007; January 19, 2010; December 23, 2010; July 21, 2011; October 3, 2013; December 15, 2014; and September 27, 2016; the latter extended the mandate of the Mission until December 31, 2018.

The information set forth herein principally corresponds to the findings made by the GS/OAS through the MAPP/OAS as a result of its monitoring, accompaniment, and support work from September 2015 to February 2016. Furthermore, some situations that fall outside this timeframe have been considered in this report due to their importance.

Pursuant to resolution CP/RES. 859 (1397/04) numbered paragraph 3, the MAPP/OAS consults the Inter-American Commission on Human Rights (IACHR) prior to the publication of this report in order to hear its observations on the functions for which it is responsible, and so the two OAS authorities work together and supplement each other’s information.
The MAPP/OAS works to support peace-building in Colombia on a daily basis. The work it does directly in the territories that are most affected by the internal armed conflict—supporting communities, public agencies, indigenous authorities, afro-descendant communities, social, civil, and women’s organizations, religious communities, security forces, victims, community leaders, and ex-combatants, at the municipal, departmental, and national level—would not be possible without the accompaniment and support of the international community. Thus, the GS/OAS would like to express its thanks to MAPP/OAS donors and friends, in particular to:

The countries of the Basket Fund whose political and financial support make the Mission’s operation possible: Germany, Canada, Spain, United States, the Netherlands, and the United Kingdom. The GS/OAS would also like to thank Turkey, Switzerland, and the European Union, as well as the Spanish Agency for International Development Cooperation (AECID), the German Agency for International Cooperation (GIZ), and the United States Agency for International Development (USAID) for the support they have provided.

We reiterate our invitation to OAS member states and observers to support the Colombian Government’s efforts by contributing to the MAPP/OAS.

1. General Conditions

Peace knocks on Colombia’s doors

The GS/OAS welcomes the new peace accord reached between the Colombian government and the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo [Revolutionary Armed Forces of Colombia – People’s Army] (FARC-EP) guerrilla movement and encourages Colombia to continue down the path toward achieving a stable and long-lasting peace. Indeed, the Permanent Council has backed the peace process and the conclusion of the armed conflict, having understood the sense of urgency surrounding the current stage of the process.

This enhanced accord will, however, face new challenges that demand greater efforts and a meeting of many more minds in the upcoming phases of the process. One of the most significant challenges, which stems from the referendum’s outcome, is the clear need to continue making headway in unifying the Colombian people, by doing everything necessary to strengthen unity and national harmonious coexistence. This demands strength of character and involvement on the part of the political class, society, the people who are demonstrating in the streets, students, victims, and all strata of the country.

Furthermore, the implementation phase, perhaps the most important in the process, will face different challenges in the near future. The changes in the international arena, the election campaign period, legislative development of the agreements, economic constraints, persistence of illegal groups’ actions, murders of social leaders, and resistance in the areas that voted against the accords may hinder peace policies from reaching the territories.
Making the mechanisms and components of the accord a reality at the local level in those places hardest hit by the violence is a task that demands decisive and pragmatic measures. Preventing the resurgence of violence in those areas with structural weaknesses or that have not received adequate attention on the part of the State has become an imperative.

In order to effectively respond to stakeholders and the territories, the application of the peace policies provided for under domestic law should be considered without delay. The State has the necessary tools to implement such policies on a whole host of issues, such as humanitarian demining, illicit crop substitution, the surrender of child combatants, and the search for disappeared persons, among others. Such actions would relieve pressure on the process and help to enhance trust between the parties and citizens.

Peace-building requires everyone’s involvement, including—as was seen during the referendum—the more than 60% of the electorate that ignored the call to the polls. The Electoral Observation Mission of the OAS, which observed the referendum, reiterated the recommendation in its preliminary report that measures be adopted to increase the exercise of the right to suffrage with the aim of having Colombian citizens fulfill their democratic responsibility. The GS/OAS urges all Colombians to continue working together to achieve transformations that allow for conflict and inequality to be overcome and to bring about the peace that the entire nation needs.

The GS/OAS congratulates the President of the Republic, Juan Manuel Santos, on receiving the Nobel Peace Prize. It is a well-deserved recognition of his efforts for peace and for all the victims that have unjustly suffered the effects of the conflict. This award should give new momentum to the peace process.

The GS/OAS would like to thank the Colombian government for the trust it has placed in the MAPP/OAS, which is reflected in the extension of its mandate through December 2018. The Colombian government has entrusted the Mission with new tasks, including having an ongoing presence in veredas [rural districts] and municipalities to monitor the dynamics in the territories the FARC-EP will abandon, the areas where the Ejército de Liberación Nacional [National Liberation Army] (ELN) has influence, and the places where organized armed groups operate. Furthermore, the MAPP/OAS will continue to monitor social unrest, land restitution policy with an ethnic approach, collective reparations, prison conditions, and to support communities and institutions in peace-building.

**The peace process with the Ejército de Liberación Nacional (ELN)**

The Mission welcomes the resumption of negotiations between the government and the Ejército de Liberación Nacional (ELN). The unilateral cease fire the day of the referendum and the release of hostages in the hands of the guerrillas facilitated parties restarting conversations. As we have reiterated in previous reports and public communiqués, the achievement of a peace accord with this insurgent group would realize the hopes for comprehensive peace in the country. The GS/OAS urges the parties to design joint strategies in the framework of the negotiations that enhance trust, reduce the level of
armed confrontations, and minimize the direct and collateral impacts on communities that inhabit the areas where fighting takes place.

Furthermore, the GS/OAS considers that the early involvement of the population in the discussions between the Colombian government and the ELN as a proactive and integral party thereto serves to guarantee its legitimacy and reinforces the process from its genesis, increasing acceptance of what is agreed upon and facilitating its local and regional implementation. Involving society in this active manner is an acknowledgement of communities’ and minority groups’ capacity, making them a party to the construction of the process itself. Given the importance thereof, the OAS reiterates its willingness to collaborate and make its installed capacity and resources that have been in Colombia for the last 12 years available through MAPP/OAS so that the participation processes and mechanisms to be implemented are successful.

**Dynamics and threats that affect peace-building**

Making decisive progress toward ending the conflict is also an opportunity to address and tackle the dynamics and factors that threaten peace-building in the territories. In some places, recurring dread and fear remain due to the issues that persist, such as, *inter alia*, recruitment of children and adolescents, extortion, indiscriminate threats, murders, and selective disappearances; the impact of these issues is especially harmful from a humanitarian point of view.

It is noted that some communities continue to see local powers that exercise control in economic, political, and social arenas. These powers’ interaction with legal and illegal structures represents a real threat and a risk for the consolidation of peace in the territories. The most obvious manifestation thereof, and which are perceived as the greatest threat, are the so-called “criminal bands,” now described as organized armed groups or organized crime groups by the national government.1

One of the elements that creates the most uncertainty in the communities with regard to the government’s actions vis-à-vis these local powers is related to the presumption of corruption in and impunity of the institutions charged with fighting this phenomenon. In this sense, the GS/OAS makes an appeal for all security-related policies in the territories to continue being implemented in a consistent manner and be accompanied by measures that facilitate access to the justice system and that win back the communities’ trust in the system. Indeed, it is in the justice system where the fight against impunity entails, in addition to the investigation and prosecution of the most emblematic cases and the establishment of guarantees for access to the justice system, sustained efforts against corruption and alleged irregularities of institutions linked to illegal activities.

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1 For the IACHR many of these illegal groups are identified with paramilitary groups that have not been dismantled and that continue to be involved in serious violations of human rights and assaults on civilians through threats, homicides, attacks, and sexual violence (See CCEEU. Alternative Report to the Seventh Report presented by the Colombian State to the United Nations Human Rights Committee 2010/2016- October 2016). The IACHR also highlights the increase in actions by the ELN in 2016, such as “armed strikes” and other measures such as kidnapping civilians (among them a journalist in May 2016 – see IACHR press release No.R70/16 of May 25, 2016).
The threats, concerns, and other security challenges are diverse in nature and have a multidimensional scope, and therefore traditional approaches should be broadened to encompass political, economic, social, health, and environmental dimensions. The development of a comprehensive security approach has become a large-scale challenge for the national government and the State in general with regard to stopping criminal and unlawful elements in both urban and rural areas from filling the void left in the wake of waning armed confrontation and unleashing new cycles of violence. Colombia is facing the challenge of hastily drawing up a comprehensive security policy focused on protection of individuals that ensures full respect for dignity, inclusion, the fight against poverty, and education, among others.

Addressing social unrest is strategic for the GS/OAS as a way to strengthen democratic principles through dialogue with armed actors like the ones the Colombian people currently are confronting. In this sense, the GS/OAS welcomes the creation under the National Development Plan of the “Comprehensive System for Conflict Prevention and Management.” With this tool the Colombian government can address the challenges of social conflict that are evident in the territories, bearing in mind that with the conclusion of the internal armed conflict it is foreseeable that social demands placed on the State will increase and many of these may be expressed through social unrest. Thus, it is important to bolster the pillars of a culture of dialogue and citizen involvement that leads to a systematic use of mechanisms to address and transform social unrest at all levels.

For the GS/OAS it is important to support the work human rights defenders undertake in Colombia, given their valuable contribution to the promotion, respect, and protection of human rights and fundamental freedoms. Furthermore, a worrisome number of homicides of and threats against community leaders have occurred without an effective response forthcoming that helps to neutralize and adequately investigate these attacks. In this regard, the Colombian State is urged to intensify its efforts to adopt the necessary measures to ensure these individuals’ and their families’ lives, freedom, security, and humane treatment by improving the urgent and effective protection mechanisms in cases of threats or risk.

The GS/OAS is convinced that the Juntas de Acción Comunal [Community Action Boards] (JACs) are and will be key players in territorial peace-building as they are appropriate fora for building bridges between the State and communities and because their mission is to represent the most elemental building block of democracy. As such, the Mission urges affording broad security guarantees to JAC members for the exercise of their functions, as well as to Community Action members no matter what their affiliation, be it to the JACs, Associations or Federations of JACs, or National Confederation of Community Action.

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2 With regard to groups hit especially hard by the armed conflict who will be active players in this new process of transitional justice, the IACHR concurs with the MAPP/OAS about the need to strengthen arenas for citizens’ and victims’ participation in general using a differential approach based on specific needs and eliminating obstacles that limit their effective participation.
Recognition of indigenous peoples’ and afro-descendants’ rights in the Americas is important for the GS/OAS as they are the bearers of ancestral knowledge, and have their own organization, management, and peace proposals. These groups have been hit hard by discrimination and the impacts stemming from the armed conflict in Colombia, and are currently affected by the tensions related to access to land and the dynamics of extractive development. Indeed, there must be enhanced guarantees as to their existence, protection of their lands, and cosmovisions.\(^3\)

The GS/OAS highlights that Colombia continues making headway towards the consolidation of a Comprehensive System of Transitional Justice that takes into account respect for human rights and the legitimate trust that citizens must have in the State. The judicial mechanisms implemented in the peace process with insurgent groups must be conceived as a logical sequence within a system of tools that complement each other under the framework of transitional justice. The understanding of all these components must bolster the principles of truth, justice, and redress at the same time that it minimizes potential risks stemming from legal, legislative, or administrative loopholes and lacunae.

The new mechanism of transitional justice for the peace process must coexist with other jurisdictions and thus it is imperative that its enforcement be successfully harmonized with the different special indigenous jurisdictions. There must be clear rules established regarding conflict of jurisdictions that go hand in hand with international treaties. Above all, however, they must respect the millenary jurisdictions based on the different cosmovisions and cosmogonies that may emerge from the different tools of transitional justice.

In addition to the foregoing, prison conditions are a key issue and thus the GS/OAS, through the MAPP/OAS, has been committed to consolidating a comprehensive monitoring system based on ongoing monitoring and support inside prisons. This presence, which is shown in more than 360 visits to correctional centers, has led to changes in living conditions, health, and overcrowding, while promoting differential treatment for combatants or ex-combatants, bearing in mind the particular characteristics of each case.

2. **Scenarios That Threaten Peace-Building In The Country**

The GS/OAS celebrates the marked decrease in rates of violence stemming from the internal armed conflict since the FARC-EP declared a unilateral cease-fire in July 2015. Nevertheless, communities in the areas historically affected by the conflict continue to be concerned about the fact that illegal armed groups continue to collect extortion

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\(^3\) According to the IACHR, indigenous organizations point out that the Ombudsman’s Office has made efforts to address, promote, disseminate, and accompany the implementation of provisions (Decree 4633 of 2011) and attend to indigenous victims of the armed conflict; however, it cannot be ignored that limited institutional budgets and the absence of inter-agency coordination have been the factors hindering these processes from effectively and comprehensively reaching the remotest indigenous communities in the country. The above, in many cases, is in the context of social unrest identified by the MAPP/OAS and the impairment of indigenous peoples’ and afro-descendant communities’ rights due to the social impacts of extractive activities in Colombia.
payments. Without distinction, both guerrillas and organized armed groups continue extorting different sectors of communities, creating doubt in the collective imagination about a true decrease in the impacts of the conflict in the territories.

The GS/OAS is concerned about impacts that continue to affect children, such as their recruitment and/or utilization by illegal armed groups. This concern is heightened by the fact that it is acknowledged that underreporting in some territories means that the magnitude and complexity of the situation exceeds what is known about it. There is not just one group responsible for this, but it is striking that in cases that have taken place in Fortul (Arauca) and San Pablo (Bolivar), the ELN has been identified as the armed actor responsible for forced recruitment of children under the age of 18. In the south of Meta, in some municipalities of Chocó, as well as Istmina, Bahía Solano, and Rio Quito, and in Alto San Jorge and Alto Sinú (Córdoba), the Clan del Golfo has been identified as the armed group responsible. In the Catatumbo region (Norte de Santander) the Ejército Popular de Liberación [Popular Liberation Army] (EPL) has been as identified as being responsible for using minors and young people for activities related to transporting drugs to cities like Cúcuta and Ocaña.

The GS/OAS calls attention to the prevailing view in the regions, according to which recruitment is not seen as forced, rather as a voluntary affiliation on the part of the minors, due to the lack of educational options once they finish or are about to finish secondary school.

Given that the conflict with one of the guerrilla groups may end, it is important to call attention to processes of disarmament, demobilization, and surrendering of arms in which young people who are not of legal age may potentially participate. Based on the MAPP/OAS’ experience, the main lesson learned is the need to flesh out and implement a channel for supporting these minors and reestablishing their rights, as well as quickly identifying the ones that are not officially part of these processes, and returning them to their homes in keeping with international standards for the return of minors.

In the different regions monitored, a risk identified is the possibility that members of armed groups that do not surrender arms may join other illegal groups present in the territories. The risk of new groups arriving has not necessarily been detected; rather, it is the strengthening of already existing groups by combatants who do not surrender their arms, or who do so but subsequently take them up again. The thinking is that the persistence of conditions favoring crime-based economies means that the territories remain attractive for unlawful actors. These uncertainties manifest more emphatically in the country’s southern departments like Nariño and Putumayo. In the former the fear is that some mobile columns of the FARC-EP may not join the process; in the latter the concern lies in the presence and consolidation of the organized crime group known as “La Constru.”

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4 Available information indicates that between January and March 2016 in the municipality of San Pablo, Bolivar, 12 cases were reported of the ELN recruiting children under the age of 18. The ELN used manipulation and deceit to recruit the children. Among the highest risk townships are Cañabraval, Vallecito, Alto Berlín, and Cerro Azul.
What was seen subsequent to the demobilization of the AUC was that the voids left by that armed movement were rapidly filled by new and already existing groups, who recognized that these territories still offered strategic advantages to extract a fixed income.\textsuperscript{5} Thus, it is key that the State is able to successfully develop strategies with territorial-based approaches that change conditions on the ground such that those strategic advantages for unlawfulness are no longer available. For the GS/OAS the different attacks which social leaders and human rights organizations were victims of in the first months of 2016 is a cause for concern. The distribution of pamphlets signed by different groups threatening individuals and organizations because of their work on different issues related to the peace process has occurred in several regions throughout the nation. The materialization of these threats in attacks and murders in areas like Bajo Cauca, Norte del Tolima, Bajo and Medio Putumayo, and Catatumbo in Norte de Santander shows that the risks for these sectors of the population are a reality that the Colombian state needs to resolutely tackle in terms of prevention and immediate protection.

Although the threats are not from one sole actor and are not directed toward a specific segment of the population in a particular region of the country, recognition and investigation of these incidents as a trend in and of itself and not as isolated cases might bring to bear information to shed light on these cases and ensure they will not be repeated. In the township of La Gabarra, a rural area of Tibú in Norte de Santander, the forced disappearance of the community leader, Henry Pérez, at the hands of illegal armed groups present in that area was reported in January 2016. Despite requests for information on these events, there has still been no satisfactory result or any statement made from a humanitarian point of view that would provide details about what happened to this leader.

One of the lessons the Mission has learned throughout these years is the need to strengthen the mechanisms to protect human rights leaders from attacks and to investigate such attacks. The transitional justice processes undertaken to date in the country have witnessed the emergence of leaders who continue to be targets of different violent incidents.

The increase in illicit crops in Colombia, as shown by the Coca Cultivation Survey prepared by the United Nations Office on Drugs and Crime (UNODC), has had an impact on the security and economy of the main coca-producing regions. Although drug

\textsuperscript{5} In this regard, in its Sixth Report to the Permanent Council, the GS/OAS highlighted “the regrouping of demobilized combatants into criminal gangs that control specific communities and illegal economic activities. In regions where guerrilla activity is low and the entry of the forces of law and order has not been effective, conditions arise under which various armed illegal groups can assume control. In these areas, the problem arises when middle-level demobilized combatants step into the vacuum. They assume control of the criminal activities that were traditionally the preserve of the units or groups based there (extortion, levies on drug production, social cleansing, alliances with local administrations) and organize themselves into small groups, armed with side arms, remaining in urban areas and communicating by cell phones. The Mission is therefore concerned about the possible emergence of illegal players within the framework of the conflict, who could ultimately end up engaging in turf wars.” In its Ninth Report, the GS/OAS warned that “in these territories (Nariño, Chocó, and Putumayo), the local people do not seem to notice a substantial change in security conditions, due to the emergence and continuance of illegal armed units linked to illicit economic activities, with the arms’ capability to intimidate and control.”
trafficking has historically been one of the main sources of funding for illegal armed groups, in recent years there has been a trend for mining to position itself as another important income generator. Nevertheless, the decrease in international gold prices has meant that drug trafficking continues to be the main source of income for these groups. Additionally, in some communities there is the perception that under the Havana Accord incentives will be offered in the future for campesinos to do crop substitution as a solution to the illicit drug problem. Inadvertently, this seems to be encouraging the planting of coca leaf.

In March 2016, the President of the Republic announced the initiation of a program for illicit crop substitution, which was piloted in the municipality of Tumaco. In addition to a component of long-term, solid technical support that favors the implementation of new technologies to make the substitution sustainable, the program also emphasizes interdiction policies to attack all links in the drug trafficking chain. The MAPP/OAS has noted in its monitoring that communities are skeptical about these processes as to date they see no differences between these policies and others that have been implemented in the past. In this regard, they see the need for institutions to have a comprehensive presence in the territories, consideration of relevant strategies that do not provide for eradication as their sole measure, and State representation that goes beyond the presence of security forces. Productive alternatives, strengthening of productive chains, and improvement of road infrastructure are also necessary measures that contribute to the sustainability of initiatives linked to eradication.

The pilot program implemented in Tumaco is being conducted independently from other strategies to fight drug trafficking that the Colombian government has implemented in other areas of the country, and about which there are different opinions. For example, in the departments of Guaviare and Putumayo there have been tensions between security forces who undertake manual eradication and campesinos that grow coca. In particular, in the department of Putumayo, Baja Bota Caucana, and Cofanía Jardines de Sucumbíos, expectations abound around the agreements that may be reached in the framework of the Committee on Illicit Crop Substitution. This Committee has been working based on negotiations surrounding the technical components of gradualism and targeting, in addition to dissemination with grassroots organizations for its implementation. As regards this support, it is also important to highlight the progress of the environmental and mining-energy committee that already has a technical report that was prepared and delivered to the government by the Technical Team of the Social Organizations’ Working Group.

In the past, different regions developed programs whose objective has been to promote eradication and replacement with licit crops, such as the programs *Familias Guarda Bosques* [Forest Ranger Families] or *Acción Integral* [Comprehensive Action] promoted by the National Parks. Although these programs were initially successful in eradicating a high percentage of crops, support to stabilize alternative production projects were lacking and most projects did not reach a sufficient degree of sustainability, due to a lack of technical knowledge to maintain production, roads in poor conditions that increased the price of the products, or an inadequate commercial chain. Faced with this situation, many
families who eradicated their illicit crops were forced to sell their lands and join the ranks of displaced persons in Colombia or to return to growing coca. For this reason, when negotiations were held with the FARC-EP on Point 4 “Solution to the Illicit Drug Problem,” the campesinos who make ends meet by growing coca and have lived through the aforementioned experience, expressed their mistrust of the effectiveness of the substitution programs that were proposed as part of the agreement. Furthermore, they held that eradication should be done gradually, and to the extent that economic stability is achieved with the outputs of productive projects.

3. Actions That Contribute To The Consolidation Of Peace

The efforts of the State to confront organized armed groups have reaped significant operational results. The GS/OAS recognizes that the strategy the national government has been implementing in the framework of the Committee to Follow-Up on Criminal Bands and Organizations, and the continuity of the Troya, Agamenón, and Némesis, among others, have led to important results against these illegal structures. By the end of May 2016, in the framework of this Committee, the President of the Republic announced a total of 1,940 members neutralized in the first six months of the year, thanks to the operations that security forces have carried out in coordination with the Office of the Attorney General of the Nation. Furthermore, the GS/OAS acknowledges the importance of the Office of the Attorney General’s Directive 003 of December 2015 and Standing Directive 0015 issued by the Ministry of Defense in April 2016.

The GS/OAS acknowledges the Colombian government’s efforts to assess the needs of rural territories and residents in the 2015 Third National Agricultural Census, as well as the implementation of new institutional infrastructure regarding agricultural development that addresses rural residents’ social conflicts related to land access and ownership. The Secretariat hopes that the Colombian state will take the necessary measures so that the

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6 The Committee to Follow-Up on Organized Crime is an entity chaired by the President of the Republic with the involvement of the Ministers of Defense, Interior, and Justice, the Senior Presidential Counselor for the Post-Conflict, Security, and Human Rights, the Office of the Attorney General of the Nation, in addition to the military and police command structure. The MAPP/OAS has been invited to this Committee by the national government to make its contribution based on the monitoring it has conducted in different parts of the country for 12 years.


8 Ibid., p.1.

9 Office of the Attorney General of the Nation’s Directive 003 of December 2015 and the Ministry of Defense’s Standing Directive 0015 of April 2016 lay out the guidelines to define and confront organized armed groups. While the Office of the Attorney General’s Directive provides guidelines for prosecutors who take legal action against armed groups that are sufficiently organized and create certain levels of hostility, the Ministerial Directive specifies characteristics to differentiate between an organized crime group and an organized armed group.

10 Rural Development Agency, charged with executing rural and agricultural development policy with a territorial-based approach (Decree 2364 of December 7, 2015), National Land Agency, charged with executing social use planning of property (Decree 2363 of December 7, 2015), and the Agency for Territorial Renewal, entrusted with coordinating the intervention of national and territorial entities in rural areas affected by the conflict (Decree 2366 of December 7, 2015),
institutional transitions provided for with regard to agriculture are efficient, effective, and ensure individuals’ rights. Furthermore, this underscores the significance of the Office of the Ombudsman’s work via the Early Warning Systems throughout the country. Having these Systems in remote regions that are affected by the issues mentioned above is one of the main ways that communities can prevent, report, and highlight these issues. The GS/OAS has underscored efforts of the Colombian state and its agencies to improve security conditions and peaceful coexistence of the populations that are hardest hit by the conflict.

Comprehensive actions undertaken by security forces account for a more appropriate relationship with communities for building trust inasmuch as such actions emphasize interactions and awareness raising with communities on issues like human rights and international humanitarian law (IHL), in addition to support for community and social initiatives that assist in the necessary rebuilding of trust between communities and the State. Nevertheless, the presumption that there have been irregularities in some operations’ procedures, and the perception that intelligence agencies infiltrate demonstrations and social movements underscore concerns about some security forces and investigative agencies’ actions. Social organizations, platforms, and movements have repeatedly asserted that there is criminalization of social protest and unsatisfactory government compliance with commitments undertaken in different fora set up for addressing issues of land tenure, use, and ownership, exploitation of resources, conditions of rural development, among other issues.

4. Dynamics Linked To The Presence Of Illegal Armed Actors And Organized Crime

The so-called “armed strike” in the beginning of April 2016 led by the self-proclaimed “Autodefensas Gaitanistas de Colombia” (hereinafter AGC),11 referred to as the “Clan del Golfo”12 by the national government, specifically in the regions of Urabá-Darién, Bajo Cauca in Antioquia, and the departments of Córdoba, Sucre, and Chocó, featured distribution of pamphlets to residences, an increase in warnings and threats on social media, and offensive actions such as the “plan pistola”13 against officers of the National Police. Among the most notable effects were the restrictions on mobility and scarcity of products that disrupted residents’ daily lives, the creation of a generalized sense of

11 It should be clarified that in most regions reference is made without distinction to the Clan Úsuga, Los Urabeños, and/or Autodefensas Gaitanistas de Colombia to refer to the same group, while in other areas, like the Sur de Bolívar, there is a difference between them. In the latter case, no clear organic link among these groups is perceived, and in some areas of the region the Clan Úsuga refers to a more political faction of the group while Los Urabeños refers to the strictly military component.

12 On June 14, 2016, the President of the Republic noted in his weekly report on the fight against criminal organizations that the Clan Úsuga would no longer be called by that name in order to avoid stigmatizing individuals who have the last name Úsuga, and that the Colombian State would henceforth refer to this group as the “Clan del Golfo”.

13 The “plan pistola” [pistol plan] is a strategy undertaken by the Clan Úsuga leadership in which it sets a kind of reward for its members for each law enforcement officer that they kill. The offer, which varies from between 3 and 20 million pesos, depends on the victim’s rank in the institution.
insecurity, and spillover of the “armed strike’s” effects in other areas of the country such as Norte de Santander and the Magdalena Medio region.

In the municipalities of Canaletes and Los Córdobas in the department of Córdoba, armed groups intervene in resolving disputes in the communities and impose fines and penalties when established rules are breached. Members of the group that are recognized in these areas as “politicians” are charged with relations and interaction with residents. Reportedly, on occasions, the functions of these individuals have included authorization for minors who were forcibly recruited to return home without reprisals being taken against them.

Involvement in resolving disputes in communities has always been recognized as a mechanism of control used by illegal armed groups in some areas. The United Self-Defense Forces of Colombia (AUC) were no strangers to this practice in the territories under their influence, and their departure left a power vacuum in many cases that has manifested in difficulties in resolving communities’ internal disputes. For this reason, a lesson learned is the need to bolster arenas like the JACs so they may be revived as fitting venues for dialogue and consensus-building.

Between January and April 2016 in the municipalities of Briceño and Segovia there were homicides that set off warnings about the repercussions of these trends in the northern and northeastern parts of Antioquia. In the municipality of Segovia, members of the Clan Úsuga visited some residents’ homes and distributed pamphlets announcing the “new generation” of this group. The view in the municipality is that these violent events are linked to the realignment or divisions within this armed group. The organized armed group “Los Puntilleros” is present in Llanos Orientales, and there are reports that the “Clan del Golfo” has penetrated the area, leading to recruitment of minors in the municipalities of Mapiripán, Puerto Gaitán, and Puerto López in Meta, and San José del Guaviare, located in the department of the same name.

Since the first armed groups emerged after the AUC’s demobilization, the Mission detected the rapid changes within such groups when authorities would capture or kill one of their members. Quick realignment has become an inherent characteristic of these groups, which means that the State must have an approach with comprehensive strategies that involve not only a military or police response, but also investigation and strengthening of mechanisms for access to justice and to state services in general. Additionally, there is a need to develop strategies that are tailor-made for each territory and whose management indicators go beyond the figures on how many of these groups’ members are captured or killed.

In municipalities such as Puerto Salgar, Bogota D.C., Yacopí, Soacha (Cundinamarca), and La Dorada (Caldas), organized armed groups and organized crime groups, without distinction, are undergoing processes of realignment and reorganization. Individuals who in the past had links to self-defense, guerrilla, drug trafficking, and common criminal groups are involved in these processes. The interests of these new actors range from exercising territorial control in order to carry out organized crime activities to land snatching in order to hinder land restitution processes. These populated areas have seen
a considerable increase in small-scale drug trafficking, which might come from common crime; however, reportedly there are structures or alliances in conjunction with complex organized armed groups and organized crime groups that manage connections with all the links in the chain, from production and transportation to the subsequent sale of the drugs.

In recent years the municipalities in the banana-growing region of Urabá-Darién have experienced urban insecurity phenomena like the presence and proliferation of gangs and small-scale drug trafficking, as well as other illegal economic activities, which, in turn, are driving these phenomena. Some urban communities consider there is no incentive for peace for their communities because the messages disseminated to date address a territorial peace that is immediately associated with rural areas. Thus, the view of urban communities is that the refusal by large swaths of society to buy into the peace accord, as well as targeted decisions by the national government to assist territories of interest to the FARC-EP, may seriously jeopardize the potential for peace in the country, or in the best of cases it is not creating any incentive in urban communities affected by violence and crime.

The process of Disarmament, Demobilization, and Reintegration (DDR) of the AUC taught the importance of looking to cities as areas where there is a confluence of different dynamics that could affect the process. Large urban centers became an arrival point for those who had demobilize and sought anonymity to improve their sense of security; they were not, however, free of danger. This means that any future process needs to take cities into account as potential points of arrival, transit, and residence in the case of urban guerrilla networks, which entails not only bringing institutional services up to speed, but also follow-up and monitoring mechanisms to ensure the security of those involved in the reintegration process.

The changing relationship between organized armed groups and the FARC-EP and ELN guerrillas can be attributed more to the dynamics of the territories than to the groups’ own ground rules. These relationships fit into a scheme of maximizing profits from illegal economic activities, and reducing risks from security forces’ actions or control over specific territories; therefore, alliances and disputes are tenuous, unstable, and volatile. As for the alliances and non-aggression pacts that were entered into at some point between organized armed groups and FARC-EP and ELN guerrillas, the GS/OAS has noted some that have been maintained and others that have changed their equilibrium. Although there is no identifiable pattern or national trend, the situation is worrisome in regions like, inter alia, Baudó and Litoral del San Juan in Chocó, and Bajo Cauca and Norte in Antioquia, where alliances have been shattered, unleashing all kinds of violence and conflicts.

The level of intensity of these conflicts in the territories varies depending on the area. The first level of intensity corresponds to armed confrontations that have had serious humanitarian consequences. The GS/OAS calls attention to this situation in the regions of Bajo Cauca, townships of Puerto Claver and Puerto López in El Bagre, Antioquia; and
Baudó, Litoral del San Juan, and Darién, the Salaquí, Truandó, and Cacarica River basins, department of Chocó; in these areas armed confrontations have led to massive confinements and displacements [of the population] to the municipalities’ urban centers. These battles have pitted the Clan Úsuga against the guerrilla forces of the FARC-EP and ELN, whose joint maneuvers demonstrate significant coordination between the two insurgent groups, at least in these regions of Colombia.

A second level intensity is found in regions like the northern part of Antioquia, where the FARC-EP and the Clan Úsuga vie for control over areas with illicit crops. This has led to forced displacements, selective homicides, and the establishment of invisible borders in rural areas of the municipalities, such as what has occurred in the townships Las Auras and Pueblo Nuevo de Briceño.

In other areas, to the contrary, there have been no confrontations. The clearest example is in the south of the department of Córdoba, where the absence of fighting between the Clan Úsuga and the FARC-EP suggests that in this region at least there is respect for the areas under the control of each group. A similar situation exists between the FARC-EP and the organized crime group known by security forces as “La Constru” in the department of Putumayo, where, despite there being no explicit alliances, there is recognition of a division of territorial control wherein the FARC-EP have consolidated their presence in rural areas, while “La Constru” acts in urban centers.

Subsequent to the AUC’s demobilization, positive changes were clearly seen in many regions of the countries with regard to levels of victimization and effects on the civilian population. However, in other areas, this improvement in security conditions was not immediately felt, rather, to the contrary, greater levels of violence were seen. For this reason, the Colombian state’s decision to opportunely maintain and strengthen [early] warning systems to bring attention to situations that might alter humanitarian conditions in communities was a wise one. These systems currently allow for expeditious assistance channels to be activated where there is any risk of human rights violations.

The expansion of “Los Pelusos” into areas traditionally controlled by the FARC-EP has been consolidated thanks to the military strengthening of the EPL holdouts in 2014 and 2015, who did not suffer significant setbacks despite the death of their commander, Víctor Ramón Navarro, alias “Megateo.” However, with the capture of Guillermo León Aguirre, alias “David León,” successor to “Mageateo,” and the death of Jader Navarro Barbosa, alias “Caracho,” who was in turn the successor to “David León,” the situation of this armed group is uncertain. The view in the region is that this process has taken place in coordination with the ELN and is a transition between the armed groups with a presence in the area. The EPL and the ELN are emerging as the actors who, in a process where the FARC-EP surrendered their arms, would maintain control in Catatumbo with a

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14 According to the United Nations High Commissioner for Refugees (UNHCR), fighting in the regions of Baudó and the Litoral del San Juan in the department of Chocó have led to the displacement of 6,000 individuals and the confinement of 7,000 as of May 2016.

15 Although the national government and security forces call this group “Los Pelusos,” in the region they are historically known as the non-demobilized EPL holdouts.
marked emphasis on illegal economic activities. This expansion, accompanied by social and political actions, has a direct impact on communities’ perception about the viability of implementing the peace accords with the FARC-EP.

The GS/OAS highlighted this trend in its XXI Half-Yearly Report and continues to note realignments and the ELN guerrilla forces’ occupation of areas historically controlled by the FARC-EP, such as in Darién Chocoano, Catatumbo, the Nariño Pacific Coast, the department of Arauca, and the Serranía del Perijá. Although in some areas the communities opine that these processes are taking place by consensus or under an agreement, in the department of Arauca16 and in the Serranía del Perijá17 tensions have flared due to takeovers of the social base, incursions in the areas of influence of one guerrilla group or another, or extortion of proceeds from illegal and legal economic activities in the area. In Darién Chocoano there have been confrontations in the Salaquí, Truandó, and Cacarica River basins, leading to the population’s confinement and displacement “drop by drop.”18

The experience demobilizing the AUC showed at the time that the departure of a group from a specific territory was an incentive for other groups to seek to control it. For this reason the State’s presence was essential in those years to ensure that these areas would not become the scene of new violent incidents as a result of a new group’s arrival. With the passage of time, however, it became clear that the State’s presence had to be comprehensive and go beyond militarily recovering territory such that the State and the entirety of its institutions could be reestablished or established for the first time.

The ELN’s continued presence has been observed in the south of Bolívar. Particularly obvious in the first quarter of 2016, this was seemingly in response to the launching of security forces’ military actions to restore control. The ELN has undertaken actions to show its political and military influence and might, including kidnapping National Police officers and retaining and exercising social control over campesinos and fishermen. There have been reports of anti-personnel mines being planted once again and an increase in recruitment of minors in the municipalities of San Pablo and Morales. In the same vein, as part of the political observance of the death of one of the ELN’s historic leaders, Camilo Torres, the group engaged in activities like blowing up energy towers, an attack on palm-oil businesses’ infrastructure, blockade of roads with explosive devices, and placement of billboards alluding to the guerrilla movement in the municipalities of Morales, Simití, and Yondó (Antioquia).

Additionally, in September the ELN undertook a three-day “armed strike” that disrupted daily life in six departments of the country19 where its Frente de Guerra Oriental [Eastern War Front] operates. The most significant disruptions, however, took place in the departments of Arauca, Boyacá, and Casanare, where motorcycles, trucks, and buses

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16 In the rural areas of Arauquita and Saravena.
17 In the rural areas of Chimichagua and Curumaní.
18 Gradual displacement of communities.
19 Arauca, Boyacá, Casanare, Norte de Santander, Santander, and Vichada.

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were burned, affecting mobility between several towns. Other incidents from May to August 2016 included the kidnappings of the journalists Salud Hernández Mora and Diego D’Pablos, and the cameraman Carlos Melo in the municipality of El Tarra (Norte de Santander), and that of four rice farmers in the department of Arauca. Finally, in October, two drivers who had a contract with the Ministry of Defense were murdered by the ELN on the road from Fortul to Tame (Arauca), which they had driven on several times.

5. **Contexts Of Social Unrest In The Territories**

With the signing of the Fifth Additional Protocol at the request of the Colombian government, the GS/OAS included the monitoring of contexts of social unrest in the Mission’s work. The aim is to identify current and potential challenges that may arise in the regions, as well as scenarios that may emerge in the wake of the armed conflict’s reduction in hostilities or those that stem from the peace accord’s implementation in the regions. The MAPP/OAS has been working since mid-2015 to develop and put into practice a methodology to monitor cases of social unrest. It should be noted that this period of work has not yielded enough cumulative experience to draw lessons learned about social unrest in Colombia. Nevertheless, this period of monitoring in the regions raises the alert about social tensions that exist currently in the areas that are hardest hit by the internal armed conflict.

During this period of monitoring the MAPP/OAS has noted an increase in social protests, demands to fulfill unmet needs, and unrealized commitments to ethnic and campesino communities. Social organizations, as well as community, campesino, afro-descendant, and indigenous platforms and movements have been active in these situations. In this context of social unrest, the following tensions, which must be considered in the post-conflict period, have been identified:

The GS/OAS calls attention to different conflicts detected, such as tensions between campesinos, displaced persons, and other individuals or sectors that seek ownership over land. These tensions have been seen over land like Las Catas estate in the municipality of Ayapel (Córdoba), the Hacienda El Porvenir in Puerto Gaitán (Meta), the Hacienda Las Pavas, in the township of Buenos Aires, in Sur de Bolívar, the case of El Garzal in the municipality of Simiti, Sur de Bolívar, the case of La Alemania and La Porcelana in the municipality of Cúcuta, department of Antioquia, and the Hacienda Bellacruz, municipality of La Gloria, department of Cesar. In most cases communities see timorous
action by State institutions responsible for these matters, in addition to actors who resort to threats and even violence to resolve disputes.

Ethnic and campesino communities want a territorial-based approach that considers human capacities regarding agrofood production, sustainable use of territorial capacities, development of local economies, rural participation, in addition to protection of vested rights, and the processes of extension, constitution, or reorganization that are underway. These territorial tensions are heightened when communities regard the central government as pushing mining and prospecting for fossil fuels by large companies, when this affects ethnic-minority and campesino proposals. In response, social, campesino, and ethnic-minority organizations are preparing proposals that provide for the needs of the region, including recognition of achievements and options developed in each region. Such proposals reflect different, competing models of territorial administration and therefore underscore potential social conflicts.

Tensions over land run high in Putumayo, Caquetá, and Chocó. These tensions are made worse by the communities’ view that the central government is promoting mining and fossil fuel prospecting on the part of large companies, which undermine ethnic and campesino proposals and have adverse social and environmental impacts. In response, social, campesino, and ethnic-minority organizations are making proposals that provide for the needs of the region, from recognition of the achievements and options developed in each region, which, in turn, embody diverse models of territorial administration.

The MAPP/OAS has shown that in the regions of Antioquia, Bajo Cauca, and Magdalena Medio social impacts from extractive activities manifest in different ways in rural Colombia. For some residents of these areas, “artisanal, traditional, or small-scale” mining is closely linked to social identity and a sense of community belonging and is how they earn income to support their families and have a flow of revenue in remote places where the presence of institutions is limited. These sectors of society demand recognition of this by Colombian government institutions in the design of a labor and environmental regulation and formalization strategy. They demand a strategy that would protect them from tensions currently surrounding the stigmatization and criminalization of their work, which leave them at the whim of illegal actors who seek to take advantage of the informal nature thereof to commit illegal acts and violence.

The GS/OAS has verified emerging tensions surrounding land-use and environmental planning that underscore the problems of demarcation, regulation, and protection, among others. Currently in regions like Magdalena Medio, the Macarena Special Management Area, and other environmentally protected areas there are agricultural, ranching, and extractive activities underway that have significant environmental impact. Continuous unlawful removal from the Amazonian Forest Reserve Area or the occupation, settlement, and exploitation by campesino and mining communities of the Serranía de San Lucas (Sur de Bolívar) or Serranía de Los Yariguíes (Santander) are an indicator of the changes in these territories’ use and vocation, which in some cases

\[21\] Established pursuant to 2nd Law of 1959.
overlap with legal constructs that may not be compatible, constituting economic models and visions of land that are inconsistent with the environmental protection regimes proposed by the State.

In this regard, ethnic-minority and campesino communities that have settled in these territories demand clear and definitive support from Colombian state institutions to create communities that understand caring for the environment as part of human and economic development. This includes use of land resources for the continued existence of their own cosmovisions through the utilization of ecosystem resources that represent a significant source of income for the regions’ inhabitants, as well as the design of strategies that enable them to settle in other territories with a roadmap for economic and social stability.

Furthermore, the emergence and independent strengthening of civil society organizations, and social, popular, ethnic-minority, campesino, and labor platforms are invigorating democratic dialogue, fostering processes of local dialogue and committees for discussion in a quest to fulfill unmet needs with regard to access to goods and services for communities historically neglected due to their geographical location or the significant impacts of the armed conflict. A challenge the GS/OAS identifies is overcoming community, social, and rural sector polarization and stigmatization that have resulted from the internal armed conflict, as well as the situations of exclusion of sectors of civil society that have no economic or political weight. From this point of view it is vital that the Colombian government take affirmative action regarding civil society’s social and organizational capital.

In indigenous and afro-descendant territories, one of the issues that is currently triggering multiple social conflicts is closely linked to the social and environmental impacts stemming from mineral and fossil fuel extractive activities, as well as to the serious harm that illegal mining brings. Indigenous peoples like the Zenú communities of the Alto San Jorge have begun assessments of health impacts from mineral prospecting upon request of Colombian constitutional judges. The indigenous communities of the Putumayo are also affected by restrictions on ownership of land they conceive of and manage as ancestral territories due to fossil fuel concession and projects. This has been detrimental to their organizational and self-governing bodies, showing how highly vulnerable ethnic communities are to social unrest when it is a question of violations of their ethnic-territorial rights.

In regions like the Cauca, Urabá, Córdoba, Cesar, Meta, Nariño, and Norte de Santander, the conflict over access to land is straining the relationship between campesinos, indigenous people, and afro-descendants. Groups of campesinos have initiated and strengthened settlements in collective territories, demanding recognition of the ‘campesinado’ as a political subject, and thus access to lands under the same conditions as ethnic-minority communities. This gives rise to competing views about the world and types of territorial administration. A clear example of this competition for land access is the current tensions that exist over the request to create Zonas de Reserva

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22 Like La Paya National Park, or incompatible like the Campesina Reserve Area of the Perla Amazónica.
Campesina [Campesino Reserve Areas] (ZRC), which in some cases involve part of the territories recognized or in the process of being recognized as belonging to indigenous and afro-descendant communities. Ethnic-minority groups that have not received appropriate attention to their needs from the State see administrative acts like recognition of campesino organizations and community boards within their collective territories as harming and violating their rights, as is the case in the department of Nariño involving Community Councils, Indigenous Reservations, and a Campesino Association.

Furthermore, the presence in territories currently of illegal armed actors who intervene in the decisions of ethnic communities and impose political, economic, and social agendas is undermining the autonomy of ethnic-territorial authorities. The agendas pushed by these actors have led to: (i) Prohibition of ethnic-minority communities’ own forms of government; (ii) push for purchasing lands within collective territories; (iii) social vilification of ethnic-territorial authorities when positioning their own leaders; and (iv) interference in formulating plans for ethnic development and safeguard plans by imposing their interests. This intervention has weakened ethnic-minority groups and their ethnic-territorial authorities to the detriment of their constitutionally and legally recognized rights.

Additionally, the presence of some actors and political platforms that irregularly inhabit collective territories and have solid backing and political capital compete with traditional organizations, creating obstacles to community councils’ ancestral and territorial authority. Some of these irregularities have been reported, but have not been fully addressed by local authorities. The GS/OAS calls attention to the dangers posed by the creation of parallel organizational structures in disregard for and violation of Law 21 of 1991 and Law 70 of 1993 in collective territories.23

As part of the tensions described above, what has emerged as a catalyst for escalating and underscoring them is the fact that at the negotiation table between the Colombian government and the FARC-EP, there has been talk of establishing Zonas Veredales Transitorias de Normalización [Transitory Rural Settlement Zones for Normalization] (ZVTN) and Puntos Transitorios de Normalización [Transitory Normalization Points] (PTN) in municipalities with a high density of ethnic-minorities’ collective territories or even within such territories. This flies in the face of the criteria announced by the Colombian government for the location of these points and zones. This talk has polarized positions in ethnic-minority and campesino communities that inhabit these regions and escalated territorial and inter-ethnic conflicts that had been latent. The foregoing requires the Colombian government’s immediate attention with regard to its structural causes.

The GS/OAS has alerted the State that it should establish a strategy of social dialogue regionally and nationally that acknowledges the social capital of community, ethnic-minority, and campesino organizations, ethnic-territorial authorities, and other kinds of organizational structures in order to coordinate territorial management and peace-building proposals that do not exclude any sector of society and enable situations of

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23 Law regulating policies on afro-Colombian associations.
vulnerability, exclusion, and marginalization that affect populations to be overcome. Furthermore, it is important for democratic dialogue to recognize and address existing and potential socio-environmental and socio-economic conflicts that are seen in the territories. To this end, it is necessary for economic sectors to be invited to participate in this strategy of open, frank, and sincere discussion, thus making headway towards a preventive rather than a reactive approach to social conflicts.

With respect to social dialogue, the Mission has since 2014 been supporting and facilitating the dialogue established between the Colombian government and the Regional Working Group of Social Organizations of Putumayo, Baja Bota Caucana, and Cofanía Jardines de Sucumbíos, for purposes of reaching joint agreements on: (i) A proposal to substitute illicit crops; (ii) social investment in the department; (iii) the mining, energy, and environmental issue; and (iv) the human rights situation and protection guarantees. Progress has been made in each of these under committees, and of note are the accomplishments of the Environmental and Mining-Energy Committee, which already has a technical report that was prepared and presented by the Technical Team of the National Government’s Social Organizations Working Group. Progress is likewise notable in the joint proposal for illegal crop substitution in the region. This proposal suffered some impasses that led to social mobilization; however, these have been surmounted thanks to the parties’ commitment to dialogue and the MAPP/OAS’ impartial work.

The support of the Mission to this and other arenas for dialogue, like those being developed with the U’wa nation, show the importance of establishing this kind of discussion to prevent and address social conflicts, as well as to prevent the use of violence as a mechanism for positioning a social agenda and demanding rights.

6. Lessons From Justice And Peace For Future Scenarios Of Transitional Justice

Colombia has made efforts to consolidate a system of coherent and responsible transitional justice in keeping with the principles of respect for human rights and international humanitarian law. In this sense, several proposals were developed that took into account lessons learned, as well as valuable inputs from other instruments of transitional justice, such as the Justice and Peace Law. Without this latter process with the AUC, it would not have been possible, for example, to raise the need for including mechanisms to shed light on the truth, the nature of which was not exclusively judicial.

The tool of justice ultimately defined for the peace process, whose aim is to surmount human rights violations, may constitute the most important touchstone in the fight against impunity if it is successfully able to clarify incidents, contexts, complicity, and involvement of third parties, especially in massacres and military actions that have not been revealed in their real magnitude, i.e., the Orión Operation (2002), the massacre of La Rochela (1989), and the genocide of the Unión Patriótica, among others. The Justice and Peace Law, although it is the most important benchmark to date, has been unable to fully include in its investigations and subsequent rulings all perpetrators. It was only limited to the postulados [those seeking to avail themselves of the Justice and Peace Law], thus...
leaving the investigation and prosecution of third parties to the regular justice system. The new mechanism must seek to compile all the statements from the *postulados* who admitted the relationship between paramilitary groups and third parties.

Furthermore, if transitional justice successfully coordinates with the regular justice system in a timely manner, an effective collaboration may come about to fight against illegal economic activities in the territories, as well as to prosecute acts of corruption. By including in this special jurisdiction different visions and understandings of regional dynamics, acts of corruption may come to light that have not been prosecuted under the regular justice system or the Justice and Peace jurisdiction.

Justice and Peace resulted in significant progress with regard to an historical understanding of many actions and dynamics. The initiatives of the Justice and Peace Judiciary of Bogota to have a better understanding of the historical forces behind the conflict in Magdalena Medio are noteworthy, as is the important initiative of the Judiciary of Medellin aimed at having as many points of view as possible on the events that took place in Bojayá. The perspectives that come to light in the confessions of individuals who are demobilized/postulados and the contributions made by victims— which both the Office of the Attorney General of the Nation and the Judiciary compiled—can contribute to a large degree to historical truth.

When used in the implementation of transitional justice tools, the principle of conditionality should posit that there can be no special treatment unless contributions are made that help to uncover the truth, in addition to a commitment to guarantees of non-repetition. It will, however, be important to regulate the scope of conditionality; the lack of a unanimous criterion with respect to the enforcement of Justice and Peace produced vacuums when it came to legal decisions on whether individuals were deserving of alternative sentences.

The Mission has, from the outset, supported implementation of Justice and Peace and is mindful of the logistical, administrative, and financial difficulties that implementation thereof has entailed and continues to entail. A similar situation should be expected with regard to use of the new legal tool for the peace process, the Special Jurisdiction for Peace (SJP), given that the large number of cases to be taken up, the complexity thereof, and from time to time, a lack of legal information, will lead to moments of procedural backlog that may be reduced via the use of suitable data processing mechanisms as well as technology that makes it possible to search case files in real time and compare past information to potential matches.24

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24 The IACHR has taken note of the MAPP/OAS’s observations and understands that the SJP—as a tool for justice developed for the peace process—could become an important benchmark in the fight against impunity. Nevertheless, the Commission is concerned that the SJP may not manage to achieve the level of coordination necessary with Justice and Peace to shed light on facts, contexts, complicity, and third-party involvement in serious human rights violations and massacres—the magnitude of which has not yet been fully ascertained—as the scope thereof does not include all perpetrators, but rather only the postulados [those seeking to avail themselves of the Justice and Peace Law], leaving the regular justice system to handle crimes committed by third parties.

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Based on experience, in future legal scenarios, determining the incentive for acknowledging responsibility will be key for two reasons: (i) acknowledgment should not be the only requirement for obtaining benefits under this jurisdiction; and (ii) the incentive must be conditional upon true verification that the crimes were indeed committed by the individual admitting to them, thus preventing there from being fewer individuals who incriminate themselves—bearing in mind the joining of cases under a single sentence—especially if such individuals have already been convicted or have already served more than eight years.

The monitoring done by the MAPP/OAS for more than nine years has revealed that Justice and Peace prosecutors received case files that referenced only insurrection and related crimes, the name of the guerrilla group, or the fact that the crimes had been committed in the context of the armed conflict. There were also convictions of guerrilla members wherein insurrection was not charged as the underlying offense; in some cases aggravated conspiracy was the main offense charged, while in others the punishable offense is simply mentioned without any indication of an underlying offense of insurrection or belonging to the insurgency. The quantity and quality of the information referred by the Superior Council of the Judiciary and the Office of the Attorney General of the Nation will constitute one of the challenges under the new jurisdiction.

Bringing the judiciary and the communities closer together is one of Justice and Peace’s signature achievements. The most significant hearings are being conducted in the territories and attempts are being made to ensure the presence of the largest number of victims possible in the most important procedural forums. The opportunities victims have to participate in this new process should be the same as those enjoyed by the victims under Justice and Peace. Accordingly, another of the most significant challenges to whatever system is ultimately adopted for the peace process with the insurgent groups will have to do with the need to ensure the active participation of victims in the process, wherein both procedural notice as well as a mechanism that can guarantee the real participation of the victims will be necessary. This should be active and offer them the possibility to make statements regarding the beneficiaries’ acknowledgment [of responsibility] and even provide their own version of the facts.

Bearing in mind the lessons that came out of victims’ assistance days in the framework of Justice and Peace, any legal adjustment that entails transfer of jurisdiction or changes in current procedures must be timely and duly explained to the victims, among others, via mass communications strategies on transitional justice that resolve questions and concerns that victims have these days about the complementarities or links between the existing mechanisms.

When the Justice and Peace Law was being developed, an Inter-Agency Coordination Committee was created under Article 21 of Decree 3391 of 2006; the idea behind the Committee was to encourage harmonious collaboration among the branches of the judicial system.

Note: The IACHR has once again taken up what was noted by the MAPP/OAS with respect to the level of victims’ participation vis-à-vis the obstacles thereto that existed under Justice and Peace in order to underscore the fact that the State must necessarily ensure that [victims’] involvement in the new transitional justice process is effective.

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government, its primary function being to foster coordination and collaboration in the actions taken by state entities involved in enforcing Law 975 of 2005. Improvements in efforts among agencies led to better outcomes in the enforcement of the Justice and Peace Law as well as in consolidating the rights of both the victims and the postulados, thus giving rise to a lesson learned that should be taken into account when implementing all transitional justice tools. The GS/OAS is convinced that enhancing coordination between the new transitional justice tool, Justice and Peace, and entities like the Unit for Support and Comprehensive Redress of Victims (UARIV) on matters such as collective redress for communities affected by the violence will lead to better outcomes.

The implementation of Justice and Peace has reinforced the need to have a monitoring system in place—in cases of restriction that do not require imprisonment—that is consistent with the requirements of the process. In this scenario, the employment of technologies that can be broadly monitored by civil society and/or international partners may help to minimize the risk of violations of this type of restrictions.

In cases of deprivation of liberty under the regular [justice] system, the GS/OAS has suggested that a system of special detention conditions be created that provides decent living situations and includes educational and work training projects that are consistent with the profile of the detainees.

A key point to bear in mind in connection with the implementation of all transitional justice legal mechanisms is the judicial review of the cases of guerrilla members who are in prison. This review entails procedural vetting such that potential beneficiaries of pardons or non-custodial punishments may be released. While this process is underway, it is crucial to have a post-conflict approach to imprisonment and for this it is important to create decent conditions for inmates and enable a swifter and more effective review of cases.

7. Contributions With Respect To Prisons And Penitentiaries

Prisons and penitentiaries are critical to the development of transitional justice and thus, the MAPP/OAS has been committed to consolidating a comprehensive system of supervision in transitional justice scenarios based on ongoing support and monitoring inside prison walls. Such presence is reflected in more than 400 visits to detention centers that have led to improvements in living and health conditions as well as with respect to overcrowding, while at the same time promoting differentiated treatment of combatants or ex-combatants in prison.

Since 2006, the MAPP/OAS has made more than 400 visits to different prisons where members and former members of armed groups are and were being held. During such visits, it observed situations that compromise habitability. The MAPP/OAS has also prepared a number of reports on the effect of imprisonment on transitional justice that provide evidence for the need to have special systems in place that enable the normal development of both judicial and extrajudicial tools. This translated, for example, into
the creation of a special detention system under Justice and Peace by means of Resolution 06305 of 2009.\textsuperscript{26}

In the framework of the peace negotiations being advanced by the national government with the FARC-EP, an agreement was reached between the Larga Vida a las Mariposas [Long Live the Butterflies] Coalition\textsuperscript{27} and a number of members of FARC-EP inmate collectives to expedite a confidential report about the status of members of guerrilla groups being held in Colombian jails. To that end, the MAPP/OAS brought a series of findings to the attention of the competent government institutions according to which some of the rights of the aforementioned inmates were allegedly being violated.

With this understanding, the MAPP/OAS encouraged the creation of three forums for inter-agency coordination as well as for the participation of the self-proclaimed “Political Prisoners of War” and the attorneys representing them. These forums also include the Office of the Attorney General of the Nation, the Office of the Ombudsman, the National Institute of Legal Medicine and Forensic Sciences (INML), the National Penitentiary and Prison Institute (INPEC), the Penitentiary and Prison Services Units (USPEC), the Health Fund for Persons Deprived of Liberty Consortium, comprised of FIDUPREVISORA S.A., the Ministry of Justice’s Office of Criminal and Prison Policy, and the MAPP/OAS.

The GS/OAS identified high levels of alleged violations of the rights of inmates in Colombian prisons and penitentiaries who belonged to insurgent groups. These were discussed in three working groups, broken down as follows: (i) Working Group on Monitoring and Accompaniment related to Health Care; (ii) Working Group to Call Attention To and Monitor Alleged Cases of Cruel and Inhuman Treatment and Torture; and (iii) Working Group to Follow Up on the Implementation of Precautionary Measures, “José Ángel Parra Bernal.”

The Working Group on Monitoring and Accompaniment related to Health Care provided evidence on the need to visit inmates from the target group in order to verify conditions where they are being held given the serious state of vulnerability they are allegedly in. In view of the foregoing, the MAPP/OAS, accompanied by the Office of the Attorney General of the Nation, the Office of the Ombudsman, and representatives of Larga Vida a las Mariposas, made 24 visits to detention centers.

Such visits served as the basis for a report that contains an analysis of the current conditions the inmates on the list provided by the Office of Criminal and Penitentiary Policy are living in. Based on the description of the inmates’ living conditions, a series of recommendations were made; the authorities have been implementing these recommendations little by little. Their efforts have, however, been insufficient given the

\textsuperscript{26} Resolution 06305 of 2009 issued by the Director General of the National Penitentiary and Prison Institute (INPEC), which established the “Special Internal Regulation for Justice and Peace Facilities and Complexes.”

\textsuperscript{27} The Coalition for the Decent Treatment and Liberty of Political Prisoners, Larga Vida a las Mariposas, is a group that brings together different organizations seeking to advocate for the dignity of individuals deprived of their liberty because of their political activities and/or opinions. The Coalition aims to call attention to potential conditions of uninhabitability, basic sanitation, health, food, access to public information, and access to family life for those being detained because of possible ties to guerrilla groups or human rights defense organizations.
needs of the prison population. The report focuses on the living conditions of the inmates in question vis-à-vis their health, the response capacity of INPEC’s institutional actions with respect to medical assistance needs, and the supply of and access to specialized medical treatment in cases of emergency or to procedures for specific diseases or injuries that so require them.

The main situations observed include, for example, an oversupply of general medical services, compared to a dearth of specialized medical care, faulty diagnoses, and little access to other types of therapeutic treatments. For example, cases were found of cancer patients who had been seen more than 30 times by a general practitioner, but only once by a specialist. Some prisons and penitentiaries have the infrastructure to provide care. They do not, however, have specialists, as is the case with physical therapists. It is worth nothing that the high number of inmates with disabilities who were guerrilla members creates the need for these types of therapies.

The Working Group to Call Attention To and Monitor Reports of Alleged Cruel and Inhuman Treatment was convened out of the need to effectively expose cases in which there is reportedly conduct that violates the dignity of inmates from the target population through cruel, inhuman, or degrading treatment by agents of the state or other factors of violence. Along these lines and bearing in mind the severity of the reports, the Mission convened a Working Group in order to establish a suitable and expeditious mechanism for reporting acts that might constitute torture and cruel, inhuman, or degrading treatment or punishments. Continuous reports of corruption and mistreatment constitute a barrier to the assertion of health-related rights. Although these types of situations exist in the prisons visited, the reports of cruel and inhuman treatment in the “La Tramacúa” of Valledupar (Cesar), La Dorada (Caldas), Picota (Bogota), Arauca (Arauca), and Acacias (Meta) prisons, among others, are concerning. In addition, attention should be given to the fact that the Immediate Reaction Group was used in circumstances that did not warrant the employment of force.

One decisive problem is the degree of mass incarceration, which most of the time exceeds the theoretical holding capacity. Overcrowding is also increasing due to the high number of inmates in pretrial detention who may remain behind bars for years while awaiting trial or even remain in prison for longer than the maximum sentence would require. In such cases, the extremely high rates of overcrowding in the prisons in Cali and Pereira are of concern. Moreover, the physical infrastructure of most prisons is not appropriate for persons with disabilities.

As to actions taken in the context of preventing torture, the GS/OAS believes it is important to not be limited by visions whose objective consists of jailing the enemy. The
idea here is to move forward in the post-conflict framework toward a concept of transitional custody and treatment until such time as pardons or prison sentences are given under the transitional justice system. Accordingly, the MAPP/OAS has spearheaded training for new prison guards on topics related to the concentration of FARC-EP inmates in some penitentiaries, among them La Picota (Bogota) and Barne and Chiquinquirá (Boyaca). Such concentrations are part of a recruitment effort for the Special Jurisdiction for Peace with respect to prisons. In accordance with the efforts undertaken, and now that the public phase of the peace process with the ELN has begun, the Mission is encouraging development of a road map that leads to the concentration of ELN guerrillas imprisoned in different Colombian penitentiaries.

In the Working Group examining the José Ángel Parra Bernal case, information was shared about the health of inmate José Ángel Parra Bernal, a member of the FARC-EP, who is suffering from cancer and requires special medication that must be provided in order to prevent his health from deteriorating. Thanks to this Group’s efforts, INPEC and the entities responsible for providing health care to prisoners are providing Mr. Parra with the care and assistance he needs.

8. Importance Of Guarantees Of Non-Repetition In The Framework Of Transitional Justice

The successful conclusion of cases that ensure legal protection for all those involved and that boost victims’ trust through comprehensive legal redress will be of the utmost importance when it comes to building a stable peace following the accords. To that end, the Mission highlights the efforts of the Office of the Attorney General of the Nation to implement a closing strategy; it nevertheless recommends increasing the participation of victims during this stage so that, where necessary, they will be prioritized in the macro-judgments and able to understand the possibility of obtaining redress through the early termination of cases.

Another important aspect of peace building has to do with efforts to fight impunity. Accordingly, the GS/OAS recommends a thorough review of the certified testimony from the Justice and Peace postulados, including testimony archived by the Prosecutors’

31 This individual is the beneficiary of precautionary measures granted by the Inter-American Commission on Human Rights. Precautionary Measure No. 363/11. Available at: https://www.oas.org/es/cidh/decisiones/pdf/2015/MC363-11-ES.pdf

32 The IACHR also made reference to the situation of Mr. José Ángel Parra Bernal García, who is the beneficiary of a precautionary measure granted by the Commission last year. The request for precautionary measures alleges that the beneficiary is reportedly at risk because he is not receiving proper health treatment for his health conditions at "La Picota," a medium- and high-security penitentiary located in Bogota, where he is currently being deprived of his liberty. After examining the arguments of fact and law, the Commission believes that the information, in theory, shows that the beneficiary is in a serious and urgent situation because his life and personal integrity are at risk and hence asked the State to adopt the measures needed to protect Mr. Parra Bernal García’s life and personal integrity.

33 The IACHR also agrees with the appeal being made by the MAPP/OAS to ensure that legal certainty prevails in criminal prosecutions and that the rules be clear and adhered to by defendants and judges alike, and that victims’ rights to the truth and to redress—which are not rights exclusive to transitional systems—be taken into account.
Offices. This would help get to the bottom of certain facts and above all, establish who was responsible for the crimes committed by the AUC.

One factor that could adversely affect non-repetition lies in the disqualifications set forth under Law 1424 of 2010 for ex-combatants. Despite the fact that those who demobilized and comply with this law may have their convictions suspended, they will be prohibited from working for the government or obtaining or keeping up professional licenses, and, after they are convicted, some private employers may opt to fire them. A number of those who demobilized lost their jobs when they complied with the Law’s requirements and have thus expressed their clear intent to return to the illegal armed groups. There could be a mass exodus of demobilized members of the AUC from lawfulness into unlawfulness if some sort of law that eliminates these barriers to the labor market is not passed.

The GS/OAS further suggests that to the extent possible, peaceful solutions be sought to the problem of organized armed groups or organized crime groups, given that a policy of submission [to justice] has to be attractive enough to persuade these organizations to submit to justice bodies. In this regard, the MAPP/OAS is supporting legislative efforts such as the process to reform the Criminal Procedure Code and Law 1779 of 2016, which set forth precepts that promote the submission of these illegal structures via certain procedural prerogatives.

The GS/OAS is making an appeal for a process of submission [to justice] and prosecution in which legal certainty prevails and the rules are clear and followed both by those submitting to the systems and by State authorities. Any mechanism that encourages submission must take into account the rights of victims to the truth and redress, which are not exclusive to transitional systems. Mechanisms in the regular justice system, whereby victims of similar crimes and criminal actions would receive different benefits because of who the perpetrator was, cannot be allowed.

9. Challenges In The Disarmament, Demobilization, And Reintegration Processes In Colombia

The MAPP/OAS has verified and monitored the Disarmament, Demobilization, and Reintegration (DDR) process since 2006. Over the years, the Mission has managed to forge a relationship of trust, not only with the institutional actors involved in the reintegration process, but also with demobilized persons by taking up and channeling their concerns and needs. The MAPP/OAS was involved in the monitoring and verification of 31,696 ex-combatants in 36 demobilization events and in the surrender and destruction of 18,002 weapons.

In the past 10 years, more than 140 focus groups have been held (46 of which were exclusively with women) with ex-combatants from the AUC, FARC-EP, ELN, and the Guevarista Revolutionary Army (ERG). This has enabled collaboration with the Colombian Agency for Reintegration (ACR) for purposes of providing recommendations regarding the development of strategies as well as of raising the profile on the main difficulties and challenges the reintegration of ex-combatants in the country poses.
Having a significant presence of international verifiers with a mandate to engage in monitoring and with access to the ZVTN is a measure that was adopted to minimize potential hostilities between the FARC-EP and state law enforcement and to reduce the impact on the civilian population in those territories. Nevertheless, experience tells us that the main challenge lies in protecting communities that fall outside the concentration zone, in the area of influence of the armed group that is in the process of disarming.

One of the primary difficulties in verifying the cessation of hostilities vis-à-vis the civilian population is the overlap of zones of influence with other illegal armed groups. Regardless of the peace decisions made by an armed actor, in those territories illegal economies persist that provide livelihoods to some of the communities’ families and still hold the interest of other illegal armed groups. This makes it difficult to establish guilt; in fact, in the case of the AUC, the commanders questioned their responsibility in some of the cases presented by the MAPP/OAS arguing that other illegal groups were present in that area when the hostilities occurred.

Based on the foregoing, it will be necessary to anticipate protection for residents of those areas—ongoing presence of the State accompanied by international organizations to deter and monitor the risks and threats to peace in those territories both during and after the concentration and surrendering of arms.

Transparency and clarity with respect to the commitments undertaken with communities and institutions are likewise important. With the implementation of the ZVTN it is common to have an area that is relatively isolated begin to receive attention from State institutions, civil society organizations, and even international organizations. In such a context, it is necessary to be very clear in the outreach briefings held with communities and local authorities in order to avoid raising false expectations. This means not trying to manage too broad or abstract a list of actions or falling victim to “good intentions” that are difficult to fulfill. On the contrary, clarity when defining the terms will also be important for avoiding ambiguity and different interpretations when it comes to implementing the process. From this perspective, it would be a good idea to take minutes of all meetings and to follow up on commitments. All of the above should be aimed at building trust with communities that have traditionally been under the influence of guerrillas and avoiding the feeling later that “the State is not living up to its commitment.”

It is recommended that weapons be registered at the very same time that combatants are being concentrated and disarmed. The time factor should not come before either security or transparency which is why it is important to determine what type of weapons they are and the working order they are in when turned over in order to register them properly in the official document that will be made public. The protocols necessary should be developed in order to ensure this is all done transparently, sending a very positive message regarding implementation of the process.

Generally speaking, large rural production projects have not worked in recent reintegration processes. They have failed for multiple reasons including a lack of effective technical knowledge, low levels of understanding of crucial things like large-scale marketing, adverse climate conditions, the loss of project funds or materials, delays in
disbursements, internal tensions among demobilized persons—among them evidence that some former commanders attempted to keep privileges over their companions—and, on occasion, tensions between demobilized persons and the operator or company that was managing the project, *inter alia*.

Another factor leading to tension are the expectations and demands of both victims and the neighboring communities who insist, by every right, on being taken into account in these sorts of projects. Putting this type of integration into practice among different population groups requires time, psychosocial support, and other needs that add complexities to a project that must be economically sustainable. Consequently, when executing large production projects, such projects must go beyond initial investments of seed capital and the desire to create substantial numbers of jobs. Reducing the level of complexity in the management of these projects is advisable if you want to improve the likelihood of success, and can be achieved by having a reduced number of participants and selecting demobilized individuals with the profile for and experience in the sector in question, with matching interests and expectations, and who all live in the same area in order to avoid high transportation costs.

With respect to female ex-combatants, if the figures presumed about the composition of the members-in-arms of the FARC-EP (35-45% women) prove to be true, this would mean greater participation of women in the current reintegration program in which just 20% of the active population are women. It is thus necessary to prepare for and consider the specific needs that these female former combatants might have. For example, specialized psychosocial care to move past the gender-based violence they may have suffered while they were involved in the armed group; and work on a “re-definition” of what it means to be a mother for all those women who had children during the armed conflict and have never experienced motherhood or raised their children in another context.

In addition, flexibility must be sought in schedules in order to make participation in the reintegration program activities and being a mother—and sometimes, head of household with dependent children—as well as work-related needs compatible; or the demand for their own distinct and differentiated opportunities to address, among women exclusively, matters they would not dare discuss in front of male participants. Added to this should be the challenge of how to make the most of and constructively encourage women’s leadership among those women who held leadership positions in the FARC-EP and the ELN during the armed conflict and who wish to continue to play an active role in peace building.

Another especially sensitive topic is that of a differentiated reintegration route that bears in mind the traditions and importance of the return of indigenous ex-combatants who wish to go back to their own communities. If the percentage of indigenous people who

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34 MAPP/OAS recommendations based on the lessons learned from the process of reintegrating the AUC. Unpublished document. Confidential and restricted use of the MAPP/OAS.

demobilized during the AUC demobilization was practically anecdotal, in the case of the FARC-EP, the indigenous component takes on particular significance because of the ongoing recruitment that occurred over the decades in territories with a strong base of indigenous peoples.

Regarding the safety of ex-combatants, it should be noted that if the main fear that existed before the AUC demobilized was the potential harm that AUC combatants might suffer at the hands of the guerrillas, reality showed that such fear was groundless. On the contrary, dissident or recidivist groups that emerged or reorganized following the demobilization were the ones that reportedly caused the main harm.

Weaknesses are still being seen with respect to the investigation and prosecution of crimes committed against demobilized persons. According to ACR data, the number of demobilized individuals who were murdered between September 2012—when the public phase of negotiations in the peace process with the FARC-EP began—and May 2016, reached 753 demobilized persons, of whom 213 (28%) belonged to the FARC-EP. The rate of prosecution for these crimes is unknown.

In order to better protect the safety of ex-combatants, it is necessary to pay attention to dissident or recidivist armed groups that emerge or reorganize after the surrendering of arms. The risks cut two ways, both with the involvement of combatants who return to the violent dynamics that characterize these groups, and the risk ex-combatants run when they refuse to rejoin such groups.

10. **Comprehensive Redress For Victims Of The Armed Conflict**

Transitional justice in Colombia has endorsed and placed at the center of the discussion the rights of persons affected by the internal armed conflict. From Law 975 of 2005 (Justice and Peace Law) to Legislative Act 01 of 2012 (Legal Framework for Peace), instruments have been developed and designed to guarantee and fulfill the rights of victims. In this context, the GS/OAS reaffirms that Law 1448 of 2011 (Victims and Land Restitution Law) has become one of the most important mechanisms for promoting a

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36 Law 975 of 05, the “Justice and Peace Law,” published in Official Journal No. 45.980 of July 25, 2005. This Law set forth provisions for the reintegration of members of illegal organized armed groups so they could effectively contribute to the building of the national peace, as well as other provisions for humanitarian agreements. Reformed by Law 1592/12. The IACHR likewise takes note of what the MAPP/OAS has indicated regarding the fact that since Law 1592/12 was issued, which reformed Law 975/05, and the investigative mechanisms designed to reconstruct macro-criminal patterns of the FGN were implemented, there has been an exponential rise, as of August 2015, in the number of judgments handed down by the different Justice and Peace courts, reaching a total of 34 judgments, as well as a bringing together of the judiciary and the communities.

37 Legislative Act 01 of July 31, 2012, “By means of which legal instruments for transitional justice are set forth in the framework of Article 22 of the Constitution and other provisions are established.”

lasting peace in Colombia by recognizing the people affected by all the armed actors involved in the systematic violation of human rights in the context of the armed conflict.\textsuperscript{39}

The GS/OAS underscores the importance of the implementation of transitional justice mechanisms that have enabled peace building in Colombia. Within this context, important progress and challenges have been identified in the recognition and guarantee of victims’ rights to the truth, justice, and comprehensive redress.

The beneficiaries of collective redress\textsuperscript{40} of the El Tigre community in the municipality of Valle del Guamuez underscore the positive impact of the “Entrelazando” [Interweaving] Strategy,\textsuperscript{41} which is part of the community rehabilitation measures\textsuperscript{42} implemented by the UARIV in the framework of the comprehensive plans for collective redress\textsuperscript{43} (PIRC). The GS/OAS acknowledges that in the implementation of this type of strategies, the victims have collectively moved forward in acknowledging what happened and are contributing to the rebuilding of social relationships, giving rise to community narratives to recover collective spaces that were broken down by the conflict.

Furthermore, the GS/OAS highlights the contributions made by the National Collective Redress Cases Strategy between September 2015 and April 2016, primarily by establishing itself as a stable and ongoing channel for dialogue between different sectors of society and the Colombian government. This strategy aims to implement collective redress processes, using a policy approach, for severely victimized social and political groups.

The National Collective Redress Cases thus far have been: Asociación Nacional de Usuarios Campesinos [National Association of Campesino Users] (ANUC), Red Nacional de Iniciativas Ciudadanas por la Paz y contra la Guerra [Network of Citizen Initiatives for Peace and against War] (ANUC), and Red de Asociaciones de Usuarios Campesinos (RAUC). These organizations have been active in a number of collective redress cases, including cases related to land restitution, human rights violations, and other forms of collective harm.

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\textsuperscript{39} The Inter-American Commission on Human Rights agrees with the MAPP/OAS in valuing the progress made with respect to land restitution and on the fact that the State continues to face major challenges when it comes to ensuring the safety of leaders and claimants, as well as in securing inter-agency coordination to comply with legal decisions. Accordingly, the IACHR […] has consistently recommended that the State adopt the necessary measures […] and ensure the effective participation of the victims in the fora provided for under Law 1448.\textsuperscript{44}

\textsuperscript{40} Collective redress is a right enjoyed by groups, peoples, or political and social organizations affected by the violation of collective rights, the violation of individual rights of the members of the collectives, or the collective impact of the violation of individual rights. Collective redress is a component of comprehensive redress and refers to a set of measures to politically, materially, and symbolically provide redress, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Those who qualify for collective redress include political and social groups and organizations; specific communities based on legal, political, or social recognition or based on culture, the area or territory they live in, or a common purpose.

\textsuperscript{41} The “interweaving” strategy aims to help rebuild the social fabric, reestablish trust, and strengthen peaceful co-existence in communities that were victims of the armed conflict. It fulfills the provisions set forth in Articles 2.2.7.5.5 and 2.2.7.5.6 of Decree 1084 of 2015 and is framed within the same approach to redress established under Law 1448 of 2011: (I) Focused on harm; (II) differentiated perspective; (III) transformative approach; (IV) comprehensive nature of the redress; (V) victims as subjects of rights. It lasts three years.

\textsuperscript{42} Rehabilitation as a reparation measure consists of the set of strategies, plans, programs, as well as actions of a legal, medical, psychological, and social nature, aimed at reestablishing the victim’s physical or psychosocial conditions. Article 135 of Law 1448 of 2011.

\textsuperscript{43} Comprehensive collective redress plans bring together activities or actions deemed by the collective subject to provide redress for the harm caused by the internal armed conflict. Provided for therein are the perpetrators, estimated costs, and execution timelines. In order to develop a PIRC, resources from the UARIV as well as from the multiple entities of the National System for Support and Comprehensive Redress of Victims (SNARIV) are required.
Peace and Against War] (Redepaz), the Association of Councilmen, Journalists, and Deputies, agencies for community action, *Instituto Popular de Capacitación* [People’s Training Institute] (IPC), and unions. Although challenges exist for implementation of this strategy—such as a lack of instruction that would enable the parties to the cases to distinguish between collective redress and individual redress—\(^4\) the dissemination of collective redress and its scope within the National Cases has managed to attract institutions to help develop the PIRC, demonstrating tangible contributions by offering opportunities to bring cases before different entities of the Colombian state.

The GS/OAS also believes that putting together an historical memory from the territories—with the involvement of the victims and their organizations—is a way to bring dignity to the victims. The National Center for Historical Memory (hereinafter, CNMH) has spearheaded important efforts by having victims participate in its own investigations. To date, 35 investigations have been published, and there are 34 more underway.\(^4\) Currently, the challenge lies in linking all of these historical memory initiatives and investigations to new mechanisms for establishing the truth that have been created under the system for truth, justice, redress, and non-repetition. This should lead to synchrony and dialogue to, on the one hand, help victims and communities feel like they have received proper redress, and, on the other hand, help all Colombians understand “what happened” during the armed conflict.

### 11. Challenges In The Comprehensive Redress Process

The most immediate challenge with respect to comprehensive redress is the broad and effective inclusion of victims of the guerrillas, armed and organized crime groups, the State, and those victims who are members of security forces in the redress, justice, and truth processes. This relies on building institutional capacity to offer access and the effective enjoyment of rights to those whose rights were violated and who are just beginning to acknowledge that they are victims.

While the comprehensive redress measures that comprise the new transitional justice mechanisms—which were established under the Comprehensive System for Truth, Justice, Redress, and Non-Repetition—\(^4\) aim to enhance the processes of collective redress, land restitution, returns, establishment of the truth, peaceful co-existence, and

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\(^4\) Collective redress applies to groups, peoples, or political and social organizations affected by the violation of collective rights, the violation of individual rights of the members of the collectives, or the collective impact of the violation of individual rights. It includes measures to politically, materially, and symbolically provide redress, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Individual redress, for its part, has to do with harm caused to persons as individuals and the path to redress establishes measures to address this.

\(^4\) Among them are topics such as: Forced disappearance, lands and territory, EPL, ELN, social extermination in Ciudad Bolívar, BACRIM, community takeovers by the insurgency, sexual violence, Patriotic Union, forced recruitment and use of children and adolescents, the right to justice as a guarantee of non-repetition, urban violence, exile, antipersonnel mines and their impact on the civilian population and members of the military, as well as more specific cases like those of Granada, Topacio, and the La Chinita massacre. Historical memory building exercises are also being done with campesinos from the high mountain communities of El Carmen de Bolívar and the Comité de Integración del Macizo Colombiano [Colombian Highlands Integration Committee], National Historical Memory Center. Consulted on May 1, 2016 at: http://www.centrodememoriahistorica.gov.co/

\(^4\) Proposed during the negotiations between the FARC-EP and Government of Colombia. Point 5 (Victims).
non-repetition, they are being created in a context of uncertainty in which the victims feel fear and mistrust because of insufficient outcomes in current programs and plans for collective redress, returns, and restitution of lands.

Such programs have been characterized by slow implementation of the routes established by the institutions in the territories, which is the case of the PIRC. Of the 303 cases reported by the UARIV\textsuperscript{47} as of June 2016, only 92\textsuperscript{48} are in the process of implementing the measures defined in the PIRC. The main obstacles to their implementation have to do with: (i) Funding in the local, departmental, and UARIV budgets; (ii) political determination and will; (iii) inter-agency coordination; and (iv) disagreement with the measures set forth in the PIRC.

The same holds true in the process of land restitution: Of a general total of 90,400\textsuperscript{49} requests for registration in the Forcibly Dispossessed and Abandoned Lands Registry (RTDAF), 23,300 requests have been thoroughly resolved, whether by means of a determination to not include them in the Registry or because they were settled via one of the 1,800 land restitution judgments issued to date, which correspond to 3,900 requests according to the information posted on the official website of the Special Administrative Unit responsible for managing the Restitution of Dispossessed Lands. Hence, setting effective and reasonable goals is of the utmost importance in order to avoid causing frustration and overly high expectations among victims and communities. As these figures demonstrate, 19,550 requests by victims have been denied and there are still 67,100 victims who have not yet been informed about their right.

One example of this came up at the Community Council of La Larga Tumaradó, located in the municipality of Riosucio, Chocó, where thanks to a precautionary measure issued by the land-restitution judges, activities have been underway to characterize the harm and effects on the territory. However, there was no coordinated intervention by national institutions to standardize the results of the studies.

The GS/OAS underscores the fact that Point 5 (Victims) of the original Havana Agreement\textsuperscript{50} refers to some minimums that must be taken into account for implementation of the comprehensive collective redress plans (PIRC) using a territorial approach. Point 5 expressly states that “Comprehensive Collective Redress Plans shall coordinate, where possible, with the Development Programs with a Territorial Focus (PDET) and with other agreed upon plans and programs, as well as with different truth and justice efforts.” The Secretariat is concerned that despite how clear the need for such

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\textsuperscript{47} Special Administrative Unit for Victims’ Assistance and Redress. Collective Redress Cases Database. Official source.


\textsuperscript{49} Special Administrative Unit responsible for managing the Restitution of Dispossessed Lands. [Cited on May 1, 2016]. Available at: https://www.restituciondetierras.gov.co/estadisticas-de-restitucion-de-tierras

coordination appears to be, there is currently no consistency or unity between collective redress, returns, and the restitution of lands.

An example of the foregoing can be seen in the case of Paquemás,\(^{51}\) in Turbo (Antioquia), where in 2013 the UARIV and the URT decided to implement the Targeted Redress Strategy (ERF), which consists of the design and implementation of complementary actions between the two entities to help with the redress and restitution of rights to persons affected by the internal armed conflict. However, they never managed to synchronize the execution of institutional actions, which led to inconsistency in the interventions in the community. This undermined the impact of the plans’ redress goals and created complex situations for the individuals returning, i.e., having judgments regarding certain pieces of land, but not on all of the community’s territory, meaning that there is property for which no judgment regarding land restitution has yet been issued. These lands awaiting rulings are in the hands of second occupants\(^ {52}\) who are present on an ongoing basis, leading to conflict and potential vulnerability for those persons who have already returned. The processes become complex and this has an influence on victims’ perceptions with respect to redress as a slow and unfinished process.

Even more serious has been the return of the Emberá Katio people, indigenous reservation of Alto Andagueda, municipality of Bagadó (Chocó). In this case, a full return has not been achieved, which has led to the breakdown of families and a lack of guarantees for meeting basic needs. The GS/OAS, through the MAPP/OAS, has revealed that the provisions of the September 23, 2014 judgment\(^ {53}\) have not been implemented mainly because of the limited degree of coordination among the entities responsible for doing so. The measures adopted to ensure food security in the 34 communities that are part of the reservation\(^ {54}\) have not been consistent with the eating habits of the Embera people or with the distances they must travel to obtain provisions and transport them to their final destinations. The UARIV and the Ministry of Agriculture and Rural Development supplied seeds for growing the community’s own type of food. However, the seeds given by the former failed to grow, while the latter entity provided cacao to be brought to market without bearing in mind the poor state of access roads in the territory. For this

\(^{51}\) A community that was victim of dispossession and displacement due to events that occurred between 1994 and 1996 at the hands of paramilitary groups. Twenty-two (22) individual land restitution judgments have been issued despite the community’s request to have a collective ruling that would allow the definitive return of all the requesting families, thereby improving their security guarantees and conditions. A number of families have been involved in return processes; these families have had the support of some of the SNARIV’s entities. When it comes to collective redress, the community has an approved PIRC and the “Interweaving” Strategy is being implemented. All of these actions are being implemented in an uncoordinated fashion by the Special Administrative Units for Lands and Victims.

\(^{52}\) Second occupants are “natural persons recognized as such via judicial providence, who despite not having being involved in the events that gave rise to the dispossession or forced abandonment, were not declared in good faith exempt from fault in the restitution judgment and, when such judgment was issued, faced losing their ties to the land for which restitution was being requested.” Agreements 21 of 2015 and 29 of 2016 of the Land Restitution Unit.


\(^{54}\) Under the Department for Social Prosperity, the Ministry of Agriculture and Rural Development, via the Families on Their Land Program, the Colombian Institute for Family Wellbeing (ICBF) for NNA, and the UARIV.

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reason, there has not yet been a successful collective redress plan coordinated with the land restitution process in the territories.

The challenges for Colombian government institutions continue to be great as they attempt to guarantee the safety of leaders and claimants as well as coordinate across agencies in order to implement legal decisions. The Mission receives repeated alerts regarding the threats or risks these individuals face. According to information furnished verbally by the Office of the Attorney General of the Nation, as of July 2016 the paperwork had been certified to open criminal investigations into 40 cases of events that led to the dispossession and abandonment of lands that had already been restored, as compared to the approximately 2,000 requests filed. This means that of the approximately 2,000 events that prompted dispossession and abandonment, only 40 have been forwarded to the investigative body for identification and detection of the perpetrators. The foregoing provides evidence that significant levels of impunity in some regions like El Cesar and Urabá have delayed processes of return to lands that have been restored.

Another of the difficulties identified in the land restitution processes is the paralysis of coordinating institutions both at the national and territorial level. This has prevented legal decisions adopted in the framework of the restitution processes from being executed, which has in turn led to a situation in which decisions proffered two or three years ago are still awaiting implementation.

The Colombian government must strengthen land restitution-based public policy feedback and adaptation mechanisms because while being implemented, they have come up against issues not foreseen by legislators, to wit: Second occupants, measures having to do with training programs, accompaniment in the return to lands, support for production projects, etc. This has caused dissatisfaction among a number of sectors of victims of the armed conflict as well as among detractors of the policy who allege defects in the land restitution process.

In the framework of the monitoring and accompaniment done by the MAPP/OAS, risks and threats to the land restitution policy have been identified and include: (i) The existence of de facto powers in the territories who engage in pressure, threats, or other types of harassment for purposes of forcing claimants to withdraw their claims. This prompts second rounds of displacements from the lands and even refusals to return; (ii) disparagement of the land restitution policy and claimants being labeled as fake victims due to a lack of investigation to identify second occupants, and above all, the characteristics of their occupation; and (iii) criminal investigations of judicial officers and territorial directors of the URT under the argument of professional overreach.

Thus, regulatory developments and the institutional designs that derive therefrom should standardize the actions undertaken both nationally and territorially. This means bearing in mind local contexts, budgets, programs, projects, and implementation plans, in addition to the safety of land claimants and communities targeted for collective redress, among others. Along these lines, it is extremely important to take into account the lessons learned for purposes of undertaking forceful efforts to build peace in Colombia.
The MAPP/OAS has been able to confirm certain difficulties faced by the victims of the armed conflict when it comes to inquiring with the State about their cases before the UARIV, not just in terms of whether or not they will be included on the Single Registry of Victims (RUV), but also with respect to specific procedures like updating data in the system, including, *inter alia*, an individual in the immediate family, and requesting the letter that accredits them as victims of the armed conflict. It is important to acknowledge the efforts taken by the UARIV to reach different areas of the country; nonetheless, these types of situations continue to be reported. In addition, it is necessary to emphasize other components of comprehensive redress having to do with professional training and education. The GS/OAS points out the need to enhance this type of actions in order to help overcome the vulnerability the victims of the armed conflict experience.

The MAPP/OAS has engaged in special monitoring of national collective redress cases, highlighting important progress made in recognizing and guaranteeing the rights of victims of the armed conflict. It is true that comprehensive collective redress plans (PIRC) for specific lands have experienced some difficulties in terms of inter-agency coordination and funding. Accordingly, it has been difficult to coordinate all the institutional services available in the National System for Support and Comprehensive Redress of Victims (SNARIV) to provide effective support to the victims of the armed conflict. In this regard, the GS/OAS is inviting all of the institutions of the Colombian government to continue to engage in efforts to restore dignity to the victims of the armed conflict, and especially to incorporate into their institutional and organizational development plans lines of action related to comprehensive collective redress and the creation of interdisciplinary teams with experience in working with this type of population.

The Victims Participation Groups created by Law 1448 of 2011 are an important effort by the Colombian state to encourage the involvement of victims of the armed conflict in everything having to do with the development and implementation of the comprehensive redress and support public policy. Nevertheless, obstacles exist that have prevented this mechanism from being consolidated as an effective participation tool for victims, including difficulties in holding effective discussions between local authorities and victims, controversy surrounding the use of resources earmarked for the Participation Groups, the need to enhance community and organizational leadership among victims, etc. The GS/OAS highlights the need to strengthen opportunities for citizen and victims’ participation through a differentiated approach, addressing the specific needs of communities and eliminating the obstacles that stand in their way.

12. Social Participation In Peace Building

Participation has been at the heart of the social contexts and different expressions of the internal armed conflict. Many peace initiatives have been pushed by society, represented by ethnic communities, women’s movements, unions, campesinos, social processes and organizations, and victims, among others.

Based on the broad experience social movements have in Colombia, there continues to be an inalienable demand that they be included in negotiation, agreement-implementation, and decision-making processes in order to achieve enduring peace.
The GS/OAS is concerned about ongoing complaints from afro- and indigenous communities and campesino movements about their lack of participation and the failure to include their proposals in the drafting of the peace accords. The effective involvement and broad recognition of these sectors and groups that live in the territories where the peace policies are being implemented and where the peace accords that ultimately come out of the negotiations with the insurgent groups will be implemented are essential to securing lasting peace.

The government, for its part, is moving forward in building an institutional structure for participation, envisaging an orderly relationship among different, already existing citizen participation mechanisms (Statutory Law on Participation - Law 1757 of 2015, Victims and Land Restitution Law, *inter alia*) and the new mechanisms agreed to under the peace process. These latter mechanisms are part of the policy of comprehensive rural reform, solution to the illicit drug problem, political participation, the Comprehensive System for the Truth, Justice, Redress, and Guarantees of Non-Repetition, and human rights.

Nevertheless, the people in the territories are demanding more real participation in the development of the post-conflict strategies, policies, programs, and plans being drawn up at a national level on matters such as security, justice, economic and social development, the use of natural resources, among others. These lines of action or peace policies can offer a range of opportunities for preparing the territories for peace.

The GS/OAS, via the MAPP/OAS, has discovered that different national institutions, such as the Presidential Office for the Post-Conflict, Human Rights, and Security and the Office of the High Commissioner for Peace, are using different vulnerability indicators for intervention in key areas post-accords. To this end, they have developed intervention strategies or programs to be implemented after the signing of the peace accords, establishing different methodologies to ensure that specific government services are extended to the territories.

The experience of the OAS and the MAPP/OAS reveals that peace building in the territories affected by the armed conflict by means of public policy requires a deep understanding of those territories, of their specific sociocultural characteristics, of the ways they are organized, and of their decision-making systems. It also requires high levels of coordination among institutions as well as well-honed standardization with current regional and municipal public policy planning instruments. When implementing the strategies devised for the post-conflict era, national institutions will find territories that already have local participation mechanisms in place, such as Development Plans, Life Plans (indigenous peoples), Safeguard Plans (indigenous peoples), Territorial Action Plans (victims), Collective Redress Plans (victims), Citizen Security and Co-existence Plans (within the PDT), Land Use Plans, *inter alia*. Generally speaking, these instruments do not include specific post-conflict actions as they lacked relevant data when they were created; or they include actions based on the territories’ own proposals and projections, which may not be in line with the proposals developed at the national level.

The GS/OAS, through the MAPP/OAS, has confirmed that there are planning initiatives being pursued from the territories, i.e., the Comprehensive and Sustainable Development
Plan (Pacelli, Norte de Santander), community and rural development plans, [and] agreements signed by representatives of the national government regarding illicit crop substitution (Discussion Groups in Putumayo and Norte de Santander). However, institutional channels for the inclusion of civil society voices and their proposals in the framework of territorial peace are limited and have barriers to access. The greatest challenge lies in managing to develop mechanisms that ensure that communities’ proposals and future-oriented public policy instruments are consistent with one another and inclusive.

In addition, communities, organizations, and social processes in the territories are demanding, with increasing vigor, to participate in the discussions between the national government and the ELN so they can present proposals that will be taken into account in the negotiation agreements. Accordingly, the GS/OAS believes it is essential that opportunities for dialogue, analysis, and debate over priorities in the territories be opened up. The generation of proposals could enrich local, regional, and national decision-making forums.

As a contribution to the participation mechanisms, the MAPP/OAS has prepared a document that captures, based on a series of interviews and focus groups, the opinion of different sectors regarding guarantees, needs, methods, and expectations in connection with social participation in the peace process underway between the government and the ELN. This document has been put to the consideration of government authorities, the ELN, and social actors so that it may serve as input for the discussions on this point held at the relevant entities.

Effective participation requires information. The GS/OAS, through the MAPP/OAS, has managed to confirm a lack of knowledge on the part of regional and local authorities and civil society regarding the status of the talks between the FARC-EP and the national government. Limited information channels, such as electronic media that require connectivity and smaller working teams devoted to broadcasting the information in the territories, make matters worse. In addition, communities cannot find effective and appropriate information channels to express and debate their own questions and concerns. Local authorities lack information to be able to facilitate these democracy-building processes.

13. Recommendations

A. Security Conditions in the Territories

1. Assess and adjust security-related services for persons affected by the violence as well as where programs should be implemented that contribute to guarantees of non-repetition by means of effective actions in a joint institutional effort;
2. Boost institutional efforts to guarantee the safety of members of ethnic communities.

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55 One way of including proposals is to send documents to the Discussion Group via the website: https://www.mesadeconversaciones.com.co/. However, real access is limited by the knowledge required to use this [site] and by limited Internet coverage.
and peoples who report consistent acts of violence and intimidation by armed individuals, presumably because of their participation in the process to restore territorial rights;

3. Consider the proposals that different ethnic sectors have put forth for strengthening both the indigenous guard and the Guardia Cimarrona [Maroon Guard] to supplement State-based security models that are implemented by law enforcement;

4. Guarantee the safety of officials involved in implementing the comprehensive redress policy vis-à-vis the ongoing threats of which they are targets. Special attention is recommended for land restitution judges and magistrates who have publicly expressed their concern over the weak security systems they have and have reported attacks targeting them. Furthermore, state services to guarantee the safety of contractors with ties to the government who are at risk because of the work they do should be assessed and broadened. The foregoing bearing in mind that position-based protection measures are designed for public servants and exclude government contract workers;

5. Continue to enhance mechanisms having to do with the relationship between law enforcement and the communities in order to help build and rebuild trust between them. To this end, useful practices might include training on civilian-military relations and interactions using international standards and that take into account the specific characteristics of the territories.

B. Transitional Justice

1. The GS/OAS is encouraging the Colombian state to continue implementing comprehensive security strategies that make it possible to accompany law enforcement actions with components that help to make legal cases more effective and efficient;

2. Continue implementing measures that facilitate access to and restore communities’ trust in the justice system. This includes the investigation and prosecution of high-profile cases and the establishment of guarantees for accessing justice systems, as well as ongoing efforts against the irregularities that link the government to illegal activities;

3. Take into account the best practices and lessons learned from the past, particularly from cases that were effectively prosecuted against the highest-level perpetrators, including best practices from Justice and Peace;

4. Implement transitional justice, covering the largest possible number of cases and consequences of the conflict, setting out clear measures for truth and redress for the victims and reconciliation for society in general. This should also bear in mind precepts that lead to peaceful co-existence between indigenous legal systems and the regular justice system in order to minimize cases of impunity;

5. Develop clear criteria for prioritization, taking into account imminent procedural backlog. The new transitional justice tool should examine and understand those cases in which the regular justice system has erred in its definitions of crimes and those in which individuals have been prosecuted who were not members of armed groups, but who were convicted and sentenced as guerrillas because they worked in collaboration with insurgent groups;
6. Establish, in both prisons and penitentiaries, a system of special detention conditions that create decent living conditions and implement work and study programs that are consistent with the population’s profile. This is key when it comes to implementing transitional justice;

7. Take measures to provide decent living and health conditions and provide healthcare services inside prisons and penitentiaries. Implement a mechanism that enables a diachronic analysis to be done of violations of the rights of persons deprived of their liberty because of being members of insurgent groups, in an effort to contribute to the historical memory in terms of non-repetition;

8. Actions are recommended to ensure that demobilized persons who have met the requirements of truth, justice, and redress may be hired by the government and that the administrative disqualifications against them provided for under Law 1424 of 2010 are suspended;

9. The submission, with legal certainty, of illegal armed groups should be promoted and, in keeping with commitments made, the mechanism that encourages submission should include suitable tools for redress for the victims of such groups.

C. Communities, Victims, and Land Restitution

1. Secure effective and representative participation in social dialogue exercises. It is important for the Colombian state to bring the largest number possible of social actors into the fold, i.e., ethnic collectives and campesino, women’s, social, labor, and victims’ organizations;

2. Encourage the Colombian state to implement a social dialogue strategy locally, regionally, and nationally, with effective mechanisms for exchanging ideas and focused on fulfilling past and current commitments. Building trust between the State and civil society helps to strengthen citizen involvement and democracy and helps to prevent future social conflicts;

3. Ensure that victim participation is active by guaranteeing that victims will have the opportunity, in their cases, to dispute the testimony of the beneficiaries or even provide their own view and version of the facts. In this scenario, a communications strategy about the right of victims to participate should be as clear as possible and reach the most remote areas of Colombia;

4. Improve coordination between transitional justice, Justice and Peace, the Victims’ Unit, and the Land Restitution Unit in order to delve deeper into collective redress mechanisms for communities affected by violence;

5. Set reasonable goals with respect to implementation of the comprehensive redress policy that are consistent with realistic criteria and institutional conditions, and that do not create false expectations among victims, but do make it possible to show concrete progress with respect to that policy;

6. Make adjustments to the institutional architecture of the National System for Support and Comprehensive Redress of Victims (SNARIV), boosting the technical capacity and budgets of the institutions that comprise it, and ensuring effective coordination between the national and territorial levels that enhances the realization of comprehensive redress, especially execution of the comprehensive redress pilot plans—the so-called PIRC;
7. Coordinate actions that enable better results in criminal investigations against the perpetrators of serious human rights violations identified during land restitution processes;
8. Implement efficient communications channels between the national government, law enforcement agencies, and civil society organizations that make it possible to disseminate accurate information about progress and difficulties in the land restitution policy, thus preventing attacks on the processes and on the decisions adopted by land restitution judges and magistrates;
9. Continue with activities that raise the profile on the status of second occupants in the land restitution process and having to do with coordination of institutional services that offer them priority when it comes to land access and fieldwork, in addition to reestablishing neighborly relations with the claimants, thus being able to ensure stable and lasting peace in the territories targeted for intervention;
10. Adopt suitable mechanisms for tackling the risks that exist to the life, liberty, integrity, and security of members of indigenous peoples and black communities because of economic interests in their territory. These risks create fear and distress that might curtail active participation in ethnic territorial rights restitution processes;
11. Collective redress requires the implementation of a flexible peace policy since territories have their own special characteristics and logic, which have an impact on the redress process and its outcomes. Take into account that institutional and community lessons are an important factor when it comes to moving transformational processes like the collective processes forward.

D. Institutional Consolidation and Education for Peace
1. The National Center for Historical Memory and law enforcement are urged to engage in dialogue and coordination aimed at building a comprehensive and plural historical memory that contributes to the recognition of and restoral of dignity to all victims of the armed conflict, including those members of law enforcement who themselves became victims;
2. Position and link programs and processes that have given rise to successful experiences in terms of education for peace, the culture of peace, and co-existence in those territories that have received little or no information about the peace accords or the effective practice of human rights.
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Twenty-Third 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 Organization of American States (OAS) instructs the Secretary General to report periodically to the Permanent Council on the work of the Mission to Support the Peace Process in Colombia, hereinafter “the MAPP/OAS” or “the Mission.”

The mandate of the MAPP/OAS derives from the agreement entered into by the Government of Colombia and the General Secretariat of the Organization of American States, hereinafter “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 six times. It was most recently renewed until December 31, 2018.

In compliance with resolution CP/RES. 859 (1397/04), paragraph 3, before publishing this report, the MAPP/OAS consults the Inter-American Commission on Human Rights (IACHR) for its observations in its area of competence, thereby ensuring and establishing coordination and information sharing between the two OAS bodies.1

The MAPP/OAS works to support peacebuilding in Colombia on a daily basis. It directly assists local communities, public agencies, indigenous authorities, Afro-descendant communities, social, civil, and women’s organizations, religious communities, security forces, victims, community leaders, and former combatants in the territories most affected by the internal armed conflict, working at the municipal, departmental, and national levels. This report presents the findings of the GS/OAS based on the Mission’s monitoring and support for peacebuilding in Colombia for the period August 1, 2016

1 The MAPP/OAS report presents a detailed analysis of the situation in Colombia. It also covers topics and concerns identified by the IACHR in its monitoring of the general human rights situation and discussed in Chapter V of its 2016 Annual Report, “Follow-up on recommendations made by the IACHR in the report Truth, Justice and Reparation: Fourth Report on the Human Rights Situation in Colombia.”
to January 31, 2017. On an exceptional basis, it also discusses a few important events outside that timeframe. EMYLY

The support of the international community is vital for the MAPP/OAS to be able to carry out the activities in its mandate. The GS/OAS therefore wishes to thank the donors and friends of the MAPP/OAS, including in particular the Basket Fund countries,\(^2\) whose political and financial support make the Mission’s operations possible. It is also grateful for the contributions of the European Union, Korea, Sweden, Switzerland, and Turkey, as well as the Spanish Agency for International Development Cooperation (AECID), the German Agency for International Cooperation (GIZ), the United States Agency for International Development (USAID), and the Swedish International Development Cooperation Agency (SIDA).

From August 1, 2016 to January 31, 2017, the MAPP/OAS carried out a total of 959 field missions, of which 703 involved monitoring and the remaining 256, support activities. These missions were conducted in 203 municipalities, 26 departments, and 524 populated centers, which included municipal capitals, townships, villages, indigenous reserves, and community councils.

1. General Considerations

International experience has shown that the processes for building peace in a country take time and involve complex and intractable social issues. Tackling these challenges requires not only tremendous government institutional efforts, but also determined commitment on the part of those laying down arms, relief for war-torn populations, support for civil society, the conviction of the opposing political powers, and solid support from the international community. All of these conditions are central to strengthening and deepening the social processes inherent in the signing of a peace agreement, so that they become sustainable over time.

Thus, although the peace agreement between the Government of Colombia and the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo [Revolutionary Armed Forces of Colombia] (FARC-EP) has been declared irreversible, during the current phase of political and social transition, the GS/OAS considers it necessary to continue to strengthen the peace process by addressing the need to make concessions with respect to the ordinary justice system and the operation of the regular legislative mechanisms. It is also important not to delay implementing the components of the peace agreement for too long because undue delay could engender mistrust and uncertainty among the affected communities and various actors involved, as well as possible outbreaks of violence at the territorial level.

Concrete steps to implement the agreement are the best guarantee against recurrence of the circumstances that gave rise to the conflict and resurgence of violence. Stopping armed confrontation is not enough. It must be accompanied by concrete measures designed to change local realities. Making the goal of peace a reality implies beginning to build from the

\(^2\) The Basket Fund members are Canada, Germany, the Netherlands, the United Kingdom, and the United States.
bottom up—from the most adversely affected areas—and concentrating the greatest effort there, so that the people feel the effects of ending the conflict in their daily lives.

The GS/OAS notes, that according to field observations, the concentration of members of the FARC for demobilization, disarmament, and reintegration has created new power vacuums in the territories which are being filled by other players, leading to disputes and attacks on leaders and human rights defenders. The Mission has also observed the reaccommodation of individuals identified by the communities as FARC dissidents, the expansion of the Ejército Nacional de Liberación [National Liberation Army] (ELN), and the arrival of new illegal armed groups attracted by profits from the legal and illegal economies. Amid the disputes, the communities are under increasing stress, which creates new stresses.

In this context, there has been a resurgence of common violence. Although without the political connotations of the past, it has the potential to be very damaging. Armed groups such as the Clan del Golfo [Gulf Clan] or Los Pelusos are gaining notoriety for their attacks on security forces. These groups have nonhomogeneous structures and are able to take differentiated, flexible action in response to specific local and regional circumstances and contexts. They seek to replay coercive control scenarios in rural and urban communities, impeding the consolidation of community organizational bases and social mobilization to assert rights.

At the same, as in other peace processes, there are pockets of FARC members who have not disarmed, while some FARC dissidents have joined gangs of common criminals. Where such dissident cells are present, extortion activities and the recruitment of minors have continued. The dissidents have also distributed pamphlets and tracts with ideological and political messages justifying their decision not to lay down arms. However, in the local communities, there is a continued perception that their primary reason for rejecting the disarmament and demobilization process is the tie with illegal economies such as the drug trade.3

The GS/OAS remains deeply concerned about threats and attacks targeting leaders, community representatives, and human rights defenders attempting to claim social rights in the territories. The ongoing impact on the lives of this population is seriously weakening the social fabric of the communities and fundamentally affecting organization, exercise of rights, and political participation. It is also endangering the peace process.

The GS/OAS recognizes the government’s steady progress on combating illegal drug trafficking. Through major initiatives launched as part of the peace agreement, it is attempting to replace illicit crops, with a focus on assistance and rural development. However, this effort is not without challenges at the local level, both for implementation and

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3 With respect to the forced recruitment of children and adolescents, the IACHR has repeatedly stated that it is important to have a formal separation process for children and adolescents in the ranks of the FARC and that informal separation would appear to violate the obligation to protect children and adolescents in armed conflict. It also shares the Mission’s concern regarding illegal armed group recruitment and use of children and adolescents for the purpose of controlling the territory, including in particular the recruitment of girls for sexual exploitation.

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in regard to collective rights and social conflicts in the areas. At the request of the national government, the MAPP/OAS assisted some of these initiatives in the territories by facilitating settings for communities and government representatives to negotiate agreements and by helping to publicize the preliminary agreements in the regions. The GS/OAS reiterates its commitment to providing support for these efforts, given their importance for achieving peace.

As indicated in previous reports, one of the side effects of the peace process is the emergence of new social conflicts, which are rampant. These conflicts have common roots and take the following forms: (1) economic and political interests in local dialogues on implementing the peace agreements;

(2) new organizations colliding with the historical traditional organizations in the areas; (3) bigger organizations trying to override smaller local organizations; (4) tensions between campesinos and ethnic groups over access to land; (5) expectations and stigmatization created by the institution of the transitional local zones for normalization (ZVTNs) and transitional local points for normalization (PTNs).

The SG/OAS also recognizes the progress made on the Special Jurisdiction for Peace, a temporary alternative mechanism focused on victims’ rights, and calls attention to the challenge of consolidating a comprehensive transitional justice system integrating the system for truth, justice, reparation and guarantees of non-recurrence with other mechanisms such as Law 975/05, Law 1424/10, Law 1448/11, and mechanisms agreed in the context of the government’s ongoing talks with the ELN.

1.2 1.1 Peace process with the ELN

The continuation of the public phase of negotiations between the national government and the ELN gives hope that the country can achieve total peace. With their specificities and inherent difficulties, the talks are still moving forward, and both delegations remain committed to reaching an agreement. To that end, they have established negotiating subgroups, one on participation and the other on humanitarian guarantees and issues, which are working in parallel.

The GS/OAS welcomes the progress made and urges the parties to work tirelessly for a peaceful solution to the conflict. Given the political situation and the upcoming elections, it is important for them to move as quickly as possible and to try to implement what is agreed as they go in order to make the process stronger and more stable and build confidence, so that the progress and agreements achieved are acknowledged and accepted by the next government.

The GS/OAS also considers that implementing confidence-building measures such as actions to mitigate the impact of the armed conflict and/or decrease its intensity would create support for the peace process and act as a real catalyst for dialogue. It would also facilitate participation processes.

It is also important to build awareness of the peace process at an early stage. In this connection, the GS/OAS has noted that the restricted flow of information on progress in the talks to regional government, local government, and civil society has prevented more
determined involvement by other levels of government and society as a whole. Stronger, effective participatory mechanisms are needed to allow for the expression of different interests, views, and expectations.

Lastly, the GS/OAS reiterates its willingness to continue to assist the peace process through both administrative and substantive mechanisms, and it urges the representatives of the national government and the ELN to work tirelessly to achieve peace, overcome polarization, and weaken the capacity of factors that can damage the peace process. It also calls on society as a whole to continue to support the peace efforts, and on the support and generosity of the international community.

2. Monitoring The Contexts Of Armed Conflict And Criminal Activity

The GS/OAS emphasizes the Colombian Government’s continued commitment to a sustained strategy on organized crime targeting groups known institutionally as organized armed groups (GAOs) and organized criminal groups (GDOs) in order to mitigate their observed incipient dangers for the consolidation of peace in the territories. Furthermore, the GS/OAS recognizes the role and commitment of the Colombian security forces in implementing the agreements between the national government and the FARC, but it is also aware that some communities see them as more interested in providing security for moving members of the FARC to the temporary pre-grouping points (PTTs), ZVTNs, and PTNs than in improving and extending security in rural areas. In this connection, they perceive a need for the security forces to continue stationing troops4 in some of the territories vacated by the FARC in order to prevent other armed groups from moving into these spaces and heightening the perception of insecurity there.

One of our major concerns for the observation period is that, as the FARC forces have pulled out of the territories, GAOs, GDOs, other illegal armed groups, and ordinary criminals have gradually moved into some of these areas. The perception in these territories is that the security forces have not positioned themselves adequately and effectively. Regions such as Southern Córdoba and Lower Cauca even see themselves as abandoned or unprotected by the security forces as a result of the peace process with the FARC. In the eyes of some, the national government is refraining from military action in some regions in order not to impede that process.

4 The Ministry of Defense has announced the opening of police stations in Bilbao township, municipality of Planadas (Tolima); Juan José township, municipality of Puerto Libertador (Córdoba); El Capricho township (Guaviare), and Medellin del Ariari township (Meta).

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2.1 Expanding violence: the Clan del Golfo\(^5\) moves into new areas

The GS/OAS notes with concern the Clan del Golfo strategy of territorial occupation and the impact of its actions on the community and the security forces. With this strategy, the approach depends on whether the area is rural or urban.

In rural areas, it is variable and may involve tactics of confrontation or cooperation and nonaggression with other illegal groups over the occupation of new territories. With respect to confrontation tactics, clashes between the Clan del Golfo and the ELN have been observed in the High, Middle and Lower Baudó subregions of Chocó department, in Lower San Juan, and in the La Mojana region, along the border between Bolívar and Sucre departments. Regarding relationships of cooperation or nonaggression agreements, we have received information about alleged agreements between the Clan del Golfo and the ELN for illegal mining operations in the Lower Cauca subregion of Antioquia and in Southern Bolívar, along the border between the municipalities of Santa Rosa del Sur and Simití. In the Catatumbo region, the Clan del Golfo and Los Pelusos\(^6\) have maintained economic relations despite the leadership turnover underway as a result of the blows inflicted by the Colombian authorities.

In urban areas, especially in the capital cities, the strategy has been to establish fragmented networks with multiple contacts for coopting small criminal gangs without the disputes or major confrontations that could attract the attention of the authorities. Here, the objective is to control points of sale of psychoactive substances, to collect extortion payments from businesses, and in some cases, to carry out contract killings. This strategy has worked for the illegal armed groups. Despite the authorities’ focus on attacking and dismantling criminal economies and networks, they have not been able to impact the leadership hierarchy of the Clan.

At the same time, the GS/OAS has observed a change in how the Clan del Golfo exercises control in communities in its zones of influence. In the past, this control was expressed through the collection of extortion payments, imposition of restrictions on movement, and so forth. However, during the period covered by this report, there has been a noticeable trend towards support for social mobilization actions, which had not been seen previously.\(^7\)

With respect to Clan del Golfo armed activities, its hostilities appear to be directed increasingly against members of the Colombian security forces. In December, it took national police officers hostage in Zaragoza, Antioquia, and launched the “pistol plan,” resulting in the killing of national police officers in the municipalities of Apartadó, Cisneros, San Jerónimo, and Lower Cauca areas.

\(^5\) In this report, we will refer to the Clan del Golfo, which is what the Colombian Government calls this organized armed group. However, in its zone of influence, institutions and communities know it as the Autodefensas Gaitanistas de Colombia (Gaitanist Self-Defense Forces of Colombia) (AGCs), the Gaitanistas, or Los Urabeños.

\(^6\) In this report, we will refer to Los Pelusos, the name given by the Colombian Government to the group known in the territory, the communities, and the institutions as a splinter group of the Ejército Popular de Liberación (People’s Liberation Army) (EPL), a guerrilla group demobilized in the 1990s.

\(^7\) The most significant example was the call issued in mid-November for a “March for Peace” in the Urabá and Lower Cauca regions. The Clan del Golfo offered logistical support for the residents of Lower Cauca, Southern Córdoba, and La Mojana to participate. It even pressured communities and authorities to attend the march.

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Valdivia, and Puerto Valdivia in Antioquia department. The weapons capabilities of the Clan del Golfo were evident in various armed clashes with members of the national armed forces and national police in Puerto Libertador, Córdoba; Atrato, Chocó; Barbacoas, Nariño; and Zaragoza and San Pedro de Urabá, Antioquia.

2.2 Situation of Los Pelusos, Northern Santander

In regard to the Los Pelusos GAO, the GS/OAS has seen evidence of increased strength and armed and political activity in communities in the Catatumbo region of Northern Santander. Particularly in the municipalities of Hacarí, Tibú, San Calixto, Sardinata, and El Tarra, it has observed greater impact on the civilian population in the form of income inspection-related extortion and selective homicides. Furthermore, on the day of the peace agreement referendum, Los Pelusos observers were present in force at urban and rural polling places in El Tarra and Tibú. Previously, there had been threats to leaders of these municipalities who participated in information sessions on the government’s peace agreement with the FARC or helped to get out the vote for the referendum.

With respect to the group’s relationship with the other illegal armed groups present in the area, between August and September 2016, the dominant perception of the civilian population was that relations among Los Pelusos, the ELN, and the FARC were becoming very tense. The instability of the Los Pelusos leadership and violent actions such as threats, extortion, and “social cleansing” reportedly led to warnings from the ELN to Los Pelusos and to a political distancing of the two groups. In contrast, in October 2016, there was evidence of high level of coordination among the FARC, the ELN, and Los Pelusos, at least in the municipality of Tibú. In the urban core of this municipality, for example, militia members of the three groups cooperated to establish agreements for the payment of extortion in various sectors according to various schemes. Similar agreements have reportedly also been established for compiling lists of people whom the groups consider military targets.

2.3 Territorial dynamics of areas vacated by the FARC

The GS/OAS notes that in areas where the FARC has vacated or has moved to the ZVTNs or PTNs, a feeling of uncertainty persists in the local communities, despite positive perceptions. In addition to not having a clear understanding of the situation, particularly with respect to security conditions, the territorial reaccommodation of former FARC members, and the presence of new illegal armed groups, the communities continue to feel harmed by the conflict, especially with respect to actions that have a negative socioeconomic impact on the territories. Nevertheless, the GS/OAS recognizes the efforts of the national government to strengthen state presence in the territories where the FARC is obviously no longer an armed player. For example, the security forces in Ituango, Antioquia, and the township of Saiza have been reinforced to prevent the influx of new illegal groups.

In some areas where the FARC had strong territorial presence and influence, the GS/OAS notes a general perception of the presence of other illegal armed groups. In the view of

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8 Specifically, the communities point to the continuing impact of extortion payments, commonly referred to locally as “vacunas” (vaccines).
the communities, this new presence or reaccommodation is inspired by purely financial motives related to the presence of illicit crops and illegal mining. Reaccommodation may work in a number of ways. In some cases, the communities believe that the FARC smoothed the way for other organizations to move into its old zones of influence. In this scenario, control was handed over calmly in accordance with plans arranged between the FARC and the ELN. This is the perception in Catatumbo and Lower Cauca. The Inter-American Commission on Human Rights (IACHR) shares this view. In this connection, the Commission agrees with the MAPP/OAS regarding the impact of this scenario on the social fabric, its structure, and human rights in the communities, which represents an obstacle to implementation of the peace agreement.

Then there is the case of the so-called dissidents, whose presence can be seen in the municipality of Tumaco, Nariño; in the establishment of the group Nuevo Orden [New Order] in San Vicente del Caguán, Caquetá; in the group formed under the leadership of “Mojoso”; and in Guaviare in the organization that was formerly a part of Frente 1° [Front 1]. In this scenario, the FARC expelled or separated members who were not committed to the peace process, as happened in Meta and Guaviare departments. The communities point to cases of self-described FARC militia members who were not included in the process and continue to be involved in activities connected with illegal economies.

In Guaviare department, the GS/OAS notes that Frente 1°, a former FARC faction declared dissident during the negotiations between the Colombian Government and the FARC, has significantly expanded its territory by taking control of remote villages with illicit crops and little government presence. This expansion has particularly affected the indigenous communities. Frente 7° [Front 7] of the FARC has also significantly expanded its territory, consolidating its presence in Southern Meta, especially in the municipality of La Macarena.

The GS/OAS is concerned by the community impact of, inter alia, extortion payments and threats to those who refuse to make them; forced recruitment; use of anti-personnel mines and improvised explosive devices (IEDs); and control of land and water traffic. It also draws attention to instances encountered in which the dissident phenomenon can be confused with the presence of criminal gangs that go by the dissident label to sow fear in the communities.

In addition, in some areas, the communities have reported the presence of internal conflicts among middle-ranking officers of the FARC not identified as dissidents. This situation worries local residents and is considered a risk factor, given the potential collateral consequences that a breakdown in unity within the FARC would have on the disarmament process, the security conditions of the future ex-combatants, and the security of the community itself.

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9 “Mojoso” handed himself over to the authorities in March 2017.
10 This can be seen in the municipality of Tumaco, Nariño department.
11 With this expansion and the territory historically under its control, Frente 1° controls a wide river corridor encompassing the Guaviare, Unilla, Itilla, Vaupés, Inírida, and even Apaporis rivers.
Cases of this nature have been seen in the municipalities of Codazzi, Cesar; Fonseca, Guajira; and Belén de los Andaquies, Caquetá.

2.4 Approaches to the territorial dynamics of the ELN

The GS/OAS has described in previous reports how the ELN moved into former areas of FARC influence. This positioning and takeover was achieved either by cooperating with the FARC or by the tactic of disputing territory held by other players such as the Clan del Golfo.

Using this takeover strategy, we see that the ELN has been able to gradually establish hegemony in areas formerly shared with the FARC without raising its profile. For example, in a number of municipalities (Barrancas, Guajira; Samaniego, Barbacoas, and Santa Bárbara de Iscuandé, Nariño; Amalfi and Remedios, Antioquia; and Santa Rosa del Sur, Bolívar), there was an awareness that ELN members had begun consolidating power in villages and townships that had previously provided drug trafficking, mining, and extortion income for the FARC. But in other regions, the presence of ELN members brought abrupt changes in communities that had not realized they were there. This is the case in a number of municipalities in Vichada department, as well as in the municipality of Riosucio, Chocó.

With respect to the relationship of the ELN with the communities, the GS/OAS has identified from testimonies certain rhetoric and practices that the ELN perceives as hostile. The communities consequently perceive this guerrilla group as less open to dialogue. This situation has generated widespread fear and has significantly affected organizational processes related to dispute resolution and rules of coexistence. It has had the greatest sociocultural impact on the organizational and self-government structures of the indigenous and Afro-descendant communities, which have been delegitimized and subordinated to control imposed and exercised by the armed group. This openly violates the collective rights of these communities and, in turn, creates deep fractures and greater problems within them.12

Furthermore, the GS/OAS finds that in areas where the ELN has historically been in control, it has focused on organizing support and carrying out political work with the communities with an eye to possible participation in talks between the ELN and the national government. In these areas, we also find an increase in ELN violence, in the form of attacks on the civilian population, the security forces, and the oil and gas infrastructure.

Other incidents of particular interest include actions against security forces in Casanare, Arauca, Northern Santander, and Cesar (all part of the “pistol plan”), attacks on police stations, and kidnappings. The predominant strategy for attacks on the oil and gas

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12 In July 2017, the IACHR held a hearing on the human rights situation of Afro-descendent persons affected by armed conflict during which it was informed of their invisibility and, especially, the failure to implement the “ethnic chapter” of the peace agreement. According to the organizations, the absence of public policies with an ethnic and gender focus has aggravated the situation of these populations in the Pacific region. They mentioned this year’s civil strike in Buenaventura, which they said was a call for access to job opportunities, housing, drinking water, education, healthcare, and other economic, social, and cultural rights. They reported that the Mobile Anti-Riot Squad (ESMAD) used excessive force to shut down this peaceful protest, leaving 19 people with bullet wounds.

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infrastructure continues to be blowing up sections of the trans-Andean pipeline in Nariño and the Caño Limón-Coveñas pipeline in Arauca and Northern Santander.

2.5 Impact on the people: A threat to national peace

The GS/OAS recognizes the efforts of the Colombian Government to implement protection measures and develop interinstitutional spaces for addressing threats and risks reported by social leaders, human rights defenders, and various elected and local representatives. For example, institutions such as the National Protection Unit (UNP), local and departmental government entities, and the security forces have created spaces for dialogue and provided preventive protection measures to shield individuals from possible retaliation, particularly in connection with citizen engagement activities and community complaint mechanisms. However, the GS/OAS remains deeply concerned at the continued threatening and killing of leaders, community organizers, human rights defenders, and representatives of various social groups in the regions. The ongoing impact on the lives of this population has weakened organizational and community processes in some regions: primarily Chocó, Cauca, Nariño, Meta and Caquetá.13

For its part, the IACHR has lamented the rise in murders of members of this population in the final months of 2016 and has noted with concern an increase in the vulnerability of campesino, indigenous, and Afro-Colombian leaders to such violence. According to the Commission, this trend has continued in 2017. We note that it is impossible to identify a national pattern or trend that explains all of the instances of violence. However, in the hypotheses generally advanced to explain the violence, there are certain common threads: (1) a leader’s report of an armed group moving into the area; (2) public complaints about the mismanagement of government resources, or assertion of community rights to the use of natural resources and defense of the territory; (3) political work involving education for peace; (4) community work to create new representative spaces and/or movements; and lastly, (5) leaders whose work reveals and endangers illicit financial flows from the area that directly benefit the illegal armed group.

With regard to attacks on women and girls, the GS/OAS reiterates that deliberate acts of gender-based violence are continuing in the context of the armed conflict in Colombia. Attacks on women and girls involve sexual violence, exploitation, threats, forced

13 During the government-requested IACHR hearing on investigation of attacks on human rights defenders, the government presented information on progress made in developing and implementing comprehensive public policies for protecting human rights defenders based on the pillars of prevention, protection, and prosecution. The government said that protecting the work of human rights defenders was extremely important for the true success of the peace process and that it recognized defenders as indispensable allies, peace builders, and active participants in the civilized political resolution of the armed conflict. For their part, the participating organizations noted the persistence of stigmatization, persecution, and violence against human rights defenders, despite the signing of the peace agreements. In this connection, they pointed to the absence of a differentiated approach for developing risk analyses and protection plans appropriate to the realities of Afro-descendant, LGBT, and other minority leaders. They also presented evidence of the ongoing persecution of members of the Marcha Patriótica [Patriotic March] movement, and they condemned the “denier” attitude of the government, which does not acknowledge the continued existence of paramilitary groups, does not take the criminal organizations behind the violence into account in its investigations, and refuses to acknowledge the systematic nature of the violence. (IACHR, Hearing on investigation of attacks on human rights defenders in Colombia, March 21, 2017)
displacements, and selective killings. From the monitoring, we know that the liquidity-generating dynamics of the communities are bringing in more men, thereby increasing the risk of violence against women and girls. For example, in some areas, the Clan del Golfo has focused on recruiting and involving women in its illegal armed structures to carry out various illegal activities, including providing information, helping to launder money, and acting as death squad leaders.

The IACHR shares this concern, particularly in light of the observed underreporting of crimes of sexual violence and the high rates of impunity for these crimes. In the context of the Special Jurisdiction for Peace, the IACHR considers processing the evidence already collected in cases before the various courts extremely important in order to prevent revictimization. The Commission also considers it important to provide adequate spaces for taking statements in a confidential setting, with a gender-sensitive approach to statements by victims and witnesses and the support necessary in such cases.

The Mission has also determined that women leaders and members of women’s organizations continue to risk threats and intimidation for defending or promoting human rights. Intimidation is directed against members of their immediate family, particularly their children, as well as against property and relationships that the women consider valuable and important. Such incidents appear to be most prevalent in municipalities such as Barrancabermeja, Santander; and Vistahermosa,Meta.

On the topic of recruitment, the SG/OAS is concerned that the illegal armed groups are resorting to the recruitment and use of children, adolescents, and youth as a strategy for achieving greater territorial control. It is noteworthy that the use of children, adolescents, and youth may be differentiated on the basis of social roles and gender. In some areas, illegal armed groups have been observed to use a strategy consisting of kidnapping girls between the ages of 10 and 13 as love interests for the men in the group; later, the girls are sexually exploited and assigned to domestic labor within the group. Boys and young men are used as informers or extortion collectors and tend to do much more operative work.

With the presence of the Clan del Golfo, there appears to be an upward trend in the use of children, adolescents, and youth in municipalities in Southern Córdoba. In these areas, this phenomenon is referred to as “voluntary enlistment” and presented as an option for earning money in the absence of educational and job opportunities. However, the groups have changed their tune and are increasingly threatening to reinstate forced recruitment, especially if children, adolescents, and youth do not enlist voluntarily, because they need to be build their ranks in order to strengthen their control and prevent other groups from moving into the areas vacated by the FARC.

There has also been a rise in cases of recruitment of children, adolescents, and youth by FARC factions that have decided not to join the peace process. Areas such as the

14 On the basis of MAPP/OAS monitoring, the GS/OAS has determined that sexual violence against women and girls by armed players in the conflict continues to be a recurring practice in different areas. Unlike the acts of sexual violence that occurred as an integral part of larger operations, what is now being reported are deliberate, premeditated acts of sexual violence by individual members of armed groups.
municipality of Miraflores, Guaviare, have seen a high incidence of recruitment of this population by former members of Frente 1° of the FARC. According to perceptions collected in the territories, this phenomenon is driven primarily by the lack of educational and job opportunities. Thus, one of the primary challenges for the institutions active in this sphere will be addressing the structural economic factors that drive enlistment in illegal armed groups. As previously mentioned, the withdrawal of the FARC from its old zones of influence has generated interest in these territories among other illegal armed groups. Logically, if the structural factors are not addressed, recruitment of children, adolescents, and youth could intensify in regions such as Northern Santander, Southern Cesar, Southern Bolivar, and Choc.

2.6 Perceptions of government actions to address security conditions

Thanks to the monitoring work of the MAPP/OAS, the GS/OAS has identified a number of dominant perceptions of government action with regard to security in former areas of FARC influence and concentration. In some areas with a high concentration of coca crops (e.g. Puerto Concordia, Meta; El Paujil, Caquetá; Angelía, El Tambo, Buenos Aires, and Piamonte, Cauca; and Orito, Putumayo) or marijuana crops (e.g. Corinto, Miranda, and Toribio, Cauca), the presence of security forces is directly associated with forced eradication of illicit crops. In other areas, such as Putumayo department, it is associated with protection of the oil and gas infrastructure and not the safety of the communities per se.

Given that, as of the period of this report, the actions proposed in the context of the negotiations between the Colombian Government and the ELN do not include a bilateral ceasefire, the government is still taking military action against the structures of this group. However, in areas where the presence of the FARC and the ELN varies from one village to the next (e.g. El Bagre, Anorí, and Amalfi, Antioquia; and Arauquita, Arauca), the GS appreciates that the security forces have been avoiding actions that could endanger the FARC disarmament process.

The GS has not identified strong tensions between the FARC and the National Army. Even in areas such as Dabeiba, Antioquia, coordination between the two is visible. In areas where coordination is not as obvious, it is occurring through mechanisms provided by other institutions such as the International Committee of the Red Cross (ICRC) in Catatumbo or the municipal security council itself in Anorí, Antioquia. Thus, despite the perception that the security forces are less active in areas being vacated by the FARC than in areas which the ELN is attempting to enter, we see an increase in the presence of the National Army precisely to prevent this guerrilla group from moving in. This pattern has been observed primarily in municipalities in Northern Santander (e.g. Convención and El Tarra) and Chocó (San José del Palmar, Sipí, and Litoral del San Juan).

Regarding state actions, it is a matter of concern that, after the massive arrests of community leaders said to be FARC or ELN collaborators or members, no evidence has been produced in the course of the trials that proves their connection or membership with these armed groups. In late March, communities in Southern Bolivar and Córdoba reported the arrest of social and community leaders who had been developing organizational processes in the area. Moreover, the IACHR has expressed concern this year about the excessive use of
force during protests over public insecurity and unfulfilled government commitments regarding access to economic and social rights.

With respect to the government’s strategies for countering the organized armed groups (GAOs), the GS/OAS appreciates its repeated attempts to weaken these organizations. Specifically, in the case of Los Pelusos, it notes the capture in Medellín of Guillermo León, alias “David León,” considered the replacement of Víctor Ramón Navarro, alias “Megateo,” who was killed by the security forces in Catatumba in the second half of 2015.

We also note the continuation of Operation Agamemnon, a campaign to dismantle the Clan del Golfo launched almost two years ago. Although the three main targets of this operation—Dairo Antonio Úsuga, alias “Otoniel,” Luis Orlando Padierna, alias “Inglaterra,” and Roberto Vargas, alias “Gavilán”—remain at large, the results thus far reflect ongoing actions against this group, not only in the Urabá region but also in other areas of the country, in the context of the functions of the security forces with competence to counter this criminal phenomenon.

National Police, National Army, and National Navy operations in the seaports of Cartagena, Barranquilla, and Tumaco resulted in the confiscation of large shipments of Clan del Golfo cocaine bound for Central America. Other operations led to the impoundment of small weapons-laden boats between the municipalities of Cáceres and Caucasia in Antioquia, as well as in Mapiripán, Meta and Turbo, Antioquia.

In addition, the GS/OAS recognizes and appreciates the Strategic Military Plan for Stabilization and Consolidation “Victory”\(^{15}\) as an armed forces strategy for preventing the emergence of new groups or the growth of old ones, including possible FARC splinter groups, intent on controlling the income generated by drug trafficking, extortion, illegal mining, smuggling, and human trafficking. The plan is intended as a step towards modernizing the armed forces to operate in a post-conflict environment where they are responsible for consolidating the security gains made in 160 Colombian municipalities under the previous plan, Sword of Honor.

3. Monitoring Current And Potential Social Conflicts In The Territories

The GS/OAS recognizes the efforts of the President of Colombia and his government to address emergent social conflicts at the national and regional levels through a high-level interinstitutional strategy for analyzing, preventing, and monitoring social conflicts.

3.1 Land and territories

The GS/OAS appreciates the intent of the Colombian Government to improve the living conditions of people in rural Colombia. However, this intent should be translated into clear, respectful, and differentiated policies which should to be implemented rapidly with a view to subsequent sustainability. For example, as mentioned in Twenty-Second Report of the Secretary General to the Permanent Council on the Organization of American States

\(^{15}\) Effective January 1, 2017
Mission to Support the Peace Process in Colombia, there are still tensions between campesinos and ethnic groups over access to land in much of Colombia. These tensions have recently escalated in collectively held ethnic territories where ZVTNs and PTNs have been established and in ancestral territories where infrastructure is being renovated or expanded. This is the case in municipalities of La Paz, Cesar; Vigía del Fuerte, Antioquia; Riosucio, Chocó; Tumaco, Nariño; and Tierralta, Córdoba. In some cases, tensions have escalated in connection with requests for the establishment of campesino reserve zones in areas with an ethnic population, such as Serranía del Perijá or Nudo de Paramillo.

In this connection, the GS notes that the failure to clarify land ownership creates fear in rural communities where the FARC had a historical presence. During that period, landless campesinos moved into these territories with the consent of the FARC. These same communities, located in departments such as Meta and Tolima, now fear that, with the demobilization of the FARC, they will lose the land where they have lived and farmed and be displaced and landless once again. This situation of uncertainty also affects various ethnic territories whose border areas have been settled by communities of landless campesinos displaced by the actions of illegal armed groups. Today, tensions have increased, particularly with the implementation of rural development plans in departments such as Cesar, Nariño, Cauca, and Chocó.

In a number of community councils located in the Pacific region of Colombia, where illegal mining is occurring alongside traditional and artisanal mining, there has been an increase in tensions between the communities and new armed groups that would like to control mining. The absence of regulations, which had been agreed in some form with the hegemonic armed group in each of the regions, and the appearance of new players have had strong social and environmental effects on the regions. Furthermore, with the withdrawal of the FARC, the slashing and burning of woods and forests in special protection zones (such as forest preserves and national natural parks) has become a high impact environmental problem. These areas are being deforested to expand pastures, create new farms, and establish new areas for illicit crop production, smuggling of forest products, and land marketing, particularly where the FARC once restricted such activities.

3.2 Social impact of public policies on territories

The communities resent the intensification of the policy of forced eradication of illicit crops, given the expectations created by the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, which proposes gradual eradication with concentration and dialogue. The GS notes that the gap between the formal agreement and the strategies as implemented generates mistrust and skepticism in the local communities concerning the

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16 This is the situation, for example, in the municipality of Tumaco, Nariño, the seat of both the Community Council of Upper Mira and Frontera (CCAMF), representing 42 Afro-descendant communities, and the Association of Mira, Nulpe, and Mataje River Community Boards (ASOMINUMA), representing campesino settlers displaced by violence beginning in the 1990s. The campesino settlements in the territory of the Council are seen as an obstacle to the exercise of the territorial rights of the ethnic territorial authorities. This has created latent tensions between campesinos and Afro-Colombians.

17 These effects occur, for example, in the context of the employment of children, adolescents, and youth in the mines, the control of prostitution on communal lands that are mined, and the regulation of community participation in national days and days when there is no mining so that the river silts up to allow social and cultural activities in it.

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government’s actions. There are regions, especially in the settlement zones\(^\text{18}\) of the departments of Meta, Guaviare, Putumayo, and Nariño, where most of the population depends exclusively on illicit crops because of difficult access to goods and services. Here, the income from illicit crops allows many families to pay for groceries, medical treatment, and secondary and university education for their children.

Given their economic dependency on illicit crops, which do not require an adequate highway infrastructure to be highly profitable, the response of the communities has been one of opposition to the policy of forced eradication. This opposition has taken both peaceful and violent forms and has even been accompanied by de facto agreements with the security forces. In addition, at present and during the period covered by this report, there is and has been no way of escaping the participation of illegal armed groups such as the FARC (prior to its demobilization), the ELN, or the Clan del Golfo, which interfere in various ways depending on the territorial environment.\(^\text{19}\)

One of the most common concerns in the communities is the lack of clear information about the policy on the substitution and eradication of illicit crops. According to the communities, on the one hand, under the Havana agreements, which commit the national government to establishing a comprehensive national substitution program, the government is signing local agreements implementing the program and has arranged for the replacement of approximately 50,000 hectares. On the other hand, with the help of the security forces, it is continuing and escalating the forced eradication plan with the goal of clearing 100,000 hectares. These contradictory policies create concerns in the communities about the national government’s approach to illicit crops, especially in departments such as Meta, Guaviare, and Nariño. These territories, where collective agreements for voluntary and consensual substitution of illicit crops have already been signed, have been harmed by the dynamics of forced eradication, which have triggered serious confrontations between the communities and the security forces.

From the viewpoint of the ethnic communities, implementation of the policy of forced eradication has had various negative effects. First, the communities perceive the public stigmatization of the coca plant as bad, given its medical use and the traditional identity-based worldview which some indigenous communities have built around the plant. Second, the communities are demanding differentiated, ethnically sensitive treatment, agreed through a process of prior consultation, with respect to eradication activities on ancestral and communal lands, particularly in areas where there are tensions between ethnic and campesino communities over the establishment of campesino reserve zones. In this connection, both the indigenous communities and the various Afro-descendant community

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\(^{18}\) By “settlement zones,” we mean rural areas that have experienced successive flows of settlers driven by continuous agrarian and political conflict.

\(^{19}\) For example, in some cases, armed players have promoted and provoked confrontation with the security forces within the communities. In others, they have encouraged the establishment of new base-level leaders and organizations in competition with the natural leaders of the areas. They have also held social leaders responsible for what may happen to communities that sign crop substitution agreements with the national government.

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councils have asked the national government to honor and execute the agreements signed in the context of the “ethnic chapter” of the final Havana agreement.\footnote{Regarding the rights of indigenous peoples, the IACHR agrees with the MAPP/OAS on the need to create dialogue and participation channels and spaces for peoples occupying territories in two or more countries. It also agrees that the indigenous jurisdictions should be harmonized with the tools of transitional justice and the other ethnic jurisdictions, taking account of multiculturalism. The Commission has received copious information about indigenous peoples whose rights have been infringed by the Mobile Anti-Riot Squad (ESMAD), which has allegedly used excessive force to compel eradication of illicit crops without consultation and consent; and, generally, about the threatening, disappearing, and murder of indigenous leaders, acts of violence against indigenous persons by the Águilas Negras [Black Eagles] in Cauca department, and more.}

Another important aspect when considering the impact of public policy in the territories is the broad spectrum of organizations that are currently energizing rural Colombia. Thanks to the MAPP/OAS, we know that there are not only local base-level organizations calling for equal and dignified access to goods and services in a context of voluntary and consensual substitution, but also new organizations, social movements, and organizational platforms with political plans relevant to local and regional development.

This organizational capacity of the rural population represents a major challenge for the national government in terms of signing voluntary, consensual substitution agreements for illicit crops in the various regions of the country. The national government should take the most inclusive, pluralistic approach possible to this process in order to ensure the participation of people representing all sectors, ideologies, and positions. The participation component of agreement-building is vital for the implementation and legitimacy of the agreements reached. Omitting it encourages social conflict and mobilization in organizations and sectors that do not feel included in and/or connected with the dialogue.

In this connection, the MAPP/OAS has uncovered community and regional proposals warranting dialogue and concertation by the national government. It has subsequently provided assistance for dialogue and concertation between the national government and coca-growing rural sectors which, in a context of uncertainty, have successfully encouraged coca-growers to elect voluntary eradication in the hope of rapid substitution. Specifically, the MAPP/OAS has provided support for the signature of substitution agreements in departments including Putumayo, Meta, Guaviare, and Caquetá.

4. Territorial Recruitment For Peace: Participation And Social Dialogue

Building peace requires an emphasis on knowing the territories and their cultural, organizational, economic, social, political, and institutional specificities. Inclusion of voices and proposals from the territories in peacebuilding processes both boosts the recognition of regional and local groups, sectors, organizations, and platforms and helps to repair the territorial social fabric in the near and medium term. The local communities are seeking accessible, concrete, real options for contributing to the development of proposals, plans, and strategies for implementing the agreements with the FARC, or for discussing topics that may be useful for the talks with the ELN. Pluralistic, inclusive action can contribute decisively to lasting peace. Recognition of civil, traditional, military, social, and religious authorities and
respect for the diverse organizational forms specific to the territories is essential to the process of legitimizing the agreement.

In this context, the current transition of the FARC from armed player to political player and the negotiations with the ELN have opened a window of opportunity for increasing democratization of resources, public participation, and also social dialogue, so that civil society organizations can take the national government’s proposals to their regions, legitimize them, implement them and, at the same time, offer their own proposals and initiatives. In this connection, the GS/OAS welcomes the openness of the Colombian Government to the participatory building of consensuses, which are needed to manage the post-conflict phase in the best possible way, and it urges ongoing reflection on guarantees for participation and generalized social dialogue.

In addition, MAPP/OAS monitoring reveals that, despite progress and opportunities, some participation and democratization processes in the territories are beginning to be coopted by organizations with special political and economic interests. In departments such as Córdoba, Chocó, Antioquia, and Bolívar, civil society organizations and NGOs are being formed for the purpose of running projects proposed by the national government, to the detriment of base-level civil society organizations and local NGOs with local track records and prior knowledge of the context.

Furthermore, in departments with predominantly ethnic populations such as Chocó and Nariño, political movements and parallel organizations have been established to provide political platforms, with an eye to the spaces for participation in the implementation of the Havana agreements (and the spaces for participation in the negotiations with the ELN). Their political activities are one reason why the legitimacy of the ethnic territorial authorities in the various departments is ignored. These ethnic authorities say that they have been excluded from participation and dialogue with local governments and the national government in the context of the activities of these movements.

In Southern Bolívar and Northern Santander, various pre-existing base-level organizations are confronting tensions over participation schemes, given that higher profile associations are reducing the visibility of smaller local rural ones. We observe this situation creating tensions and setbacks not only in the development of participation schemes, but even in the implementation of measures generated by the national roundtable dialogues. Similarly, in Cesar department, existing tensions within the coalition of organizations helping to implement the Havana agreements have prevented the establishment of an effective network of civil society organizations to support its implementation.²¹

Similarly, the GS/OAS has noted feelings of frustration and powerlessness in some communities due to the national government’s failure to keep commitments on matters that directly affect the regions and the quality of life of their inhabitants. An example of this is the agreements reached and never implemented with the indigenous communities in Cauca.

²¹ Furthermore, limited publicity and education about spaces established in the Monitoring and Verification Mechanism for civil society coordination with the Mechanism at the national and local levels have created tensions among base-, second-, and third-level community organizations that are visible in broader political contexts.

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Another is in Putumayo, where fulfillment of only some of the commitments is seen as evidence of the low credibility and sustainability of actions on the ground. Weaknesses in the implementation of other territorial policies have a direct impact on the peace policy as a whole. Thus, it might advance the peacebuilding process if, as a learning exercise in rebuilding its relationship with the local communities, the government acknowledged the distrust created by weak implementation of territorial policies.

The GS/OAS urges the creation of a stronger culture of dialogue and respect for diversity through the strengthening and use of pre-existing institutional and noninstitutional mechanisms for grassroots organization and citizen participation to bridge differences, share territorial visions, and discuss, analyze, and debate territorial priorities in the political, social, and economic sectors.

To build the trust necessary for peacebuilding, it is necessary to promote the introduction and presence of watchdog bodies in the territories. This helps to lessen community uncertainty in cases of alleged corruption. It also reduces the perception of impunity and helps restore community trust in the justice systems. The GS/OAS urges the national government, and in particular, the Office of the Public Prosecutor, to strengthen the presence and services of different public authorities in the territories and to strengthen monitoring and alert mechanisms such as the early warning system of the Office of the Ombudsperson and the national and regional observatories. We also recommend that, with due respect for the legal requirements and guarantees inherent in the fundamental right of due process, criminal investigation and disciplinary oversight bodies strengthen their investigatory and penalization capacities for cases in which public officials who can use their positions to obstruct or evade justice are relieved of their duties.

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22 A still current example of unimplemented agreements with an indigenous people in Putumayo department might be in the context of the creation of the Awá people’s roundtable as a result of Order 004/09 of the Constitutional Court and Decree 1137/10. This roundtable, established by the government for the basic purpose of suggesting, developing, and agreeing on measures to prevent violations of fundamental rights of the indigenous people in the territory, last met in 2014, when it was deactivated owing to the government’s failure to respond to the issue of its attendance at roundtable meetings. According to the official homepage of the Organización Nacional Indígena de Colombia [National Indigenous Organization of Colombia] (ONIC), theroundtable had been pointless since its establishment, given that “the few roundtables meetings held have [had] countless absences; [furthermore] the few entities that participate send employees with no capacity to commit vis-à-vis the requests advanced by [the Awá representatives] in [the] Awá ethnic safeguard plan.” The press release points out that “the Constitutional Court set six months for the development and implementation of agreements, and seven years have elapsed without progress.” In addition, government failure to implement illicit crop substitution programs (such as the PLANTE program and the Forest Ranger Families program) has greatly undermined the trust of indigenous peoples in the national government, and even the trust of the general public.

23 Such as the programs and plans for eradicating illicit crops

24 Law 1757/15, which is designed to promote, protect, and ensure arrangements for exercising the right to participate in political, administrative, economic, social, and cultural life and control political power, provides a legal framework for coordinating these mechanisms.

25 At the national level, Observatory for Human Rights and International Humanitarian Law, Office of the Presidential Advisor for Human Rights

26 Under Colombian law, if it is suspected that public officials under investigation may use their privileged position to alter and/or hide incriminating evidence or exert pressure on their subordinates for the purpose of evading the arm of the law, they may be temporarily relieved of their duties.
The immediate challenges for the agreement between the national government and the FARC include establishment of the local-level mechanisms and components needed to implement the agreements, withdrawal of the FARC from the territories as an armed player, and possible resistance to implementation of the peace policy. The GA/OAS finds that, despite the commitment of some civil society organizations and local and regional authorities to implementing the final agreement, disinformation, incomplete information, and lack of awareness reign in the territories. Furthermore, there is no public outreach and education strategy to inform the communities and local authorities in simple, everyday language about the final agreement itself, obstacles for its implementation in the territories, and how inhabitants can make their voices heard if they wish to participate.

With respect to the talks with the ELN, bringing organizations and victims into the negotiation process as active participants at an early stage is key to achieving stable and lasting peace. As was the case in the past with the negotiations with the FARC, little information on progress in the talks between the national government and the ELN is being released to the regional and local authorities and civil society. In this connection, the community still does not have suitable, effective channels of communication for expressing and discussing questions and uncertainties. The GS/OAS encourages the national government to strengthen effective mechanisms through which the different sectors can express their interests and perspectives, not only on what they hope from the peace process but also on what they can do for it.

The GS/OAS is concerned at the detention of social leaders accused of collaboration with the guerrillas, given the sense of persecution and political stigmatization that these detentions have had communicated to social movements and human rights organizations.

Lastly, through the MAPP/OAS, the GS/OAS provided support to community action organizations during the election of members to the community action boards (JACs) and the Asociación de Juntas de Acción Comunal [Association of Community Action boards] (ASOJUNTAS). During the period, it saw the pressures to which the organizations are subject in the territories, their capacities, and the challenges for peacebuilding from a territorial perspective.

Two distinct scenarios were evident in the election processes of the community action organizations. The first occurred in rural environments that were safe during the day. The second occurred in urban environments, where there were risks associated with the presence of organized crime, which tried to shut down community processes for reporting social problems such as the local sale of psychoactive substances. In addition, armed

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27 One noteworthy initiative is the government of Cauca campaign “Cauca: Territory of Peace.”
28 In the context of its monitoring and support for collective reparation under the National Cases Strategy
29 The IACHR is also concerned by the high rate of violence against JAC leaders, which represents a major obstacle to organized community support for the peace process. It remains essential to provide better protections for human rights defenders, including protecting them from impunity by investigating cases and producing results. Moreover, coordination between the mechanisms for protecting defenders and the investigating organizations is extremely important for determining the sources of risk and identifying and penalizing perpetrators. This makes it possible to deactivate elements that put individuals in protection programs at risk.

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groups, especially guerilla groups, attempted to assert social control through means other than direct violence both before and after the elections.\textsuperscript{30}

In this connection, the level of civil society organization was observed to be inversely proportionate to the risks incurred in community election processes. In places where civil society is more autonomous, such as the municipality of Apartadó, Antioquia, there were better protections than in places where it is fragmented and involved in local power structures, such as the municipalities of Dabeiba, Antioquia, and Valledupar, Cesar.

5. Comprehensive Reparation Of Victims

The GS/OAS wishes to emphasize the progressive presence of the Victim Assistance and Comprehensive Reparation Unit (UARIV) in the territories, where it has 20 territorial directorates,\textsuperscript{31} 22 regional centers,\textsuperscript{32} and numerous assistance points, all fixed locations where victims can access government assistance and learn about the public policy applicable to them. Furthermore, the Unit has expanded its coverage by organizing multiple mobile victim assistance days targeting the victim population. However, from the MAPP/OAS monitoring work in the territories, we know that there are areas where the competent institution is unable to serve the population or can only do so on a precarious, inefficient basis, which strengthens the perception of government abandonment and revictimization in some regions.\textsuperscript{33} It also affects victims’ awareness of their rights and, consequently, their access to the measures provided for in Law 1448/11 and its regulating decrees.

The GS/OAS is also concerned about the Unit’s slow progress on providing comprehensive reparation to subjects of collective reparation, whether in the damage assessment phase, the development of comprehensive plans for collective reparation (PIRCs), or the implementation of PIRCs already submitted to the Transitional Justice Committees for approval. This delay is due to a number of factors, including community timeframes and rhythms for assessing the damage and insufficient coordination, planning, and resource availability in a medium- and long-term interinstitutional effort. Additionally, the Unit faces the immediate challenge of implementing efficient contracting procedures.

With respect to reparation procedures, the GS/OAS notes that, according to the MAPP/OAS, members of the facilitating committees and representatives of victims committees who took part in the broad participatory forums\textsuperscript{34} report deficiencies in the psychosocial rehabilitation processes. The victims say that their unfortunate situation of

\textsuperscript{30} The member election process allows election results to be challenged.

\textsuperscript{31} Victim Assistance and Comprehensive Reparation Unit. Figures available at http://www.unidadvictimas.gov.co/es/quienes-somos/direcciones-territoriales/147


\textsuperscript{33} For example, in Southern Guajira or the municipality of Montecristo, Bolívar

\textsuperscript{34} In accordance with 5.1.3.7 of Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, a broad participatory process was initiated to strengthen the policy on comprehensive support and reparation for victims in view of the requirements and opportunities in the new context. Thirty-two participatory exercises were conducted at the national, departmental, and municipal levels for the purpose of identifying, collecting, and discussing proposals for fine-tuning the aforementioned public policy with an emphasis on ensuring compatibility with the guidelines based on the final agreement.
precarious psychological care is worsening because the healthcare system does not provide medical and psychological services effectively, and that the rehabilitation measures are ineffective for those reasons.

There is also still the challenge of consolidating a UARIV public care model based on a differentiated and territorial approach. Implementation of the ethnic decrees remains incipient, and public officials, the ethnic territorial authorities, and the ethnic communities are unaware of their scope and content. Furthermore, the territory-based care model still has problems in terms of inclusiveness, functioning, and maintenance. Victims express low confidence in the possibility of obtaining reparation, given the slow implementation of the care circuits established for the effective enjoyment of rights. The GS/OAS urges redoubled effort to overcome the limited institutional presence in the territories and boost enforcement and implementation of the decree-laws established for the ethnic groups.

As of August 1, 2017, the Single Register of Victims (RUV) contained a total of 8,186,896 individual victims of the armed conflict, including 4,064,710 women. However, the GS notes a high rate of underregistration due to factors such as ignorance of care circuits, mistrust of government institutions, meager funds for traveling to regional victims services and reparation centers, and the persistence of internal armed conflict itself.

In various territories, the GS/OAS has observed that victims of offenses against sexual freedom and integrity (overwhelmingly women) are among those least likely to report, principally out of fear of possible armed group reprisal. Shame and the absence of adequate spaces and confidentiality when statements are taken also contribute to the underregistration of individuals in this category. It is therefore essential to give attention to communication, support, and personalized follow-up procedures for individuals who have not registered as victims of offenses against their sexual liberty and integrity. These cases require building community trust in Colombian government institutions, with an emphasis on establishing a relationship with direct victims and their families.

The GS recognizes the proactive work of national, departmental, municipal, and village leaders, as well as their decisive contribution to promoting respect and protection for human rights and fundamental freedoms, especially in the context of Law 1448/11. It also wishes to call attention to the activation of the High-level Commission for the Protection of Human Rights on November 22, 2016. It particularly wishes to highlight the ongoing efforts of the Office of the Presidential Advisor for Human Rights to coordinate with the various national institutions and civil society.

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36 The Regional Center of Santander de Quilichao, Cauca, is an example of the problems for implementing this strategy of territorial presence. It has not even opened to the public and has already had problems with damage to infrastructure and loss of furnishings due to a lack of security.
37 A total of 8,186,896 victims were recorded as of August 1, 2017. Figure from http://mi.unidadvictimas.gov.co/RUV
38 As of November 1, 2016, the Single Register of Victims (RUV) contained 17,898 victims of offenses against sexual freedom and integrity, of which 15,515 (86.6 percent) were women.
39 The related presidential statement is available at https://www.youtube.com/watch?v=HvJhgnNZ2OU
However, it should be noted that, through the presence of the MAPP/OAS on the ground, we know that there continue to be cases of threatening, murder, stigmatization, and disappearance, particularly among local and community leaders. For example, in the community action organizations, 45 people died in different circumstances in 2016. These incidents do not contribute to peacebuilding, and the GS/OAS urges implementation of preventive measures, as well as action on the investigations. Protective measures should also be put in place for professionals providing victim care in the territories under various different forms of government contracting.

In addition to the above, during the period covered by this report, a number of former paramilitary commanders of the Autodefensas Unidas de Colombia [United Self-Defense Forces of Colombia] (AUC) were released from prison and placed under house arrest. In some cases, these former commanders have returned to the areas previously controlled by the demobilized armed group, creating strong local uncertainty about conflict victims’ organizations and participation, as well as fear among victims of dispossession or forced abandonment who are currently seeking to claim their fundamental right to the restitution of land and territories and who perceive the protection for pursuing their claims as precarious or nonexistent. Side effects of this nature are most prevalent in regions where violence related to the armed conflict persists owing to the emergence of new players following demobilization of the AUC.

5.1 Land restitution chapter: Perceptions and observations about the process

The GS/OAS remains concerned by some communities’ negative perception of the work of the Land Restitution Unit (URT) and the land restitution judges and magistrates. The work of the Unit continues to be marked by a low level of policy implementation in comparison with the estimated figures for dispossession and forced abandonment of land. This has given rise to a generalized negative perception of the land restitution process amongst the civilian population, which is tied to three general issues:

1) The large discrepancy between the time specified in Law 1448 for administrative proceedings (registration in the Register of Dispossessed and Forcibly Abandoned

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40 Figure from a joint exercise between the community action organizations and the Victims Unit in the context of damage assessment.

41 On November 20, 2016, the community action organizations submitted a figure of 33 persons affected to the Ministry of the Interior, as reported at the time in the MAPP/OAS press release: https://www.mapp-oa.org/comunicados/mappoea-hace-llamado-para-garantizar-seguridad-de-integrantes-de-accion-comunal-y-avanzar-en-investigaciones-judiciales/

42 Protection of persons associated with the UARIV is based on the type of their association. Since a percentage of UARIV operations are performed through service order contracts, there are people subject to threats or risks who cannot be covered by the National Protection Unit because they are not associated under an employment contract, even though their vulnerability is work-related.

43 An example of this occurred with the release and placement under house arrest of Jesús Ignacio Roldan, alias “Monoleche,” a former commander of the Bloque Calima of the Autodefensas Unidas de Colombia (AUC).

44 This situation has been reported by various MAPP/OAS regional offices, including those conducting monitoring in the departments of Córdoba, Antioquia, Cesar, Nariño, Cauca, and Meta, among others.
Land)\textsuperscript{45} and judicial proceedings\textsuperscript{46} and the time these phases actually take.\textsuperscript{47} This situation becomes even more complex when the judgment is handed down, because it is at this time that the lack of institutional coordination becomes apparent and policy noncompliance is greatest in terms of comprehensive reparation. The foregoing strengthens the perception of revictimization, since some orders essential to exercise the right to land restitution (e.g. titleing of the property to the victims) have in some cases taken up to three years when the period set by the judgment was only one month.

On this subject, the IACHR agrees with the MAPP/OAS that there has been persistently slow progress on providing comprehensive reparation for subjects of collective reparation recognized by the Victim Attention and Comprehensive Reparation Unit, as well as a lack of institutional coordination during the various phases of the reparation process. In addition, the Commission has been informed of persistent obstacles to the implementation of the ethnic

2) Despite the countrywide mapping and information-gathering exercise (macro-focalization) conducted in April for the purpose of implementing the Register of Dispossessed and Forcibly Abandoned Land, of the 100,792 requests filed to date, only 56,497 (56 percent) have been approved for macro-focalization by the Ministry of Defense, which is a regulatory prerequisite for initiating administrative review of requests.\textsuperscript{48} This situation has deepened the sense of pessimism in regions where no progress has been made on returning land despite a considerable volume of requests.

Also of concern is the high percentage of registration requests denied during the administrative phase, which the URT handles. Of the 42,982 cases processed, 57.49 percent (24,712 cases) were denied.\textsuperscript{49} Also, 24.51 percent of all requests filed have been rejected by the URT and, as a result, theoretically do not meet the admissibility requirement for submission to a land restitution court. These figures create a perception among victims that the URT is prejudiced and unaware of the pro victima principle of jurisprudence, which dictates that the victim should receive the benefit of the doubt.

3) The corruption scandals surrounding officials responsible for implementing the comprehensive victim reparation program\textsuperscript{50} and the specialized civil land restitution courts\textsuperscript{51} deepen public skepticism about the objectivity and impartiality of the justice

\textsuperscript{45} Sixty business days, extendible for 30 additional days
\textsuperscript{46} Four months. The time periods are established in Article 91, paragraph 1, of Law 1448/11.
\textsuperscript{47} In some cases, it has taken a year for the administrative phase and two years for the judicial phase.
\textsuperscript{48} Register of Dispossessed and Forcibly Abandoned Land, Land Restitution Statistics, accessed April 2017, https://www.restituciondetierras.gov.co/estadisticas-de-restitucion-de-tierras
\textsuperscript{49} Register of Dispossessed and Forcibly Abandoned Land, Land Restitution Statistics, accessed April 2017, https://www.restituciondetierras.gov.co/estadisticas-de-restitucion-de-tierras
\textsuperscript{50} In November 2016, the director and two officials of the Victims Unit Territorial Directorate in Antioquia were arrested during the implementation of an interinstitutional anti-corruption strategy. According to the Victims Unit press release, the Unit has filed 1,044 reports of possible acts of internal and external corruption and fraud with the Office of the Attorney General. See http://www.unidadvictimas.gov.co/es/institucional/comunicado-de-prensa/28260.
\textsuperscript{51} In June 2016, the Office of the Attorney General arrested the second judge of the Tierras de Villavicencio land restitution court and three other court employees involved in corruption relating to a property subject to restitution. See http://www.elespectador.com/noticias/judicial/condenada-siete-anos-de-prision-desvilar-proceso-de-rest-articulo-656037.
impairment. Although this does not afflict the specialized land restitution courts exclusively, it nevertheless has a devastating impact on the transitional justice model by attacking it at its base.

In addition, despite the efforts of the URT and the specialized land restitution courts to effectively implement a differentiated, gender-sensitive approach to the land restitution process, the GS/OAS has corroborated through MAPP/OAS data the persistence of structural patterns of discrimination, exclusion, and marginalization of women. This situation inhibits women’s effective enjoyment of their rights to the use, tenure, and administration of their property. The GS/OAS urges Colombian institutions to implement more initiatives to promote women’s empowerment, entrepreneurship, and cooperative farming and to encourage major changes in cultural patterns that discourage them from participating in public spaces and expressing their ideas outside the home. These initiatives should encourage women to engage in self-reflection about the importance of their ideas, expressing them publicly, and having them taken seriously in the public sphere, which would lead to a strengthening of spaces for dialogue and would also contribute to the recognition of their rights in connection with properties subject to restitution.\(^{52}\)

In view of all of the above, the MAPP/OAS has reiterated the vital need for the URT and the UARIV to plan, prioritize, and take action in the zones designated as high priority under the return plans and comprehensive plans for collective reparation (PIRCs).

**5.1.1 Low implementation of land restitution**

A clear example of weak implementation and government coordination can be seen in the restitution of territorial rights, i.e. the rights of ethnic minority individual and community victims of territorial infringements in the context of the armed conflict. Five and a half years after the rollout of this public policy, only five judgments have been issued, and another 26 are in the judicial phase. In at least three judgments,\(^{53}\) the specialized land restitution court urged the UARIV and the URT to prepare damage description reports, which they had failed to prepare as required under Article 139 of Decree 4633/11.\(^{54}\) From this, it is clear that orders in judgments are being issued generally in the absence of any gender and ethnic breakdown of the infringements and their effects, which diminishes the effectiveness of the judgments.

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\(^{52}\) The IACHR has pointed out that women continue to be at a particular disadvantage in land restitution processes despite efforts to implement a gender perspective. Like the MAPP/OAS, the IACHR notes the persistence of structural patterns of discrimination, exclusion, and marginalization of women that interfere with their effective enjoyment of their rights to the use, tenancy, and administration of their property.

\(^{53}\) Cases of Upper Andagua Community, Renacer Negro Community Council, and Embera Dobida Eyakera Community

\(^{54}\) Decree 4633 of 2011, issuing measures for assistance, attention to, comprehensive reparation, and restitution of territorial rights to victims belonging to the indigenous peoples and communities, Article 139. Comprehensive description of damages and effects: “For the purposes of formulating and implementing the Comprehensive Plans for Collective Reparation of Indigenous Peoples and Communities (PIRPCI) and/or carrying out the territorial restitution process, the Special Administrative Unit for Victim Attention and Comprehensive Reparation and the Special Administrative Unit for Dispossessed Land Restitution shall jointly prepare a comprehensive description of the damages and infringements suffered by the indigenous people or community requesting measures of support and reparation and measures for protection or restitution of territorial rights. “Comprehensive description” is understood to mean identification of the events, context, and factors involved in violations of rights of indigenous peoples and communities resulting in damages and infringements pursuant to this decree for the purpose of establishing criteria, measures, procedures, and actions for their attention, protection, reparation, and restitution.”
In the course of its monitoring of the Embera Dobida-Dogibi indigenous reserve, an Eyakera ancestral territory in the municipality of Ungía, Chocó, in April 2016 the MAPP/OAS noted a restitution judgment recognizing territorial infringements in the context of the armed conflict and issuing a series of orders aimed at comprehensive restitution. However, more than eight months later, scant progress has been made on implementing it. Thus, we see weak coordination among the entities responsible for carrying out the orders, ignorance of the differentiated, ethnically sensitive approach that should be applied to the measures, and a negative community perception of the effectiveness of the restitution process.

Another issue of concern, raised repeatedly by both the Colombian Constitutional Court and the MAPP/OAS, is attention to the secondary occupants of properties to be adjudicated by the land restitution courts, which the URT addressed in its Agreement 029 of April 20, 2016, an instrument regulating attention to this population.\(^{55,56}\)

The GS/OAS is concerned that one of the criteria which secondary occupants must meet under the above administrative agreement is that, to be recognized as such, they must have established a relationship or connection with the property before macro-

focalization.\(^{57}\) Given that the entire country was “macro-focalized” only eight days later,\(^{58}\) legally speaking, anyone establishing a connection with a property subject to restitution after April 28, 2016, would not be protected as a secondary occupant. Thus, in a context of ongoing conflict with other armed players and its possible consequences, the criterion stipulated in Agreement 029 runs counter to the goal of mitigating the possible negative effects of property restitution, especially in terms of reconciliation, repairing of the social fabric, and respect for the rights of vulnerable campesino families.\(^{59}\)

In its decision C-330 of June 23, 2016, the Constitution Court required land restitution judges to pronounce on secondary occupants, objecting parties, and third parties with vested or inchoate rights who are occupying a property subject to restitution. It ruled that it is the land restitution judge who determines secondary occupant status and therefore indicates the protection measure for which the URT is responsible. However, there continue to be omissions in the specialized courts (and thus delays in action by the UARIV), as well as deficient legal representation of secondary occupants by the Public Defender Unit of the Office of the Ombudsperson.

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\(^{55}\) In general terms, “secondary occupants” are understood to mean individuals who, in good faith and for a variety of reasons associated with the dynamics of armed conflict, are exercising their right to housing in a property subject to restitution.

\(^{56}\) The rescinded administrative instruments are Agreement 018 of 2014 and Agreement 021/15. Obviously, measures have been adopted as the situation evolved to comply with national and international standards for the protection of secondary occupants (Pinheiro Principle 17).

\(^{57}\) Macro-focalization is the first of four land restitution phases (macro-focalization, micro-focalization, administrative phase, judicial phase). Macro-focalization and micro-focalization criteria are based on the principles of progressivity and graduality established in Law 1448/11 for the restitution of land.

\(^{58}\) Land Restitution Unit, press release of April 28, 2016, accessed at https://www.restituciondeterras.gov.co/historico-de-noticias/-/noticias/663753

\(^{59}\) See Pinheiro Principle 17 on secondary occupants. It should be noted that, according to the Colombian Constitutional Court, the Pinheiro Principles on the restitution of the housing and property of refugees and displaced persons are broadly implicit in the constitution inasmuch as they are developments of fundamental law on comprehensive reparation for damages that have become part of international doctrine. See for example decision C-715/12.

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In addition, institutional cooperation on land use, access, distribution, protection, and formalization continues to be weak. Although Colombian legal procedures for providing attention and reparation to victims contain mechanisms for harmonious cooperation and articulation between the national entities and the territorial entities, these mechanisms have been notoriously ineffective during their five and a half years in use. Furthermore, the GS/OAS is concerned that, following the closure of the Colombian Institute for Rural Development (INCORDER), new institutions have been created that still do not mesh effectively with the already complex institutional web, which could slow the protection, formalization, and restitution of land and territories.

5.1.2 Awareness of participation mechanisms and accessibility of mechanisms

Victims now have an official mechanism for interacting with the institutions implementing the public policy in the form of victim participation roundtables at the municipal, departmental, and national levels. This represents progress. However, a number of problems, including weak victim and administrator awareness of the mechanism, controversies about the allocation and use of resources, and disputes among and within victims organizations, mean that communications with the local authorities are not always fluid. This situation helps to make the victim participation roundtables susceptible to being used for financial or political purposes rather than as true spaces for advocacy.

To influence and generate proposals for effective participation, the GS/OAS recommends launching education campaigns on how the roundtables work; strengthening and renewing community and organizational leadership in the victim population and incorporating the differentiated approach in this area; and emphasizing comprehensive reparation, not just the indemnification measure.

The GS/OAS receives a steady stream of information about the problems experienced by victims submitting the Assistance, Attention, and Comprehensive Reparation Plan (PAARI). Connectivity and communications are not optimal in all regions of Colombia, which means that it may not be possible to complete the entire process because of a dropped line or a bad telephone connection. Victims also have had problems with common administrative formalities such as updating information, requesting proof of victim status, or including a person in the immediate family. In our view, these problems are important because they remain issues to be resolved six years after the law was enacted.

Currently, victims are having trouble submitting the statement of eligible events for registration in the Single Victims Register (RUV) because some members of the Office of the Public Prosecutor will not accept them. Even though the regular legal submission period for eligible events that occurred prior to June 2011 closed in mid-2015, the statements should be accepted by the Office of the Public Prosecutor if late submission is justified by a force

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50 Decree 2365 of December 7, 2015
51 The National Land Agency, the Rural Development Agency, and the Agency for Territorial Renewal
52 Victims Unit, Resolution 0388/13, Protocol for Effective Participation of Victims of the Armed Conflict, available at http://www.unidadvictimas.gov.co/es/protocolo-de-participaci%C3%B3n-e efectiva-de-las-victimas-del-conflicto-armado/15529
53 The PAARI is submitted by telephone, which has implications for the rural population.
majeure event. In this connection, the National Commission of the Public Ministry for Transitional Justice has issued a circular underscoring the obligation of the Office of the Public Prosecutor to accept statements, independently from the assessment made by the UARIV with respect to inclusion in the Single Victims Register.

Lastly, during the period covered by this report, the National Center for Historical Memory (CNMH) published seven reports. However, although the compilation and publication of this information represents progress, the Center will continue to confront the challenge of increasing awareness and appropriation of these publications by the communities and ensuring that their accounts and memories are collected through potentially healing processes. The Center should also work to provide victims with more information on the comprehensive reparation measures and to promote regional historical memory processes with the participation of victims and victims organizations as a dignifying element. In that connection, the GS/OAS wishes to highlight the Center’s decision to take a participatory approach to the ¡Basta Ya! Catatumbo project in order to contribute to the dignity, recognition, and visibility of the region’s communities.

In addition, the GS recognizes and underscores the challenge that the Colombian State faces for ensuring political and financial coherence in the context of implementing the public policy on victim attention and comprehensive reparation, the potential increase in the as yet undetermined number of victims of FARC violence, and increased budget allocation. We make this observation from the vantage point offered by MAPP/OAS data, which show a gradual decrease in the Colombian budget for comprehensive reparation of victims. From the standpoint of the principles of comprehensive reparation and of achieving effective, sustainable results from the reparation policy, this shrinkage represents an obvious risk, particularly during the current political and transitional moment in the implementation of the peace agreement with the FARC.

6. Transitional Justice Mechanisms

The GS/OAS positively views the legislative strides made as part of the final agreement between the Colombian government and the FARC. Adoption of Legislative Act 02/2017 is one of the most significant advances Colombia has seen in terms of transitional justice, in that it provides legal stability and certainty to the processes called for in the Final Agreement to End the Armed Conflict.

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64 The statement must clearly describe the force majeure event for the legal exception to apply. Once the problem caused by the force majeure event has been overcome, the victim has two years to submit the statement.
65 Circular issued by the National Commission of the Public Ministry for Transitional Justice on July 14, 2015 (Circular CNIVPJT 003-2015)
66 The reports produced over the period are La maldita tierra [The cursed land], published September 1, 2016; La justicia demanda memoria [Justice calls for memory], published November 4, 2016; Granada. Memories of war, resistance and reconstruction, published November 4, 2016; Until you find them. The drama of enforced disappearance in Colombia, published November 24, 2016; Cartillas: Desde el Carare, la niñez y la juventud siembra cultura de paz [Early readers series: From the Carare: Children and young people sow a culture of peace], published November 24, 2015. From http://www.centrodememorialhistorica.gov.co/informes-2016?limilstart=0

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Against this backdrop, the challenge for Colombia is to consolidate a comprehensive transitional justice system, in which the system for truth, justice, redress, and non-repetition (SIVJRNR)\textsuperscript{67} is interlinked in practice and conceptually to other mechanisms, such as Law 975/2005, Law 1424/2010, Law 1448/2011, and those adopted as part of the talks between the Colombian government and the ELN.\textsuperscript{68}

Bearing this in mind, the GS/OAS highlights the importance of securing the greatest complementarity and standardization possible among transitional justice instruments. As part of the implementation of the Justice and Peace Law, regional issues relating to the armed conflict have emerged and should be considered in developing the documents for the Special Jurisdiction for Peace (JEP) framework. To that effect, in the event that some or all of the JEP procedural standards are applied to the ELN process, the procedures should be standardized, such that the conditions arising from international criminal law standards include the actions of the FARC, ELN, and other actors in the internal armed conflict.\textsuperscript{69}

In parallel, the Transitional Justice Division of the Office of the Attorney General has certified more than 15,000 copies to be reviewed, particularly for those cases that were shelved, but which could be key for the JEP or organized-crime fighting mechanisms created based on Point 3.4 of the agreement between the FARC and the Colombian government.

The GS/OAS further recognizes the possibility of omissions occurring due to shortcomings in the process for configuring the JEP lists of beneficiaries. This could be the case for people not admitted to the list or those having committed crimes against humanity while belonging to the guerrilla and who did not demobilize because they had already dissociated

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\textsuperscript{67} As regards the guarantees of non-repetition in the peace agreement, the IACHR held a hearing in March 2017, in which organizations noted the right of victims and society for structural measures to be established to prevent the commission of new crimes. They explained the factors that impede guarantees of non-repetition in the peace agreement: the persistence of paramilitary groups; the need for security policy reform, using a more civilian, not military, approach; and the purging of public officials involved in human rights violations, paramilitarism, and corruption. They underscored that the dismantling of the paramilitary groups begins with the state acknowledging their existence. The state indicated that the first guarantee of non-repetition is peace itself and that Colombia currently has the lowest homicide rate in the last 41 years. It noted that the presence of the military throughout Colombian territory is crucial and pointed to the outcomes of the Justice and Peace processes.

\textsuperscript{68} The IACHR is concerned that the Special Jurisdiction for Peace (JEP) will not achieve the necessary coordination with the Justice and Peace process to elucidate events, contexts, collusion, and serious third-party human rights violations, like massacres—whose true magnitude has not been understood—if only applicants (former paramilitaries suspected of crimes that are to benefit from the Justice and Peace Law) are included, leaving the investigation of crimes committed by third- parties to the civilian justice system. As the state has reported, the JEP will not admit the statements of applicants having confessed to the relationship of paramilitary groups with third parties.

\textsuperscript{69} As a follow-up to the implementation of the comprehensive system for truth, justice, redress, and non-repetition (hereinafter, “comprehensive system”), the IACHR, in a March 2017 hearing on the state’s obligations to combat impunity and the Special Jurisdiction for Peace (JEP), underscored the fact that civil society organizations had voiced concerns about the comprehensive system’s ability to combat impunity in cases of serious human rights violations and war crimes, as well as its ability to address the rights of victims. In this context, the organizations indicated that the principle of victim participation was not present throughout the entire system. They also noted that the legislation passed on differentiated criminal treatment for state agents omits the reference to international human rights law and international criminal law relating to command responsibility. Lastly, the organizations noted that the concurrent conditions provided for under this law makes it impossible to establish said responsibility in the JEP.
themselves for other reasons. It is, thus, necessary to create a mechanism making it possible to be included in the JEP and complete the list provided by the FARC.

Moreover, due to the exclusion of special procedures, victims of the armed conflict are those who have been most affected. This is due to the fact that their cases have migrated from transitional processes, based on the perpetrators’ willingness and contribution to the truth, to regular criminal proceedings in which the perpetrator has procedural guarantees to not testify against himself, thus diminishing possible reparation for victims. When a person subject to the JEP is excluded for having committed a new crime, according to Legislative Act 02, it is important for the civilian justice system to fulfill the rights of victims to truth, redress, and guarantees of non-repetition.70 Similarly, the GS/OAS believes that, in the framework of Article 2 of Law 1709/2014, although the person excluded from the JEP process must serve his sentence in regular prison sites, a differentiated resocialization approach should be adopted when the person has belonged to illegal armed groups. This becomes important with the understanding that by subjecting these persons to the current system, they could perpetrate further violence through additional crimes if effective and adequate conditions are not put in place for their resocialization.

In this context, allowing for jurisdictional autonomy that takes into consideration the diverse worldviews of indigenous peoples and communities will contribute to the success of these mechanisms. It is, thus, vitally important for coordination between the JEP and the Special Indigenous Jurisdiction (JEI) to consider the mechanisms developed in the framework of the Interjurisdictional Coordination Committee. These mechanisms help ensure that decisions relating to jurisdiction and competence are as pluralistic as possible, respecting the particularities of all indigenous peoples and avoiding generalizations.

The GS/OAS also deems important the implementation of measures that promote the effective participation of all victims in the judicial system, without the need for organization or association. To this end, expanding procedural, substantive, evidentiary, and access guarantees for victims is necessary, such that their rights are fulfilled in an effective and appropriate fashion. The SVJRNR must, thus, guarantee that all victims, without exception, enjoy the same rights. As such, all legislation must provide special protection and ensure access to procedural and substantive rights to child and adolescent victims, as well as those subjected to sexual violence in the context of the conflict. A mechanism providing for clear access and guarantees to access and participation should be devised.

The GS/OAS further reaffirms the importance of a successful conclusion to the Justice and Peace process, with the strongest possible terms of legal certainty, ensuring that the largest number of victims attain their rights, as they have committed to obtaining truth and redress through the special Justice and Peace judicial process.

The GS/OAS positively views the efforts of the Ministry of Justice and Law to coordinate institutions addressing incidents of comprehensive reparations. Of note is the coordination to

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70 The IACHR agrees with guaranteeing the participation of victims in proceedings before the JEP, even when victims are not organized. The IACHR agrees with the recommendation of the MAPP/OAS regarding the Mechanism for Memory and Truth, to implement social and community outreach throughout the territories to provide forums for open dialogue and participation.
provide reparations to victims of the Mineros Bloc of the AUC. Similar efforts should be made to provide special redress in cases of “early termination,”\textsuperscript{71} thus guaranteeing the largest number of victims receive legal reparations.

Lastly, in relation to the early terminations, the GS/OAS has observed that this could be a strategy for easing the procedural bottleneck for Justice and Peace cases, bearing in mind that Law 1592/2012 established this mechanism to prevent procedural backlog and to streamline the issuing of judgments for those who were not the highest-level perpetrators. In this case, the GS/OAS deems it necessary for the Office of the Attorney General and the judiciary of the JEP to determine which structures need to reinforce the definition of macrocrime patterns, such that all or the vast majority of applicants can participate in this process.

7. Prison Monitoring

In keeping with the mandate, the MAPP/OAS carries out monitoring and accompaniment related to the processes to bring members of illegal armed groups to justice, including judicial and prison monitoring. The latter has been conducted, in some cases, at the request of the Collective for Persons Deprived of Liberty, whose members are associated with or are members of the ELN, to monitor the detention and livability conditions in penitentiaries and prisons, the institutions’ ability to meet the needs of inmates, and other situations posing a risk to these persons.

Given the need to evaluate the detention conditions of this population and in order to positively influence the provision of adequate assistance for cases necessitating a direct intervention due to their humanitarian nature, the GS/OAS initiated, through the MAPP/OAS, a series of visits to detention centers administered by the National Penitentiary and Prison Institute (INPEC). As of the date of this report, it had visited 18 facilities, all with the presence of ELN members.\textsuperscript{72}

When analyzing detention conditions, it bears noting that in February 2017, there were 172,192 inmates, not including the 3,753 inmates held in territorial facilities and those in detention centers for members of the security forces or “harmonization” centers for indigenous peoples. This notwithstanding, the INPEC only has capacity for housing 78,417 persons.

\textsuperscript{71} Early termination is a special proceeding through which ex-members of a demobilized structure can obtain an expedited sentence, provided that their conduct fits the pattern of macrocrimes detailed in a judgment preceding their application.

\textsuperscript{72} Medium-security penitentiary and prison (EPMSC) in Popayán, Cauca; EPMSC in Cali, Valle del Cauca; EPMSC in Medellín, Antioquia; Metropolitan Complex in Bogota – National Penitentiary System (ERON) in Bogota, Capital District; EPMSC in Cúcuta, Norte de Santander; Women’s penitentiary in Bogota, Capital District; EPMSC in Villavicencio, Meta; EPMSC in Arauca, Arauca; Medium to high-security penitentiary and high-security prison (EPAMSCAS) in Valledupar, Cesar; EPAMSCAS in Combita, Boyacá; Penitentiary and prison complex in Jamundí, Valle del Cauca; Women’s Penitentiary and prison (EPC) in Pasto, Nariño; EPAMSCAS in Palmira, Valle del Cauca; Women’s penitentiary in Bucaramanga, Santander; EPC in Yopal, Casanare; EPMSC in Quibdó, Chocó; EPMSC in Istmina, Chocó; and Medium- to high-security penitentiary (EPAMS) in Girón, Santander.
Against this backdrop, it has been found that overcrowding in detention centers adversely affects those on the inside, both inmates and guard staff. Although guards are affected to a lesser degree, they are impacted given the official duties they perform and the precarious conditions in which they must work. Overcrowding diminishes institutional capacity, such that even the most basic standards for respecting human rights are invalidated. Prison overcrowding, which exceeds the housing capacity of these facilities several times over, is growing due to the extremely high number of persons deprived of liberty under pretrial detention.73

Furthermore, as part of the on-site mechanisms to observe prison conditions, the GS/OAS has received complaints regarding subjection to cruel, inhuman, or degrading treatment. They have learned of isolation practices, in which members of GAOs and GDOs are placed in separate wards, and physical torture to prevent complaints, reports, or disobedience as part of acts of legitimate protest. In this vein, the Working Group to Call Attention to and Monitor Alleged Cases of Cruel and Inhuman Treatment was resumed in January of this year. Its first meeting was held in the high-security penitentiary in Valledupur with ELN-member inmates.

In relation to health care, the GS/OAS urges forums for cooperation among the entities responsible for providing such care, such as INPEC, the Penitentiary and Prison Services Unit (USPEC), and Health Fund for Persons Deprived of Liberty Consortium, comprised of FIDUPREVISORA S.A. and FIDUAGRARIA S.A. They should create health care brigades as a course of action to mitigate the notorious health care crisis. The penitentiary health system still demonstrates the same shortfalls noted in the twenty-second half-yearly report. As a result, the GS/OAS, through the MAPP/OAS, issues an average of three weekly alerts to institutions regarding specific cases requiring urgent medical treatment. These alerts have been well received by the institutions.74

The MAPP/OAS convened the first meeting of the Working Group on Health Care and Assistance for Persons Detained Due to Their Association with or Membership in the ELN Insurgence in October 2016. It was held in the high-security penitentiary in Palmira, Valle del Cauca. The facility was selected because of the numerous reports that no health care is provided there. At this first meeting, the group scheduled a series of meetings to be held in detention centers requiring enhanced health care intervention.

In relation to legal proceedings, the process seeks to identify detainees who experience difficulties in accessing the justice system and due process, as well as identify the types and

73 For example, Ward 4 of the EPMSC in Cali has a capacity of 120 inmates, yet there are currently 928 detainees, or a rate of overcrowding and capacity exceedance of 773.3%. This problem impacts not only prison overpopulation in the dormitory spaces, but also the conditions and capacity in the spaces reserved for collective and family activities.

74 As regards persons deprived of liberty, the IACHR has identified concerns similar to those stemming from MAPP/OAS monitoring of prisons, particularly in relation to the overcrowding rate, other detention conditions, and the use of pretrial prison. The Commission is concerned that the centers are unable to house FARC members who will be admitted to the JEP. The high rate of pretrial prison use in Colombia is incompatible with its nature as a tool meant for exceptional use. The IACHR agrees with the MAPP/OAS regarding the need to tailor the conditions required for female inmates, to ensure that they are able to enjoy their human rights.

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nature of problems, and establish the courses of action for potential applications for release if the sentence has been served and/or vacated due to anomalies in the judicial process.

In relation to the FARC inmate population, in addition to instruments like amnesty and pardon, the GS/OAS believes it important to continue evaluating and monitoring the prison and penitentiary conditions of insurgents set to be admitted to the JEP system. Following the clustering of FARC members in certain prisons in preparation for the JEPs, some ELN members sharing spaces with these guerrilla members have expressed increased levels of insecurity.

Lastly, it is concerning that, following closure of the “justice and peace” wards in the medium-security penitentiary and prison (EPMSC) in Cúcuta and the transfer of applicants to the Bucaramanga prison last December, the versiones libres (spontaneous accounts) and legal proceedings for applicants having filed their applications in Cúcuta have not been resumed. This has negatively impacted, in particular, proceedings in their advanced stages, in which the victims were being prepared for reparations, such as in the case of proceedings against applicants from the Catatumbo Bloc and the Ejército Popular de Liberación [Popular Liberation Army, EPL].

7.1 Analysis of prison conditions for members of insurgent groups

In addition to coordination efforts with judicial, administrative, and oversight authorities through the monitoring of detention centers, the GS/OAS, through the MAPP/OAS, is conducting a diachronic analysis of prison conditions for members of insurgent groups, to determine inadequate institutional conduct patterns and make recommendations to the state to mitigate and prevent such conduct.

The GS/OAS has identified alleged practices of some INPEC administrative officials and guards towards inmates belonging to insurgent groups, especially the ELN, which inmates describe as discriminatory. These practices entail disqualification based on supposed risk factors, insubordination, and anarchy in the centers. ELN inmates have notified the competent authorities of various acts carried out in alleged collusion between guards and inmate groups belonging to the “Casas.”

In this same vein, during the visits it made through the MAPP/OAS, the GS/OAS received information that persons deprived of liberty have been subjected to undue pressure due to their association with or membership in the ELN, as well as to force them to join the demobilization program, give information on the structure of their organization, provide information on their commanders and camp locations, among other types of requests. The pressure is leveled under the threat of denial of health care and access to natural justice,

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75 For example, the transfer and clustering of inmates in the Chiquinquirá, Barne, and La Picota prisons is a positive effort. However, FARC inmate inmates who have not yet been transferred to these detention centers should be clustered as soon as possible as the overcrowding in these prisons declines, resulting from the releases granted in the framework of Law 1820/2016.
76 The IACHR is also closely observing whether the JEP’s implementation of the Amnesty Law in practice is being conducted in respect of human rights and international humanitarian law. It will continue monitoring decisions arising from the JEP.
77 Group of inmates that coopts the governance of detention centers for criminal purposes, from charging inmates for all activities to extortion from inside the prisons to incriminate guerrilla groups. These groups take orders from a leader called “Cacique” or “Pluma.”
unjustified transfers, or harsher conditions in high-security facilities. According to ELN inmates, this occurs while they are housed in the detention centers.

The GS/OAS also learned of cases in which administrative transfers were repeatedly used as punishment or as a deterrent to prevent inmates from reporting cases of rights violations. The cases reported refer to violations of the right to freedom of association, in which their rights were repeatedly revoked due to their background as insurgents, as well as being banned from creating groups comprised of inmates belonging to insurgent groups, and pressure to dismantle such groups. This has occurred in the prisons in Villahermosa, Cali and San Isidro, Popayán. Likewise, the GS/OAS has learned of heavy restrictions on access to information from non-commercial media, radio, books, and educational material from alternative press outlets.

Inmate concerns also include the great distances between the detention centers and where their families reside or their places of origin. According to the GS/OAS, this situation directly impacts their right to be close to their families.\(^{78}\)

In relation to the accompaniment requests from inmates belonging to the ELN who are housed at the Palmira facility, the GS/OAS, through the MAPP/OAS, is developing a permanent working group to prevent cruel and inhuman treatment, in view of the fact that as FARC members leave the wards, organized power structures comprised of other inmates pose extreme security risks to ELN inmates.

According to the dynamics evidenced and analysis of the findings, it is notable that women are more severely impacted by incarceration—penitentiary and prison confinement do not provide for the necessary conditions and particular needs of women to guarantee the wellbeing of their children. When the children are under the age of three, they accompany their mothers in prison, thus aggravating violations against them.

### 8. Reintegration And Guarantees Of Non-Repetition

The MAPP/OAS studied the possible causes of criminal recidivism of demobilized actors having satisfactorily completed the reintegration route, based on a factual, legal study of the case files of persons selected by the Colombian Agency for Reintegration (ACR).

Upon culmination of the reintegration process, these persons were unable to assimilate the change and demands of the legal system, to such a degree that, in order to financially support themselves and their families, they resorted to illegal activities, like drug trafficking. In other words, it was determined that the criminal recidivism of demobilized individuals could be associated with meeting their economic needs, the desire for a better standard of living,

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\(^{78}\) In Cúcuta, inmates formed an association comprised of both social and political prisoners, through which they rented a house close to the prison. The house had beds and kitchen items and served as a temporary home for families of inmates coming from different regions of the department or the country. They only pay a fee of COP$5,000 for this benefit. It also bears noting the positive effect of the accompaniment provided by some indigenous communities to members of their community who are ELN insurgents and are deprived of liberty under the civilian justice system. Such is the case of the La Montaña reservation authorities who provide support for inmates at Ipiales and Pasto who belong to the reservation.
the lack of employment opportunities, the culture of illegality to which they are accustomed, among other factors.

Against this backdrop, the GS/OAS underscores the importance of improving and monitoring the reintegration process for demobilized individuals to prevent criminal recidivism. Ongoing monitoring and follow-up of the cases of demobilized individuals could prevent recidivism caused by their susceptibility to being recruited, challenges to accessing employment, the desire to maintain the military lifestyle, etc.

Although the Justice and Peace Law stipulates a maximum eight-year prison sentence, the average incarceration is nine-and-a-half years. This statutory maximum is exceeded in some cases due to administrative delays within the legal offices of detention centers, delays caused by judges in the civilian justice system who should issue orders addressing the backlog of cases in the Justice and Peace process, and the backlog of cases in supervisory judiciaries for the Justice and Peace process.

As of the date of this report, 544 individuals have completed their prison sentences in the framework of the law and have been released under the mechanism to substitute preventive measures and probation. Of these, 479 are participating in the special reintegration route for Justice and Peace. In terms of background, most of the released applicants belonged to paramilitary groups, while the minority (58 to be exact) were ex-guerrilla members. Two hundred are expected to request release in 2017.

One of the GS/OAS’s concerns in this area, as previously noted, is the challenges persons released from prison face in accessing employment opportunities. Often times, these challenges are permanent due to stigma and the rigidity of employment requirements. Furthermore, these individuals are particularly worried about their personal safety, given their confessions that involved other members of the group and which led to the bringing of proceedings and their respective punishments against persons who did not have open cases in the justice system previously.

Lastly, the MAPP/OAS has identified 36 potential cases of recidivism among applicants after having been released. Some of the most salient findings pertain to the following situations:

1. Several individuals released from prison have returned to the area where they previously operated or have gone to the areas of operation of the Gulf Clan and other GAOs.
2. Several have stated that they are between “illegality and death,” as they were called on to join the GAOs; by not joining, they could bring actions against themselves or their families.
3. In the Llanos Orientales, the release of the main applicants operating in the area coincided with the escalation of violence and the arrival of the Gulf Clan.79
4. In the Urabá region, there has been an increase in complaints by land claimants, who assert that released applicants have contacted victims to threaten them.

79 This situation is particularly notable in the municipalities of Granada, Vistahermosa, and San Martín, Meta.

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5) In Magdalena Medio, the release of Arnubio Triana Mahecha, alias Botalón, the former commander of the Autodefensas Campesinas de Puerto Boyacá [Campesino Self-Defense Forces of Puerto Boyacá] has coincided with reports of the resurgence of the armed group he commanded and increased social control of psychoactive substance users, by means of disappearances.  

6) Esneider Santiago González, alias Jhon or Medio Kilo, was demobilized and an applicant from the Northern Bloc of the AUC. He was captured March 17, 2017 in the municipality of Curumani, Cesar while collecting COP$3,000,000 from extortion activities.  

7) There is information on the arrival in Tumaco of applicants not native to the area. The arrest of two individuals having no relationship to the area warns of potential recidivism in the Pacific coastal region of Nariño.  

9. Administration Of Justice In The Post-Conflict Period  

9.1 Barriers to access to justice  

Guaranteeing that citizen’s legal needs are met on equal footing plays a key role in rebuilding public trust and the legitimacy of the state, both of which are indispensable for multilevel peacebuilding processes. Thus, in the context of this certitude, one of the GS/OAS’s concerns is that the MAPP/OAS has identified the existence of various types of barriers to access to formal justice in many of the monitored territories. These barriers can be grouped into the following categories: 1) weak institutional presence in the territories; 2) weak infrastructure and human and physical resources in the territories; 3) mistrust and the perception of impunity and ineffective judicial operators; 4) insecurity due to the law enforcement situation; and 5) the public’s lack of knowledge of their rights.  

The first category on institutional weakness refers to the physical absence of local and national institutions to represent a legitimate administration of justice. This absence is evidenced in two concrete facts: the lack of offices in urban centers, which forces the public to travel to other municipalities to access institutional judicial services, and the ineffectiveness in rural areas of institutions that do have a physical presence in urban centers, thereby leaving a large swathe of the population without services.  

The second category on weak infrastructure includes factors such as the remoteness of rural areas, complicated mobility due to lack of or the poor state of roadway infrastructure and the resulting high transportation and lodging costs, inter alia. These factors hinder or even render impossible the public’s access to formal justice. Examples of this situation were observed in rural areas in Southern Bolivar, in the municipalities of Morales and Arenal, where there is deficient roadway infrastructure, which should be addressed immediately.  

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80 It is worth noting that Triana Mahecha was recaptured and is currently in the Itagúí prison, facing charges on drug trafficking and conspiracy to commit a crime.  
81 This situation occurred less than one month after his release through the mechanism substituting preventive measures for a non-custodial sentence.  
82 This is particularly notable in the municipalities of Labranzagrande and Pajarito, Boyacá; Olaya Herrera, Nariño; and Piamonte, Cauca, where the Attorney General’s Office has no units.  
83 Such as the urban areas of Arauca and Southern Bolivar.
Similarly, in the Southern Pacific region, most travel is conducted by river, due to the precarious infrastructure conditions.

In terms of the third category regarding the barrier caused by mistrust of authorities, the Mission indicated that there is a deeply-rooted, general perception among the civilian population as to the incapacity of institutions to effectively conduct and conclude judicial proceedings. This, in turn, discourages any attempt to resort to the formal justice system. Furthermore, in some cases, the feeling of mistrust is added to a perception that some public officials are colluding with illegal groups. This is representative of cases in Turbo and Apartadó in Antioquia, in which segments of the public link the actions of various officials to the Gulf Clan’s infiltration into the political realm.

Another factor driving this mistrust is the perception of impunity in the formal administration of justice. The GS/OAS, through the MAP/OAS, has learned of specific cases of dissatisfaction among the people in Riosucio, Chocó, where individuals have committed violent acts like homicide and are still free today. The situation of impunity is added to other factors that discourage the national police from acting, such as the rigidity of the accusatorial criminal justice system and the statutory terms for formalizing arrests and issuing preventive measures. In this same vein, the perception that judicial operators are inefficient also creates mistrust in the justice system. 84

In terms of the fourth category on insecurity due to the law enforcement situation, the GS/OAS observes the creation of a twofold impact, first, by preventing institutions from acting and, second, by discouraging the civilian population from filing complaints. Of note is the case of the village of Jordán de Gúisía en Valle del Guamuez, Putumayo, which has not had an active inspector for more than nine years, as the previous officials holding the post were disappeared and persecuted by illegal armed groups. Similarly, Llorente, the largest village in the township of Tumaco, Nariño, does not have an inspector, administrator, or any medical personnel, as the three figures were murdered at different times by different armed actors. 85

Lastly, the Mission has observed that there is a lack of awareness among social leaders and the public at large as to how the justice system and mechanisms for enforcing rights work in several of the monitored territories. This translates into an additional limitation to strengthening adequate conditions for accessing formal justice. To this end, in order to overcome this barrier and at the request of the social leaders in Antioquia, the Mission is developing a training initiative called Escuela de Líderes Constructores de Paz [School for Peacebuilding Leaders], designed for board members of the Juntas de Acción Comunal [Community Action Boards] (JACs), social leaders, and student representatives, in

84 For example, a specific case was reported to the Mission indicating procedural errors in the Attorney General’s Office in Barbacano.

85 There is an abundance of cases serving as examples for this situation. A similar case worth noting is the township of El Caracol, Arauca, where the national police does not have the capacity to effectively control the territory, given the intense presence of armed groups. For this same reason, there are no other civilian figures, beyond the community action boards (JAC) and council members, to fulfill the duties of authority figures, like police inspectors or administrators. In other townships in the municipality of La Paz, Cesar, the precarious security conditions are not only a danger to police inspectors, but also obstruct them from fulfilling their duties.
partnership with the Office of the Governor of Antioquia, Office of the Ombudsperson, Colombian Agency for Reintegration, and some city governments. The program is devised to enhance knowledge of these mechanisms and improve access to justice and participation.

9.2 Parallel or de facto justice systems

The current landscape in which illegal armed groups in the country are administering a parallel or de facto justice system poses enormous challenges to peacebuilding, particularly in territories where there is a state power vacuum and where groups that have historically overseen administration of justice are withdrawing, thus leaving this institutional vacuum open.

The GS/OAS, through the MAPP/OAS, has shown that this phenomenon manifests different characteristics in each territory, where each area has developed heterogenous conditions. Thus, in some areas, illegal groups have taken on the role of providing the services of security, justice, and conflict resolution by leveraging the institutional weakness and the welcome they receive from the people. This is fueled by the negative perception of formal justice mechanisms. In many of the cases, the GAOs continue to coopt social organizations, such as the JACs, as an instrument to execute their justice. Meanwhile, their participation in these entities legitimizes their power and enforces their agreements.

In this same vein, the progressive decrease in the presence of and influence wielded by the FARC in other regions has diminished their role as the ultimate decision-making body and as an active actor in the territory. This, in turn, has encouraged inhabitants of these areas to use the institutions and tools of the formal justice system. In other sectors, their retreat from the administration of justice has been slower, but still palpable.

These transformations have engendered disparate reactions from the people. In some areas, such as the police inspection division in Piñuña Negro, in the municipality of Puerto Leguizamo, Putumayo, for example, everyday daily life remains a holdover from the control mechanism enforced by the guerrilla. Even though the impacts caused by the guerrilla group have subsided, communities still adhere to the rules they imposed, out of habit or out of historic fear of breaking these guerilla rules. In other areas, such as the police inspection division of Jordán de Gúisía in Valle del Guamuez, Putumayo, community leaders have made the unanimous decision to no longer consult the group as the ultimate decision-making entity for resolving neighborhood conflicts.

The GS/OAS has observed that the relationship between institutions and civil society and the way in which people interact with authorities have also varied in some respects. In point of fact, the people in some territories have begun visiting state institutions charged with administration of justice with greater frequency and without fear or restrictions. Yet, in other areas, the transition has caused tensions between communities and authorities, given the paltry trust in and credibility of the state.

Furthermore, the gradual disappearance of the FARC’s punitive power has led to concerns regarding the emergence of new actors in the territory bringing their own justice systems. In

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86 An example of this can be found in municipalities like Cartagena del Chairá, Caquetá and Cumbitara, Nariño.

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this context, the people have expressed doubt as to the ability of the JACs and other community organizations to reconcile community conflicts. Added to this is the low credibility of law enforcement and its ability to resolve problems. As justification for these concerns, several areas across the country have expressed the perception that, with the withdrawal of the FARC, other armed groups have intensified their presence and influence by enforcing administration of justice mechanisms. In other territories, although there is no evidence of a parallel justice system, the community perceives that justice will gradually be taken over by a new armed actor.87

There have also been cases in which communities seek out another actor to guarantee security and justice as the FARC have exited the territory. Such is case in the rural areas of Tame, Arauca, and Puerto Valdivia, Antioquia, which have turned to the ELN to address the increase in common crime incidents. This situation has been especially present in rural areas in the municipalities of the subregion Abades, Nariño.

Given this diversity of situations, the GS/OAS believes that strengthening the presence and capacity of state institutions and community organizations; building trust with communities; and consolidating informal justice mechanisms to cut down the backlog in the formal justice system and bring judicial services to rural communities could play a crucial role in facilitating this transition and offsetting the risks stemming from power vacuums. Moreover, to bolster community acceptance, it is advisable for the formal justice system to be implemented in the territories gradually, including a pedagogical approach and bearing in mind the specific characteristics of these territories that are not accustomed to this type of institutionalized rule of law.

The GS/OAS also deems necessary establishing nimble mechanisms to receive complaints, such as mobile justice units. This would allow those living in rural areas to avoid incurring expenses in their pursuit of justice, thus facilitating the progressive outreach of institutions into the community.

Likewise, it is imperative to provide expedited procedures to resolve complaints in a swift and timely fashion, such that the people will have no excuse to resort to violence or take justice into their own hands.

As the GS/OAS has suggested, in the framework of the ceasefire, cessation of bilateral hostilities, and pre-grouping points for the FARC, there are four concrete challenges relating to the de facto and informal justice systems in rural areas previously controlled by this guerrilla group. Both the state and the territorial communities must tackle these challenges. The still-relevant challenges are: 1) preparing for the justice vacuum once the de facto justice systems are withdrawn; 2) addressing new de facto justice systems imposed by new actors positioning themselves in the territory; 3) charting an effective course between formal and informal justice systems in the event of serious human rights violations carried out against the

87 In this context, the following cases are noteworthy: Ituango, Antioquia, where tensions have arisen between the people and authorities; El Concello, Caquetá, where the legitimacy of the community justice system has been challenged; Puerto Leguizamo, Putumayo, where the community perceived increased criminality; and Vista Hermosa, Meta, where different armed groups appear to be looking to position themselves in the territory.
rural population by the new actors operating in the area; and 4) renewing the legitimacy of the formal justice system in the eyes of the civilian population in areas in which justice was previously imparted by the guerrilla group.

10. **Strategy For Interjurisdictional Standardization**

The right of indigenous peoples to autonomy encompasses the collective right to dictate their own rules of conduct and resolve conflicts, according to their own procedures and under a regime of standards and values based on their own cosmogony and worldview. This right is expressly recognized nationally and internationally; it entails not only recognition of these systems of rules, but also full respect for the development of these legal systems devised in each territory. Against this backdrop, and in the framework of its monitoring and accompaniment duties, the GS/OAS, through the MAPP/OAS, believes it timely to have a conversation about standardization and co-existence of legal systems: the state legal system, the legal systems for each separate indigenous population, and the special provisions proposed as part of a transitional justice process.

In this context, the Superior Council of the Judiciary requested support from the MAPP/OAS to promote the interjurisdictional standardization strategy between the Special Indigenous Jurisdiction (JEI), civilian justice system, and transitional justice mechanisms. Accordingly, the Mission has worked to strengthen and call attention to the departmental interjurisdictional coordination working groups, as legitimate spaces for dialogue between indigenous authorities and other justice operators. These spaces aim to identify the various problems arising from jurisdiction conflicts, as well as address aspects relating to the handling and treatment of members of indigenous peoples and/or communities who have formed part of illegal armed groups—either recruited by force or voluntarily. They will also work to understand the impact this phenomenon has on the territories and jurisdictional autonomy of indigenous peoples.

Once the various scenarios in conflict have been determined, actions must then be identified to standardize the overlap between the JEI, national or civilian jurisdiction, and transitional justice mechanisms. While they are three separate jurisdictions, coordination among them is essential to prevent discrepancies in the framework of legal standards.

Accordingly, the Mission has been supporting the National Table for Interjurisdictional Coordination since mid-2016, to study and make interjurisdictional-related decisions, based on analysis or regulatory and institutional frameworks, national and regional contexts, and coordination dynamics between the civilian jurisdiction and the JEI.\(^{88}\) As part of its efforts, the Mission conducted visits to 35 indigenous reservations and 16 harmonization centers between October 2016 and January 2017. Additionally, in October 2016, the Mission supported the Intercultural Workshop to Exchange Experiences on Independent Rights,

\(^{88}\) This has also provided conceptual, regulatory, and factual elements regarding the relationship between the JEI and human rights; the state and possible legislative coordination initiatives between the JEI and the national judicial system; the justice situation in Colombia; and interjurisdictional coordination spaces and experiences underway.
which worked on concrete steps to coordinate between the national judicial system and the JEI, in the framework of the Interjurisdictional Council of Nariño.\(^8^9\)

Another important aspect to consider in the standardization process is indigenous communities in territories with two separate national jurisdictions. In this case, although political borders are the geographic and geostrategic foundation of a state, it is undeniable that these borders remain a barrier to the social and political processes for these communities. Accordingly, the GS/OAS has demonstrated the need to create spaces for interjurisdictional dialogue with the peoples occupying binational territories and the host states of these peoples. This situation applies to the cases of the Kofán, Camentsa, Awá, Kichwas, Esperara Siapidara, Pastos, and Ingas (present in Ecuador and Colombia); Muruí-Muina (present in Peru and Colombia); and Barí, Yukpa, and Wayúu (present in Venezuela and Colombia).

In this same vein, given the prosecution of indigenous community members belonging to illegal armed groups, the GS/OAS deems it imperative to work with indigenous organizations to create and grant legal recognition to the harmonization centers as physical spaces where members of indigenous peoples and/or communities, who have been prosecuted and punished by the JEI and the national or civilian jurisdiction, can serve their sentence in indigenous territory. This is key, especially to prevent these convicted individuals from being uprooted from the customs and practices of their communities. Moreover, these conditions will allow these individuals to provide community service, thus ensuring true resocialization and harmonization, as well as alleviating the prison overcrowding problem currently faced by the Colombian state.

In light of the foregoing, the GS/OAS notes with concern the lack of awareness among many public defenders of the JEI. These are generally the figures who undertake the legal cases of members of indigenous peoples and/or communities being prosecuted by the civilian justice system. Consequently, in most cases, the defenders erroneously advised their clients, by recommending they accept early judgments to avoid going to trial. To address this situation, the Office of the Ombudsperson should oversee interjurisdictional coordination efforts, through an effective, committed effort focused on training its officials and contractors as custodians of the respect for the rights of indigenous peoples and communities.

The GS/OAS further recommends promoting intercultural and interjurisdictional training processes as strategies to strengthen traditional authorities and institutions. These strategies create spaces to work with indigenous authorities to review internal manuals or regulations. The purpose of these spaces is to analyze the extent to which these instruments represent their worldview and identity, particularly in terms of the criminalization of offenses, adoption of custodial sentences, and the use of the penitentiary and prison system.

\(^{89}\) The Mission is currently contributing to the creation of interjurisdictional departmental councils in the departments of Northern Santander, Putumayo, Vaupés, Amazonas, and Guainia. It is also supporting efforts to strengthen the departmental councils in Cauca and Nariño, which will boast coordination with the respective Chair of the Sectional Council of the Judiciary and the Rodrigo Lara Bonilla Law School.

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Lastly, the GS/OAS finds that it would be advisable to create an information repository compiling decisions made by indigenous authorities as part of the JEI. This system would ensure the collection and periodic update of and access to information for indigenous and jurisdictional authorities. The system could operate through the creation of regional observatories with local universities, which would, in turn, enable the centralization of information in the Rodrigo Lara Bonilla Law School.

11. Recommendations

11.1 Security conditions in the territories

A. Expend the full capacity of the state to control the expansion of the Gulf Clan and other illegal actors into areas from which the FARC is withdrawing. This would be based on an approach designed to protect and respect the communities, their rights, customs, and traditions.

B. Comprehensively adjust and strengthen the security conditions in the areas that have historically been subject to conflict with the FARC. This requires prioritizing the comprehensive presence of the state in the areas subject to the territorial expansion of these groups, in an effort to fill the void left by the armed group in many territories across the country, through the implementation of social, infrastructural, and security programs to curb other groups from moving in.

C. Address the consequences affecting communities, identify risk prevention mechanisms defined by institutions present in the territories, and narrow the trust gap between communities and the state.

D. Develop comprehensive measures to reduce the humanitarian impacts on communities, particularly rural communities and ethnically-differentiated peoples who are at the mercy of illegal armed groups and newly emerging criminal phenomena.

E. Promote and support the implementation of strategies to prevent the forced recruitment of children, adolescents, and youth, and that these strategies be perceived by the communities as efficient.

F. Bolster strategies that guarantee the full exercise of the right to lodge complaints and to social mobilizations. To this end, institutions are encouraged to strengthen preventive practices that ensure the physical safety of social leaders, human rights defenders, social movements, and political parties. The adoption of measures to dismantle social and cultural patterns that foster discrimination and/or stigmas due to political association or complaints is recommended, as it is a right of the people to actively participate in the decisions governing their lives.

90 In the opinion of various communities, an example of effective strategies is the project on campesino boarding schools and shelters in rural areas, activities to prevent psychoactive substance use in urban centers, or programs connecting students with technical or professional education prior to graduation from high school, inter alia.
G. Strengthen differentiated institutional assistance to respond to complaints and enhance implementation of strategies to prevent the effects suffered by women and girls in the context of the armed conflict. In the framework of monitoring, provide facilities equipped with spaces to ensure confidentiality, as well as the technical and economic capacity to handle cases, and appropriate staffing to properly handle complaint situations.

H. Strengthen prevention tools and the creation of direct warning instruments in communities to ensure they have a direct point of contact in the relevant institution to take prompt action in any risk situation.

I. Concerning eradication and illicit crop substitution policies, the national government must act nimbly at both ends of the drug trafficking chain:

J. First and foremost, develop a comprehensive policy to address all links in the drug trafficking chain, such as money laundering, control of chemical inputs, interdictions, and the pursuit and prosecution of the primary, most representative leaders managing the drug trafficking networks.

K. Second, regarding social matters, provide assistance and access to goods and services, as well as profitable and sustainable productive projects geared toward rural populations, with adequate infrastructure for production. The projects should discourage growing illicit crops to meet socioeconomic needs in the rural areas of Colombia.

L. To this end, decisions regarding these projects must be made in conjunction with the communities, through flexible, highly-skilled technical interlocutors, who are trained in agricultural, commercial, and logistics matters and skilled in administrative implementation. This is essential, with the understanding that this space for dialogue is where projects will be deemed feasible or unfeasible as a livelihood option for the community. This condition is also viewed as a remedy to what is currently happening in several communities claiming they do not get along well with the government liaison.

11.2 Territorial preparation for peace

A. Promote the culture of dialogue and respect for diversity by strengthening and leveraging existing citizen organization and participation forums, either formal or informal, to settle differences, share territorial visions, dialogue, analyze, and debate priority issues in each territory.

B. Implement comprehensive processes with a rural, urban, ethnic, gender, and age differentiated approach to disseminate and promote understanding of the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace. It is important to scale up the attention given to the agreement’s participation mechanisms and, in general, the structural transformations included in the agreement approved by the Colombian congress.
C. Develop similar dissemination processes, such that the Colombian society at large can identify on the public agenda current negotiations being conducted by the Colombian government with the ELN, as well as identify and strengthen effective mechanisms so that the various segments of the population can express their interests and views, not just about what they expect from the process, but also what they can contribute to peace.

D. Design and implement processes to identify and strengthen regional and/or national cultural patterns or practices that foster conditions promoting reconciliation.

E. Achieve greater dissemination, understanding, and ownership among communities of the products published by the National Center for Historical Memory. The GS/OAS also recommends promoting a greater number of historical memory processes within the territories, with the participation of victims and their organizations, as a factor for strengthening the dignity of these communities.

11.3 Comprehensive reparations for victims

A. Tap all of the state’s institutional potential to speed up land titling and tenure formalization processes, as well as the titling, reorganization, and extension of the collective territories of ethnic communities. Undoubtedly, the main flashpoint for current social conflict is access to land and territories.

B. Adopt measures to provide access to participation opportunities for diverse types of civil society, campesino, indigenous, and Afro-descendant organizations, in order to establish scenarios for dialogue and accompaniment. This will both alleviate existing tensions and allow for the coordination of inclusive proposals for all segments of society and restore advocacy in public policy.91

C. Implement a dialogue and outreach mechanism to reach the entire social and community base, spearheaded by the Monitoring and Verification Mechanism (MMV), offering scenarios for open dialogue and widespread participation. The purpose is to not only provide for the participation demands of some social organizations, but also meet the bulk of the social demands in the area in question.

D. Strengthen the organization of collective groups, communities, sectors, and platforms present in the territories, in order to invigorate the composition of the key social and political actors, who are diverse and even in opposition to each other, under conditions that actively contribute to both the implementation of the agreements signed between the Colombian government and the FARC and the deliberative bodies that have announced the negotiation process with the ELN.

91 The IACHR agrees with the MAPP/OAS: it is essential to bolster the culture of dialogue and respect for diversity of opinion by strengthening and leveraging local citizen organization and participation forums, as well as strengthening the state’s presence and implementation of policies in the territories. The IACHR further agrees with the need to strengthen and support the Office of the Ombudsperson’s monitoring and early warning system, as well as human rights observatories.

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E. Promote specific monitoring mechanisms, such as national and regional human rights observatories, particularly the Office of the Ombudsperson’s early warning system (SAT), and also ensure that the Offices of the Inspector General and Attorney General take the respective actions to comply with and monitor the recommendations issued by early warnings.

F. Foster, from within the Presidential Human Rights Advisory Council and the Ministry of Interior’s Human Rights Division, coordinated preventive—not reactive—actions in the High Commission for the Protection of Human Rights and the National Security Guarantees Commissions for Human Rights Defenders, and Social and Community Leaders, in order to guarantee non-repetition relating to the following:

i) Attacks on the life and integrity of members of community organizations, human rights defenders, and subjects and collective claimants for land restitution.

ii) The perception of social movements and human rights defender organizations, which indicate that the detention of social leaders accused of collaborating with the guerrilla are a tool for persecution and political stigma.

G. Secure the resources that guarantee implementation of the public policy on victim assistance and comprehensive reparation, given that the growing population receiving assistance and reparation does not yet include the still-undetermined number of victims living in areas where the FARC presence, though undergoing demobilization, has hindered access to relevant institutions.

H. Strengthen the assistance and information mechanisms with a differential approach for victims, provided by the UARIV, specifically regarding access to institutional services and knowledge of the public policies providing for victim assistance. In that same vein, the procedures for verifying, amending, and making corrections to family units registered with the RUV, as well as PAARI procedures, should be streamlined. The Mission urges a redoubling of efforts to remedy the still limited presence of the entity in the territories and promote the enforcement of ethnic decrees.

I. Prioritize technical and human efforts carried out by the UARIV to assist victims living in areas in which the development programs with a territorial-based approach (PDET) established in the final agreement signed between the Colombian government and the FARC-EP will be implemented.

J. Design action plans, through the UARIV and the Ministry of Health and Social Protection, to effectively guarantee the right of victims to adequate psychosocial care.

K. Expedite the comprehensive reparation processes for collective subjects by designing the PIRCs and implementing those that have received approval from the Transitional Justice Committees (CJTs). Accordingly, the Office of the Public Prosecutor is urged to

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92 The IACHR underscores the important strides taken in January 2017 to establish the National Security Guarantees Commission for Human Rights Defenders, a necessary coordination forum to strengthen the protection guarantees for the defenders and their work.

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exercise—as part of its monitoring duties—careful control in terms of the design, planning, and financing to ensure that responsible entities are meeting their obligations by properly implementing the plans in a timely fashion.

L. The GS/OAS reaffirms the need for the URT and UARIV to plan, prioritize, and develop their intervention, through a territorial-based reparation strategy for each micro-focalization area, return plans, and the PIRCs.

M. The URT, judges, and magistrates in the civilian jurisdiction specialized in land restitution are urged to accept and respect the terms set forth in Law 1448/2011 and its regulatory decrees, in both the administrative and judicial stages of the land restitution process for victims of forced abandonment and/or dispossession.

N. Through the Office of the Public Prosecutor (to the benefit of the Inspector General’s Office and the judges and magistrates in the civilian jurisdiction specialized in land restitution), and in the execution of duties to monitor land restitution judgments, guarantee swift compliance with orders, particularly those decreeing reinstatement of territorial rights to ethnically-differentiated communities and assistance for second occupants.

O. Amend the standard for macro-focalization, established by the URT, as a temporary condition for assisting second occupants, as provided for in Agreement 029/2016 and/or administrative instruments that replace it. To this end, the GS/OAS recommends studying replacing it with the standard for micro-focalization. It further recommends, more generally, that the administrative instrument issued be aligned with Colombian Constitutional Court Judgment C-330/2016 and Order 373/2016.

11.4 Transitional Justice

A. Reiterate the importance of transitional justice mechanisms, like the JEP, taking into consideration the lessons learned from previous national and international processes, to minimize the extent of power vacuums and ambiguity on various matters.⁹³

B. Create a dialogue mechanism so that the progress made in the Justice and Peace process can be leveraged by other mechanisms; this includes a review of the certified copies sent from the Justice and Peace jurisdiction to the civilian jurisdiction. Furthermore, all transitional justice tools should take into account the lessons learned in the Justice and Peace process, Law 1424/2010, and other tools, in substantive, procedural, and administrative terms, in order to minimize the extent of power vacuums and ambiguities.⁹⁴

⁹³ The IACHR agrees with this recommendation. A dialogue mechanism is necessary for the progress made in the Justice and Peace process to be leveraged by other jurisdictions or mechanisms, including sending certified copies to the civilian jurisdiction.

⁹⁴ Similar to the MAPP/OAS recommendation on national and international lessons learned, as well as those learned from the Justice and Peace process, the Commission believes that, as part of this new process for implementing the comprehensive system, the state should, where relevant, consider the recommendations issued by the Commission in its reports regarding the AUC demobilization process and the implementation from 2004 onward of the transitional justice framework created by the Justice and Peace Law. It should also take note of the lessons learned, both achievements and challenges faced, with a view
C. Create legal mechanisms to resolve involuntary omissions on the lists of those who will disarm and potentially be admitted to the special jurisdiction for peace (JEP).

D. Create forums for discussion, analysis, and decision making to highlight best practices regarding the procedural participation of victims, in order to guarantee broader engagement in scenarios like the JEP. Regulation on victim participation should favor all victims, not just those that are organized or belong to an association.

E. Generate effective resocialization mechanisms framed in the particularities of each population segment, for those who do not confess to acts punishable in the JEP and, thus, lose JEP benefits.

F. Incorporate the worldviews of all indigenous peoples to avoid generalizations and to obtain the greatest possible degree of pluralism, in the framework of standardizing indigenous jurisdiction processes with transitional justice tools.

G. Enhance dialogue between the various judiciaries of the Justice and Peace process, to regularly implement early terminations to streamline the process, in respect of the substantive and procedural rights of the applicants and, especially, the victims.

H. Execute ACR expansion of corporate social responsibility programs and intensify efforts to destigmatize the demobilized and Justice and Peace applicant population, with a view to ensuring their inclusion in society and preventing recidivism.

I. Conduct a wide-ranging review of penitentiary and prison standards to ensure that they are fully aligned, subject to modification, with the enforcement of transitional justice tools and that they promote achieving peace.

J. Study and implement the lessons learned from the peace process between the government and the FARC regarding prison and penitentiary readiness, as applied to the process with the ELN; prioritize enabling rapid responses to health issues for incarcerated persons.

K. Develop procedures to help INPEC administrative officials and guards avoid conduct that could be characterized as prejudiced or discriminatory by members of insurgent groups deprived of their liberty.

L. Review penitentiary and prison standards to adapt them to the needs of women inmates, including standards on maternity-related matters, to guarantee their constitutionally-protected rights.

M. Continue the Ministry of Justice’s support and efforts to strengthen the ten-year justice plan and the local justice systems initiative, in recognition of the progressive nature of the relationship between the provision of justice in the territories and building a stable, lasting peace. These efforts must go hand-in-hand with prioritizing rural territories, so that

to optimizing implementation of a functional, coordinated, participatory, and effective comprehensive system, whose central pillar is to provide for effective victim rights.

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expanding provision of justice mechanisms focus on territories with weaker infrastructure and those that report higher levels of mistrust of authority.

N. Progressively implement formal provision of justice mechanisms with a pedagogical and participatory approach to empower and involve local leadership. This implementation should be focused on territories where de facto administration of justice still persists, thereby aiming to renew the people’s trust in the state and regain the state’s legitimacy, as priority matters.

O. Strengthen the national social harmony and conciliation committees through training and awareness campaigns on their role as conflict resolution mechanisms.

P. Strengthen and implement legal pluralism, by means of concrete interjurisdictional legal agreements, in the framework of recognition of and respect for special indigenous jurisdictions, in order to facilitate the delivery of resources from the civilian justice system, in keeping with transitional justice tools. These strengthening efforts should prioritize the legal systems of indigenous peoples, including those who, due to political borders, have been divided between two or three states.

Q. Bolster forums that promote coordination and standardization between the national legal system, special indigenous jurisdictions, and the JEP.

R. Promote intercultural and interjurisdictional training for traditional authorities and Colombian state officials, thus fostering conditions for a more plural pursuit of justice.
Twenty-Fourth Report

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

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

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

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

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

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Pursuant to resolution CP/RES. 859 (1397/04) numbered paragraph 3, the MAPP/OAS consults the Inter-American Commission on Human Rights (IACHR) prior to the publication of this report in order to hear its observations on the functions for which it is responsible, and so the two OAS authorities work together and supplement each other’s information.1

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

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

1. General Considerations

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

During the period covered by this report, significant progress has been made on issues of great relevance to the peace process. The Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, entered into by the Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo [Colombian Government and the Revolutionary Armed Forces of Colombia – People’s Army] (FARC-EP), has made it possible to reduce the number of lives lost to violence, opened the doors to forgiveness, and laid the foundations for justice and reconciliation. Through the issuance of numerous decrees,

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1 This report presents a detailed analysis of the monitoring and support provided by the MAPP/OAS and also covers some of the topics and concerns identified by the Inter-American Commission on Human Rights (IACHR) in its monitoring of the general human rights situation and discussed in Chapter V of its 2017 Annual Report, “Follow-up on recommendations made by the IACHR in the report Truth, Justice, and Reparations: Fourth Report on the Situation of Human Rights in Colombia (IACHR, Truth, Justice and Reparations Report (2013)).”
laws, the acceleration of legislative procedures, provisions on reintegration, security guarantees, victims’ rights, social and rural development, the creation of new bodies and opportunities for participation, the mobilization of institutional mechanisms, and the opening up of political spaces for the actors in the conflict, efforts have been made to implement important aspects of the Peace Agreement.

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

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

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

In our 22nd Report, covering the period from September 2015 to February 2016, the GS/OAS warned of the perceived risks of political polarization caused by positions on the Final Accord. Today we have seen that, despite several appeals, this context has not changed substantially. Likewise, the current political and social situation poses several challenges that may have an impact on the process. A transitional stage marked by a change in national leadership, the persistence of illegal economies, and violent

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environments has the potential to impact the post-conflict period, the future, and the consolidation of the peace process. Therefore, the GS/OAS renews its call for unity and encourages the Colombian people and citizens to stand together for peace.

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

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

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

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

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

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

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

State of violent dynamics, justice, and territorial peace

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

These criminal groups exercise a violence that mutates and is adapted to different areas of the country, encompassing new territories and replicating different styles of violence and ways in which illegal armed actors can be integrated. Criminal gangs with a presence in economically depressed areas are also being added to the criminal network. They seek to exploit the territory’s resources and related economy for their illegal purposes, as well as to regulate social practices, types of interactions, and conflict resolution mechanisms. Their complex structure is based on a set of relationships, constituting territorial powers that threaten to co-opt governments and local representative political bodies in order to gain access to fiscal resources. Their actions in the face of the measures taken by the security forces have led to forced displacements, in certain areas affecting indigenous peoples and Afro-descendant communities in particular.

The concentration of FARC-EP ex-combatants in the transitional local zones for normalization (ZVTN) and transitional local points for normalization (PTN), now known as territorial training and reintegration spaces (ETCR), led to a more extensive

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

4 On August 1, 2017, through Decree No. 1274 of 2017, it was established that the transitional local zones for normalization and the transitional local points for normalization would become territorial training and reintegration spaces, in order to continue
deployment of the security forces with the intention of guaranteeing security conditions in those territories left by the FARC-EP. Despite this deployment, a climate of unlawfulness associated with criminal economies persists in some of these areas, which has led other armed illegal actors to remain or arrive due to the favorable economic and strategic conditions in certain territories.

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

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

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

The comprehensive national illegal crop substitution program [Programa Nacional Integral de Sustitución de Cultivos de Uso Ilícito] (PNIS) has been making sustained progress in the territories in furtherance of the goals set by the national Government. The program has affiliated a significant number of families and is a strategic and longer-term alternative to eradication actions. However, the GS/OAS notes the distrust that exists in the communities regarding program adherence and execution, and the need for the State to coordinate an institutional response that addresses issues such as access to land, the settlement of peasant communities on collectively-owned, protected, or vacant lands.

The process of reintegrating former FARC-EP combatants. These spaces will serve to train members of the FARC-EP, prepare productive projects, and meet the technical training needs of the surrounding communities in a community reintegration model.
New provisions are also needed to specify the number of hectares to be replaced, the types of growers, the inclusion of non-cultivating families in the program, and the judicial approach to smallholders. The impact and tensions created by forced eradication in communities must also be taken into account. In this regard, the IACHR has received information on the lack of coordination between the forced eradication strategy and the strategy of voluntary substitution of illegal crops, the social conflict it causes, as well as the lack of prior consultation with indigenous peoples and Afro-descendant communities for the implementation of these activities as part of the Peace Agreement.

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

### 2. Monitoring Of Security Conditions And Territorial Dynamics

#### 2.1 Territorial dynamics of the ELN

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

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

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

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5 The document will refer to the Gulf Clan, using the name given by the Colombian Government to this organized armed group. However, this group is recognized in the territories as Autodefensas Gaitanistas de Colombia [Gaitanista Self-Defense Forces of Colombia] (AGC).
The GS/OAS has also observed the increasingly evident presence of the ELN in the northern part of the department of Cauca. In the municipalities of El Tambo, Caloto, and Toribío, the guerrillas have clashed with and harassed security forces. The presence of the ELN has also been observed in municipalities of Valle del Cauca such as Bolívar, Buenaventura, El Dovio, Trujillo, and Cairo, and this dynamic has already sparked a number of clashes with the National Army, such as those that have occurred in El Dovio.

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

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

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

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

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

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

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

2.2 Crime dynamics

2.2.1 Main dynamics of groups identified as FARC-EP dissidents

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

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

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

In departments such as Meta, Guaviare, and Caquetá, the information obtained by MAPP/OAS refers to groups or structures that have replicated the names, modus

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operandi, funding sources, and discourse used by the FARC-EP. In these cases, the communities and institutions express consistent views on the fear that the dynamics of the conflict will continue despite the disappearance of the FARC-EP as an armed actor.

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

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

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

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

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

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

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

In this same department, in the municipalities of Morales and Suárez, a group of dissidents from the FARC-EP was also identified as seeking to maintain territorial control by limiting the movement of the communities. This group argued to the communities that it rejected the peace agreement because it lacked guarantees for their transition to a lawful status. Specifically in Morales, reference was made to the existence of an armed group identified as the “1st Front of Guaviare,” made up of approximately 30 armed individuals. Different sources in the municipality agreed that they were neither people from the area nor former members of the Jacobo Arenas Mobile Column of the FARC-EP, which had long been influential in the sector.

Additionally, in mid-2017 in the municipality of Corinto (Cauca), there was concern about the gradual departure of militiamen and other members of the FARC-EP from the Monterredondo ZVTN in Miranda. This, together with the fact that those who did not move to the ZVTN remained in the territory, raised concerns in the communities about their possible connection to the structures of the ELN and the Ejército Popular de Liberación [People’s Liberation Army] (EPL), which had no recent history in the northern part of the department.
These dynamics in northern Cauca are closely related to those found in Valle del Cauca, where the municipality of Jamundí has seen dissident elements of the Ambrosio González Company of the Sixth Front and the Manuel Cepedas Vargas Urban Front of the FARC-EP involved in confrontations with the National Army.

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

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

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

In Dabeiba, the GS/OAS, through the MAPP/OAS, learned of the escape of three members of the 5th Front of the FARC-EP of the ZVTN of Llano Grande Chimiadó, who were reportedly leading a group of 15 dissidents dressed in civilian clothes and carrying long guns and small arms. Some sources indicated that this group was located in the towns of La Balsita and Camparrusia, and in the village of Chachafrutal, a point of special interest due to the possible existence of caches of weapons and explosive material. It was similarly mentioned that the militia members of the 34th Front who were not concentrated in the ZVTN had formed an alliance with members of the Gulf Clan to

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7 Commander killed in August 2017.

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facilitate drug trafficking in the area of Cañón de la Llorona. It was alleged that the former FARC-EP militiamen were responsible for the processing of coca and the subsequent delivery of the product to members of the Gulf Clan, while the latter were responsible for securing the shipment’s departure to Panama.

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

In view of other dynamics, people in the department perceive that Los Pelusos\(^8\) are gaining strength in the Catatumbo region. According to various sources consulted by the MAPP/OAS, this situation could be related to links between combatants who belonged to the FARC-EP and who, following its demobilization, decided to join the ranks of the aforementioned organized armed group.

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

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

Another common element in several of the monitored territories where dissident groups are presumed to be present was the tendency to attribute responsibility for any criminal act to the actions of these groups. For this reason, at the local, regional, and national levels, its image as an armed group with armed capacity and the exercise of power continues to be reinforced. This has been conducive to the emergence of criminal groups that use the FARC-EP’s name to create greater fear and impact through their actions, and to facilitate illegal actions such as the collection of extortion payments. For instance, in El Paujil (Caquetá), a group was identified that presented itself as a dissident group to

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\(^8\) The name given by the Colombian State will be used when mentioning Los Pelusos. However, this GAO is known in the territory as the Ejército Popular de Liberación [People’s Liberation Army] (EPL).
extort money from the villagers, and the “true dissidents” said it was a criminal group that had nothing to do with their organization.

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

### 2.2.2 Principal dynamics of groups identified as GAO and GDO

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

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

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

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

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9 In the territory they are identified as continuations of the Meta Bloc and the Libertadores del Vichada Bloc.
10 Plan Pistola [“Pistol Plan”] is the term used by the Colombian authorities to refer to attacks by illegal armed actors, in this case the Gulf Clan, specifically targeting members of the National Police. Generally, this strategy has been used to retaliate against the security forces after they have carried out operations resulting in the death of some leader of the illegal structure. It consists of attacks with firearms on uniformed personnel who are alone or in small groups, by snipers or individuals acting alone, which entails low levels of risk for the assailants.
Similarly, in the southwestern regions of the country, such as Cauca, Nariño, and Putumayo, the GS/OAS observes a territorial reconfiguration of illegal armed actors made up of GDO, dissidents, guerrillas, common criminals, and drug-trafficking mafias, which combine a complex diversity of interests. In this scenario, in Putumayo, there is still a perception that the La Constru group continues to lead criminal activities.

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

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

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

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

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

In addition to the repositioning in Catatumbo, in other regions such as the northern part of the department of Cauca, particularly in Jambaló, Toribío, Morales, and Suárez, armed actions by a group that calls itself the PLA have been reported. In these municipalities, the perception of the communities is that this group is made up of ex-combatants and militia members from the FARC-EP who did not move to the ZVTN and PTN, or who left after relocating there.

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

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

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

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

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

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

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

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

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

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

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

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

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

It also welcomes the ongoing participation of the Ministry of National Defense in the National Commission on Security Guarantees for the construction, formulation, and assessment of the permanent Plan of Action to combat and dismantle the criminal acts and organizations responsible for murders and massacres, that attack human rights defenders, social movements, and political movements, or that threaten or attack those who participate in the implementation of the Peace Accords.

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

2.4 Dynamics related to social conflict

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

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

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

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

During the first half of 2017, regional mobilizations were held in the municipalities of Quibdó (Chocó) and Buenaventura (Valle del Cauca) in the Colombian Pacific region, demanding the construction of road infrastructure and basic sanitation works, in order to ensure access to rights such as health and education for their populations. After weeks of demonstrations and various impacts on the economy and public order, senior representatives of the national government were able to reach agreements with the mobilized communities on how to deal with the issues at stake.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.5 Dynamics of impacts on social leadership

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

The Mission acknowledges and appreciates the efforts of the National Subcommission on Security Guarantees to support the work of the National Commission on Security Guarantees. Since January 2017, territorial sessions have been held to conduct follow-up, establish intersectoral coordination, and promote institutional coordination for the implementation of the Permanent Action Plan against criminal organizations, evaluate the institutional response, and coordinate the preparation of technical roundtables to monitor and guarantee the application of differential and territorial approaches in the measures taken.
With respect to the advancement of the Permanent Action Plan for Dismantling and Combating Criminal Organizations and Conduct, and the design of a public policy on crime that addresses the criminal dynamics that threaten the implementation of the agreement and peacebuilding, the National Commission on Security Guarantees created four technical commissions: a Commission on Policy Adjustments, a Commission on the Identification of Sources of Financing, a Commission on Institutional Response and Impact Measurement, and a Commission on Differential, Territorial, and Gender Approaches, which will provide: i) Recommendations for reforms that will help eliminate any possibility that the State, its institutions or agents may create, support or maintain relations with the organizations that are the subject of Decree Law 154 of 2017; ii) Recommendations for amending or repealing the regulations that directly or indirectly allow and/or promote the creation of the organizations and acts that are the subject of Decree Law 154 of 2017; iii) Report on the characterization of the value chain of criminal organizations that are the subject of Decree Law 154 of 2017; and iv) Diagnostic document on the framework for attacks on social leaders and human rights defenders.

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

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

Despite these advances, the GS/OAS reiterates its concern about the security situation of representatives of communities and persons involved in social protest actions, given the ongoing murders, threats, attacks, forced displacement, and stigmatization of this population. As mentioned in previous reports, the GS/OAS recognizes that although it is impossible to identify a national pattern or trend that would explain all these cases, there are some common aspects, depending on the leader’s activity.12

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

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

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

The processes most impacted by dynamics such as those described above are related to participation in the illicit crop substitution agreements of the PNIS, citizen oversight of the exploitation and management of natural resources in the territories, the development of processes for the restoration of ethnic-territorial rights,\(^{13}\) and citizen oversight over the management of public resources and control of local governments.

### 2.6 Dynamics of impacts on communities

Since 2016, in the departments of Norte de Santander, Meta, Caquetá, Guaviare, Chocó, Antioquia, Nariño, Cauca, Nariño, and Putumayo, the GS/OAS, through the MAP P/OAS, has been monitoring different acts perpetrated against persons said to be related in some way to members of the FARC-EP. Thus, militiamen, family members, deserters, demobilized persons, persons involved in work related to the drug trafficking chain, and in general, those who have had some kind of relationship with the FARC-EP have been affected.\(^{14}\) However, it has also been identified that peasants, leaders, social organizations, and civil servants living in areas formerly under the control of this guerrilla group are also being affected, on the presumption that they have had some kind of connection with the FARC-EP.

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\(^{13}\) Decree Law 4633 of 2011, “Establishing measures for assistance, care, comprehensive reparation, and restitution of territorial rights to victims belonging to indigenous peoples and communities” and Decree Law 4635 “Establishing measures for assistance, care, comprehensive reparation, and land restitution for victims belonging to black, Afro-Colombian, Raizal, and Palenquero communities.”

\(^{14}\) Impacts are mainly attributable to GAO/GDO, the ELN, and criminal structures. However, there are some known cases where they have been caused by the security forces or local government officials.
The rationale provided by the perpetrators of attacks on people who did in fact have a connection to the FARC-EP is usually that those people are considered useful to the functioning of illegal economies in the territories; that they are identified as having strategic information on the FARC-EP that could affect, help, or destabilize an armed actor’s control in an area, or that they may be linked to national government programs. With respect to people who are not directly linked to the organization, the negative impacts are caused by the stigmatization of having inhabited areas vacated by the FARC-EP.

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

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

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

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

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3. Monitoring The Dynamics Of Justice In The Territories

3.1 Conditions of access to the formal justice system

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

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

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

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

17 Decision announced June 30, 2017.
Similarly, in light of the presence of illegal armed actors in municipalities such as Apartadó, Dabeiba, and Turbo (Antioquia); Riosucio, Unguía, Alto Baudó, and Sipí (Chocó), Cantagallo, Arenal, Tiquisio, and Norosí (Bolívar), Vistahermosa, Puerto Rico, and Puerto Lleras (Meta); Olaya Herrera, Santa Bárbara de Iscuandé, El Charco, Barbacoas, and Magüí Payán (Nariño); and Puerto Libertador (Córdoba), communities have told the MAPP/OAS that filing complaints with government institutions increases the level of risk to which they may be exposed, not only because they fear reprisals for approaching the authorities, but also because in some cases they assume that there may be possible links between officials and armed actors.

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

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

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

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

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

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

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

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

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

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

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

With respect to Los Pelusos or EPL, the group exercises social control in matters of justice, coexistence, and the regulation of social life in several municipalities of Norte de Santander. In Hacarí, the group’s actions extend to the urban center, through the mediation of conflicts and threats to those who engage in certain behaviors; in rural areas it has imposed manuals for coexistence. In Tibú and Sardinata, it has engaged in “social cleansing” practices through the targeted killing of thieves and drug users, issuing advance warnings of threats and restrictions in the form of leaflets. It has also regulated the arrival of citizens from the neighboring country of Venezuelan by ordering their departure from the area, although it has relaxed its position with some conditions and restrictions.

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

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

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

3.3 Community justice systems

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

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

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

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

4. Monitoring Coordination Between The Special Indigenous Jurisdiction, The Ordinary Justice System, And The Transitional Justice System

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

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

In the absence of specific legislation, the GS/OAS appreciates the work that the Constitutional Court has done to develop a comprehensive body of case law with a view to establishing guidelines for resolving jurisdictional conflicts between the JEI and the ordinary courts. Similarly, the GS/OAS welcomes the actions being taken by the Superior Council of the Judiciary (CSJ) to build a solid policy of coordination between the national judicial system and the JEI in order to consolidate the operation of indigenous peoples’ legal systems, in keeping with the principle that Colombia is a multi-ethnic and multicultural State.
In this regard, the GS/OAS, through the MAPP/OAS, continued to support and assist the National Commission for the Coordination of the National Judicial System and the JEI.\(^{18}\) It has also promoted the establishment or reactivation of the Departmental Committees for Interjurisdictional Coordination in Cauca, Nariño, Guainía, and Putumayo as spaces for dialogue between indigenous authorities and ordinary justice authorities at the local and national levels to identify and address the different problems surrounding conflicts of jurisdiction in each region.

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

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

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

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

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\(^{18}\) Permanent body for dialogue, coordination, planning, and monitoring of public policies of the judicial branch on matters related to the JEI.

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

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

In addition, the GS/OAS encourages the creation of a space where it is possible to organize and coordinate at the inter-institutional and interjurisdictional levels to establish harmonization centers to receive members of indigenous communities—even if they are in pretrial detention in the ordinary justice system, and provided that the traditional authorities so request—allowing for the application of their own justice procedures and helping to reduce prison overcrowding. In this regard, the establishment of the La Samaritana healing center for the Murui people of Puerto Leguízamo is viewed positively. In this exercise, it is important that the requirements for the accreditation of the harmonization centers be defined taking account of the particularities of each town or reservation, since homogenization could create barriers to the transfer of indigenous peoples to their territories.

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

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

5. Monitoring Prison Conditions in Transitional Justice Contexts

Given the need to assess the conditions of detention of persons who are deprived of their liberty due to their membership in or affiliation with the ELN, and in order to encourage the appropriate provision of humanitarian assistance in cases where it is necessary, the MAPP/OAS has prioritized and conducted visits to 18 prisons and penitentiaries where

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

20 High and Medium Security Penitentiary and Prison (EPAMSCAS-Combita, Boyacá); Metropolitan Bogotá Penitentiary and Prison Complex (COMEB); Acacias Medium Security Penitentiary and Prison (EPMSC), Yopal Penitentiary and Prison (EPC);
ELN members are currently being held. These visits have made it possible to gather information on issues of habitability, safety, health, and the maintenance of family ties.

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

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

In addition to the above, the GS/OAS, through the MAPP/OAS, visited four detention centers\(^{21}\) where there are women who, because of their relationship to or membership in the ELN, are deprived of their liberty. The GS/OAS stresses the importance of bearing in mind that penitentiary and prison systems are environments in which society’s patterns of gender discrimination and exclusion are replicated; thus, the values and attitudes of society are also reflected in prisons as spaces that are configured as a microcosm of the outside world, made up of people who form part of the same society, sharing the same culture, values, and prejudices.

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

5.1 Health conditions

In addition to the health crisis that led the national government to declare a prison emergency in 2016, and the coordination problems between INPEC, USPEC, FIDUPREVISORA S.A. and FIDUAGRARIA S.A.\(^{22}\) The monitoring carried out by the

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21 COPED, RM Bogotá D.C, COJAM, and COCUC.
22 Administrators of funds for inmate health services.
MAPP/OAS has identified several situations that affect persons deprived of their liberty because of their relationship to or membership in the ELN.

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

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

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

5.2 Security conditions

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

In addition, the ELN’s inmates have been subjected to serious offenses at the hands of illegal organized power structures run by members of the “houses,” such as the so-called “caciques” or “plumas.”23 These violations increase and intensify to the extent that detained insurgents are placed in units where control has traditionally been exercised by “houses,” thus disrupting the dynamics of this de facto power. In this context, serious

23 Inmates who “enforce the law” inside the prison units.
security situations have been observed in detention facilities such as Cali and Pedregal, where members of the Gulf Clan have reportedly targeted ELN inmates.

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

5.3 Conditions of habitability

Although the overcrowding rate at the national level is a cause for concern, the conditions of ELN inmates in this respect are better than those of the rest of the prison population, given that they are held in high-security facilities with little to no overcrowding. However, some prisoners are detained in establishments with poor living conditions, such as the “La Tramacúa” High Security Prison in Valledupar, where there is a water shortage despite the high temperatures in the region.\(^24\)

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

5.4 Conditions for the maintenance of family ties

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

This dynamic was identified in the cases of women who are deprived of their liberty because of their relationship to and/or membership in the ELN. Most of them are mothers

\(^{24}\) Water is provided two or three times a day, for 10 to 15 minutes at a time.
who are heads of households and have minor children currently in the care of relatives or close third parties. Women consistently report the breakdown of their family relationships, and the impact this has on their social and emotional lives is evident. This breakdown can be attributed mainly to the distance between detention centers and their places of origin or their families’ places of residence, as well as to the additional restrictions placed on some of them because they are held in high security wings, which in itself affects a fundamental aspect of the resocialization function of punishment.

6. **Criminal And Prison Policy**

6.1 **Public policy on illicit crops**

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

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

This situation creates a legal limbo for people who avail themselves of the Collective Agreement for the Substitution of Illicit Crops, leaving them without a clear legal framework to ensure that they will not be prosecuted. There is also a lack of clarity regarding the potential scope of this standard in terms of who will benefit from it. For instance, there is no clear indication of what will happen to collectors or rasachines; to people who are involved in the initial stage of production by having small laboratories known as “kitchens,” and to people who are not owners of the land where there are illicit plantings. It should be noted that from the perspective of those involved in the first phase of production, the actions aimed at reducing production are more heavily focused on small producers and do not deal in the same way with large producers who oppose the substitution process; this creates uncertainty, confusion, and dissatisfaction among people who seek a legal alternative in the substitution process.
In this regard, in Puerto Rico (Caquetá), arrests were made after the signing of the Final Agreement, on the grounds that the persons detained not only had coca plants, but also had “kitchens,” which is why they could not benefit from possible differentiated criminal treatment. For the GS/OAS, the above is a risk scenario for the implementation of the PNIS, given that a considerable number of small farmers are engaged in small-scale crop transformation processes.

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

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

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

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

Threats and attacks against human rights defenders and social leaders have been a constant part of the armed conflict in Colombia. This has been well documented in the vast jurisprudence of the ordinary criminal justice system, as well as in existing Transitional Justice processes and by international bodies. Given the vulnerability of this population group, the FGN has led the investigation and prosecution of acts of intimidation, threats, and attacks, among other offenses.

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

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

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

Although the concept in the communities varies somewhat from the institutional concept, many agree that factors such as truth and the establishment of the facts, the

25 With regard to effective prosecution and the fight against impunity, the IACHR recalls that the standard established in the inter-American system indicates that the investigation must be conducted seriously to identify the perpetrators and masterminds, exhausting all logical lines of investigation and taking account of contexts including macro-criminality and joint operation; it is an obligation of means, which is not limited to the identification of the perpetrators. This includes all the safeguards to prevent impunity, as well as the non-applicability of statutes of limitations to serious human rights violations. The mere identification of the alleged perpetrators is a step in this process, which alone does not meet the standards of the inter-American human rights system in terms of establishing the facts and obtaining justice.
acknowledgement of responsibility by the alleged perpetrator, and guarantees of non-repetition are part of what is to be understood by justice. In the opinion of the Mission, victims’ rights to truth, justice, reparation, and non-repetition must be clearly recognized and realized in these cases, and not only in transitional settings. In this regard, it is important to standardize the criteria that identify the existence of impunity and the fight against impunity in order to avoid confusion in public opinion and in the communities.

One turning point in the investigation and prosecution of crimes against human rights leaders and defenders is related to the development of the peace process between the FARC-EP and the Colombian government. An example of this is shown in Point 3.4 of the Final Agreement, which creates a National Commission on Security Guarantees and a Special Investigation Unit of the FGN, among other bodies.

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

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

6.3 Prosecution of social leaders

The GS/OAS through the MAPP/OAS has observed that there is a perception in the territories of an increase in the prosecution of social leaders between 2016 and 2017. Cases such as Becerril and Pelaya (Sur del Cesar), Morales, Arenal, Norosi, and Tiquisio (South of Bolivar), Arauquita (Arauca), and Tibú and Hacarí (Norte de Santander) stand out in particular. It is noteworthy that in these cases the arrests have tended to be made with large operations that have sometimes affected the inhabitants of the area. Likewise, many people belonging to the organizational and community processes have been
insistent in denying that the persons captured and/or prosecuted are linked to an armed group or have committed a crime.\textsuperscript{26}

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

It is also evident that, since there is no clarity on the functioning of the JEP, there will be no change in the strategies of the FGN in terms of operations and the prosecution of persons who, according to the investigative processes, are part of the support networks. Additionally, there are some cases in which the defendant is simultaneously charged with the offenses of rebellion and criminal conspiracy; in this regard, the GS/OAS stresses the importance of examining whether the principle of non bis in idem, according to which no one can be tried twice for the same act, is being violated.\textsuperscript{27}

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

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

\textsuperscript{26} In relation to the criminalization of human rights defenders, the IACHR has recommended that the State ensure that authorities and individuals refrain from using the punitive power of the State and its judicial bodies to criminalize them in retaliation for their human rights activities, and that it ensure that its officials refrain from making statements that stigmatize human rights defenders. The Commission also reported in 2017 on the arbitrary use of the criminal justice system against human rights defenders.

\textsuperscript{27} The IACHR agrees with what has been said about the principle of non bis in idem and charges for the offenses of rebellion and conspiracy to commit a crime. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have repeatedly addressed this principle and the responsibility of the State for prosecuting an individual in different proceedings for the same acts. It is a matter of concern that these charges may result in the imposition of double punishment.
6.4 Ending the Prosecution of Social Protest

The GS/OAS calls for the effective application of Article 37 of Law 1820 of 2016, in terms of declining to prosecute social protest. This need for special legal treatment for the regulation of acts arising in the context of social protest is based on the fact that this type of expression is related to a fundamental right and to the State’s duty to guarantee that right in a society governed by the rule of law, as well as on the need for the possibility of recourse to an impartial and independent authority. In this regard, the GS/OAS applauds the work of the Office of the High Commissioner for Peace and the Executive Secretary of the JEP in this area, as well as the actions of the Agrarian, Peasant, Ethnic, and Popular Summit. In 2017, the IACHR issued a statement on the protests for access to economic and social rights, which include adherence to the agreements adopted by the State with the communities; it also expressed concern about the excessive use of force and repressive actions by the Mobile Anti-Riot Squad (ESMAD).28

However, major challenges have been identified in the implementation of these regulations. First, there is the complexity of identifying potential beneficiaries, as no one is certain about the number of people to whom these benefits can be applied, where they are being held (if they are in custody), and for what offenses. Second, there is the challenge of understanding social protest as broadly as possible, since, for instance, the GS/OAS has determined that there are people who have been prosecuted in connection with social protest who are not affiliated or organized on certain platforms (such as peasants during certain strikes or demonstrations). Third, there is a perception that most of the investigations carried out by the FGN do not take account of the socio-political context of the territory, nor do the files provide a contextual analysis of the arrests. This makes it difficult to identify the cases in which defendants have been prosecuted within the framework of social protest and those in which they have not. Finally, there is also no clarity on the deadline for presenting the lists.

The GS/OAS notes that the crimes listed in Article 37 of Law 1820 of 201629 do not appear to report on the realities of the judicial proceedings related to social protest. This is due to several factors, but mainly to the fact that these prosecutions have taken place in a context of armed conflict and under a criminal policy with “counterinsurgency” overtones. Thus, many people were charged with crimes such as terrorism and rebellion, which are not eligible for these benefits. In some territories, especially Sur de Bolívar, Sur del Cesar, Arauca, Antioquia, Cauca, and Norte de Santander, there is a perception about the existence of “inconsistent accusations” in relation to the stigmatization of the social movement. In this way, some people have made it known to the GS/OAS that

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

29 Issuing provisions on amnesty, pardon, special criminal treatment, and other provisions.
there should also be legal benefits for these cases, which would be excluded under a literal interpretation of Article 37 of Law 1820.

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

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

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

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

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

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

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

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

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

7. Territorial Peace

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

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

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

In this respect, one of the tools established in point 1, numeral 2, of the Final Agreement is Decree 893 of 2017, which creates the development programs with a territorial focus (PDET), which is one of the main pillars of Territorial Peace. These open up an opportunity for effective participation in the construction of the PDET, a relevant phase because their

30 Such as prison extortion, drug trafficking in prison, forming gangs inside prisons, etc.
31 On February 7, 2017, the public phase of the negotiations between the Government and the ELN began in Quito, Ecuador.
successful implementation would build trust and legitimacy in the peace process. It is also hoped that the ethnic, gender, and territorial perspective will be ensured at this stage, taking into account the characteristics of the stakeholders involved, and that it will be effectively covered in the implementation phase of the PDET projects and/or programs.

In addition, the official start of the negotiations between the Government and the ELN in Quito, Ecuador, allowed for the development of the Agreement between the National Government and the National Liberation Army to engage in peace talks, point 1 of which states that “the participation of society in peace-building” will define the participation mechanism or mechanisms to be established for the implementation of the agreements. Within this framework, the parties have made progress in setting up the Participation Subgroup to determine the methodology for integrating the participation mechanism to be implemented. However, the communities are confused by the diversification of the participation mechanisms established in the Agreements between the Government and the FARC-EP, as well as in point 1 of the Agreement between the National Government and the National Liberation Army to engage in peace talks and, finally, in the operation of the current participation mechanisms in force under Colombian law, as in the case of Statutory Law 1757 of 2015.32 There is also uncertainty as to how these mechanisms will be harmonized or coordinated in the territories.

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

7.1 Progress and challenges for inclusive and pluralistic participation

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

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

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

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Likewise, within the framework of point 1 of the Agreement between the National Government and the ELN to engage in peace talks on society’s participation in the construction of peace, the GS/OAS agrees that participation is a dynamic and active, inclusive and pluralist exercise. In this regard, the efforts of civil society, led by social platforms that are national in scope, are highlighted\textsuperscript{33} to prepare the territory and influence the agenda, taking concrete proposals to the negotiations in Quito in order to achieve an inclusive and pluralistic participation mechanism that will allow for the construction of a common vision of peace that fosters transformations for the nation and the regions. It is important that institutions strengthen and support these opportunities to coordinate and promote participation.

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

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

The indigenous and Afro-descendant communities that form part of the Ethnic Commission for Peace and the Defense of Territorial Rights in the monitoring and follow-up to the implementation of the Agreement have indicated that the spaces created for their participation within the framework of the Ethnic Chapter of the Final Agreement are not being respected, insofar as the appropriate prior consultations on the regulation of

\textsuperscript{33} Networks such as the Mesa Social por la Paz [Social Roundtable for Peace] (REDEPAZ), Paz Completa [Complete Peace], and REDPRODEPAZ.
the Agreements have not been carried out. This has aggravated their mistrust of institutions and fueled assertions of noncompliance on the part of the State.

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

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

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

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

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

8. Monitoring The Effective Enjoyment Of Victims’ Rights

8.1. Restitution of lands and territory

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

8.2 Progress of the specialized land restitution courts

The GS/OAS considers as an important step forward the temporary creation of 15 new judicial offices and an additional chamber in the Superior Court of Cartagena to handle the large backlog of land restitution claims. These new offices have set a goal of issuing 1,680 judgments with the aim of reducing this backlog, which has resulted from the failure to meet the legally established deadline stipulating that judgments must be issued within four months.

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

The IACHR agrees on the need to improve institutional coordination to ensure full compliance with judgments on land restitution and the restoration of territorial rights, particularly those issued in favor of ethnic communities.

Nevertheless, we note that it may become problematic that the new offices and positions are valid for a temporary period of seven months. This is a limited period in which to surmount the serious judicial backlog in the land restitution courts, especially considering that in the six years of implementing the public policy, 3,727 judgments have been issued; this is equivalent to 6,936 restitution claims resolved, or 38.63% of the total number of claims filed. Bearing in mind that the specialized judicial offices are currently

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

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

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

handling some 14,878 claims, it is understood that the number of claims processed amounts to 52.04% of the total number of 110,964 claims filed by the victims.\textsuperscript{38}

It is worth noting that these measures to relieve this burden have involved the transfer of funds that had been allocated to the operation of the Land Restitution Unit (URT) and are now included in the budget for the Judicial Branch,\textsuperscript{39} a situation that could place constraints on the functioning of the entity.\textsuperscript{40} However, the URT reported that the amount was withdrawn from the items managed by the entity’s fund, minimizing the impact and maintaining its operating budget.

The GS/OAS additionally welcomes the fact that most of the offices of the specialized land restitution courts have accepted the guidelines established by the Colombian Constitutional Court in Judgment C-330 and Order 373 of 2016 regarding the obligation of judges to rule on the recognition or non-recognition of second occupant status and the identification of assistance and support measures (access to land, housing, and income generation).\textsuperscript{41}

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

On the contrary, despite what is established in the case law,\textsuperscript{42} cases occasionally continue to arise in some land restitution court offices where requirements are imposed over and above those set forth in Article 84 of Law 1448 of 2011, resulting in the rejection or “return” of court applications. This situation runs counter to the principle of transitional justice, which establishes the supremacy of substantive law over procedural formalities, and makes the process of land restitution more complex and cumbersome. At the same time, it hinders victims’ access to the statutory judicial body for the effective enjoyment of their fundamental right to land restitution.\textsuperscript{43}

\textsuperscript{38} Official public figures as of February 9, 2018.

\textsuperscript{39} Through Law 1815 of December 2016 “Enacting the revenue and capital resources budget and appropriations law for the fiscal period from January 1 to December 31, 2017,” the URT’s budget was reduced by 12 billion pesos in order to increase the Judicial Branch’s budget by the same amount and thereby create judicial offices to help clear the backlog of land restitution cases.

\textsuperscript{40} Land Restitution Unit. Desagregación de apropiaciones presupuestales vigencia 2017 Disaggregation of budgetary appropriations effective 2017. Available at: https://www.restituciondetierras.gov.co/documents/10197/794946/Desagregaci%C3%B3n%23B3n+Presupuesto+Funcionamiento+2017.pdf/75be2deb-3df8-4f38-8323-8196d4bf075d

\textsuperscript{41} Providing assistance to second occupants in land restitution cases is a commitment of the Colombian State under Principle No. 17 on the restitution of the housing and property of refugees and displaced persons, also known as the Pinheiro Principles, and Article 11, paragraph 1, of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), as well as General Comment No. 7 of the Committee on Economic, Social, and Cultural Rights.

\textsuperscript{42} Judgment C-330 and Order 373 of 2016 of the Colombian Constitutional Court.

\textsuperscript{43} Despite the fact that this is not a widespread phenomenon throughout the jurisdiction, it is of particular concern that the situation in the northwestern part of the country, specifically in the Urabá sub-region, has been repeated, with cases in which the same...
The GS/OAS acknowledges the efforts of different government entities and the judicial branch in the implementation of training processes for their officials on strategic issues, as is the case of the new judicial representatives I and II of the Office of the Assistant Inspector General for Land Restitution Affairs, who were trained by the entity on the phenomenon of secondary occupation. The GS/OAS hopes that this type of training will facilitate the positive transformation of the problematic situations that arise within the framework of administrative and judicial land restitution processes.

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

8.2.1 Restitution in areas formerly occupied by the FARC-EP

The GS/OAS welcomes the fact that the progress made in the concentration and disarmament of the FARC-EP has made it possible to implement the public policy of land restitution in areas historically controlled by this armed group, now the FARC political party. This is the case of the departments of Huila, Caquetá, Vichada, and Guaviare, as well as the micro-targeting of new areas in departments such as Meta, Tolima, and Cauca where the URT already had a presence.

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

The GS/OAS cautions that when the now-political group FARC turns over the list of real properties offered for the comprehensive reparation of the victims, it will be necessary to verify that it does not contain land that was abandoned or dispossessed. If it does, those judicial application for the restitution of land has been returned up to six times, including for corrections that can be made informally during the proceedings for the restoration of territorial rights to indigenous or Afro-Colombian communities.

44 La Montañita, San Vicente del Caguán.
45 Cantagallo, San Pablo, Santa Rosa del Sur.
46 Uribe, Vistahermosa, La Macarena.
47 The restitution of real property as a fundamental right of the victims includes several factors of reparation that go beyond the reconstruction of assets or the handover of dispossessed land.
properties must be submitted to the land restitution process on behalf of the victims who so request.

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

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

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

8.2.3 General assessment of the restitution process

The GS/OAS is pleased that in the six years of implementation of the public policy of land restitution, the Colombian State has developed a strong institutional framework, represented essentially by the URT and the judges and justices of the specialized courts. This framework has an effective presence in a large part of the national territory, with significant levels of trust from the communities, as well as procedures that are in line with due process and the historical contexts of the conflict, and it reflects in an optimal manner the international standards on the reparation of victims of dispossession and/or forced abandonment during armed conflict. Moreover, it is illustrative to note that 74.7% of all applications have already received security authorizations from the Ministry of National Defense in order to move forward with the land restitution procedure.48

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

However, the low rate of compliance with judgments and protective measures issued on behalf of ethnically differentiated communities remains a concern of the GS/OAS. In addition, the GS/OAS is struck by the high denial rate for registration the Forcibly Dispossessed and Abandoned Lands Registry (hereinafter “Registry”) under the responsibility of the URT, which is a judicial prerequisite for access to land restitution justice. According to the entity’s official figures, during the period from February to August

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48 Public URT data as of February 9, 2018.
2017, 1,843 applications were registered, 4,528 were denied registration, and 6,528 are still under study. It can be inferred from the above that the trend of denial has continued, given that within the period described, 71.07% of the applications were denied; that is, 2.45 times more denials were issued than entries in the Registry.

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

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

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

Likewise, GS/OAS, through MAPP/OAS, supports the URT in its efforts to implement a reconciliation strategy that makes it possible to assess and intervene in social conflicts related to land restitution. The Mission has been able to ascertain that these processes encourage the acceptance of restorative judgments and help to rebuild communities’ trust in government institutions. They also enhance the reconstruction of the social fabric, mitigate tensions that may escalate into physical assaults or violent acts, and help revive the economy in the territories targeted by public policy interventions. Nevertheless, the GS/OAS recalls that the mitigation and positive handling of these conflicts is the

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49 26.29 registered - 73.70 not registered.
50 34.78 registered - 65.82 not registered.
51 52.43 registered - 4756 not registered.
responsibility of a complex network of local, departmental, and national institutions and entities, as it depends on the observance of the rule of law and the effective enjoyment of the fundamental rights of both victim and non-victim populations where land restitution cases arise.

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

8.3 Guarantees of Non-Repetition

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

The GS/OAS received information indicating that 44 such acts have been committed against members of Sujeto de Reparación Colectiva [Subject to Collective Reparation] (SRC).52 All of the incidents targeted active members of Acción Comunal, with the grassroots structure, i.e. the JACs, being the most affected, with thirty-eight (38) incidents. Of all the cases, seven in the department of Cauca and five in Nariño and Antioquia, there were 37 acts perpetrated against men and five against women.53 The impacts were concentrated in Risaralda (4 cases); Cesar and Norte de Santander, (3 cases each); Atlántico, Meta, and Valle del Cauca (2 cases each); Córdoba, Cundinamarca, and Guaviare, Putumayo, and Santander (one case each). Of the total number of cases systematized by the MAPP/OAS since the joint exercise with the Community Action Organization (OAC), 31 involved leaders,54 and in 13 cases the acts were found to have been directed against persons not holding leadership positions; however, three of the affected persons were former leaders.

The most common acts of revictimization were: murder, with 28 cases: six each in Cauca, three each in Cesar and Antioquia, two each in Atlántico, Meta, Risaralda, and Valle del Cauca, and one each in Caldas, Caquetá, Córdoba, Cundinamarca, Guaviare, Nariño, Norte de Santander, and Putumayo. Of these, 19 acts were committed against persons holding leadership positions and nine involved persons not holding leadership positions.

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52 Six in total, four of them individual threats and two mass threats, four attacks, two acts of forced disappearance, three cases of displacement, 28 murders, and one detention, for a total of 44 reported acts.
53 The two remaining acts are the collective threats.
54 Individuals on the Board of Directors (Chairperson, Vice Chairperson, Secretary, and Treasurer), Executive Secretariats or Work Committees (in charge), prosecutor, delegates to high level Community Action organizations (Asojuntas, Federation, and Confederation).
positions; 3 were former leaders and three were community leaders. During the period there were four individual threats and two mass threats (Risaralda and Santander). All of the individual threats were directed at leaders in the departments of Antioquia and Risaralda, with one case in each location, and two cases involving JAC chairpersons in Norte de Santander. There were four attacks, the majority of which were aimed at leaders, and two forced disappearances, all in Caquetá, and three cases of forced displacement in Tumaco.

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

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

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

8.4 Comprehensive Reparation with an Emphasis on Collective Reparation

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

Likewise, the UARIV launched the “Broad Participatory Space,” both regionally and nationally, with leaders representing the victims of the different crimes perpetrated. In

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55 They are not leaders but they are vital to specific issues that they have promoted in their communities.
56 1 non-leader and 3 leaders.
57 1 ASOJUNTAS delegate, 1 JAC Chairperson and 1 JAC Vice Chairperson.
58 2 cases in Cartagena del Chairá.
59 Not exclusively for the Community Action organizations.
60 Instrument that documents and follows up on acts and investigations affecting human rights defenders.
this regard, the GS/OAS highlights the achievement of a participatory proposal that was an important input for a possible amendment to Law 1448 of 2011.

A stalemate in victims’ rights of access to collective reparation was also monitored. In view of this, the alignment of the institutions needed for the implementation of the comprehensive plans for collective reparation (PIRC) is a challenge that has yet to be met, particularly in the implementation of the measures to be determined. In addition, delays in the hiring process, both in securing UARIV staff members in early 2017 and the delay in the hiring of officials, is reflected in the slow fulfillment of the commitments undertaken with those entitled to collective reparation. This situation became worrisome as it continued during the first half of the year, leaving the entity without options to take the actions required for the beneficiaries to access their rights.

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

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

The GS/OAS, through the MAPP/OAS, observed the continuity in the dynamics of the return of nationals from Ecuador, where the displaced victims are returning with the expectation of being covered by Law 1488/11. In this regard, the MAPP/OAS provided assistance to the Office of the Municipal Ombudsman of Ipiales in taking statements,

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

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

63 Like the facilitating committees.

64 Comprehensive plans for collective reparations should be linked to the development programs with a territorial focus (PDET) and to the different plans and programs agreed upon, as well as to the different truth and justice efforts.
and identified that the immediate challenge is to assess these cases for inclusion in the Single Registry of Victims.65

Finally, the GS/OAS considers it an urgent challenge for the Colombian State to promote the effective enjoyment of the rights of the victims of the FARC-EP by recognizing their status. Although the registry is currently closed to the reporting of events that occurred between 1985 and 2011, and it is still possible to be entered into the registry by documenting force majeure or acts of God,66 experience has shown that the application for victim status is often made after the weapons surrender process, which is why the number of victims may increase later in time. This could put additional pressure on an already limited budget for victim reparations. The main challenge in this context is to develop foresight and outreach actions to provide real possibilities of reparation for all victims.

9. **Recommendations**

9.1 **Security conditions and territorial dynamics**

A. Increase the number of security forces to remain in those territories where, as a result of the territorial dynamics described above, other armed actors have moved in with the intention of controlling the areas where the FARC-EP used to operate.67

B. Continue training and awareness-raising activities for members of the security forces present in areas of former FARC-EP influence, in order to avoid the continued stigmatization or targeting of the civilian population. Compile and reinforce lessons learned within the framework of the work carried out by UNIPEP in the municipalities that host the current ETCRs.68

C. Ensure that the media coverage of the achievements of the security forces does not involve the civilian population in the provision of information to the authorities for the success of their operations.68

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

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

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

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

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

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

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

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

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

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

9.2 Justice in the territories

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

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

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

9.3 Special Indigenous Jurisdiction

A. The National Committee for Interjurisdictional Coordination should establish a road map to facilitate progress in the drafting, negotiation, and enactment of the law on coordination between the Special Indigenous Jurisdiction and the ordinary courts.69

B. The Ministry of Justice and Law and the Ministry of the Interior should provide the necessary mechanisms so that as many indigenous peoples as possible may, if they so wish, be able to develop their own regulations. If necessary, create the opportunity to revise them in order to bring them more into line with the world view and the needs of indigenous peoples.

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

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

E. INPEC should provide differential treatment to persons belonging to indigenous peoples and communities held in prisons and penitentiary establishments, in accordance with Article 3 of Law 65 of 1993, as amended by Law 1709 of 2014.70 Similarly, it should ensure that detainees from ethnic communities are able to serve their pretrial detention or sentence in the appropriate indigenous community or reservation.

F. INPEC and the Ministry of Justice and Law should conduct a review of the pending applications of the harmonization centers in order to devise a strategy that allows...

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

70 “The principle of a differential approach recognizes that there are populations with particular characteristics based on their age, gender, religion, gender identity, sexual orientation, race, ethnicity, disability status, or any other characteristic. For this reason, the penitentiary measures contained in this law will be based on this approach.”
community members to be transferred to their communities in the most expeditious manner if the authorities so request.

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

9.4 Prison Monitoring in Transitional Justice contexts

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

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

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

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

E. The Office of the High Commissioner for Peace and the Ministry of Justice and Law should assess the security situation of persons held in certain prisons in order to group ELN inmates together in secure prisons and units, taking account of proximity to their families and territorial jurisdiction. In particular, with regard to women, it is recommended that channels be created to encourage the maintenance of family ties, through measures that facilitate by all reasonable means women prisoners’ contact with their families, especially their children.

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

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

9.5 Crime policy

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

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

- The adoption of clear protocols to investigate patterns of violations beyond establishing multi-causality in the crimes committed, as well as in the effective prosecution of their masterminds, in order to shed light on the interests underlying the murders and threats against social leaders.
- Taking internal control actions in security and investigation entities at regional and local levels, in order to identify possible corruption scenarios related to homicides and threats against social leaders.
- Monitoring procedural effectiveness so that prosecutions are not affected by procedural or substantive errors in the filing of charges.
- The prosecution of direct perpetrators must be coupled with a strategy for the pursuit and prosecution of criminal masterminds.
- Investigation methodology should take account of who benefits from the impacts on social leaders, in order to construct and investigate theories about the causes. The short- and medium-term results of these violations should be studied as an analytical component, not only to investigate the determining factors but also to elucidate the dynamics and powers-that-be that are not traditionally known in the regions.
- The strategy for dismantling GAOs should include the potential surrender of these organizations to the justice system, to include procedural safeguards for victims; truth and reparation for victims; a strategy for the disengagement of minors; the pursuit of assets; and a non-repetition strategy that includes prison resocialization and post-prison reintegration.
- Harmonizing Directives 001, 002, and 011 of the Office of the Attorney General in relation to the investigation of crimes affecting social leaders, in order to have a clearer definition of the research methodology to be used. It is also important to communicate this coordination to local and regional prosecutors’ offices.
- The Office of the High Commissioner for Peace (OACP) and the JEP should expand the mechanisms for publicizing and providing access to benefits under Article 37 of Law 1820 of 2016. They should also create a simple and prompt information transfer mechanism, where the State provides the necessary information to the entity in charge of managing the request.

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

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

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

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

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

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

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

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

H. The Ministry of the Interior should strengthen the work of the Community Action Organizations, taking into account their strategic role in the participation and construction of democratic foundations at the grassroots level, as fundamental actors in the territories’ transition to legality.

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

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

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

L. The UARIV should develop efficient administrative and resource execution processes that strengthen the organizational capacity of the Subjects of Collective Reparations and take account of their autonomy and particularities at the different stages of the collective reparations process. The PIRCs must be developed with sufficient funding so that, in addition to initiating collective processes, they can ultimately strengthen the presence of the State in remote territories and better ensure compliance with reparations.
Twenty-Fifth Report
OF THE SECRETARY GENERAL TO THE PERMANENT COUNCIL ON THE MISSION TO SUPPORT THE PEACE PROCESS IN COLOMBIA (MAPP/OAS)

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

The mandate of the MAPP/OAS issues from the agreement signed by the Government of the Republic of Colombia and the General Secretariat of the OAS, hereinafter GS/OAS, on January 23, 2004, as well as from Permanent Council resolution CP/RES.859 (1397/04), adopted on February 6, 2004. This mandate has been broadened and extended seven times;¹ most recently, it was extended to December 31, 2021.

Every day, the MAPP/OAS works to support peacebuilding in Colombia. It does so directly in the territories that are most affected by the internal armed conflict, by supporting communities; public institutions; indigenous authorities; black communities; social, civil, and women’s organizations; religious communities; security forces; victims of the armed conflict; human rights defenders; community leaders; and ex-combatants, at the municipal, departmental, and national levels.

The Mission’s work is based on interacting with stakeholders, supporting local processes, and monitoring the perceptions, dynamics, and impacts associated with the implementation of peace policies, through a fluid exchange based on the trust built by the Mission over

¹ The mandate was broadened and extended through the signing of additional protocols to the initial agreement, on January 15, 2007; January 19, 2010; December 23, 2010; October 3, 2013; December 15, 2014; September 27, 2016; and December 19, 2017.

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the years (which makes it easier to obtain strategic information that meets criteria of trustworthiness\(^2\) and triangulation\(^3\)), outreach among communities and institutions, and a high level of proactive advocacy.

The information set forth in this report corresponds to the findings made by the GS/OAS through the MAPP/OAS as a result of its work monitoring and supporting peacebuilding efforts in Colombia from September 1, 2017, to July 31, 2018. Some events that took place outside that timeframe are also discussed.

Pursuant to resolution CP/RES. 859 (1397/04) numbered paragraph 3, the MAPP/OAS consults the Inter-American Commission on Human Rights (IACHR) prior to the publication hereof, in order to hear its observations on the functions for which it is responsible, and for the two OAS authorities to work together and share information.\(^4\)

The support of the international community is vital in enabling the MAPP/OAS to perform the activities in its mandate. The GS/OAS therefore wishes to thank the donors and friends of the MAPP/OAS, especially the Basket Fund countries—Germany, Canada, Spain, the United States, the Netherlands, and the United Kingdom—whose political and financial support make the Mission’s operations possible. The GS/OAS is also grateful for the contributions made by Korea, Norway, Sweden, Switzerland, Turkey, and the European Union, as well as the Spanish Agency for International Development Cooperation (AECID), the German Agency for International Cooperation (GIZ), the United States Agency for International Development (USAID), and the Swedish International Development Cooperation Agency (SIDA).

From September 1, 2017, to July 31, 2018, the MAPP/OAS carried out a total of 1,836 field missions, of which 1,432 involved monitoring and the remaining 404, support activities. These missions were conducted in 941 populated areas in 213 municipalities of 23 of the country’s departments. These populated areas included municipal capitals, townships, villages, indigenous reserves, and community councils.

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\(^2\) Backed by the information provided by two or more diverse, pluralistic sources.

\(^3\) Backed by diverse, pluralistic, and credible sources and evidence.

\(^4\) This report presents a detailed analysis of the Mission’s monitoring and support work. It also covers topics and concerns identified by the Inter-American Commission on Human Rights (IACHR) in its monitoring of the overall human rights situation and discussed in Chapter V of its 2017 Annual Report, “Follow-up to recommendations made by the IACHR in its report Truth, Justice, and Reparation: Fourth Report on the Situation of Human Rights in Colombia.” [IACHR, Truth, Justice and Reparation report (2013)].

**Volume III, Periodic Reports of the Secretary General**
I. General Considerations

The GS/OAS would like to especially thank former president Juan Manual Santos for all of the support and backing he provided for the correct execution of MAPP/OAS operations, and for always respecting the Mission’s independence and autonomy. This appreciation extends to the authorities and civil servants with whom the Mission engaged in enduring interaction and collaboration.

The Mission likewise salutes the current President of the Republic of Colombia, Iván Duque Márquez, and his entire team, and voices and reiterates the Organization’s commitment to continue to support peacebuilding through its experience, territorial deployment, and capacities developed over more than 14 years of uninterrupted work.

The GS/OAS has verified that significant progress has been made on highly important issues for building and consolidating peace in Colombia. As emphasized in prior reports, the disarmament and disappearance of the FARC-EP as an illegal armed actor is a highly significant achievement that marks a turning point in the country’s history; today, Colombia has one more political party and one fewer illegal armed actor, which adds stock to the country’s democratic capital and gives true meaning to the peace process.

In this context, increased demand has been observed for channels for dialogue among organizations and social movements with the national government. This dynamic coincides with the launch of forums for dialogue established as part of the peace processes put forward firstly with the FARC-EP and then with the Ejército de Liberación Nacional [National Liberation Army] (ELN), demonstrating that the de-escalation of armed actions is paving the way for public debate, participative democracy, and various ways of raising awareness about social issues.

In that regard, the strengthening of the Colombian State’s response and the role and positioning achieved by social organizations through the use of democratic tools for citizen participation are of particular note, and they demonstrate how civil society’s relationship with government structures has matured. We encourage the Colombian State to continue along the path of democratic dialogue, not only by establishing and attending forums for dialogue, but also by fulfilling the resultant commitments and agreements, and guaranteeing, in a timely fashion, the rights its citizens are due.

The institutional infrastructure of peace in Colombia is now upheld by new regulations, including constitutional reforms, laws, and decrees on legislative procedures, reintegration, security guarantees, victims’ rights, social and rural development, agencies and forums for participation, institutional mechanisms, and political arenas for actors in the conflict. Of note are the creation of the Comprehensive System for Truth, Justice, Reparation, and Non-repetition and the launch of the Commission for Clarification of the Truth, Coexistence, and Non-repetition, as well as the Search Unit for Persons Gone Missing in the Context of and
due to the Armed Conflict, and the Special Jurisdiction for Peace. In addition to the notable improvements in the State’s entry to the territories most affected by the conflict, valuable progress has been made on humanitarian demining.

The GS/OAS highlights the various measures designed to mitigate the risks faced by leaders and communities in the territories. Of note is the creation of the comprehensive program for the security and protection of communities, organizations, social leaders, and human rights defenders, as well as the measures designed to improve compliance with the Community Action Organization security guarantees, through the creation of the Security Committee.

Likewise, the MAPP/OAS applauds the drive to identify and characterize the risk to parties to collective redress cases, such as community councils, indigenous reserves, and social organizations located in complex territories throughout Colombia, as well as the efforts made by the Office of the Prosecutor General to investigate, pursue, and effectively prosecute the perpetrators of harm to social leaders, by defining methodologies for investigating and prosecuting such cases.

The GS/OAS highlights the actions initiated by the national government to extend the justice system to areas where the FARC-EP previously had a presence, as well as the coordination of the ordinary and indigenous justice systems through the actions taken by the competent bodies of justice.

Along these same lines, the MAPP/OAS extols the recent issuing of Law 1908, which seeks to break up large criminal organizations that operate nationally and internationally, by strengthening regulations and mechanisms against them and establishing a special procedure for all the organized armed groups that wish to submit to the justice system. Appropriately regulating and implementing legislation will be fundamental in order to gradually overcome the obstacles that have allowed the internal armed conflict to persist.

The GS/OAS stresses that the process of land restitution and re-establishment of territorial rights: (i) makes a positive contribution to dignifying victims, since it is an ideal tool for partially satisfying the rights to truth, justice, and redress; (ii) paves the way for various public institutions to offer government services; (iii) promotes reconciliation through victims’ return to and the economic revival of the territories, and fosters the peaceful handling of tensions that arise before, during, or after implementation of the restitution processes; and lastly, (iv) builds territorial peace.

Similarly, the Colombian legal system has notably strong legislation and case law in line with international standards on land restitution. These accumulated regulations will surely serve as a pilot exercise of justice, providing starting points and experiences for the future agricultural jurisdiction, which will be critical to resolving the historical conflict over land use and ownership in the Colombian rural sector and to fulfilling the commitments taken on by the Colombian State in the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, signed with the FARC-EP, hereinafter the Final Agreement.
The existence of strong institutions, deployed in much of the territory and with experience in the administrative and judicial stages of restitution, has made it possible to:

(i) complete the “sweep” of former intervention zones, especially in the north; (ii) begin interventions in new areas, especially in the southeast; and (iii) announce the completion of the administrative step for 71% of the requests authorized by the Ministry of Defense, or 55.15% of all of the land restitution requests submitted.

With regard to the implementation of processes and strategies for the structural transformation of the countryside, especially in the rural sector, the GS/OAS welcomes the application of established pathways and methodologies for constructing and implementing the Territory-Focused Development Programs (PDET). These programs have had a “bottom-up” methodology, according to which the first dialogue was rural, the next municipal, and finally regional, resulting in the signing of more than 30 community and municipal pacts and progress on specifying over six Territorial Transformation Action Plans (PATR), in various places around the country.

The GS/OAS recognizes the significance of the implementation of this citizen participation mechanism, which has made it possible to establish dialogue among social leaders, members of the communities, and government institutions, thus paving the way for the community to participate in identifying opportunities and problems, with a view to decision-making and the true transformation of all of the territories.

Despite the associated achievements, the GS/OAS has observed diverse challenges arising in the peace process. The context and the various elements involved in the spirals of violence continue to respond to complex dynamics like illegal economies, notably drug trafficking, extortion, smuggling, and criminal mining. The enormous funds involved in these economies fuel the conflict and represent a serious challenge to stabilizing the territories.

The implementation stage is threatened by the presence of illegal armed groups and guerrilla dissidents in the territories. Among demobilized combatants, there is fear over the murders of ex-combatants and members of their families. Furthermore, there have been difficulties in preparing and implementing key programs for the post-conflict period such as the National Illegal Crop Substitution Program (PNIS), and the Small Community Infrastructures (PIC) have not yielded the expected impacts.

What is more, reintegration of the former guerrilla soldiers has become a significant challenge for the State. Few productive projects have been developed to guarantee a livelihood for the demobilized individuals who were in the Transitory Rural Settlement Zones for Normalization (Zonas Veredales Transitorias, ZVTN), now Territorial Training and Reintegration Areas (Espacios Territoriales de Capacitación y Reincorporación, ETCR), and who, due to questions of security and complaints of abandonment, have left them, hampering economic and collective reintegration.
The situation of vulnerability facing leaders and human rights defenders also persists. Acts of violence against this population show no sign of stopping. These acts are perpetrated by various players, such as the organized armed groups, dissidents, and criminal gangs seeking to eliminate or restrict social leaders’ participation in politics, their defense of their land restitution rights and the environment, and their participation in the illegal crop substitution programs.

The GS/OAS calls for directing attention to the dynamics associated with the presence and actions of illegal armed actors on the borders; to the adverse impacts on the communities; the risks to which recipients of special constitutional protection are subjected, especially girls, boys, adolescents, women, and individuals belonging to indigenous communities and populations; and to socioeconomic conditions and the difficulties accessing basic services, among other issues. In this context, it is very important to take into account that each border subregion has its own particular problems, contexts, and elements that set it apart from the others.

In order to achieve the long-awaited territorial peace, the GS/OAS encourages the government to address various deficiencies in its institutional presence (services, infrastructure, education, and social inclusion, etc.) in the remotest, most underserved regions, with the aim of promoting local development and decreasing the attraction and skills of the armed groups that feed off of these deficiencies. That said, the national government’s peace policies must also be properly aligned with local realities and dynamics. Activities must be designed to include priority care for victims and ethnic groups and collectives, and their approaches must include differential, territorial perspectives.

In addition, at this critical stage of the peace process, it is ever more evident that specific, prioritized decisions must be made on key issues, such as the reintegration policy; the security of ex-combatants and program participants; the continuity of the execution of Final Agreement regulations; the prosecution of perpetrators of crimes; the full recognition of and redress for victims; and political will for the peace process. Solid planning that takes into account the lessons learned for the future is also necessary. If these elements are achieved, there will be hope for peace and a clear path to reconciliation in Colombia. The international community is ready to continue supporting all of these efforts.

In consideration of the foregoing, the GS/OAS deems it relevant to include in this report an assessment of the achievements considered to promote peacebuilding that were identified during the period in question, as well as the principal remaining challenges and obstacles. The aims of this are to conclude the reports on actions under the outgoing government and to contextualize the perceptions of threats and challenges to peace, as a benchmark that will be useful for the incoming government led by President Iván Duque.
II. Actions Taken by the Colombian State to Consolidate and Implement the Peace Policy

1. Security conditions, adverse impacts, and social unrest

With regard to security conditions in the territories, the GS/OAS highlights the launch of various strategies by the Colombian State, in particular by the military and the national police, in the territories most impacted by the internal armed conflict. The GS/OAS especially recognizes the progress made under the Horus Plan, which is part of the Victoria Plus Strategic Plan; both strategies increase the visibility of law enforcement personnel and strengthen their presence in the remotest territories.

The MAPP/OAS has noted the efforts made by various military and police units to put these kinds of strategies into motion, by maximizing the human and technical resources used to perform other tasks, like protecting oil infrastructure or eradicating illegal crops. The GS/OAS also welcomes the progress made by the National Army on matters of humanitarian demining, in municipalities of the Valle del Cauca, Nariño, Putumayo, Caquetá, Chocó, Guaviare, and Meta.

The work being performed by the Police Unit for Peacebuilding (UNIPEP) is also noteworthy. The GS/OAS has observed that the maintenance of the police stations near the Territorial Training and Reintegration Areas (ETCR) has helped to not only generate a positive perception of security conditions in those areas, but also to build the population’s trust of the authorities. The communities in these areas have recognized that the deployed personnel are well prepared, knowledgeable of the context, and willing to improve their relationship with the population.

These efforts to stabilize security conditions in the territories are complemented by the guarantees that can be offered regarding the security and protection of social leaders. In this regard, the GS/OAS highlights the Ministry of the Interior’s issuing of Decree 660 of 2018, which adopts measures to protect social leaders and communities in the territories. The GS/OAS likewise welcomes the push to identify and characterize the risks to collective parties, such as community councils, indigenous reserves, and social organizations, located in complex territories throughout Colombia.

Furthermore, with regard to the investigation, pursuit, and effective prosecution of the perpetrators of harm to social leaders, the GS/OAS highlights the efforts made by the Office of the Prosecutor General to clarify the harm done, by defining methodologies for investigating the cases. In particular, the GS/OAS recognizes the emphasis placed on the methodologies for guaranteeing the rights of human rights defenders, which include investigation and prosecution strategies, set down in Directive 002 of 2017, among others. It also applauds the work done by the Office in connection with the National Commission on Security Guarantees, to align actions to relieve the harm done to persons and communities involved in peacebuilding and implementing the Agreements.
With regard to the dynamics of border territories, in terms of security conditions as well as of the impacts of the immigration from Venezuela resulting from that country’s political, social, and economic crisis, the GS/OAS welcomes the creation of the Unified Command Post, which will provide comprehensive services and facilitate interinstitutional coordination. The GS/OAS also welcomes the appointment of a Venezuela Border Manager.

In terms of addressing and managing social unrest in the territories, the Observatory of the Center for Social Dialogue, Early Warnings, and Conflict Resolution of the Government of Colombia (CEDISCO) reports that in 2017, there were 813 social-unrest-related events, of which 38% were rallies and demonstrations; and that from January to July 2018, there were approximately 2,700, 60% of which were associated with social movements. These figures may result from the de-escalation of armed actions, which is paving the way for public debate and diverse forms of raising awareness of social problems, like movements, marches, sit-ins, town councils, etc.

Lastly, the GS/OAS recognizes the progress made by the Colombian government on implementing the Comprehensive National Illegal Crop Substitution Program (PNIS), reflected in the figure of 77,659 families registered by the Illegal Crop Substitution Division (DSCI) as of August 2018. However, it warns of a significant gap between this figure and the number of families that, in the same time period, did in fact receive technical assistance (29,552) and have food security (6,623). This discrepancy is associated with program implementation issues, which in addition to hampering the program’s progress, promote the emergence of social conflicts.

2. Justice systems in the territories and legal security

The GS/OAS acknowledges the efforts made by the Colombian State to strengthen the administration of justice and improve the population’s effective access thereto. It welcomes such initiatives as the justice sector’s coming to the territories, especially to rural villages, townships, and police inspection divisions in around 20 of the country’s municipalities where the FARC-EP guerilla group has a presence. The justice systems have made inroads mainly through mobile events in rural communities, as well as through the installation of physical branches of institutions generally only found in urban centers, and through processes to strengthen informal mechanisms of justice as well as the mobile events.\(^5\) Some of the municipalities where these processes have been reported are Apartadó, Dabeiba and Valdivia (Antioquia); Fortul and Tame (Arauca); El Doncello, El Paujil, Puerto Rico, La Montañita, Cartagena del Chairá, and Solano (Caquetá); Puerto Asís and San Miguel (Putumayo); Tuluá (Valle del Cauca); Puerto Concordia (Meta); and all of the municipalities in the department of Guaviare, among others.

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\(^5\) The mobile events take place at Justice Houses (in the municipalities that have them); in other municipalities they are held through national government programs like the Local Justice Systems strategy or even through the departmental governments themselves.

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Progress has been made on coordinating the different territorial levels for the mobile events, resulting in high levels of attendance and participation from inhabitants of villages, townships, and police inspection divisions; around 200 to 300 hundred individuals typically participate in each event. This type of initiative gained momentum in many of the municipalities of the department of Caquetá, where a first phase of the process was already completed and where the GS/OAS expects follow-up and further activities to be held.

Specifically, with regard to the permanent installation of physical branches of justice institutions, notable progress was made in the second half of 2017 on the installation of physical branches of the Office of the Prosecutor General in municipalities where previously there were none, including the municipalities of Miraflores, Calamar, and El Retorno in the department of Guaviare.

Progress has also been observed on the establishment of transitional justice legal tools as well as important elements that contribute to building a criminal justice policy for the post-conflict period.

The GS/OAS highlights the first Special Jurisdiction for Peace (JEP) hearings, victims’ organizations’ receipt of the first reports, the JEP’s presence in the territory through 18 regional offices, the preparation of the Guide to Submitting Reports to the JEP, the publication of the prioritization criteria to be used by the Recognition Division, and the presentation of the first Office of the Prosecutor General reports to the JEP.

The GS/OAS also applauds Point 4 of the Final Agreement, “Solution to the Illicit Drugs Problem.” The GS/OAS notes the efforts contained in Draft Law 097, presented by the national government to the Congress of the Republic in an attempt to resolve the legal situation of small-scale growers. However, the GS/OAS considers that some of the points may reveal a lack of awareness of rural circumstances and realities, which are affected by constant changes in the illegal, social, and economic dynamics.

The GS/OAS also applauds the issuing of Law 1908 of 2018, “strengthening the investigation and prosecution of criminal organizations and adopting measures to submit them to justice.” This law seeks to establish special conditions for submitting organized armed groups to justice and accommodating them, provides for conceptually differentiating and separating organized crime groups and organized armed groups, strengthens the prosecutor’s investigative tools for crimes committed by criminal organizations, and establishes a special collective procedure for organized armed groups.

The GS/OAS recognizes that progress has already been made on regulating the first stage of the submission to justice process, through Decree 1455 of 2018, which

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6 The 2017-2027 Ten-Year Plan proposes regulating the criminal treatment of weak links in the drug trafficking chain.
makes it possible to start approaching groups and holding talks among the organized armed groups and the Colombian government.

With regard to prison and penitentiary conditions in post-conflict and transitional justice contexts, the GS/OAS commends the progress on the human rights of prisoners made by the Colombian State through the creation of the Guide to the Use of Force in the Penitentiary and Prison System, through Resolution 192 of 2018. For the first time, restrictions on penal officers and guards are clearly, precisely established, on the basis of certain principles included in various international regulations on the deprivation of liberty, to prevent situations of cruel and inhuman treatment and cases of torture.

The GS/OAS also notes the installment of increased prison capacity, with infrastructure intended to be respectful of the prisoners’ dignity. Progress has also been made on the construction of the agricultural colony in the municipality of Yarumal, Antioquia, which is designed to promote the resocialization process.

In terms of interjurisdictional coordination and alignment, the GS/OAS commends the jurisprudence developed by the Constitutional Court with a view to establishing guidelines for resolving jurisdictional conflicts between the Special Indigenous Justice System (JEI) and the ordinary justice system, as well as the work performed by the Higher Council of the Judiciary (CSJ) to develop a policy for coordinating the two jurisdictions. These efforts serve as a precedent for coordination with the Transitional Justice System.

The CSJ gave continuity to the National Commission for the Coordination of the National Judicial System and the Special Indigenous Jurisdiction (COCOIN)7 in the first half of 2018, arranging a work plan that includes the discussion and viability of issues like the Draft Coordination Law; the legislative instrument that makes it possible to regulate detention conditions for the indigenous population; the inclusion of the differential ethnic approach in the Ten-Year Justice Plan; and the handling of various forms of violence against indigenous adolescents, girls, boys, and women. The GS/OAS, through the MAPP/OAS, continues to support and back these entities nationally and fosters their continuation and expansion in the region. The MAPP/OAS held two sessions of the COCOIN, on May 31-June 1 and July 12-13.

In addition, the GS/OAS emphasizes that with the jurisprudential changes made in the past five years,8 the concept of prison for members of indigenous communities has progressed and transformed. The GS/OAS praises the work performed by the National Penitentiary Institute (INPEC) to validate the correctional resocialization centers in the indigenous territories. The INPEC’s position has been flexible, in that it has accepted the lack of bars and locks, and in general, the more open incarceration systems, incompatible with the Western concept of prison. The GS/OAS encourages

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7 Standing body for dialogue, consensus building, planning, and follow-up on the judicial branch public policies on JEI matters.

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the INPEC and other agencies to continue giving precedence to ethnically differentiated resocialization over Western concepts thereof.

3. Public policy on victims, participation, and territorial peace

The GS/OAS applauds the Colombian State for decisively consolidating the launch of the public policy on land restitution and the re-establishment of territorial rights in the country’s south and southeast, especially in territories where the former armed FARC-EP was historically present, and where intervention would not have been possible due to the continuity of the armed conflict. The GS/OAS observed that the Land Restitution Unit (URT), through a “sweep” strategy, managed to close intervention zones in which the administrative stage had been completed, so as to strategically redirect its technical and financial efforts to the new intervention zones. It likewise notes the application of measures to guarantee that rulings are handed down in land restitution and/or re-establishment of territorial rights cases, in order to resolve the legal situation of the plots and territories involved.

With regard to the implementation of processes and strategies for rural and economic transformation for peace, the GS/OAS commends the application of established pathways and methodologies for building and implementing the Territory-Focused Development Programs (PDET), recognizing the plans previously drawn up by the communities, as well as the possibility for representatives of all of the villages, communities of neighboring municipalities, and local institutions to participate in the meetings set up by the Territorial Renovation Agency (ART).

The GS/OAS also values the importance of the implementation of citizen participation mechanisms, which make it possible to establish dialogue among social leaders, members of the communities, and government institutions, paving the way for the communities to participate in identifying opportunities and problems, with a view to decision-making in all of the territories.

Likewise, in terms of citizen participation, the MAPP/OAS has supported and fostered the strengthening of the gender and women’s human rights agendas in the territorial peace and in the Discussion Commission of the Government of Colombia and the ELN. In this context, the GS/OAS applauds how, during this period, both delegations were open to establishing channels for dialogue and the direct participation of organized women’s groups, at the Havana talks. The dialogue/workshop held on this past May 18 by the plenary of the delegations with the platforms Juntanza de Mujeres and Cumbre de Mujeres y Paz, is especially noteworthy.

At this event, the platforms provided political/legal tools for understanding and analyzing the women’s rights approach in the negotiation process. Based on learning

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9 Strategy 20-15 of the URT, which establishes the objective of handing down decisions on all the existing requests for restitution in eight regions of the country.

10 Norte del Meta, Putumayo, Norte de Santander, Magdalena, Córdoba, Cesar, Bolivar, Cundinamarca.

11 Eastern Meta, Huila, Tolima, Caquetá, zones of Cauca, Casanare, Guaviare, and Vichada.
about the agreement with the FARC-EP, they offered political and technical inputs to leverage participation in the Commission and advocated for consideration of the creation of a gender mechanism within the process. At the territorial level, the GS/OAS recognizes the revival and expansion of the local, subregional, and nationally networked mobilization of women organized around the negotiations and implementation of the Final Agreement.

With regard to the collective redress processes, the GS/OAS recognizes the efforts made by the Colombian State through the Unit for Support and Comprehensive Redress of Victims (UARIV) to publicly announce the overall parameters for the Collective Redress Program, with the objective of ensuring implementation of Law 1448 of 2011, as well as the Final Agreement’s recognition of the importance of collective redress to territorial peace.

The GS/OAS likewise acknowledges the UARIV’s institutional efforts to progressively synchronize the adaptation to the Collective Redress Program, given the demands entailed in effectively incorporating the sexual orientation and diverse gender identity perspective. Of particular note are the actions designed to overcome the challenges of the initial dialogue with the LGBT Committee from Medellin’s Commune 8, resulting in the joint signing of the diagnostic assessment of collective damages in July of this year.

Lastly, the GS/OAS welcomes this significant advancement and urges the State of Colombia to decidedly continue to prepare, approve, and implement the Collective Redress Plan. It also encourages the parties and, in particular, the UARIV, to focus their efforts on guarantees of non-repetition for LGBT victims. These measures could bring about transformative redress and counteract the collective worldviews that condemn ways of doing and being that do not fall within social norms on gender and sexuality. These worldviews are recognized in case law and in the victims’ redress policy as factors that produce and propagate prejudice-based discrimination and violence.

III. Perceptions Of The Principle Threats And Challenges To Peace

1. Security conditions, adverse impacts, and social unrest

1.1 Security conditions in the territories

1.1.1 Presence and actions of illegal armed actors

The GS/OAS, while acknowledging the strategies developed by the Ministry of Defense to bring down the various illegal armed actors present in the territories and counteract their actions, continues to warn about their reshaping and their dynamics of territorial expansion and consolidation. Furthermore, the ambitious aims of plans

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12 In June, after the national dialogue initiative “Juntanza de Mujeres Connected with Peace,” more than 2,700 women from 400 organizations in 12 territories acted as active parties in peacebuilding and were able to dialogue with the delegations.
like the Horus Plan, could exceed the true capacities of the military units deployed in the territories.

The Mission continues to identify three different types of organized armed groups (GAO), according to the profiles of their leaders, their structures, and the territorial dynamics of their actions. The prevailing type has the emblematic hierarchical, hegemonic structure, as is the case with the Clan del Golfo.\(^\text{13}\) despite the actions taken by law enforcement and the Office of the Prosecutor General to weaken the senior members of this illegal armed group, Dayro Antonio Úsuga, aka Otoniel, is still known as the top leader. Although the group’s territorial deployment appears increasingly fragmented, there are still regional coordinators. It has both strategies to avoid confrontation and the capacity to execute armed actions with other illegal armed groups, depending on its economic interest in the zone and the agreements that can be reached.

There are also Los Pelusos or the Ejército Popular de Liberación (EPL), whose most emblematic leaders were lost in clashes with law enforcement (for example, alias Megateo in 2015 and alias Inglaterra in 2017), or captured (like alias David León in 2016). The group no longer has a nationally recognized figure operating as the top leader. Nevertheless, it has managed to expand territorially, especially in southern Cesar, the department of Cauca, and the region of Catatumbo in Norte de Santander. In the latter territory, the group has had armed clashes with the ELN.

Third is the case of Los Puntilleros, whose leaders were also the targets of law enforcement action; consequently, it does not have a nationally recognized leader. The group appears to be broken into two factions: the Libertadores del Vichada and the Bloque Meta. It continues to revert to criminal activities, especially in the departments of Meta and Vichada, and does not have a major interest in expanding its territorial control, although it has gained strength in the territories and in its illegal activities through partnerships with other illegal armed groups.

It appears to the GS/OAS that the residual organized armed groups (GAOR), or FARC-EP dissidents, continue to maintain some of their past patterns of action. The group’s interest in conserving the image of continuity with the FARC-EP is expressed in its similar ways of operating, political messages, names of blocs, and numbering of fronts, just like the guerilla group. This dynamic has been observed in departments like Meta, Guaviare, and Caquetá. The GS/OAS also has information about this GAOR’s expansion from southern Caquetá department towards Putumayo department, with the purpose of consolidating its presence on the Putumayo and San Miguel rivers, as well as on the border strip with Ecuador.

On the other hand, the armed group’s dynamics in the southwestern area of the country are more complex. In particular, in the Nariño Pacific coast region, the actions

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\(^\text{13}\) The Mission recognizes that this is the Colombian government’s name for this armed group. However, the group itself uses the name Autodefensas Gaitanistas de Colombia, which is also how it is referred to in the territories.
appear to involve structures with different origins that do not necessarily seek to establish continuity with the FARC-EP, or were not even recognized by the FARC-EP as part of the illegal armed group for inclusion in the peace process. The main effect of this has been highly volatile interactions with other illegal armed actors, leading to significant humanitarian impacts in the region, principally mass forced displacements and confinements. Furthermore, it appears that in order to consolidate economic objectives, they make maximum use of the former armed group’s knowledge of military strategy, routes, and networks. The strongest evidence of this has been seen in the departments of Cauca, Antioquia, Norte de Santander, and Arauca, among others.

Despite the differences in the groups’ territorial dynamics, the GS/OAS does not rule out the possibility that they could merge, not under a single command, but rather by coordinating and organizing their illegal activities; or they could make nonaggression pacts with each other to share territories and control criminal economies.

That said, during the period covered by this report, the armed dynamics of the Ejército de Liberación Nacional (ELN) reached a turning point with the national, provisional, and bilateral cessation of hostilities and ceasefire (CFHBTN) that this guerilla group and the Colombian government decided to implement between October 9, 2017, and January 9, 2018. The GS/OAS observed that the ELN cut back on some of its actions in the territories, mainly the ones involving attacks on oil infrastructures, which had been frequent in Norte de Santander, Arauca, and Nariño throughout 2018.

Nevertheless, the ELN did engage in some actions that directly affected the civil population. For example, indigenous families in the rural area of Alto Baudó in Chocó were forcibly displaced due to ELN threats against them. In this municipality, the ELN has sought to have a “low profile” presence, pressuring the communities to demand an increase in the presence of law enforcement personnel so as to contain the arrival of the Clan del Golfo or any other illegal armed actor in the territory. Another case that directly affected the civilian population was the massacre that took place in November 2017 in the village of Pueblo Nuevo in the municipality of Magüí Payán (Nariño), in which 13 people who the ELN identified as members of the illegal armed group Guerrillas Unidas del Pacífico (GUP) were killed, affecting members of the village’s Manos Amigas community council. After the conclusion of the CFHBTN, the GS/OAS observed a series of selective homicides, kidnappings, and attacks on law enforcement personnel, principally in the departments of Bolívar, Arauca, Chocó, and Norte de Santander.

With regard to the ELN’s relations with the armed organizations identified by the national government as residual FARC-EP groups, the GS/OAS also observes various logics that respond to the specific dynamics and interests of each region. For example, the MAPP/OAS learned of some ELN disputes with the Frente Oliver Sinisterra, made up of FARC-EP dissidents and former combatants, in the municipalities of Ricaurte and Cumbal in the department of Nariño, from January to March 2018, as well as with a group that calls itself Resistencia Campesina in Magüí Payán. On the other
hand, no disputes or clashes have been observed as of yet in the municipalities of Arauca and Saravena in the department of Arauca, where a group made up of former members of the FARC-EP has been forming and will share ELN territorial zones of influence. The feeling is that this dynamic has occurred because the residual group’s interest focuses on the region’s economic systems, like smuggling and extortion, as opposed to the political work that the ELN has historically done in the area.

1.1.2 Harm to communities and social leaders

Despite the State’s actions to prevent and protect social leaders, human rights defenders, and community representatives, the GS/OAS continues to be concerned about the persistence of adverse impacts on this population. Such harm continues to occur in diverse territorial contexts, is identified as multicausal, and is induced by various actors (which may be illegal and in some cases, involve the State). The leaders closest to the rural communities continue to be more affected by all types of violent actions. The capacities of institutions in these territories to respond to this issue with prevention and protection, differs from their capacities in urban areas.

It has been impossible to establish a national trend or pattern to the violence. However, according to the GS/OAS, the implementation of aspects of the Final Agreement has generated risks for the work and exercise of leaders.

One such risky scenario has developed in the places where the illegal armed groups are being reshaped or where they are fighting for territorial control. In these cases, it appears that social leaders are stigmatized upon being labeled “enemy” collaborators, or they are pressured by the illegal armed actors to raise awareness of their movement into or control of the territory, in order to increase the presence of institutions and thereby limit the incursion of rival groups.

Another type of scenario develops when social leaders promote projects to eliminate the area’s dependence on an illegal economy and that simultaneously involve the arrival of institutions. This occurs above all with leaders who support the implementation of the PNIS and PDET.

A third type of situation occurs in places where there is a certain territorial consolidation among different illegal armed groups. The harm brought to the social leaders reaffirms these groups’ control, according to the logic of harming those who challenge the illegal authority that has been imposed. The aims of such attacks on social leaders are to modify the rules of coexistence, to prohibit the communities’

14 See the 23rd Half-Yearly Report, in which the Mission mentions the following common threats in this hypothesis: (i) a leader’s report of an armed group moving into the area; (ii) administrative oversight or assertion of rights and defense of the territory; (iii) work involving education for peace; (iv) the creation of new representative spaces and/or movements; and (v) reports on the dynamics and effects of illegal economies.

15 Such scenarios have been monitored in Guaviare, Caquetá, Meta, Cauca, Nariño, Norte de Santander, Antioquia, and Putumayo.
participation in certain activities and projects, and to exploit the leaders, making them into messengers for the illegal armed group.

Likewise, in areas where the social leaders manage to enforce certain rules of coexistence and establish oversight due to the exit of an illegal armed actor and a weak institutional presence, risk factors are created and they end up being accused and attacked.

The GS/OAS understands that the leaders most affected by this type of risk are those who participate in community action organizations. From January 1, 2016, to September 20, 2017, 176 instances of harm to leaders were registered. These included mass and individual threats, attacks, disappearances, forced displacement, homicides, and robberies, reported directly by members of the community organizations located throughout the country. In 2016, 129 incidents were reported, and in the part of 2017 that was analyzed, there were 47 cases. In 2018, the acts of harm to the community action organizations continued, with 57 more acts being registered.

Lastly, the GS/OAS has noted that some cases of harm involve intolerance or organizational disputes, and that rarely, the harm done to leaders is linked to their private lives and not their leadership roles.

In short, leaders in the territories are sought out by institutions, for implementing local initiatives and programs; by communities, for representation; and by illegal armed actors, who wish to control their leadership actions. These situations end up producing violent dynamics against them. Consequently, the communities have started to note that “being a leader is seen as risky,” which has led to decreased numbers of traditional leaders in the communities, creating radical agenda changes, mass resignations, an increased lack of trust for participation in government projects, and organizational disputes.

With regard to the investigation, pursuit, and effective prosecution of the perpetrators of harm to social leaders, the GS/OAS highlights the progress made on establishing investigation guidelines. In the implementation of these methodologies, efforts have been made to establish the contexts and identify the patterns that could be associated with the harm to leaders, whether of macrocrime, for example drug-related activity and illegal mining, or victimization, such as could be the case with land restitution and illegal crop substitution. However, many investigations focus only on the individual cases, meaning they tend to isolate situations, contexts, structural factors in the territories, and the local dynamics of violence. Such investigations may identify the alleged perpetrators but not the masterminds or criminal group behind it, nor do they produce crosscutting analyses of the modus operandi.

16 MAPP/OAS direct source, special report on guarantees of non-repetition and community action.
17 Community Action Confederation public statement.
The GS/OAS thus feels that rigorously developing and aligning the established investigative measures\(^{18}\) will make it possible to not only more deeply clarify these situations but also to take preventive measures. Likewise, action should be taken within the Prosecutor’s Office to clearly articulate the investigation methodologies and to continue to disseminate them throughout the institution.

There appear to be many positions of leadership held by victims. However, especially when these positions are held by ethnic authorities who work to defend their indigenous and Afro-Colombian communities against the encroachment of illegal armed groups, it becomes more difficult to determine the motives behind the attacks. This leads to poor results in terms of prosecuting the direct perpetrators and masterminds behind the threats and homicides committed against the leaders.

It is therefore worrisome that the Mission’s monitoring work has shown the GS/OAS that the protective measures adopted by the UNP for traditional ethnic authorities who have been threatened\(^{19}\) as a result of their advocacy for restitution for the communities have not effectively prevented or mitigated the risk. This is because the measures that continue to be adopted do not account for the geographic characteristics of the territories and/or the particularities of the protected individuals. The GS/OAS thus urges the Colombian State to incorporate the differential ethnic approach and the Afro-Colombian and indigenous ethnic groups’ own worldviews on their security and territories. Furthermore, complaints are still being made about the length of time spent on analyzing the cases, the types of measures awarded, and the cutbacks in the protection systems.

The situations of risk, the communities’ perceptions of the inefficiency of the authorities’ prosecution of the perpetrators of the acts, as well as the true capacities for protecting the leaders, have given rise to fear in the territories over continuing to engage in processes of participation and the administration of their needs and demands, such as rights for their communities and municipalities, and in particular, in participation in dialogues with the ELN. In the same way, the drawing power and capacity for institutional dialogue of the organizational processes in which the investigated individuals are involved have greatly decreased. According to some leaders consulted, there have been notably fewer participants at meetings.

In addition to the attacks on social leaders and community representatives, the MAPP/OAS has detected that in departments like Antioquia, Arauca, Bolívar, Caquetá, Casanare, Cauca, Chocó, Meta, Nariño, Norte de Santander, Putumayo, and Valle del Cauca, harm is increasingly being done to individuals who were

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\(^{18}\) This refers to more effectively coordinating Directives 001 (contexts and patterns), 002 (investigation and association of cases), and 011 (investigation of threats and the idea of defenders).

\(^{19}\) The increase in attacks against parties seeking land restitution is concentrated in zones like the subregion of Urabá and the Nariño Pacific coastal area, and in general, in the areas where illegal armed forces, associated with the armed conflict and criminal incomes from illegal mining, illegal crops, and drug trafficking, are being reshaped.
members of the FARC-EP, and some of their family members have been threatened, followed, stigmatized, displaced, recruited, attacked, and assassinated.

The individuals affected are known to have had various types of ties to the FARC-EP guerrilla group: as former combatants; as “common” combatants or members of the armed troops; as FARC-EP guerrilla militiamen; as activists in the FARC political party; and lastly, as family members of any of these. Due to their presence in the territories, it has been found that the populations that most report harm are the “common” combatants, militiamen, and to a lesser degree, family members.

1.2 Main scenarios of social unrest

The GS/OAS has observed that most of the social unrest in the country occurs in rural areas, with access to land and territories being the most conflictive issue seen in the municipalities monitored by the MAPP/OAS. These conflicts are over issues like the expectation of a comprehensive rural reform, and in particular, land titling processes for small-scale campesinos; the recognition of campesinos as subjects of rights and their inclusion in the 2018 census; land-use planning through projects like the campesino reserve zones (ZRC) and the campesino agricultural territories (TCA); and the presence of the State in rural areas, establishing access ways, productive connections, lower input prices, economic support, and a full range of institutional offerings that will enable access to basic goods and services, ensuring rural subsistence.

In this same sphere, the GS/OAS has likewise seen an increase in ethnic/territorial conflicts, due to the lack of clarity over land ownership and property combined with Afro and indigenous groups’ push for the recognition, incorporation, and sanitation of their collective territories, which overlap and compete with the interests of the campesino population settled in collective territories. The campesino populations settled in national natural parks, forest reserve zones, and paramos also have trouble getting their territorial rights recognized, given the irregular status of their ownership and working of the land.

In connection with these scenarios of social conflict, the Pacific region appears to have had the highest number of social mobilization actions, from civilian movements formed and strengthened in earlier years, as in Quibdó (Chocó) and Buenaventura (Valle del Cauca), to social movements that have emerged in the present day, such as in Tumaco (Nariño). One common factor among them is the communities’ and organizations’ demands for access to basic services like sanitation, electricity, health and education services, and access to land and river communication routes.

It bears noting that, with a view to fostering strategies for social dialogue, in 2017 and 2018 the MAPP/OAS and the Presidency of the Republic together held ten awareness-raising events for civil servants and social leaders. These events were designed to build capacity for analyzing, processing, and managing social conflicts, and were geared towards preventive management, the establishment of collaborative dialogue, and the transformation of social conflicts into opportunities for dialogue, participation, and advocacy with the local and national governments.
1.2.1 Impacts of the public policy on reducing illegal crops

Tensions in the territories have increased over the illegal crop reduction policy, which is a hot-button issue for social conflict, given its territorial, social, and economic impacts and transformations. The program’s beneficiary population—families who live exclusively off of growing coca—resides in areas with high rates of vulnerability and unmet basic needs, and hopes for comprehensive answers to the complex issues in the territories where illegal crops are grown. These communities’ expectations mainly center on land access, titling, and formalization. The local institutions and communities perceive this issue to be one of the principal obstacles to the progress of the PNIS.

Although the GS/OAS has highlighted the Government’s efforts to provide legal security to the communities that plant illegal crops, with the presentation of Draft Law 197 of 2018, as mentioned above, elements defined therein, such as the average hectares reported by the families involved, have exacerbated the communities’ distrust in State actions and have negatively affected the progress of the PNIS.

Furthermore, the communities are concerned about the lack of clarity over the explicit inclusion in the differentiated criminal treatment of other roles involved in the first stage of production, such as pickers and crop-associated individuals like cooks, caregivers, etc.²⁰ However, it is notable that Article 4 of the draft law includes sharecroppers as beneficiaries, especially considering the lack of land formalization in Colombia. The GS/OAS welcomes the elimination of the registers of criminal records provided for in the draft law, and pushes for the benefits in the law to be extended to other types of primary penalties, such as fines, and to accessory penalties, such as the restriction on exercising the right to vote, etc.

Another specific element stands out in the draft law’s definition of small-scale growers, which includes growers who have up to 1.78 hectares of coca plantations, while the agreements were being signed based on the premise of 3.8 hectares. Given this difference, it is unclear what will happen with the individuals who have more than 1.7 hectares and have already signed a substitution agreement with the Crop Substitution Division.²¹ The communities’ distrust of the government’s actions is consequently on the rise, which negatively impacts implementation of the PNIS.

Compounding this, the PNIS methodology does not include a special procedure for meeting the economic, cultural, and social needs of rural territories and

²⁰ Although it is understood that the parties that would benefit from the differentiated penal treatment are those that are currently engaged in the behaviors described in Article 375 of the Criminal Code, these definitions should be clearly fleshed out and described in the law to prevent the ambiguous interpretation and application of the precepts set down in the Criminal Code.

²¹ This change in land areas responds to the economic relationship between the product and the grower’s own or the nuclear family’s subsistence. However, this position is seen to be a far cry from the rural context, considering that in Colombia’s remotest regions the cost of accessing goods and services is very high, surpassing minimum wage and, therefore, the area of cropland that would allow a family to subsist is larger than the 1.7 hectares proposed in the draft law. Some insist that the stipulated area should vary depending on the quality of the land.
communities, and in particular, of the indigenous and Afro-descendent populations. Ethnic communities continue to sign agreements similar to the ones used with campesino communities, but these agreements do not take into account the different worldviews, the collective outlook, or the ethnic/territorial and ancestral authorities.

In the territories where the PNIS is moving forward, implementation has been uneven, and there have been lags between the delivery of the Immediate Assistance Plan and the hiring of technical assistance for launching the productive projects. Combined with the effective failure to include pickers as beneficiaries, this has started to cause socioeconomic crises in the territories where coca is the main source of livelihood, in some cases forcing the population to move in search of new ways to survive, or to replant.

In general, the gender approach is incorporated, but is limited to recommending or encouraging female representation of the family units involved in the PNIS, to ensure these women would be the ones to receive the benefits and administer the resources. In this respect, the design and implementation of the PNIS has not addressed the different roles played by men and women in connection with illegal crops, as in the case of the women involved in preparing foods, commonly known as “cooks.”

It is important for the legal framework to address the differential impact from a gender and human rights perspective, with a view to the true and potential damage that can occur as a result of situations like the imprisonment of women for illegal-crop-related crimes, and to their effects on the families and on society overall. The imprisonment of mothers should be considered only as a last resort; alternatives and measures that do not include the deprivation of freedom should be sought for crimes that are motivated by poverty, violence, and coercion. Other population groups, such as the elderly, should also be considered within a differential framework, due to their vulnerability, broadly exposed through judicial procedure, meaning that it is important to bring back the preferential treatment they received under the prior draft law.

Furthermore, there are illegal armed actors who oppose or are involved in the voluntary substitution strategy. In addition to revitalizing the drug trafficking economy, these actors harm leaders and communities through social control, restrictions on the voluntary eradication work, calls to break the commitments taken on with the PNIS, and even through blocking the entry of institutional services associated with the illegal crop reduction policy.

Although the National Army has taken a position of nonconfrontation with the communities opposing the law-enforcement-led process of forced eradication, in the final months of 2017 some incidents of violence between the communities and law enforcement were reported. Compared to the first half of 2017, there were fewer cases of confrontation between law enforcement and the communities opposing eradication, but the impact thereof remains, in terms of fomenting distrust and, to a certain extent, rejection of the presence of institutions in this work. However, the GS/OAS highlights the role taken on by law enforcement to help the beneficiary
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communities with their voluntary substitution work, through the PNIS assisted eradication modality.

1.3 Principal dynamics in border zones and their impacts on the communities

Since 2015, and due to the economic, political, and social crisis in Venezuela, mass immigration of Venezuelans to Colombia has increased, impacting and changing the territorial dynamics in the destination communities. The majority of the population coming from Venezuela has been shown to be travelling informally, without having applied for documentation. Most of these people are seeking to get to areas where they can find services and employment, which explains the perception that they mostly head to urban areas.

The GS/OAS has identified the existence of various migratory flows to Colombia. The first is of Colombian nationals who had previously immigrated to Venezuela in search of better job opportunities, and in the context of the current crisis, decided to return to Colombia with their Venezuelan “mixed” families. The second flow is of Venezuelan families that, just like the prior group, come to Colombia in search of better opportunities, and depending on their economic capacities, seek to settle there or continue on to Ecuador, Peru, or other countries in South America. Last is the “pendulum” population, mostly Venezuelans and some Colombian-Venezuelans, who live in Venezuela and come to Colombia on a daily or weekly basis looking for any kind of work, to then return to Venezuela with their earnings and thereby bear the family expenses.

The following are among the principal impacts monitored by the MAPP/OAS in the Colombia/Venezuela border zones: problems accessing services, due to the high demand and scarce installed capacity, which in some cases leads to xenophobic and discriminatory sentiments; increased job informality and unequal competition between Colombians and foreigners; highly risky and highly vulnerable situations for Venezuelans, especially where illegal armed actors are present and where transnational illegal economies, principally drug trafficking and smuggling, have developed; institutional irregularities in services for the foreign population, above all healthcare and measures for the groups that should receive special protection, resulting from a lack of knowledge on regulations or procedure; and lastly, increased crime, especially in urban areas.

With regard to perceptions of Colombian State actions, the GS/OAS observed that measures like the Administrative Registry of Venezuelan Migrants (RAMV) are not seen to have yielded the positive impacts expected for some Venezuelans living in this border strip; it was noted that the results of these measures would not be seen in the short or medium term due to the change of government in Colombia, and specifically, that the registry did not solve critical problems for the immigrants, such

22 This report prioritizes the dynamics on the Colombia/Venezuela and Colombia/Ecuador borders, due to the obvious impact of the humanitarian crisis of the Venezuelan migration and the security conditions that have arisen due to the presence of FARC-EP dissident GAOR on the latter.

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as legalizing their stay in Colombia or formalizing their access to services like healthcare, education, food, employment, or housing.

Two dynamics were identified on the Colombia/Ecuador border zone. The first involves the populated areas where the authorized border crossings are located. There, the arrival of Venezuelan immigrants has caused the same impact as in the Colombia/Venezuela border zones, noted above. The second dynamic has to do with the border zones located on the San Miguel and Mataje rivers, where the development of illegal economies and the presence of illegal groups have limited the migratory flows, which are mostly associated with family issues and the quest to access healthcare.

As a result of the Ecuadorian government’s decision to militarize the border, the Colombian communities have noted the collateral effects of increased stigmatization against them by Ecuadorian law enforcement and communities; increased violence by illegal groups in border areas, in an effort to enhance their social control and prevent “informants;” increased clashes between illegal groups and the armed forces of both countries; and lastly, increased restrictions on the movement of communities and the flow of trade.

2. Administration of justice in the territories and legal security

The GS/OAS has identified three main persistent challenges to consolidating the justice sector in the territories: barriers to accessing formal justice; negative perceptions of the justice sector’s performance; and the existence of de facto justice systems.

The principal barriers to accessing the formal justice system are especially concentrated in sparsely populated rural areas, where the institutional presence is limited, incipient, or nonexistent. These areas typically do not have institutions where the populations can handle their justice-related needs, meaning that in order to do so they need to make costly trips. For economically vulnerable individuals, this is a huge burden. In other areas where some justice institutions may be present, many people do not turn to them, out of fear of retaliation from illegal armed actors in the territory, or because they distrust the justice system. The GS/OAS observed this in the subregions Norte and Bajo Cauca (Antioquia), the department of Arauca, southern Bolívar, southern Córdoba, and in certain areas of Caquetá, Cesar, Guaviare, Meta, Nariño, and Putumayo.

In terms of the population’s negative perceptions and distrust of the formal justice system and its performance, the main challenges were identified to be the limited capacities for exercising specialized functions, due to the lack of judicial police forces and institutions that perform case-related work like forensic medicine; the poor state of the physical offices and lack of supporting material; the scarce IT support infrastructure, such as informational platforms and the logistical setups for online hearings; weak interinstitutional coordination and organization; insufficient or poorly trained staff, especially at the courts, prosecutor’s offices, and police stations, leading
to slow processing and gridlock. This finding was observed in many of the MAPP/OAS priority areas in departments like Antioquia, Bolívar, Caquetá, Chocó, Guaviare, Meta, Nariño, Norte de Santander, and Putumayo, revealing that it is a widespread rather than local issue.

It should also be noted that security conditions represent another significant barrier to the performance of justice sector institutions: the illegal armed groups prohibit the communities from contacting the authorities, or exert strict control over the territory, making the National Army unable to guarantee the security and integrity of civil servants. Likewise, on occasion, individuals in the communities, immersed in the culture of violence due to the armed conflict, have been known to threaten civil servants when they hand down sanctions or warnings against them. These dynamics were detected in Mapiripán and Puerto Concordia (Meta), Orito (Putumayo), Miraviejo and El Retorno (Guaviare), El Carmen, Convención, and Teorama (Norte de Santander), Segovia and Remedios (Antioquia), Barbacoas (Nariño), and Sácama (Casanare).

The GS/OAS underscores that the constant prosecutions of community representatives constitute another factor that negatively impacts the communities’ perceptions of the formal justice system, as they give rise to the narrative that justice is more often applied to the communities and their leaders than to the illegal actors who perpetrate violence.

Some communities feel that there is a double standard in judicial investigations, since on the one hand, social leaders are quickly and decisively detained, but on the other, the cases brought due to threats and murders, especially of JAC chairs, do not move forward in a similar fashion.

There is also the perception in the territories that the bodies of evidence are not strong enough. Criticism is made to the effect that photo lineups are conducted with ID photos rather than recent ones, that telephone calls are not shown in context, and that the principal testimonies are from demobilized persons who may not be altogether impartial, given that they will receive benefits for their statements. It is also

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23 Another significant finding was that the communities’ ties to informal and illegal economies curb their access to the formal justice system; they express fear that if they turn to institutions, they could be prosecuted. This is particularly relevant for PNIS zones and areas with illegal or informal mining.

24 The GS/OAS has observed that, in general, the INPEC’s lack of resources causes delays in judicial proceedings, because the detained individuals are not transferred on time for the hearings. Furthermore, in some cases it is difficult to conduct mass proceedings, since the adversarial system of criminal justice is not designed for cases involving so many people, and agreeing on a defense for more than 10 people thus becomes highly complicated. These two factors, added to the backlog in the specialized criminal courts, have meant that some cases are concluded because the statute of limitations has passed and not because a substantive decision has been made on the matter. This has led to the negative perception that investigations neither provide true legal security nor allow the State to fulfill its duty to investigate and judge. Furthermore, many of the detainees are sent to places far away from the prosecutor’s offices that are investigating their cases, or from their hometowns. This makes it harder to hold hearings, leads to significant expenses and delays for the investigating bodies, and is difficult for the detainees and their family members.
highly difficult for the defenders to obtain evidence in the detainees’ hometowns, due to the presence of organized armed groups and organized criminal groups.

Another aspect shaping up to be a challenge to the consolidation of the justice sector in the territories is the existence of de facto justice systems. The GS/OAS has noted that these systems develop when the legal order is supplanted by illegal actors, who become security and justice providers in zones where the State’s presence is weak and insufficient. They manage to be legitimated and accepted by the population, which considers itself vulnerable. This legitimacy is strengthened insofar as the de facto application of these justice systems disregards the rights of the accused and provides “visible and beneficial results” for the communities. In most cases, the populations appear to be supportive of these systems, since they are quicker and more efficient, while the formal system is seen as slow and inefficient, especially in prosecuting aggressors.

The GS/OAS has found that the most influential groups applying de facto justice systems in the territories are the ELN, the Autodefensas Gaitanistas de Colombia, and the FARC-EP dissident residual armed groups. The ELN has managed to establish its justice systems in zones like Chocó, the northern subregion of Antioquia, southern Bolívar, Arauca, northern Casanare, and in areas of the departments of Cauca, Nariño, and Norte de Santander. The Autodefensas Gaitanistas de Colombia, moreover, have a powerful influence on aspects of justice and social regulation in zones like the subregion of Bajo Cauca (Antioquia), southern Córdoba, certain zones of the department of Chocó, and more recently, in the department of Meta. The GS/OAS has noted that recently, the justice systems of former FARC-EP residual groups have progressively expanded, and are currently found in many distinct territories, for example: Antioquia, Arauca, Caquetá, Cauca, Guaviare, Meta, Nariño, Valle del Cauca, and Putumayo. The Ejército Popular de Liberación also has an influence on these types of systems, but that influence is currently limited to the region of Catatumbo. It has not yet shown signs of expansion to other areas.

The GS/OAS would like to reiterate that the decades-long conflict has produced violent constructs that today underpin the existence and proliferation of this type of justice system. This occurs in some cases in which the territories have been left with a justice and power vacuum, as neither institutions nor armed groups have moved in, or because even if one or the other has, the populations do not perceive them to guarantee security or justice. The GS/OAS has learned of events that prove the

25 The GS/OAS has seen that these systems can develop in different ways, depending on the characteristics of each territory. In some zones, the illegal groups continue to act as security, justice, and conflict-resolution service providers, taking advantage of the institutional weakness and the way some populations accept them. The GS/OAS has also observed cases in which, in areas that the FARC-EP have left, certain people in communities decide of their own accord to turn to other armed actors to guarantee security and justice in the power vacuum. This reveals the aforementioned deeply rooted social ideas that support the excessive use of force to guarantee security and justice.

26 The Mission considers it important to highlight the case of the municipality of San José del Palmar in the department of Chocó, where the ELN has gained such tight control of the regulatory and justice system that it issued regulations in rural zones over the political campaign for the legislative elections to be held this year. These regulations set “taxes” for political advertising, as well as for accessing campaign and candidate areas.

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existence of this phenomenon in various territories, principally in rural zones, especially those where the FARC-EP used to have an influence. Justice then takes the form of punishments meted out by the community itself, revenge, and the constant settling of scores as a way to resolve conflicts. This situation has been observed in the following municipalities, among others: Santa Rosa del Sur (Bolívar), El Paujil, San Vicente del Caguán, San José del Fraquía, El Doncello (Caquetá), La Macarena and Puerto Concordia (Meta), Curumaní (Cesar), Anorí (Antioquia), Florida (Valle del Cauca), and Piamonte (Cauca).

2.1 Implementation of transitional justice judicial tools

2.1.1 Special Jurisdiction for Peace (JEP)

Since 2004, the MAPP/OAS has been supporting and monitoring the design and application of transitional justice tools in Colombia. Along those lines, the GS/OAS reiterates that the application of diverse measures, in a comprehensive, aligned way, is a fundamental contribution to building peace in the country. Colombia has made efforts to consolidate a consistent, responsible transitional justice system, adhering to principles based on respect for human rights and international humanitarian law. The MAPP/OAS therefore considers it important to see the transitional justice truth, justice, redress, and non-repetition components holistically, and to not approach these mechanisms in isolation.

The GS/OAS also considers it important to always keep in mind the principle of the victims’ centrality to the process, and therefore calls on the Colombian State to guarantee victims’ effective access to justice. The GS/OAS calls for implementing all the mechanisms necessary to ensure victims can enjoy their procedural rights, such as requesting that material and physical evidence be exhibited for viewing and study. That said, the decision that civilian third parties will enter the JEP voluntarily may be a vector for impunity. The way the relationships were formed among political, social, and economic groups and armed actors must be clarified within the JEP, to motivate these individuals to enter the JEP. Along the same lines, it is fundamental to strengthen the ordinary justice system in order to uncover the liability of civilian third parties, so that these cases will not go unpunished.

Although an extremely maximalist justice system is not viable, victims’ rights must not differ depending on the type of aggressor or whether or not the victims are affiliated with an organization. The Colombian State must therefore have all of the measures necessary to fulfill the rights of all victims, even when those victims are not in organizations. While the grounds for requesting that the reports be submitted by organizations are understood, it is important to protect the rights of individuals who have not yet joined organizations and to develop strategies for promoting their membership and the submission of reports. The GS/OAS further recommends that a clear mechanism be established to make it possible for victims whose cases are not prioritized to challenge those decisions, as was established to some extent in ruling C-579 of 2016. Likewise, under no circumstances may the Colombian State
transfer its obligation to investigate, judge, and prosecute human rights violations to victims and organizations.

Significantly, the Investigation and Accusation Unit may hear cases of victims who did not join organizations to submit reports, or whose cases were not prioritized, and/or the ordinary justice system should be strengthened to provide a rapid, effective response. This would involve broadening justice services in the territories and creating channels of communication between the JEP and the ordinary justice system. The ordinary justice system must also be strengthened to establish suitable channels for communication regarding cases of civilian third-party perpetrators. Circles cannot be closed if certain actions are potentially left unpunished.

The GS/OAS considers that the JEP regulations of the JEP’s own penalties must provide greater clarity on victims’ participation in the various procedural stages in which the imposition of the penalty will be discussed. Victims’ rights to justice could be eroded if the rules of the game on their participation in developing, implementing, and following up are not clearly established. It is equally important to remember that the restorative character of justice should be advocated throughout the procedure and jurisdiction (except in unrecognized cases), and should take form in a procedure that prioritizes the reconstruction of the social fabric as a measure to build stable, long-lasting peace.

The GS/OAS has found there to be significant confusion and a lack of understanding in the territories about what the JEP is; it has observed gaps in knowledge about its reach and its aim of prosecuting the leading perpetrators and revealing the true scale of the armed conflict. The GS/OAS has also found weaknesses in social organizations’ and human rights defenders’ technical capacities for submitting reports to the JEP. Accordingly, it appreciates that the Recognition of Truth and Responsibility Division has established the possibility of receiving oral reports and reports in the dialects of indigenous, Roma, Afro, and Palenquera communities. However, there continues to be a perception of obstacles due to the type of information that the reports must contain in order for the cases to be prioritized.

The GS/OAS considers the JEP’s attempts to reach the territories to be positive, but insists that its presence must be significantly strengthened, that there be more forums for the judiciary to converse with the communities, and that hearings be held in zones that have been particularly impacted by the armed conflict. The GS/OAS is aware of the logistical, administrative, and financial difficulties of implementing the JEP, and likewise warns about the large number of cases to be heard, the complexity thereof, and in certain circumstances, the lack of legal information.

It therefore pushes for the use of suitable information-processing mechanisms, technological means for searching files in real time and comparing past information. The GS/OAS recommends evaluating the possibility of decentralizing the JEP proceedings, since the experiences of other systems like the Justice and Peace system lead to the conclusion that the proximity of judicial officers increases confidence in the system and fosters greater participation. It is also essential to establish forums for
coordination among institutions, with the ordinary justice system as well as with the other components of the Comprehensive System for Truth, Justice, Reparation, and Non-repetition (SIVJRNR) and competent bodies.

The GS/OAS insists that the lessons learned from Justice and Peace be applied in the JEP, especially with regard to identifying contexts, macrocrime patterns, and the top-level perpetrators, since this has improved the legal, social, and historical understanding of many actions and dynamics. It also pushes for the assessment of other ways of investigating and building the cases, for example, based on the dynamics of macrovictimization within the logic of territorial patterns. Lastly, the GS/OAS is aware that the JEP will face new challenges when it is applied, and that faults, gaps, a lack of definition, and errors will be found and must be resolved through the State and not according to specific interests.

With that in mind, the MAPP/OAS has launched the system for supporting and monitoring the implementation of the Special Jurisdiction for Peace, which includes a judicial monitoring component as well as the analysis of categories based on information gathered from the communities and the victims, in order to recommend territoriality-based strategies for judicial review. The MAPP/OAS has also begun a process of supporting and monitoring victims’ access based on strengthening the capacities for submitting reports. It is initially providing this support on the Pacific coast of Nariño, in the Urabá Antioquia region, and in the Darién Chocó region. It also started information-gathering activities, to improve the approach to the JEP’s own penalties once the Court hands down the guilty verdicts.

### 2.1.2 Special Indigenous Jurisdiction (JEI)

The GS/OAS reiterates the sacred principle enshrined in the American Declaration on the Rights of Indigenous Peoples, among other instruments: the collective right of indigenous peoples to resolve their conflicts according to a regime of regulations and procedures that they have developed based on their own worldviews.

The GS/OAS reiterates that the need for coordination among the JEI, the national justice system, and the transitional justice systems, is even more pressing at the current time, in which the Special Jurisdiction for Peace is being implemented as a resource for achieving truth, justice, redress, and non-repetition for thousands of victims of the armed conflict, including indigenous peoples who have been adversely impacted.

As previously noted, coordinating the JEI and the JEP is a major challenge. Responsible coordination is necessary in order to provide comprehensive solutions to

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27 There are many aspects that can be analyzed to strengthen this position, such as the movements of the aggressors over the years of the conflict, commander changes, and the simultaneous presence of multiple armed actors in the same territory. These aspects will complicate prosecution, hence the proposals under this territorial logic have various methodologies, like the “arc of history,” among others.

28 The GS/OAS similarly recalls that the existence and validity of the Special Indigenous Jurisdiction (JEI) is confirmed in the Political Constitution of 1991, as a reflection of Colombia’s multiethnic and multicultural character.
a host of situations and conflicts, to prevent double jeopardy for indigenous parties, to recognize and repair the collective damages that the armed conflict has brought on indigenous peoples, to ensure the return and reintegration of indigenous ex-guerrilla soldiers in their communities in a way that does not cause them or the communities trauma, etc.

The Colombian State and the indigenous organizations have not yet been able to agree on a document that will make it possible to enact the Coordination Law, pending since 1991, when it was established in Article 246 of the national constitution with the objective of clearly establishing the mechanisms for the ordinary jurisdiction and special indigenous jurisdiction to come together, work together, and resolve disputes. The GS/OAS appreciates that the CSJ convened the 4th national meeting of the JEI, as the most inclusive venue for interjurisdictional coordination.

Together with the JEP Ethnic Committee, the MAPP/OAS has started a process to provide technical support for the guidelines to a protocol for the interaction between the JEP and JEI. Similarly, and taking into account the restorative nature of the indigenous justice system, the MAPP/OAS is collecting various indigenous peoples’ experiences with restorative justice, to incorporate them into the JEP’s judicial procedure.

The GS/OAS considers the coordination with the new transitional justice mechanism to represent an opportunity to raise awareness and strengthen indigenous peoples’ own justice systems, and feels it should accompany the coordination efforts being made with the ordinary justice system. The objective is for the three systems to coalesce and exercise their jurisdictions in a coordinated, effective way, helping to decrease rates of impunity and clashes between jurisdictions, and to responsibly dispel the perception of indigenous justice as a lax system that does not effectively punish perpetrators, used as an excuse to avoid criminal liability.

The GS/OAS calls on the State bodies and indigenous authorities to work together so as to strengthen government processes and their own indigenous justice system, with a view to reducing impunity; establishing internal regulations for the indigenous peoples; furthering indigenous correctional centers so that community offenders are not sent to ordinary prisons; strengthening and expanding the processes and mechanisms of coordination that already exist in some regions of the country, in order to make them more upright and to establish dialogue and reconciliation processes among the indigenous and judicial authorities according to a multicultural worldview that makes it possible to resolve potential conflicts of authority over the coordination criteria.

29 Held November 31 and December 1, 2017, with MAPP/OAS support.
30 A type of justice that, unlike retributive justice, does not seek punishment but rather the restoration of victims’ rights and the healing of the victims as well as the perpetrators of the crimes.
31 The Emberá Chamí, Yagua, Kokama, Tikuna, Nasa, Yanakona, Wayuú, Arhuaco, Wiwa, Kankuamo, Kogui, Inga, and Camëntsa peoples.

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2.1.3 Construction of a criminal policy for the post-conflict period

The GS/OAS considers the dismantling of criminal organizations and finances through the justice system to be an especially important factor in building peace, improving communities’ perceptions of institutions, and consolidating the social and democratic rule of law. Accordingly, it considers it important to reevaluate the current prohibitionist, punitive criminal policy, given that, particularly with regard to matters of drugs, it has adversely impacted the weakest links of the chain and the territories most affected by violence.\(^{32}\) For the GS/OAS, it is important that the change in the criminal and prison policy be geared towards dismantling criminal networks and organizations and providing social, economic, and peace policies for the most vulnerable communities.

The efficacy of this criminal policy should not be measured by the punitive results that may result from institutional actions, but rather by the improvement in living conditions in the affected communities and the decrease in offenses linked to organized crime. The work of completely dismantling multinational crime groups must be a joint effort stemming from a multiregional political commitment, as the lynchpin for sharing information and experiences and reducing the presence of these crime groups. The efforts to pursue and dismantle these networks’ economic and political ties, as well as their criminal finances, must also be strengthened.

Accordingly, the GS/OAS considers it important to take the following aspects into account: the prosecution of perpetrators of harm to community representatives, which must be efficient and proportional to the decisions made in prosecutions of social leaders; a consistent drug policy that includes special criminal treatments for the weakest links in the drug trafficking chain; and mechanisms for accommodating the organized criminal groups and organized armed groups and submitting them to justice.

With regard to the investigation, pursuit, and effective prosecution of the perpetrators of harm to social leaders, beyond the challenges already described with regard to the investigation methodologies in the territories, the GS/OAS has observed that the institutions and the communities do not share the same concept of prosecution, which keeps the perception of impunity alive. While the government bodies consider effective prosecution to mean identifying the alleged perpetrator\(^ {33}\) many communities understand justice in terms of the social dimension of the crime, and seek to restore the social ties that were damaged by the criminal action. The GS/OAS has collected community perceptions, especially in Cauca and Chocó, where there is an insistence

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\(^{32}\) The communities feel that the institutional apparatus does not provide social, economic, or peace policies, but rather only punitive measures. Oftentimes the people who are incarcerated are the heads of their households, meaning that the family unit is left with no livelihood whatsoever. Furthermore, pursuing the weakest links, like the Terrorism Support Networks (RAT) or the growers, does not help to truly dismantle criminal networks.

\(^{33}\) Without the need for a conviction.
that justice also must entail reparation and truth measures, and guarantees of non-repetition.34

The perception that justice officials are biased or have been coopted, like the application of de facto justice systems, is a factor that negatively impacts the communities’ relationships with the prosecutor’s office, for clarifying the damage done. Therefore, the GS/OAS applauds the efforts made by the Office of the Prosecutor General to reach out to the populations in the remotest territories in order to explain the extent of their competencies, what their roles are, and how they can work together to effectively prosecute perpetrators and, where applicable, dismantle criminal organizations. The work done to this end by the prosecutor’s office in Cauca is noteworthy; it is one of the institutions that is most highly viewed by the communities in the department.

These processes suffer from the justice system’s structural problems. It is difficult to hold hearings, among other reasons, due to the failure to transfer the detainees or because not all parties attend; in addition, the collection of evidence in the territories is complicated by the distances to remote sites, as well as the security situations there and the persistence of a culture of “nonreporting.” The GS/OAS congratulates the Office of the Prosecutor General for seeking solutions to these issues, with elements like drones that make it possible for forensic doctors to guide rural doctors by satellite to perform autopsies in the territories, and pushes for replication of these efforts.

In the consolidation of justice proceedings, the GS/OAS recommends taking into account the true context of the territories where the organizations commit their crimes; the structure of the organizations, which are very different from crime pyramids; knowledge of the social foundations and support networks; modus operandi; and forms of community outreach. The process of subjecting groups to justice has three phases: collective outreach, prosecution, and enforcement of the penalty. This process requires certain determinations and clarifications35 that were not provided for by law, which could lead to issues and difficulties in enforcement. The GS/OAS recognizes that progress has already been made on regulation of the first phase, through Decree 1455 of 2018, which makes it possible to start approaching groups and holding talks among the organized armed groups and the Colombian government.

Victims’ access to truth and comprehensive redress must be guaranteed within this ordinary criminal system. Accordingly, the GS/OAS calls for reviewing the regulations in force on redress, in order to adopt them to the special situations and contexts of the victims of these groups. The UARIV and URT may provide institutional leadership for suits on the enforceability of rights. Likewise, procedural safeguards must be established to guarantee the victims’ participation. The prosecutor’s office may

34 The GS/OAS thus insists, as in the twenty-fourth report, that the victims’ rights to truth, justice, redress, and non-repetition, must be clearly recognized and satisfied in these cases and not only in transitional contexts.

35 For example: victims' participation, special social reintegration programs, special detention conditions in agricultural colonies, etc.
approach the territories under a setup similar to Justice and Peace, with forms on acts attributable to these groups and with the participation of local institutions. It will also be important to establish pathways for psychosocial support and protection, considering the victims’ participation in the process and the harm that could come to them as a consequence thereof.

For resocialization behind bars to be effective, it must take into account the role played by the incarcerated members of the organizations, as well as the types of victimization, in defining the appropriate penitentiary treatment. The Justice and Peace experience in in educational modules on civics, culture of lawfulness, and psychosocial support, has been fundamental during the sentence and the return to society. The assigned penitentiary treatment must include training activities and the development of skills and abilities for post-release employability, so that after the prison term, the released individuals will have the resources to legally support themselves and their families. The GS/OAS also considers it important to develop and regulate all aspects of the special reintegration programs.

Taking into account that the criminal organizations operate for economic purposes, as revealed by their use and employment of material goods, the laws against money laundering and on forfeiture demonstrate that a policy against criminal organizations cannot be developed without consideration of the economic roots of the issue, and they similarly prove that the investigations must address treasury/tax aspects.

The GS/OAS feels that a timely investigation should be conducted of the goods held by these individuals, for an effective forfeiture process; this will entail a thorough review of their laundering of assets and their assets abroad. It is also important to ensure that the Fund for Rehabilitation, Social Investment, and the Fight against Organized Crime (FRISCO) appropriately safeguards these goods, with the purpose of later returning them to the victims. The forfeiture and anti-money-laundering laws must extend beyond the national borders and account for the transnational nature of the issue. Therefore, the GS/OAS recommends establishing timely forums for international legal cooperation.

2.2 Prison and penitentiary conditions in transitional justice contexts

The GS/OAS has noted the progress made towards reshaping the concept of punishment and committing to new content in the resocialization and reintegration programs as a result of the ongoing and upcoming transitional justice processes. In the period covered by this report, the MAPP/OAS has monitored 30 detention centers, giving it the opportunity to, first of all, raise awareness of certain overall...
situations afflicting Colombian jails, already discussed in prior reports. Second, it was able to positively influence the cases that, due to their humanitarian nature, required direct intervention. Lastly, it issued recommendations on structuring the prison policy.

The GS/OAS is aware of the unconstitutional state of affairs in Colombian prisons, which undoubtedly violates the human rights of the detainees. The problems that have arisen continue unchanged: high rates of overcrowding, issues in accessing health services, the precarious and dilapidated physical infrastructure, insufficient human resources, excessive use of force, lack of a gender and differential approach in the prison policy, and flaws in the resocialization plans, among other more minor problems. The GS/OAS recognizes the actions taken by the Colombian State to overcome the prison crisis; however, many challenges remain. The unconstitutional state of affairs persists and as of now no clear progress has been made on truly decreasing the level of overcrowding. The rate of overcrowding is currently 46.6%. 39

In its support work, the MAPP/OAS is promoting two spaces in the department of Chocó, of interest to the prison issue. First, it convened a roundtable on humanitarian relief at the EPMSC Quibdó, attended by various regional entities. Several meetings were held, resulting in a fiscal and economic commitment from the municipal governments of the department of Chocó, to mitigate and address some of the most pressing issues. Second, it has been promoting a prison observatory in the department of Chocó, whose objective is to support interinstitutional coordination, allowing the competent bodies to efficiently and suitably address problems that arise.

2.2.1. Deprivation of liberty of members of the ELN and indigenous communities

The GS/OAS finds that the problems in the detention centers visited, such as access to health services, overcrowding, infrastructure, etc., directly impact individuals who have some type of relationship with or belong to the ELN. Since the correctional facilities do not implement any kind of differentiated treatment for such prisoners, they end up suffering the same unconstitutional living conditions found throughout

Medium Security Penitentiary and High Security Prison Facility (EPMSC- Palmitar); Valledupar Medium Security Penitentiary and Prison Facility (EPMSC-Valledupar); Valledupar High and Medium Security Penitentiary and High Security Prison Facility (EPAMSCAS-Valledupar), Cucuta Penitentiary and Prison Complex (COCUC- Cúcuta); Medellín Medium Security Penitentiary and Prison Facility (EPMSC- Medellín); Istimina Medium Security Penitentiary and Prison Facility (EPMSC-Istimina); Moscoa Medium Security Penitentiary and Prison Facility (EPMSC-Mocoa); Arauca Medium Security Penitentiary and Prison Facility (EPMSC-Arauca); Florencia Medium Security Penitentiary and Prison Facility (EPMSC-Florencia); Heliconias Penitentiary Facility (EP Heliconias); Ibagué Penitentiary and Prison Complex (COBA); Espinal Medium Security Penitentiary and Prison Facility (EPMSC-Espinal), Buen Pastor de Bogotá Women’s Prison (RM Bogotá); Medellín Penitentiary and Prison Complex (COPED-Pedregal); Bucaramanga Women’s Prison (RM Bucaramanga); Puerto Carreño Municipal Jail; Inírida Municipal Jail; Buenaventura Medium Security Penitentiary and Prison Facility (EPMSC-Buenaventura); Tumaco Medium Security Penitentiary and Prison Facility (EPMSC-Tumaco); Popayán High and Medium Security Penitentiary and High Security Prison Facility (EPAMSCAS-Popayán); Silvia Medium Security Penitentiary and Prison Facility (EPMSC-Silvia); Quibdó Medium Security Penitentiary and Prison Facility (EPMSC-Quibdó); Caucasia Medium Security Penitentiary and Prison Facility (EPMSC-Caucasia); Giron High and Medium Security Penitentiary and High Security Prison Facility (EPAMSCAS-Giron).

38 A) restorative justice program led by the Office of the Inspector General; b) incarcerated persons savings program for old-age led by the Ministry of Justice; c) United for Human Rights Contest led by INPEC.

the Colombian penitentiary and prison system. Only some of the 17 establishments visited where members of the ELN were detained\(^{40}\) were not overcrowded.\(^{41}\)

With regard to the points addressed at the Discussion Commission between the national government and this illegal armed group, the GS/OAS, through the MAPPP/OAS, has found that the incarcerated members of the ELN do not feel that the so-called “humanitarian relief” is being provided. They indicate that they had not begun to receive their respective medical treatments, that some individuals remained imprisoned in detention centers far from their families, and that the groups within the prisons had not been formed.

The GS/OAS has observed that overall, the security risks to these individuals inside the prisons are due to situations that naturally arise as a result of living with other prisoners and not exclusively because of their ties to the ELN. Furthermore, the GS/OAS has learned that there has been a break in communications between the ELN delegation and the imprisoned members of the ELN, who in many cases find out about advancements and setbacks through the mass media.

The indigenous persons detained in prisons administered by the Colombian State have come to those prisons through two different channels: one, the ordinary criminal justice system, and two, the Special Indigenous Jurisdiction. Consequently, the main challenge is to properly apply the ethnically differentiated resocialization during the execution of the sentences handed down by the indigenous authorities.

The GS/OAS has also found that certain problematic situations persist for members of indigenous communities who are incarcerated in State-administered prisons. These issues continue to be the lack of principles and criteria in the ethnicity-based prison treatment plans, the distance from their families and indigenous reservations, the blocking of traditional indigenous medicine and rituals for medical treatment, and the lack of courtyards exclusively for members of indigenous communities at some prison facilities.

3. Public policy on victims, participation, and territorial peace

3.1 Territorial impacts of the land restitution policy

The GS/OAS warns that, despite the institutional intervention in zones where the FARC-EP was historically present, the campesino population\(^{42}\) turns to former FARC-EP commanders to request “authorization” and to return to properties that were cleared or abandoned by the formerly armed group. Along these lines, the GS/OAS

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\(^{40}\) In only 17 of the 30 detention centers visited by the Mission in the period covered by this report were there found to be members of or individuals associated with the ELN.

\(^{41}\) EPAMS CAS ERE Popayán, EPAMS CAS Cómbita, EPAMS Girón, COIBA Ibagué.

\(^{42}\) Municipality of Yondó (Antioquia), southern Santander department, the police inspection division of La Unión Peneya in the municipality of La Monañita, the rural zone of Florencia, the area known as Yari in the municipality of San Vicente de Caguan, and the rest of the northern area of the department of Caquetá, as well as in the municipality of Uribe in the department of Meta.

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draws attention to initiatives that, with the objective of implementing housing or productive projects that will facilitate the reintegration of former FARC-EP combatants, entail legal transactions for renting or purchasing properties or territories claimed for land restitution or the re-establishment of territorial rights by ethnic communities that were victimized by the armed conflict.

The GS/OAS is concerned that the measures to relieve the overburdened justice system with regard to the public policy on land restitution will be temporary and annual. Such action would not alleviate the high levels of gridlock in the specialized land restitution jurisdiction: of the requests recorded in the Registry of Forcibly Cleared and Abandoned Lands submitted to the judges, only 32% (or 1 of every 3) have been decided.

It bears emphasizing that the land restitution judges and justices also have jurisdiction over the lawsuits for re-establishing the territorial rights of indigenous and Afro-Colombian communities victimized by adverse impacts on the territories related to underlying factors or aspects of the internal armed conflict. The GS/OAS is even more concerned about the legal gridlock facing these more complicated cases, since in the public policies’ seven-year history, 32 precautionary measures and only 10 rulings have been issued, 5 of them during the period covered by this report. Rulings are pending in another 46 cases.

The MAPP/OAS has also monitored the limited level of compliance with the orders issued in the rulings and precautionary measures in favor of the indigenous and Afro-Colombian communities. It considers there to be three lingering challenges for the Colombian State: establishing security conditions and, therefore, guarantees of non-repetition in the collective territories; establishing a pathway to define the legal situation and how to effectively serve the campesino colony communities that have settled in the collective territories; and the rapid and effective implementation of orders issued in present and future rulings, fulfilling the ethnic communities’ right to establish, with a differential approach, the measures for their territories and communities, especially in proceedings associated with infrastructure and energy mining megaprojects that affect the collective territories in question.

Lastly, the GS/OAS considers that the high rates of judicial gridlock and denials in the administrative phase mostly come down to, among other causes, the lack of an agricultural jurisdiction that would effectively resolve the conflicts over land use and ownership in Colombia. Implementation of the agricultural jurisdiction, combined with other measures like the multipurpose land registry and the plans for the social regulation of property, would positively impact the transformation of Colombian rural zones, facilitating the progress and sustainability of the public policies for peace, such as the land restitution policy.
3.2 Implementation of processes and strategies for rural and economic transformation for peace, emphasizing the PDET

The GS/OAS recognizes that one of the major challenges in developing the PDET is achieving local and national coordination of government institutions, supported by proactive participation, with proposals, reach, and consensus on the communities’ urgent and strategic actions for achieving the socioeconomic transformation of territories where the principal problems continue to be the conflicts and actions of armed groups. The historical distrust felt in the communities most affected by the conflict is a latent threat for challenges like coordinating the various mechanisms implemented as strategies for rural and economic transformation for peace.

First of all, the GS/OAS considers that the institutions’ budget allocations to programs and plans can represent an opportunity or an obstacle when it comes to implementing the PDET. A realistic budget, paired with transparent execution of the funds, could significantly boost trust and foster the desired socioeconomic development.

The GS/OAS considers coordination with other territorial plans, like the life plans and collective redress plans, to be one of the most troubling issues in the territories, since the ethnic groups stress that Agency for Territorial Renewal (ART) employees are unaware of their life and safeguard plans and fail to coordinate with indigenous leaders and representatives, meaning that the ethnic pathways for applying the ART methodology are not acknowledged.

With regard to the human and financial resources necessary for constructing the PDET, the communities feel that the ART professionals are unqualified to ensure clarity on issues like developing or proposing agricultural or productive projects, land-use planning, land formalization regulations, and the current situations of the campesino reserve zones and national natural parks, all of which are very important issues involved in constructing the PDET. Furthermore, there are not enough funds to implement and complete the prior consultation in ethnic territories.

Lastly, the Mission observes that the communities in the municipalities that were not included as PDET zones are displeased. These communities state that although they meet the same criteria of high levels of conflict and economic and social distress, they will not benefit from the implementation of a tool that would offer them short- and medium-term solutions for addressing issues of land, social and economic conflicts, reparation for victims, etc.

3.3 Implementation of citizen participation mechanisms in planning community territorial development and territorial peace programs

In terms of the opportunities for and challenges to citizen participation for young people, the GS/OAS has observed that forums for youth citizen participation, established in Law 1885 of March 1, 2018, which amends and regulates Law 1622 of 2013, are weak or nonexistent. The main obstacle appears to be that young people have not taken ownership of these forums, since they do not believe they will
afford them advocacy or true participation in public policy issues in their municipalities or departments.

Although young people often get together to play sports or engage in artistic endeavors, few seek out forums for civic education and participation. In Norte de Santander, however, unlike in most of the other territories, the Network of Young Agents for Peace (Joepaz) plays a leading role in providing education about the Final Agreement and has an interest in the processes put forward at the ELN Discussion Commission.

On the other hand, with regard to women’s participation in the Mission’s high-priority territories, the GS/OAS has observed that they engage in various forms of organization, which determine the potential of their collective actions. In many territories, women participate to a lesser degree and with a low level of effective representation. Gender-role-related obstacles to their participation continue to persist. Given these limitations, women tend to focus more on promoting small-scale production and less on advocacy in traditionally male associations like the Community Action Boards. However, in the territories with women’s organizations working to defend their rights, female leaders appear to have a greater political influence on proposal development and decision-making within social and community participation.

The GS/OAS considers that in the negotiations as well as in the implementation of the Final Agreement, there remain obstacles to women’s-rights-based social and political participation in the territories. Participation and representation gaps based on diverse factors have been identified among sectors of women. The most significant factors have to do with territoriality; peace policies that define women’s participation as central (or not); for women involved in community action, the type of collective action that mobilizes them; the intersection of elements of discrimination and violence, such as ethnicity, age, sexual orientation, disability, socioeconomic status, etc., which hinder the exercise of rights; and the continuing action of illegal armed groups in their regions.

That said, with regard to the mechanisms for participation established in Law 1448 of 2011, the UARIV, the Office of the Ombudsman, and the municipal officials adhered to the process for electing representatives of the Victims’ Organizations and Victims’ Rights Defense Organizations at the municipal, departmental, and national levels for the Victims’ Effective Participation Roundtables. 43

The GS/OAS notes that the challenges for the Victims’ Roundtables center on aspects like how to improve advocacy on public policy implementation; improving the role of the Roundtable and its interaction with territorial bodies, victims’ organizations, and institutions; overcoming difficulties in expeditiously reporting, monitoring, controlling, and punishing cases of alleged irregularities committed at the Roundtables; generating protocols for supporting third parties (international aid

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43 Designed for public policy advocacy on aspects like generating proposals for implementing the law and following up on it.

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organizations and public policy operators) that square with the national lines of participation; developing guidelines that promote voters’ anonymity and the use of unified procedures, including the resolution of conflicts during elections; pushing for the inclusion of victims of the FARC-EP who have not been previously recognized as such; etc.

3.4 Implementation of collective redress processes

The Colombian State, through the UARIV, has proposed reforming the Collective Redress Program (PIRC) in order to effectively implement Law 1448 of 2011. Likewise, the Final Agreement established the importance of collective redress in the territorial peace model. The GS/OAS recognizes the public announcement of the general parameters for the PIRC as progress; these parameters establish processes for estimating costs, offering features for obtaining funds. However, the victims and parties to collective redress cases feel it is highly improbable that the PIRC will be solidified and implemented; this perception is deepening given that implementation of the law has been taking place for seven years now.

In addition, for the GS/OAS, the development of the Collective Redress Observatory is a step forward, as is the will of the parties to collective redress cases to have an agency for dialogue with the competent institutions. This Observatory monitors, from civil society, collective redress cases. The Colombian State continues to be challenged by the insufficient capacity for coordination among the SNARIV institutions; the unification of figures and allocation of budgets for executing the PIRC; providing effective descriptions of the parties to collective redress; and overcoming administrative challenges in hiring. The aspects that remain to be improved lead to victims’ distrust and uncertainty, and cause rifts over expectations left unfulfilled due to delays and noncompliance by the Colombian institutions.

IV. RECOMMENDATIONS

1. Security conditions, adverse impacts, and social unrest

1.1 Security conditions in the territories

1.1.1 Presence and actions of illegal armed actors

- To law enforcement, continue the work of publicizing strategies like the Horus Plan in the other intervention zones, through community outreach; the military forces are encouraged to provide follow up in the other intervention zones.

44 Mapiripán and Piñalito (Meta), El Placer and El Tigre (Putumayo), La Gabarra (Norte de Santander), Vereda la Charrasquera (Guaviare), as well as in the ethnic territories like Misak (Cauca), Embera Chami La Pradera (Caquetá), San José del Palmar (Chocó), Renacer Negro Community Council (Cauca), Cuti Embera Katios Reserve (Chocó-Urabá), Alto Mira and Frontera Community Council (Nariño), Motilón Bari indigenous people (Norte de Santander), among others.

45 Developed by the Pontificia Universidad Javeriana and CODHES.

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• Develop strategies that will make it possible to change the perception, held in some communities in territories with more complex security situations, that they are only sent uniformed officials with poor disciplinary track records.
• Analyze alternatives to deploying law enforcement personnel, to prevent the troops’ proximity to populated areas from having a counterproductive effect on the communities’ perceptions of security. For example, one possibility would be to install encampments and perform perimeter surveillance, maintaining basic communications with the area’s local and community authorities.
• Review the organized armed group, organized criminal group, and residual organized armed group classifications, to optimize the strategies for neutralizing them. This will make it possible to analyze how these groups, for example Los Pelusos and Los Puntilleros, have been reshaped over the past few months.

1.1.2 Harm to communities and social leaders

• Increase the ongoing, comprehensive presence of the State, especially in the remotest areas being reshaped in violent ways, providing security guarantees for short- and long-term participation processes. Likewise, strengthen follow-up mechanisms for periodically updating risk maps with the communities and useful protection experiences in contexts where leaders are at high risk.
• To the Office of the Prosecutor General, improve coordination of the central and decentralized prosecutor’s offices for investigating organized armed groups and organized criminal groups. The aim of this is to establish a more effective strategy for dismantling these groups, focused on the parameters of Directive 001 of 2012, which emphasizes pursuing the top leaders and establishing patterns and macrocontexts.
• To the Office of the Prosecutor General, develop a process for teaching, applying, and disseminating Directive 008 of 2016, on prosecution in connection with social protest.
• Implement technical committees for reviewing the cases, to include individuals from the communities or social organizations. Also, develop strategies and protocols to protect the identities of the complainants, to establish trust and recover the credibility of institutional and justice system actions.
• To the Ministry of Justice and Law and the Office of the Prosecutor General, make efforts to find alternatives to pretrial detention, considering the capacities of and high levels of overcrowding at the overburdened detention centers, the high costs of maintaining the detained individuals, and the impact on the communities and families.
• To the Ministry of Justice and Law, establish forums for dialogue among law enforcement, the prosecutor’s office, and organizations, to build trust and transparency.
• To the Special Jurisdiction for Peace, move forward with an evaluation of all of the cases that could be considered to involve social protest, in order to make progress on potential out-of-court solutions, considering Article 37 of Law 1820 of 2016.
• To the UNP, coordinate with local authorities to implement preventive and protection measures in the territories; speed up risk evaluations to offer timely
security plans; adjust and guarantee the effectiveness of the individual and collective protective measures, especially for traditional indigenous and Afro-Colombian authorities who have reported adverse impacts on their lives and integrity associated with their calls to restore territorial rights.

- To the Office of the Prosecutor General, make progress on investigating and prosecuting the masterminds and perpetrators of harm to leaders who promote or call for the fundamental right to land restitution or the re-establishment of territorial rights for indigenous or Afro-Colombian communities.

1.2 Social unrest

1.2.1 PNIS

- To the Colombian State, provide differential treatment to women and ethnic groups under the illegal crop reduction policy, addressing the informal nature of land ownership and territorial conflicts; determine how the differentiated penal treatment for small-scale growers will be developed legislatively; and guarantee access to social benefits for all crop-related roles in the production chain, as a subsistence economy.
- Establish strategies for security and for addressing criminal activity in the territories where the PNIS is being implemented, to prevent actions that could lead to risks and harm to the communities or hinder free and voluntary illegal crop substitution. The idea of this is to counteract the adverse impacts on the communities caused by the illegal armed groups (organized armed groups, organized criminal groups, ELN, and residual organized armed groups) that have an interest in controlling or benefiting economically from illegal crops and the territory overall.

1.3 Dynamics in border zones and their impacts on the communities

- Improve coordination between local and national bodies, in order to establish clear guidelines on how to handle the foreign population in Colombia, as well as the strategies and funds for doing so.
- With regard to the armed conflict activity taking place in the Ecuador border area, the GS/OAS recommends increasing the permanent presence of Colombian law enforcement and coordinating with the ethnic communities that live on the border strip, to prevent them from retaliation by the illegal armed actor due to militarization on the border.

2. Justice systems in the territories and legal security

- To the Ministries of the Interior and of Justice and the Law, coordinate work with leaders and Community Action Boards to train them on the pathways for access to formal and administrative justice.
- To the Ministry of Justice and Law, continue with the mobile institutional events that have been held, and expand them to more municipalities, since the communities themselves have found them to be very useful.
- To the Ministry of Justice and Law and the Ministry of Information and Communications Technologies, perform a diagnostic assessment of the current status
of the virtual support platforms for legal proceedings, and evaluate possible measures for improving and updating them.

- To the Ministry of Justice and Law, the Office of the Prosecutor General, the Office of the Inspector General, and the Office of the Ombudsman, coordinate efforts to design and deploy strategies for raising the population’s awareness of the need to move forward with just proceedings that guarantee the rights of all of the parties involved. This is because it is necessary to improve the population’s attitude towards the Colombian legal system and reduce the images that legitimate rapid, arbitrary forms of delivering justice.

- To the Office of the Prosecutor General, increase the institutional presence in priority territories, in order to change the communities’ perceptions that the armed groups are the only existing powers in their areas.

- To the Ministries of Justice and the Law and the Interior, improve relations with the Community Action Boards and support them, so as to take authority away from the highly influential forums coopted by the armed groups.

### 2.1 Implementation of transitional justice judicial tools

#### 2.1.1 Special Jurisdiction for Peace (JEP)

- Establish a mechanism that makes it possible for the victims to speak out about the decisions on the priority of cases in the JEP.

- Strengthen the JEP Investigation and Accusation Unit to enable it to respond to the victims who are not involved in organizations and want to access the JEP.

- Prioritize the implementation of restorative measures in the JEP, in which the victims actively participate in such processes as designing, implementing, and monitoring the JEP’s own penalties, based on the fundamental lynchpin of the JEP’s work to repair the social fabric and build peace.

- Improve teaching and outreach on the JEP and the SIVJRNR in the territories most affected by the armed conflict.

- Strengthen the forums for dialogue and coordination among the JEP and other SIVJRNR mechanisms, as well as with Justice and Peace and the ordinary justice system.

- Strengthen the mechanisms for communication among the Judicial Secretariat and the ethnic authorities as special parties.

#### 2.1.2 Special Indigenous Jurisdiction (JEI)

- To the Ministry of Justice and Law, Congress of the Republic, and Higher Council of the Judiciary, foster discussion of the Coordination Law and promote actions that make it possible to hold consultations with the people, and then to issue it.

- To the Higher Council of the Judiciary, continue supporting and establishing forums for coordination such as the ongoing Interjurisdictional Coordination Committee and the national gathering. It is also important to ensure that these forums are held in a decentralized way, meaning in the country’s various regions, and to ensure the participation of the five indigenous macroregions.
• To the Ministry of Justice and Law and the Ministry of the Interior, continue working to strengthen indigenous peoples’ own government and justice systems. The idea is for the indigenous communities’ own institutions to be increasingly solid and able to face the challenges of interjurisdictionality and their own operation. Such strengthening necessarily entails guaranteeing economic resources and technical support for the communities.

• To the Ministry of Justice and the Law, study the possibility of subsidizing the development of the Special Indigenous Jurisdiction as an instrument of the formal justice system; indigenous peoples’ lack of resources have made it impossible to ensure they can exercise their own justice systems in their areas.

2.1.3 Criminal policy for the post-conflict period

• To the Congress of the Republic, the Office of the Prosecutor General, the Office of the Inspector General, and the Ministry of Justice, appropriately include the victims of the organized armed groups in the prosecution process, guaranteeing their rights to truth, justice, reparation, and guarantees of non-repetition, as set forth in the recent Law 1908 of 2008.

• To the Office of the Prosecutor General, during the special process of subjecting the organized armed groups to justice, establish: a) the true context of the territories where these organizations commit their crimes,

b) the true levels of victimization, c) the structure of these organizations, which are very different from crime pyramids, and d) knowledge of the social foundations and types of community outreach.

• To the Congress of the Republic, ensure the discussions involving differentiated criminal treatment for the weakest links in the drug trafficking chain include a territorial, differential approach.

2.2 Prison conditions

• To the INPEC and the Ministry of Justice, continue to prioritize ethnically differentiated resocialization over Western ideas of punishment.

• To the INPEC and the Ministry of Justice, move forward with studies and the necessary requirements for proposing special penitentiary treatment for all of the individuals who belonged to organized armed groups and other illegal groups, in the consideration that the circumstances of and reasons behind their criminal behavior derive from structural social problems.

3. Public policy on victims, participation, and territorial peace

3.1 Territorial impacts of the land restitution policy

• To the Colombian State, guarantee the financing of the implementation of the public policy on land restitution, especially the budget allocated for overcoming the current bottleneck at the specialized land restitution jurisdiction. Along these lines, the bodies that make up the SNARIV should have all of the human and financial resources that they need to quickly enforce the orders handed down in land restitution rulings,
especially orders to re-establish the territorial rights of indigenous and Afro-Colombian communities.

- Make progress on designing, establishing a budget, and launching the agricultural jurisdiction, as well as other measures like the multipurpose land registry and the plans for the social regulation of property. These measures should have a positive impact on transforming Colombia’s rural areas by facilitating the progress and sustainability of the public policies for peace, such as the land restitution policy.

### 3.2 Implementation of processes and strategies for rural transformation, emphasizing the PDET

- To the Ministry of Hacienda, in preparing the 2019 national budget, take into account the adjusted financial resources for the PDET developed for implementation in the territories. This budget should include a special line for implementation in ethnic areas, which requires more funds due to the difficult access to indigenous reserves and community councils.
- To the Agency for Territorial Renewal (ART), guarantee education and training of employees on issues involved in land-use planning and national government programs and plans, to find ways and methods for efficiently coordinating development of the PDET.

### 3.3 Citizen participation in territorial peace

- To the Office of the Young Colombia National Youth System of the Presidency of the Republic and the departmental and municipal administrations, establish local youth platforms. Where such platforms already exist, strengthen their advocacy and true participation in public policy matters in their municipality or department, and offer them support for taking on leading roles in the Final Agreement teaching processes.
- To the Office of the High Commissioner for Peace, continue to further the gender and women’s human rights agenda in the territorial peace, and in the potential discussion commission between the Government of Colombia and the ELN, increasing women’s sectors’ levels of participation and representation.
- To the Vice Ministry for Participation and Equality of Rights of the Ministry of the Interior and the departmental and municipal administrations, strengthen women’s participation in advocacy in traditionally male associations like the Community Action Boards, and in other forums for participation, to enable the development of inclusive proposals and decision-making.
- Support the SIVJRNR entities so that they can widely publicize the mandate and the importance of participation.

### 3.4 Implementation of collective redress processes

- To the Office for Democracy, Citizen Participation, and Community Action of the Vice Ministry for Participation and Equality of Rights of the Ministry of the Interior, strengthen follow-up on harm to the community action organizations, and push for prevention and the investigation and prosecution of the perpetrators through other Colombian institutions.
• To the Unit for Support and Comprehensive Redress of Victims, speed up the development, approval, and implementation of the collective redress plan for LGBTI victims of the case of the LGBT Committee of Medellín’s Commune 8, as institutional progress towards effectively applying differential approaches.

• To the Public Ministry and the Unit for Support and Comprehensive Redress of Victims, implement actions to familiarize members of the Victims’ Roundtables with Law 1448 of 2011 and Decrees 4633, 4634, and 4635, as well as the role of the Victims’ Effective Participation Roundtables in aspects like developing proposals for implementing the law, following up on it, and influencing public policy.

• To the Government of Colombia, develop administrative and fiscal provisions that will allow for swift progress on collective redress.
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, 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

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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.
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.

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 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 Columbian 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, 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 guerillas. 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.

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 Medellin.

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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.
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 Chocoan 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. They even establish the conditions for marriage and divorce and impose coercive punishment for infidelity.
including Tierralta and Montelibano (Córdoba); Ricaurte and El Rosario (Nariño), and El Bagre, Valdivia, Ituango, and Tarazá (Antioquia).

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, 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, Bajo Cauca (municipalities of Cáceres and Tarazá); Norte de Santander (Motilón Barí indigenous communities.

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4 In municipalities such as Patía, El Tambo, Suárez, and Caloto
5 Especially in indigenous and Afro-descendant communities
reserve and municipalities of Hacarí, San Calixto, and El Tarra); and Chocó, (basins of the rivers Truanándó, Curvaradó, Jiguamiándó, 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 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 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

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

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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, 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 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

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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 ethno-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 (UNIPEP) 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 families who have completed implementation Stage C. 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 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 ethnic-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.
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.

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.

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. 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

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

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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, along with the low rates of investigation and prosecution of the perpetrators and 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

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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.

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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,\textsuperscript{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.\textsuperscript{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.

\textsuperscript{14} Specifically, through the System for Identifying Potential Beneficiaries of Social Programs.

\textsuperscript{15} National System of Comprehensive Care and Reparation for Victims.

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As reported by the Unit, between August 7 and December 31, 2018, the payments projected were made\textsuperscript{16} for the humanitarian aid and individual compensation component.\textsuperscript{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

\textsuperscript{16} A total of 165,409 payments worth a total of COP$105,840,483,540.
\textsuperscript{17} A total of 27,753 reparations payments worth a total of COP$153,000,000,000.
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 rights). Likewise, it appreciates that the frameworks of the National Development Plan include a strategic approach unit 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), 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.

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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.
However, obstacles persist to full and effective participation in some rural areas, due to structural problems like territorial isolation in some areas; barriers to effective participation for some population groups; or weaknesses in institutional strategies; often leading to a combination of these causes.

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

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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 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.
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.

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

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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.

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organizations in the National Guarantees Roundtable for establishing measures of protection and prevention and guarantees of non-repetition.  

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). 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 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

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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; assignment of additional prosecutors when required by the workload and complexity of the work; and enhancing the methodologies on investigation and inter-agency cooperation.

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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), Hacari (Norte de Santander), La Paz (Cesar), San José del Guaviare and El Retorno (Guaviare), Puerto Rico and Cartagena del Chaíra (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 SIVJRNR 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;\(^\text{26}\) 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.\(^\text{27}\) 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 persons will be an element of both reparations and restoration, as well as a central part of the fight against impunity.


\(^{27}\) 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.

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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

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

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.

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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 UNIPEP, 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

D. 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.

E. 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.

F. 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) 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.”

Volume III, Periodic Reports of the Secretary General
Twenty-Seventh 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 (1597/04), in which the Permanent Council of the Organization of American States (OAS) instructs the Secretary General to report periodically on the work of the OAS Mission to Support the Peace Process in Colombia,¹ hereinafter “the MAPP/OAS” or “the Mission.”

This report covers the period from January 1 to June 30, 2019 and presents the findings of a total of 1,648 field missions conducted in 860 communities belonging to 205 municipalities in 22 departments of Colombia. These communities included municipal capitals, townships, villages, indigenous reserves [resguardos], and community councils. During this period, the Mission logged a total of 289,769 kilometers by land, and 6,032 kilometers by river.

The support of the international community is vital for the MAPP/OAS to be able to carry out the activities of its mandate. The GS/OAS therefore wishes to thank the donors and friends of the MAPP/OAS, in particular the Basket Funds countries—Canada, Germany, Italy, the Netherlands, Spain, Sweden, the United Kingdom, and the United States—whose political and financial support make the Mission’s operations possible. The GS/OAS also wishes to acknowledge the contributions of Korea, Norway, Switzerland, and Turkey, as well as Argentina, Switzerland,

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. The mandate has been broadened and renewed seven times; it was most recently renewed until December 31, 2021.
Sweden, and Germany for supporting the Mission through the use of secondments.²

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

The GS/OAS thanks the Government of Colombia for hosting the forty-ninth regular session of the OAS General Assembly in June, the slogan of which was: “Innovating to Strengthen Hemispheric Multilateralism.” It further wishes to recognize the General Assembly for its statement of support for the MAPP/OAS as part of the commemoration of the Mission’s 15th anniversary in Colombia.

Over the years, the MAPP/OAS has learned to adapt to the difficulties entailed in working in the midst of an internal armed conflict in Colombia’s most vulnerable and remote areas. It has established itself as an on-the-ground Mission that heeds the call of both the Colombian State and the country’s communities, thereby enabling it to effectively and objectively understand local phenomena and formulate respectful recommendations for connecting the needs of communities with the peace policies.

This year marks the 25th anniversary of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, known as the “Convention of Belém do Pará.” Given the persistence of violence against women, and in the specific case of Colombia, of violence associated with the dynamics of armed conflict and criminality, as well as increased political and gender-based violence against women who hold elected public office or who are political and social leaders, the commitment to the provisions of the Convention must be upheld, continuing with legislative progress and the implementation of specific actions to guarantee life and integrity, as well as women’s effective enjoyment of their civil and political rights.

The first year of Iván Duque’s administration has been marked by recognition and review of the various peace policies in an effort to make adjustments and determine what the main approaches and priorities will be. This has included a process of learning about the challenges and difficulties that lie in the territories, as well as risks and threats that might limit stability and the consolidation of peace. The GS/OAS acknowledges the efforts of the Colombian State and people to lay a strong foundation for peace and reiterates its support for Colombia, understanding the complexity and scope of an effort of this kind.

During the period covered by this report, some issues that are part of what makes the peace process so complex were addressed. In this connection, the objections raised in March by President Iván Duque to six articles of the Statutory Law of the Special Jurisdiction for Peace (JEP) prompted political debate and institutional assessment that culminated in the endorsement and enactment of the Statutory Law, which ratified the

² “Secondment” is a system whereby a country assigns one of its nationals to perform a job for a specific period of time.

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JEP as a key tool for peace-building and victims’ effective enjoyment of their rights. The GS/OAS hails the constructive dialogue between the Colombian government and JEP authorities regarding the allocation of resources, which has moved past political differences and marshalled efforts to consolidate the JEP.

High expectations and a grueling debate also surrounded prolongation of the provisional territorial training and reintegration spaces (ETCRs), which were slated to end on August 15. Notwithstanding whatever pathway might be created for extending them, it is vital that these spaces continue to create opportunities for subsistence, reconciliation with communities, and improvements to local infrastructure in order to help former FARC-EP members effectively reintegrate socially, politically, and economically. It is likewise extremely important to ascertain the status of the more than 8,000 former combatants who are not in the ETCRs so that alternatives can be devised and opportunities can be created for all persons willing to pursue peace.

Announcement of the implementation of different strategies to tackle the problems associated with the presence of illicit crops that combine all modalities possible, including forced eradication through aerial spraying of glyphosate, also prompted concern and uncertainty. The perceived adverse impact this could have raises concerns about the possibility of social movements in opposition to this strategy. Memories persist of the damage the spraying of this herbicide caused in the past, though at the same time families remain willing to transition to legal crops, even those who face major socioeconomic and security challenges when illegal crop substitution programs are being implemented. Against this backdrop, it is important to pay special attention to alternative eradication proposals and experiences happening in the territories.

Lengthy debates were held in Congress surrounding approval of the National Development Plan (PND 2018-2022). Specifically, the incorporation of the peace policies from the Final Agreement divided the debate between those who perceived that there had not been direct inclusion of the agreements, appropriation of funds, or specific targets, and the government, which reaffirmed its commitment to inclusion of the “Pact for Peace” with its pillars of equity, legality, and coexistence. The GS/OAS underscores the importance of including actions and strategies that help pave the way to peace by upholding commitments to the communities in the territories and to victims; it also emphasizes the need for joint monitoring of implementation of what has been approved.

One of the PND’s strategies, which will be a national government priority, is consolidation of Strategic Zones for Comprehensive Intervention (ZEII), or Zonas Futuro [Future Zones]. The objective in the five zones established is to hasten implementation of components of the Rural Development Plans (PDETs), taking a comprehensive approach in the territories to mitigate violence, while simultaneously promoting local development. The MAPP/OAS will support and monitor this initiative as part of the efforts to secure

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Mission to Support the Peace Process/Colombia/OAS
peace in the territories, and will continue to emphasize the need to include other territories that also require the State to bring to bear all of its capacity.

The GS/OAS further commends the inclusion in the PND of the environment as a national asset, as well as other environmental protection actions adopted by the Colombian government as part of a strategy to reduce and prevent impacts on the environment, which have increased due to, among other things, crime and the activities of illegal armed groups. The GS/OAS hopes that implementation of the Zonas Futuro strategy will have a positive impact and help to reduce environmental degradation, which is another challenge associated with building territorial peace.

The GS/OAS also continues to observe how criminal activity and illegal armed groups’ presence and actions in the territories, namely, homicides, forced displacement, confinement, and imposition of “rules of coexistence,” are impacting communities. This situation particularly affects social leaders, human and communal rights defenders, and community representatives.

Despite the fact that as the present report was going to press, the Colombian government was reporting a drop in numbers, leaders’ and defenders’ exposure to such circumstances means their level of vulnerability remains the same. The potential for new deaths and attacks persists as indicated by the large number of threats reported against them. Additionally, there is alarming evidence of a growing number of attacks against and murders of women leaders.

The GS/OAS, through the MAPP/OAS, has supported the implementation of several different national and territory-specific policies, agencies, and mechanisms, like the Timely Action Plan (PAO), to address the issues affecting communities, and stresses the need to link, harmonize, and coordinate existing local and national entities and mechanisms effectively in order to secure decisive buy-in by department and municipal authorities and ensure the participation of affected communities.

The GS/OAS also draws attention to the increased peril for government employees in some regions of the country, one example being the threats received by agents of the municipal ombudsman’s office [personeros municipales] who carry out the functions of the Public Prosecution Ministry locally. This shows evidence of illegal armed groups’ attempts to exercise social control by undermining government institutions and challenging the rule of law.

Over the past six months, different mobilizations, community efforts, and marches were organized as social, ethnic, and campesino organizations joined forces, particularly in the departments of Cauca and Valle del Cauca. Their aim is to demand, through civic and regional movements, the right to life, protection of their territory, implementation of

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4 The “Informe de Homicidios contra Líderes Sociales y Defensores de Derechos Humanos 2010-2019” [Report on the Killings of Social Leaders and Human Rights Defenders 2010-2019] prepared by the Presidential Council for Human Rights and International Affairs indicates a 32% reduction when comparing the 88 murders of social leaders between August 7, 2017 and May 25, 2018 during the previous administration, with the 60 homicides recorded between August 7, 2018 and May 25, 2019 under the administration of President Duque.”

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the Final Agreement, and security guarantees. The GS/OAS observes that the active and leading role taken on by civil society in a context of legitimate social protest serves as an opportunity to foster social dialogue and agreements. Focus on these and fulfillment thereof will unquestionably translate into strengthened democracy in Colombia.

The GS/OAS believes that truth, justice, reparation, and non-repetition are key tools for building peace in Colombia and, specifically, for victims’ effective enjoyment of their rights; this is why it has spent all of these years insisting on how key they are to the peace process. In this context, extending Law 1448/2011 is especially important for continuing to ensure, in accordance with its provisions, comprehensive reparations for victims.

Victims’ effective access to the JEP as legal proceedings begin is also being hindered insofar as their participation is being limited to collective involvement and legal reports, with no access for individual victims. This presents a host of challenges when it comes to building trust and legitimacy in the transitional justice process. Moreover, the withdrawal of former leaders of the FARC-EP is undermining the ability to prosecute the senior leadership, which is adversely impacting victims’ rights to truth and reparations.

As to the implementation of peace policies, the execution of more than 500 projects known as “small community infrastructure” (PICs) stands out. These are small- and medium-sized infrastructure projects that fall under the Rural Development Programs (PDETIs) and which have brought in the leaders of Community Action Boards and territorial social organizations in an effort to reduce inequities in the territories hardest hit by the conflict. The communities have, however, expressed concern over the lack of greater socialization and dissemination of the Plans of Action for Regional Development (PATRs) and delays in identifying and formalizing lands in high-conflict zones. Additionally, the danger faced by government employees, contractors, and leaders who have spearheaded the participatory development of the PDETIs is concerning.

Along these same lines, the National Comprehensive Program for the Substitution of Illicit Crops (PNIS) continues to move forward after having tweaked its initial program so as to keep the commitment to the 99,097 families involved. In addition, a roadmap for stabilization has been created and includes different components, among them, the actions in the PNIS and the Strategic Steering Board as the highest decision-making level with regard to this topic. While the national government has engaged in efforts aimed at curbing increases in illicit crops, all indications are that new challenges will arise when the choice is made to use spraying methods strongly opposed by the communities. Both replanting and the use of anti-personnel mines (APMs) by illegal armed groups themselves pose major challenges to the State.

Communities’ high expectations with respect to implementation of policies they consider important for the territories are clear. Some of the communities’ demands call for effective communications strategies and fruitful dialogue with territorial actors as a common practice for reporting progress, achievements, and difficulties, and for providing consistent reports about their scope. The GS/OAS encourages the Colombian State to explore all potential options for effective interaction between the communities and the

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State so as to not undermine trust or frustrate aspirations for transformation of the territories and their realities.

The second half of 2019 will be enlivened by the regional elections, a context that may exacerbate the current political polarization. In addition, persons who exercise leadership in zones formerly controlled by the FARC-EP and candidates in the areas most affected by violence or with little state presence could face greater risk.

The GS/OAS condemns and laments the murders of Karina García, candidate for mayor of Suárez (Cauca), and Bernardo Betancourt, candidate for mayor of Tibú (Norte de Santander) in September 2019. These grave events constitute a violation of democracy and the right to political participation in Colombia and pose a risk to the political and electoral process. Accordingly, there is a renewed call for state institutions to guarantee the safety of candidates and engage in timely prevention actions and prosecutions.

In this connection, national organizations have been denouncing the interests of illegal armed groups that threaten candidates, attempt to intimidate or constrain voters, or interfere in the election of representatives. Consequently, it will be necessary to implement prevention, monitoring, and support measures before, during, and after the elections in order to ensure elections that enjoy full participation by the opposition and free voting by the population.

The agreement by political parties on a “Pact for a political culture and non-violence in election campaigns” is key for respectful guarantee of the right to exercise democracy. Activation of all existing mechanisms, e.g., the Immediate Reception Unit for Electoral Transparency (URIEL), must be added to this in order to prevent risk and punish irregularities in the electoral process.

The GS/OAS believes it is important to encourage current local elected leaders to plan and execute the close-out and transition of their administrations and to submit reports on progress, achievements, and challenges to consolidating peace. The knowledge gained by outgoing administrations will serve as a valuable resource for continued peace building if it is transferred to and used by the administrations taking office next year.

The GS/OAS continues to hold that the Ejército de Liberación Nacional [National Liberation Army] (ELN) must provide clear and specific indications of its peaceful intentions, which necessarily involves, among other actions, the release of all those who have been kidnapped, as well as an end to the kidnappings and attacks against civilians and infrastructure, which have huge environmental impacts. It further believes that it is important to keep channels of dialogue open that might enable differences to be bridged and peace negotiations to be taken up again. The GS/OAS reiterates its willingness to help this process aimed at securing the full peace to which Colombia aspires.

Lastly, in the midst of the contingencies and challenges to consolidating peace in the country that arise on a daily basis, the GS/OAS calls on Colombia and the international community to continue to support peace building and to value what has been achieved, as well as, above all, the desire for peace still held by the majority of former combatants who have signed on to the process. Via the MAPP/OAS, we will continue to support the
national government as it keeps advancing and deepening its efforts in those pending areas where different challenges remain.

2. Armed Conflict And Criminality

2.1 Presence and activities of illegal armed groups

During the period covered by this report, different dynamics associated with the presence and actions of illegal armed groups have been continuously identified. With respect to the Ejército de Liberación Nacional [National Liberation Army] (ELN), high-impact hostile actions aimed primarily at public security forces\(^5\) and oil infrastructure\(^6\) were observed. These actions were concentrated in areas where the ELN has historically been present and coincided with the break in talks and the conditions set by the government for the possibility of a new dialogue with the group.

As to the Autodefensas Gaitanistas de Colombia [Gaitanista Self-Defense Forces of Colombia] or Gulf Clan (AGC/Gulf Clan), and Los Pelusos or Ejército Popular de Liberación [People’s Liberation Army] (Los Pelusos/EPL), increased disputes between each of these groups and the ELN have been observed in different territorial contexts, generally fueled by an interest in controlling territories with illegal economies (drug trafficking, mining, and smuggling), strategic corridors for smuggling persons, drugs, and weapons, and revenues from legal commerce by means of extortion.

The subregions of Bajo Atrato and the Pacific coast, and their municipalities of Riosucio and Juradó, respectively, in the department Chocó, are two areas that have seen the most armed conflict between the AGC/Gulf Clan and the ELN. This dynamic, which has existed since 2016 in Riosucio, and also involves Juradó, has given way to targeted murders, recruitment of children and adolescents, forced displacement, the containment of indigenous and Afro-descendant communities, social control, and targeting individuals.

In previous reports, the GS/OAS has called attention to the impacts the armed clashes between Los Pelusos/EPL and the ELN have had in the region of Catatumbo. Monitoring of the dynamics in this area has made it possible to see that, thus far in 2019, the ELN has positioned itself in zones that had once been controlled by Los Pelusos/EPL, such as El Tarra, Teorama, San Calixto, and Hacarí, thereby forcing Los Pelusos/EPL to retreat to Playa de Belén, Abrego, rural areas of Cúcuta, Puerto Santander, and Sardinata in Norte de Santander, as well as to areas in the department of Cesar.\(^7\)

In the Bajo Cauca Antioquia subregion, armed clashes persist between two factions of the AGC/Gulf Clan that splintered off to form two groups—the AGC/Gulf Clan themselves and the “Frente Virgilio Peralta Arenas” [Virgilio Peralta Arenas Front], also

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5 In the departments of Norte de Santander, Antioquia, Arauca, and Nariño.
6 In the departments of Norte de Santander, Nariño, and Arauca.
7 In January 2019, in the municipality of Pueblo Bello (Cesar), public security forces captured “a.k.a. Pepe,” who was considered the second in command of Los Pelusos/EPL.
known as “Los Caparrapos” or the “Caparros.” In this connection, the GS/OAS warns of the human impact these clashes have on civilians in rural areas of this region. Although the levels of conflict have varied, their impact has been ongoing in the form of targeted murders, social control, and mass displacement.

The residual organized armed groups [grupos armados organizados residuales] (GAORs) continue to reshuffle in an effort to recover the territories abandoned by the FARC-EP in 2016 and 2017 after the signing of the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace, hereinafter, the “Final Agreement.” The territories seeing most of this reshuffling are Norte de Antioquia, Arauca, Catatumbo, Sur de Córdoba, and the Cauca and Nariñense Pacific coast.

In some regions, this has meant clashes with other illegal armed groups that have impacted civilians. In March, in the south of the department of Córdoba armed confrontations between members of the AGC/Gulf Clan and members of the “Frente 18” GAOR prompted a mass displacement of the residents of the rural areas of Puerto Libertador (Córdoba) and Ituango (Antioquia) to the township of Juan José, in the municipality of Tierralta (Córdoba).

In the municipalities of Florida and Jamundí (Valle del Cauca), as well as Corinto (Cauca), there has been fighting between Los Pelusos/EPL and a FARC-EP GAOR calling itself “Columna Móvil Jaime Martínez” [Jaime Martínez Mobile Column]. This dissident group has also engaged in kidnappings and extortion. In the municipality of Morales (Cauca) clashes have occurred with another FARC-EP GAOR calling itself the “Columna Móvil Carlos Patiño” [Carlos Patiño Mobile Column], in an apparent attempt to gain control of the territory and corridors of the western range of the Pacific side of Cauca.

Changes have been observed in the department of Nariño, particularly in its coastal and border areas. While the year began with a dip in the rates of crime and conflict in Tumaco and in its rural areas thanks to agreements pushed by the communities, there has been fighting between the “Frente Oliver Sinisterra” [Oliver Sinisterra Front] (FOS) and a group led by “a.k.a. ‘Contador’”—known in the region exclusively as a drug trafficker—whose relations with the then FARC-EP were strictly commercial and functional for purposes of trafficking drugs.

In the areas that border Ecuador, Panama, and Venezuela, especially those controlled by FARC-EP guerrillas, ELN and GAOR interests in controlling these zones has been noted. In the case of the border with Ecuador, in southern Nariño, increased ELN control of the territory for moving weapons, explosives, and controlling drug trafficking routes is being seen. On the border with Panama, particularly in the municipality of Juradó, there have been clashes between the ELN and the AGC/Gulf Clan surrounding control of drug

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8 Identified in the territories as FARC-EP dissidents.
9 It is worth noting that, according to National Defense Ministry figures, total kidnappings (both simple and extortive) fell by 40% nationwide between the first half of 2018 and the first half of 2019.
10 With respect to the high level of impact suffered in the zone.
trafficking routes. And on the border with Venezuela, the ELN appears to have greater control over the territory to charge for the passage of illicit transnational commerce.

On the Pacific coast, between the departments of Valle del Cauca and Cauca, there appear to be coexistence agreements between the ELN, the GAORs, and other groups present in the area regarding control of drug and weapons trafficking routes and of coastal areas where there is illegal mining.

The least belligerent and least active group, based on the monitoring done during this period, is the one known by the national government as Los Puntilleros, which has an area of influence in the Llanos Orientales (Eastern Plains). The Mission’s monitoring in the department of Vichada led to the conclusion that since multiple illegal armed groups are present, all of which share an interest in criminal activities associated with drug and weapons trafficking and fuel smuggling, it is possible there are agreements in place to avoid armed conflict between the ELN and the GAOR and between the ELN and Los Puntilleros.

2.2 Impact on the civilian population

The GS/OAS observes with concern the forced recruitment and conscription\(^{11}\) of children and adolescents into illegal armed groups. ELN guerrillas appear to be continuing to build their ranks by recruiting children and adolescents in areas like Catatumbo in Norte de Santander, and in municipalities like Segovia in Antioquia, Santa Rosa del Sur and Simiti in Bolivar, as well as Alto Baudó, Bajo Baudó, Bojayá, Riosucio, and Juradó in the department of Chocó. In the case of these latter two municipalities, the GS/OAS highlights the fact that there are children and adolescents from the Embera Dóbida and Wounaan indigenous communities who have been under ELN control since 2017, as well as others who had been recovered by the community and are waiting to have their rights restored by the government.

Forced recruitment and conscription also occur in the areas of influence of the GAORs, particularly in the municipalities of San Vicente del Caguán, Cartagena del Chairá, and Solano (Caquetá); La Macarena (Meta); San José del Guaviare and Miraflores (Guaviare); Suárez and Corinto (Cauca); and Arauca and Arauquita (Arauca).\(^{12}\)

Whichever the illegal armed group, the strategies used to promote the conscription of children and adolescents into the armed conflict and criminal activity include: (i) offering them money, handguns, and luxury items; (ii) having other minors or young people lure them in or fall in love with them; (iii) convincing them by force, using psychological pressure or persistent invitations; and (iv) threatening their lives or their families’. It is important to note the roles these children and adolescents play within the armed

\(^{11}\) Pursuant to the Presidential Council on Human Rights’ public policy line of preventing the recruitment, utilization, and sexual use and abuse of children and adolescents by organized armed groups (GAO) and organized criminal groups (GDO), conscription shall be understood to mean: ‘Any engagement with, outreach to, or approach of children and adolescents aimed at compelling them to perform any type of role within or on behalf of a GAO or GDO.’

\(^{12}\) In particular, in this department there is evidence of conscription and forced recruitment of children, adolescents, and young people, primarily Venezuelan nationals, by both the ELN and the GAORs present in the area.
structures, which range from acting as lookouts to collecting extortion payments to recruiting other children and adolescents as they rise to the armed ranks of these illegal armed groups.

Anti-personnel mines (APM), unexploded ordnance (UXO), and improvised explosive devices (IEDs) also continue to constitute an imminent risk to communities. APM/UXO/IEDs are proliferating in territories where more than two illegal armed groups are battling one another and in areas with extensive coca crops that might be the target of forced eradication.

Even though the efforts of the Office of the High Commissioner for Peace (OACP) and Descontamina Colombia have had a positive impact, and 75 municipalities were declared to be free of suspected APM/UXO/IEDs in April 2019, the GS/OAS encourages continued demining actions in areas that remain critical like Hacarí, San Calixto, and Teorama (Norte de Santander); Arauquita (Arauca); Riosucio, Carmen del Darién, Medio San Juan, Alto Baudó, Medio Baudó, and Juradó (Chocó); Puerto Libertador (Córdoba); and the Alto Mira and Frontera Community Council of the municipality of Tumaco (Nariño).

In addition to the above, the GS/OAS has been observing increased levels of collective risk for communities—especially indigenous and Afro-descendant communities—and social organizations owing to the presence and activities of illegal armed groups battling for control of both territories and profits from illegal economies, with mass impacts on the civilian population. This is also a consequence of these communities’ efforts to demand their rights and the high profile they have in talks with the national government.

In the border zones with Venezuela, Ecuador, and Panama, there is considerable collective risk. In particular, the situation in the Pacific coast of Nariño, the north of Cauca, the municipality of Buenaventura (Valle del Cauca), and the department of Chocó is noteworthy. These are all territories being disputed among illegal armed groups interested in securing control over the transportation corridors that lead to the Pacific Ocean for drug and weapons trafficking. Consequently, APMs are being planted, confinement and restrictions on movement are being imposed, and there have been mass displacements and attacks against social leaders that impact the entire community.

Situations of collective risk have likewise been identified in Catatumbo, Sur de Córdoba, and the Bajo Cauca Antioquia; these are the result of clashes between illegal armed groups and the national army.

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14 The GS/OAS has observed different responses by ethnically different communities to risk factors and scenarios. For example, Afro-descendant communities by and large tend to displace en masse when faced with latent or imminent risk, while indigenous peoples tend to engage in resistance in the territories where confinement is being imposed.
2.3 Impact on social leaders

The GS/OAS values the efforts of the Colombian State to protect social and community leaders and human rights defenders. In this connection, it highlights, *inter alia*: continuation of the Timely Action Plan for the Protection of Human Rights Defenders, Social and Community Leaders, and Journalists (PAO); extension to the territories of the Pact for Life; the creation of opportunities for convergence in developing public policies to prevent violence against and protect leaders; continuation of the National Working Group and National Commission on Security Guarantees (CNGS) and the Cross-sector Committee for Rapid Response to Early Warnings (CIPRAT); the start of the process for overhauling the National Protection Unit (UNP); and the strategy for strengthening community action organizations.

The GS/OAS specifically highlights the creation of the Interagency Coordination Group for Stabilization and Consolidation,\(^\text{15}\) spearheaded by the Presidential Council for Stabilization and Consolidation, the aim of which is to ensure effective coordination and timely institutional responses to threats or impacts on beneficiaries of the National Comprehensive Program for the Substitution of Illicit Crops (PNIS) and individuals in the process of reintegration, including communications mechanisms with the territories. Also noted are actions to bring in individuals who serve as leaders in the context of the PNIS, like the target population of the PAO.

Additionally, the GS/OAS values the actions of the Office of the Attorney General, particularly its prioritization and development of investigative strategies for cases of killings of social leaders, capacity-building in the territories for investigating crimes committed against these individuals, and designation of specialized judges to prosecute these cases.

Despite state actions to prevent harm and protect community representatives and leaders, the GS/OAS reiterates its concern over persistent violence against such individuals in areas like Antioquia, Arauca, Bolívar, Caquetá, Cauca, Chocó, Norte de Santander, and Nariño. Renewed and effective actions are needed in terms of security and territorial control, as is the ongoing presence of public security forces and the full and effective presence of the State in the territories so as to improve security, social, and economic conditions, as well as conditions for integral development in areas with high rates of inequity and weak government presence, thus contributing to the transformation of the territories.

The GS/OAS likewise reiterates the need to effectively link, harmonize, and coordinate existing local and national entities and mechanisms in order to secure decisive buy-in by department and municipal authorities and ensure the participation of affected communities. Government and social efforts will ultimately be judged based on whether

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\(^{15}\) This group is comprised of the Ministry of the Interior, Ministry of National Defense, National Police (UNIPEP and Elite Corps), National Army (Strategic Transition Command – CCOET), the Office of the National Protection Unit, the Special Investigation Unit of the Office of the Attorney General, and the Agency for Reincorporation and Normalization (ARN).
or not they achieve concrete results that translate into effective security guarantees for the population in those territories.

Through its ongoing monitoring and support in the territories, the Mission has observed that threats and intimidation are what mainly affect the people who live there, and without effective protection, security, and investigation mechanisms, these could turn into new attacks against their life, liberty, and integrity. This is a complex phenomenon that cannot be simplified. In previous reports, the GS/OAS has indicated that the victims are mainly social leaders, human rights defenders, community leaders, victims, indigenous peoples, Afro-descendants, land claimants, and individuals who champion voluntary crop substitution. All of these individuals play an important role in reporting and calling attention to the harm being wrought on their communities.

As to the characteristics of this phenomenon, in the present context most incidents involving leaders have been perpetrated by unknown suspects or members of some illegal armed group. The risk is concentrated in areas where one or more illegal armed groups are present, whether these groups coexist or are embroiled in disputes over territorial control. Risk is also present in territories where strategies like forced eradication or PNIS are being implemented to reduce illicit crops. Demand for access to, as well as defense of, territories also constitute risk scenarios.

The GS/OAS notes that the ordinary individual prevention and protection plans do not suffice for safeguarding the lives and physical integrity of social leaders. Such mechanisms must be adapted to the different realities of the individuals and the territories—which are, in most cases rural and remote—and include collective protection approaches. This also means that the justice system has to adapt its own investigation methods and strategies and incorporate the proposals and plans of communities, local authorities, and ethnic-territorial authorities.

In addition to the foregoing, both the fight against impunity and timely and effective administration of justice play a fundamental role in the issue at hand. Specifically, the investigation and punishment of perpetrators is essential. Other key elements include: the elimination of obstacles to access to justice; development of strategies to address the different types of harm committed against leaders, not just homicides; and investigation agencies’ immediate and timely collection of material and physical evidence at crime scenes.

The GS/OAS values the Office of the Attorney General’s strategy of working with communities to solve cases, but also believes it is important to develop the necessary safeguards for community representatives who engage with prosecutors and

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16 Threats are generally made via pamphlets, harassment, calls, or text messages.
17 This includes opposition to damage to oil infrastructure in Norte de Santander; blockage of large projects that have a major impact on tributaries and biodiversity in Antioquia; opposition to activities associated with illegal mining and persistence in land restitution processes in Sur de Bolívar; resistance to illegal activity and single-crop planting on large expanses of land; and vigorous defense of the legitimacy of the ethnic authorities tied to the land in departments like Cauca and Nariño.
18 Evidence collection tends to be deficient in different parts of Colombia because of how difficult it is to access the territories.
investigators. Investigations and prosecutions should not be yet another source of vulnerability for communities and leaders.

2.4 Impact on former combatants

For this period, the GS/OAS underscores the continuing work of Technical Group on Security and Protection, under the leadership of the Presidential Council for Stabilization and Consolidation, which is responsible for coordinating protection measures for former FARC-EP combatants and members of the Fuerza Alternativa Revolucionaria del Común [Common Alternative Revolutionary Force] (FARC) political party and their families. It also notes the efforts of the Office of the Attorney General’s Special Investigation Unit (UEI) aimed at investigating attacks against this group.19

The GS/OAS likewise notes the efforts of the national government to ensure the safety of FARC candidates in the upcoming regional elections scheduled for October 2019. Such efforts are being spearheaded by the Ministry of the Interior and the Presidential Council for Stabilization and Consolidation, in coordination with the National Protection Unit (UNP), Police Unit for Peace-building (UNIPEP), and the Agency for Reincorporation and Normalization (ARN), under the National Electoral Guarantees Plan.

Despite this progress, the GS/OAS continues to observe incidents perpetrated against former members of the FARC-EP, particularly against former grassroots fighters, in the departments of Caquetá, Guaviare, Nariño, Putumayo, Cauca, Norte de Santander, Antioquia, Meta, and Arauca. The incidents have included threats, forced displacement, and homicides, which affect individuals in the process of reintegration as well as their immediate families.

As far as impacts are concerned, different risk scenarios have been identified. First, in territories where one or more illegal armed groups are present, there is evidence that these groups are interested in recruiting former FARC-EP combatants into their ranks in order to capitalize on their past criminal experience or their military training. This, added to these individuals’ economic and productive vulnerability, creates the risk of recidivism.

A second risk scenario plays out when former combatants hold leadership roles. In this context, they have been targeted by illegal armed groups opposed to the consolidation of the FARC as a political party, or are victimized by different illegal actors who continue to attack social leaders in Colombia. Because of this, many individuals have opted to keep a low profile as a way to avoid potential retaliation and stigmatization, while others have decided to move away to escape attacks against them.

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19 Pursuant to information furnished to the GS/OAS by the Presidential Council for Stabilization and Consolidation, as of June 2019, 115 homicides, 16 attempted murders, and 11 forced disappearances of former FARC-EP combatants had been recorded; and the Office of the Attorney General had made progress in investigating 69 incidents, corresponding to 48.99% of the cases recorded.
The GS/OAS laments the death of former combatants during this period, among them, Dimar Torres Arévalo, who was murdered in April 2019 in the municipality of Convención, Norte de Santander, and encourages the competent authorities to quickly investigate this incident, prosecute the perpetrators, and determine institutional responsibilities. In the current context, keeping up and enhancing opportunities for talks between the FARC and the national government are key to guaranteeing the agreed security measures and to streamlining the prevention and protection measures needed to safeguard former combatants and their families.

### 2.5 Law enforcement security actions

The Colombian government enacted the National Defense and Security Policy for Legality, Entrepreneurship, and Equity, which emphasizes the need to have a multidimensional approach to security in order to dismantle the illegal armed groups that threaten peacebuilding and stabilization of the territories. In this respect, the GS/OAS is pleased that this policy focuses state efforts on the structural development of the territories and not just their military control.

The GS/OAS likewise notes the delineation of five Strategic Zones for Comprehensive Intervention (ZEII)—known now as Zonas Futuro—in Catatumbo, Bajo Cauca, Sur de Córdoba, Arauca, Chiribiquete, and nearby national parks and the Pacific coast of Nariño. The strategy seeks to ensure sustained and comprehensive unified, coordinated, and interagency actions by the government in those territories most affected by the presence and activities of illegal armed groups by developing special plans to strengthen the social State under the rule of law, giving priority to social services and enhanced measures to protect the population and the environment. The Zonas Futuro are also expected to hasten implementation of the PDETs.

The GS/OAS also recognizes the efforts of public security forces to ensure a presence in the territories, among these, placement of Rapid Deployment Force 3 (FUDRA No. 3) in Catatumbo (Norte de Santander); this Force has secured important operational results in the territory. Despite their best efforts to avoid a humanitarian situation, clashes with the ELN resulted in mass displacements in the municipality of Teorama (Norte de Santander) and harassment at police stations in the region’s municipal capitals.

The main success of Operation Orinoquia, which was part of the Zeus military campaign, was the takedown, in February 2019, of “a.k.a. Rodrigo Cadete,” one of the leaders of the GAOR in the department of Caquetá. It is, however, important to note that the impact of this outcome has not been felt in terms of security in the department inasmuch as the dissident group continues to engage in extortion, threats, conscription of new members, forced recruitment of children and adolescents, etc.

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20 In various public statements, leaders of the FARC party have reported the murders of 139 demobilized former combatants since late 2016. See: [https://www.elespectador.com/noticias/politica/excomandante-de-las-farc-asesinado-era-el-mensajero-de-la-paz-articulo-860746](https://www.elespectador.com/noticias/politica/excomandante-de-las-farc-asesinado-era-el-mensajero-de-la-paz-articulo-860746)
Likewise, Operation Atalanta, conducted by public security forces for purposes of stopping the influx of inputs, destroying alkaloid-processing labs, and seizing marijuana and cocaine, led to the capture of members of the GAOR found in the departments of Cauca and Valle del Cauca. Nevertheless, it is worth noting that the GAOR continues to up its game in the territory by conscripting and forcibly recruiting children and adolescents.

In light of the foregoing, in addition to military deployments, it is essential to focus efforts on strengthening the strategic transformation pillars contained in the National Defense and Security Policy for Legality, Entrepreneurship, and Equity, as well as the unified and comprehensive action conceived in the Zonas Futuro strategy. This would help to secure structural transformation in the territories and real and effective improvements to security conditions there.

3. Illicit Crop Reduction Strategy

In the first half of 2019, the GS/OAS learned that the national government had implemented different strategies to address the issues associated with illicit crops. In this connection, implementation of the Comprehensive Policy to Tackle the Drug Problem (Ruta Futuro), which includes illicit crop eradication actions and measures aimed at dealing with drug production and trafficking, domestic use, and transformation in the areas affected by this scourge, stands out.

The Colombian government has emphasized that reducing and eliminating illicit crops requires a combination of all possible strategies and modes, including forced eradication by means of aerial spraying with glyphosate. This position prompted a public hearing on March 7, 2019 before the Constitutional Court to follow up on Judgment T-236 of 2017, which had resulted in the suspension of aerial spraying with glyphosate under the principle of caution, given its potential effects on human health and the environment.

After some months of study and analysis, the Constitutional Court issued, in July 2019, an explanatory ruling upholding the six conditions established in 2017 for reactivation of the Program for Eradicating Illicit Crops via Aerial Spraying (PECIG), explaining that these should not be interpreted literally, especially with respect to demonstrating, with absolute certainty, the absence of harm to health and the environment from glyphosate. Accordingly, resumption of aerial spraying was left to the National Narcotics Council, the agency responsible for developing and issuing the necessary regulations and processes for effective implementation of this type of eradication.

In this context, the GS/OAS acknowledges that the challenge lies in prioritizing and pursuing strategies that enable sustainable reduction of the cultivated areas and, simultaneously, the economic reconversion of the territories, in addition to actions aimed at dismantling the criminal structures responsible for boosting drug production and trade, tracking chemical substances and production infrastructure, and fighting money laundering.
Regarding substitution, the Comprehensive National Program for the Substitution of Illicit Crops (PNIS) continues to be the primary strategy. In the first half of 2019, the Colombian government made institutional adjustments and upped the budget to keep its commitment to the 99,097 families involved in the program as growers, non-growers, and pickers of coca leaves in 56 municipalities in 14 departments.21

The main adjustments include reactivation of the Strategic Steering Board, as the senior decision-making organization for the PNIS, and development of a roadmap for stabilization as an instrument for planning and coordination among the plans, programs, and strategies required for the ordered implementation of the Final Agreement throughout Colombia.

Likewise, the PNIS has been strengthened by the interagency strategies of the agriculture and environment sectors, such as “Formalize to Substitute” under the National Lands Agency (ANT), and the development of sustainable use systems for strategic environmental areas under the Ministry of Environment and Sustainable Development and National Parks.

Another accomplishment the GS/OAS hails is the coordination and targeting of international cooperation resources toward programs to support families involved in the PNIS as one dimension of implementation of the Final Agreement. An example hereof is the review of the “Catatumbo Sostenible” [Sustainable Catatumbo] strategy22 done by the Colombian Donor Coordination Group (GRUC) and the Colombian government in an effort to promote greater coordination between the support provided by donor countries and national, departmental, and municipal priorities when it comes to stabilizing the region of Catatumbo, where illicit crop substitution is one of the core items on the agenda.

At the level of the territories, despite all of the foregoing, and two years into the implementation of the PNIS, the GS/OAS has observed that challenges remain as far as discrepancies in the implementation of the different components contained in the family Immediate Response Plan (PAI) are concerned. The main challenge lies in how little synchronization there is between finalization of work income payments for families to support themselves and implementation of the food security program and productive projects for the grower and non-grower populations. To this, we can add other factors like disagreements with technical assistance operators and delays in assistance to the community of pickers or community managers.

22 “Catatumbo Sostenible” is an interagency coordination mechanism spearheaded by the Presidential Council for Stabilization and Consolidation that aims to link local governments with different national agencies and bring to them institutional services that can help to transform this region in the department of Norte de Santander.
The GS/OAS underscores the importance of clarifying the status of families that have been suspended from the program for different reasons. Notification of decisions regarding the suspended families, development of a protocol for reactivating them in the PNIS system, and a purge of those who fail to meet the conditions for becoming program beneficiaries remain pending in the short term.

The GS/OAS has also observed the impact of delays in attention to the picker population. In departments like Arauca, Caquetá, and Putumayo people have moved to areas with illicit crops to work picking coca leaves given there are no other sources of employment. Along these lines, it is important to move forward with attention to this group as a way to eliminate the availability of skilled labor for this type of work.

As noted in prior reports, the perceived displeasure of the PNIS beneficiary population has prompted social mobilizations and protests in an effort to demand the process move faster. In the first half of 2019, this was seen primarily in Sur de Córdoba, the municipality of Ituango (Antioquia), and in some of Caquetá’s municipalities, like San José del Fragua, Puerto Rico, Florencia, and La Montañita. Unlike the mobilizations of previous years, this time around grassroots and second tier social organizations took the lead, with less of a role played by national-level platforms.

The GS/OAS underscores that the presence and activities of illegal armed groups in regions like Sur de Córdoba and Bajo Cauca, in departments like Guaviare, and municipalities like Tumaco (Nariño), etc. have contributed to delays in the PNIS roadmap. In these territories, the system for substitution continues to be perceived as risky for anyone involved in the process, including in areas where the program never managed to move past the collective agreements phase.

In this connection, the GS/OAS notes the continued impacts on individuals who promote illicit crop substitution, namely: extortion or thefts after days when mass family self-sufficiency payouts are made; constraints on participation in program activities or entry into territories of institutions associated with substitution; and killings of PNIS beneficiaries or leadership, which occurred in Tumaco (Nariño) in March and in San José de Uré (Córdoba) in May.

As a response strategy, the GS/OAS applauds the development and implementation of the Plan for Coordinating Security Actions for the Target Population of the PNIS, spearheaded by the Presidential Council for Stabilization and Coordination and coordinated via the Interagency Coordination Group for Stabilization and Consolidation, with the Police Unit for Peace-building (UNIPEP) and the National Police Elite Corps, the Strategic Joint Command for the Transition (CCOET) of the Armed Forces, the UNP, the Special Investigation Unit of the Office of the Attorney General, and the ARN.

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(i) Inconsistencies in terms of affiliation or in the official socioeconomic information databases; (ii) delays in or failure to attend visits to verify compliance with commitments; (iii) partial or no uprooting of crops; (iv) difficulties in proving ownership or obtaining land for the productive component.
To date, measures have been implemented under the plan in the municipality of Tumaco (Nariño) such as self-defense workshops, creation of support networks, improved territorial connectivity, changes in leadership roles in terms of operation of the PNIS, tweaks to the program’s administrative procedures, low profile mechanisms for reporting and notification, and the establishment of channels for filing reports with and securing the attention of the authorities. Plans are being made to extend the strategy to the PNIS municipalities of Putumayo, Cauca, Antioquia, Norte de Santander, and Córdoba during the second half of 2019, with measures adapted to the particular characteristics of each territory.

Forced eradication, mainly of coca plants, is perceived by many communities as directly impacting their economy and is something that sows mistrust in national government institutions and creates risk because of opposition by illegal armed groups. In municipalities like Tumaco, for example, these risks have manifested in the use of landmines against members of public security forces and the civilian population.

In this regard, the GS/OAS values the development of a new version of the “differentiated attention path” for the community of illicit crop eradicators, led by the Comprehensive Action against Antipersonnel Mines (AICMA) agency, which falls under the Office of the High Commissioner for Peace and coordinates with the National Police Counter Narcotics Directorate. This, bearing in mind that eradication squads were among the groups most affected by landmines in the first half of 2019, with approximately 30 cases, most in Tumaco, Nariño.\(^{24}\)

In this context, the GS/OAS learned of some social protest and mobilization actions to stop the advance of land spraying or eradication days in municipalities like San Miguel and Puerto Asís (Putumayo), Ituango (Antioquia), and Argelia (Cauca). It has been suggested that in Putumayo illegal armed groups or drug trafficking structures are forcing communities to clash with public security forces in order to put a stop to eradication efforts.

In addition to impacts on areas with coca crops, challenges exist in connection with tackling problems associated with marijuana. In territories in the department of Cauca, more marijuana is being grown because of pressure by illegal armed groups on communities. Given this situation, the GS/OAS is encouraging the Colombian government to coordinate actions with ethnic and territorial authorities and supplement these with initiatives to economically restructure the territories based on uses and customs.

Despite the execution of the PNIS and forced eradication work, coca growing continues to be the main economic engine and source of income in several municipalities in departments like Chocó, Cauca, and Putumayo, and in subregions like Catatumbo and the mountain range and Pacific coast of Nariño. While there are multiple reasons for this, illicit crops clearly continue to offer economic advantages in terms of sales and revenues to cover unmet socioeconomic needs that other products do not. Moreover,
illegal armed groups continue to incentivize, or pressure, communities to keep their coca plantations, and since current reduction strategies have not yet reached those territories, planting and production carry on.

With that in mind, the GS/OAS is urging the Colombian government to make the most of the substitution proposals and dynamics coming from the heart of the affected territories, safeguarding them from possible interference by illegal armed groups and securing agreements to address the threat to national and hemispheric security represented by the illegal coca growing economy.

4. Social Dialogue And Conflict

According to reports by the Center for Social Dialogue and Coexistence of the Office of the High Commissioner for Peace (OACP), the first half of 2019 saw 264 events\(^\text{25}\) associated with social conflict in Colombia. The three main mobilizations that took place between January and June 2019—the Indigenous Minga [Movement] to Defend Life, Territory, Justice, Democracy, and Peace; the Mass National Strike; and the Humanitarian Shelter for the Lives of Social Leaders—lie at the center of the rise in social conflict, given their important political role and demands.

These mobilizations brought together social, ethnic, and campesino organizations, ranging from grassroots to second-tier organizations that are engaged in political dialogue with the national government. The main items on their agenda include: opposition to the National Development Plan (2018-2022); civic and regional groups’ demands; and the demand that social leaders’ right to life be guaranteed.

In this regard, the GS/OAS notes that these social protests and mobilizations have greatly raised the profiles of the social leaders who were engaging in dialogue with the national government among the illegal armed groups, which has led to collective risk that has taken a toll on individuals and spread to organizations such as in the case of the members of the Indigenous Council of Cauca (CRIC) and the Association of Community Councils of Norte del Cauca (ACONC).

The “Indigenous Minga [Movement] to Defend Life, Territory, Justice, Democracy, and Peace” [the “Minga”] was the longest running mobilization in the recent past and was coordinated, at a political level, by different campesino, indigenous, and environmental sectors. The Minga began as a regional movement concentrated in the departments of Cauca and Huila, but subsequently became a national indigenous Minga after several of Colombia’s regional indigenous organizations joined in, mainly from the departments of Valle del Cauca, Chocó, Nariño, Caquetá, Córdoba, and Putumayo.

In this Minga, besides the list of demands from each participating organization and sector, a national agenda was drawn up that included both political issues and demands.

\(^{25}\) Data reported on June 4, 2019.
related to defense of the right to life, protection of territory, implementation of the Final Agreement, security guarantees, fulfillment of previous agreements, objections to the National Development Plan (2018-2022), among others. For their part, the Mass National Strike of April 25 and the Humanitarian Shelter initiative took up a large part of the demands from the indigenous Minga.

As to security, during the Minga in the department of Cauca, members of public security forces were detained at points where roads or indigenous territories were being blocked by the Guardia Indígena [Indigenous Guard]. In some cases these were branded kidnappings by the national government, while the indigenous authorities claimed this was an exercise in territorial control against the threat of infiltration in the protest by law enforcement. This difference in opinion prompted a temporary suspension in the dialogue between the national government and the indigenous communities.

In the municipalities of Miranda, Toribio, Suárez, Santander de Quilichao, and Caldono in the department of Cauca, the Frente 6 GAOR engaged in attacks against police stations and harassed public security forces at the protests, roadblocks, and locations where dialogue was taking place.

Another security-related incident that affected the Minga was an explosion on Thursday, March 21, 2019 in a rural part of the municipality of Dagua, department of Valle del Cauca, which left eight indigenous people dead, and four wounded just days before talks were set to begin with the national government on the La Delfina reserve in the municipality of Buenaventura.

In spite of these challenges, the GS/OAS looks positively on the willingness of the national government to foster social dialogue as a response and path toward solution for the different groups that are demanding, in the framework of legitimate social protest, access to rights and fulfillment of agreements and historical debts.

The agreements reached in the Mingas in Valle and Norte del Cauca in April 2019 serve to reaffirm the path of dialogue and understanding. Fulfillment of the mutual commitments will complete the sense of effort and close the virtuous circle of this peaceful and democratic path.

In some cases, the MAPP/OAS was called in as a third party to bring the parties together by encouraging confidence-building actions, moderating dialogues, and managing exchanges in an open and purposeful environment. The GS/OAS, through the Mission, makes its human and technical resources available, convinced that democracy and economic and social development are inter-dependent and reinforce one another. It also believes that promoting and enforcing economic, social, and cultural rights is essential

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26 It includes topics like: consultations with communities regarding energy-related mining; indigenous authorities as environmental authorities; banning hydraulic fracking; prior consultations as a fundamental right; and campesinos as subjects of rights.

27 In all cases they were released after the MAPP/OAS and other national and international organizations interceded.

28 The Special Indigenous Jurisdiction is conducting investigations into this matter.

29 Although when the present report was being finished, notice was received that one of these individuals had died in the hospital they were taken to.
to integral development, economic growth with equity, and the consolidation of
democracy and rule of law in the countries of the Hemisphere.

The GS/OAS is continuing to identify real and potential challenges in terms of social
conflict associated with: (i) strategies for reducing illicit crops; (ii) the environment; (iii) the
model for energy-related mining development; and (iv) ethnic and territorial conflicts in
collective territories.

With regard to the environment, social conflict is becoming increasingly significant,
especially when it comes to the absence of land use planning and the social impact of
military strategies, which have raised the profile of socio-environmental conflicts primarily
surrounding the growing problem of deforestation and the presence of campesino
populations inside protected areas, forest preserves, or natural parks.

In the area of mining and energy, there is concern about increases in the illegal mining
of ore, especially in the regions of Bajo Cauca Antioquia, Sur de Bolívar, and Amazonas.
In this regard, difficulties in formalization processes, the activities of large companies,
and resistance to State actions against illegal mining continue to cause tension in the
territories, which then turns into ineffectively managed conflicts in areas where illegal
armed groups interested in controlling the revenues of these economies are also present.

Regarding the oil and gas sector, communities are continuing to demand improved
working conditions, the use of local labor, and protection of the environment, and in
some places, they completely reject any type of intervention by these companies. Likewise,
the environmental and public health-related impacts of extractive activities are
striking, as is the rejection of dam and hydroelectric projects in the departments of
Antioquia, Arauca, Caquetá, Meta, and Putumayo.

In the collective territories of ethnically differentiated communities, potential social
conflicts have been identified, including displays of xenophobia brought on by the arrival
of Venezuelans in their territories, particularly in the border departments of La Guajira,
Norte de Santander, Arauca, Putumayo, Nariño, and Chocó. Social conflict dynamics
have also been observed on the borders with Ecuador, Peru, and Panama in connection
with the illegal exploitation of natural resources\(^{30}\) and with issues of food security owing
to increased fishing in border rivers.

5. **Comprehensive Truth, Justice, Reparation, And Non-Repetition System**

The GS/OAS believes that Colombia has a tremendous opportunity to make major
advances in truth, justice, reparation, and non-repetition with implementation of the
Comprehensive Truth, Justice, Reparation, and Non-Repetition System (SIVJRNR or “the
System’’). In this regard, it notes the opportunity afforded by the Special Jurisdiction for
Peace (JEP) as a tool for justice and fighting impunity in the face of serious violations of

\(^{30}\) Illegal mining, logging, environmental impacts caused by oil spills, etc.
human rights and infringement of international humanitarian law in the framework of armed conflict, by helping to clarify facts and dismantle criminal structures and, as a result, contribute to guarantees of non-repetition.

The JEP has made significant progress in implementing the transitional justice system. There are cases in the territories that help make it possible to understand both the differentiated impacts the conflict had in different areas and different actors’ patterns of action. To date, seven cases have been opened. Of those, Case 006 “Victimization of members of the Unión Patriótica [Patriotic Union] by state agents”\textsuperscript{31} and Case 007 “Recruitment and use of children in armed conflict”\textsuperscript{32} were opened during the first half of the year. Furthermore, Case 005 was broadened to include municipalities from the south of Valle del Cauca in the cases of the municipalities from the north of Cauca.

Actions aimed at guaranteeing the incorporation of differential approaches into all of the JEP’s activities, including positive actions like the creation of commissions on ethnicity, gender, and most recently, participation, stand out. Also noteworthy is the implementation of a policy for bringing indigenous authorities in as special parties, with some of the prerogatives of procedural actors.

Despite these advances, the GS/OAS is concerned about the continued existence of barriers to access to justice that have historically impacted communities and persist in the context of the JEP in the form of difficulties State institutions are having in establishing a presence in the territories most affected by the armed conflict and criminal activity, excessive technicalities, de facto justice meted out by illegal armed groups, troubles with collecting evidence, etc. Likewise, misinformation and doubts persist in the territories about the work of the JEP, which is why it is important to insist upon dissemination and clear explanations of its achievements.

As to reports filed by civil society, the GS/OAS has observed that organizations in the territories most affected by the armed conflict and criminal activity are the ones least able to submit reports, especially because of limited access to technology, the difficulties and costs associated with collecting information in scattered areas, and the security risks they face.

In addition, in some cases it appears that the processes for preparing reports call for information that has already been collected via other processes, e.g. characterization of the harm in cases of land restitution and reestablishment of territorial rights, assessments of harm in the framework of comprehensive reparations processes, ordinary justice, and/or Justice and Peace. With this in mind, the GS/OAS believes it is urgent to move forward with establishing coordination between the JEP and entities like the Office of the Ombudsman, the justice system, the Victim Assistance and Comprehensive Reparation Unit (UARIV), and the Land Restitution Unit, so as to create expedited channels for

\textsuperscript{31} Opened on February 26, 2019.
\textsuperscript{32} Opened on March 1, 2019.

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obtaining information, thereby mitigating the risks of revictimization and avoiding additional burdens on victims.\[^{33}\]

These difficulties, added to the brief timelines established for filing reports,\[^{34}\] can undermine effective access for victims. That being said, the efforts of the Office of the Ombudsman to offer support for the reports has been key, and competent agencies, particularly those that fall under the Public Prosecution Ministry, are encouraged to enhance support for the preparation and submission of these reports. It will likewise be important to strengthen both the Investigation and Indictment Unit (UIA) for cases that are difficult to document, e.g. environmental crimes, crimes against children and adolescents or within the ranks, and channels for protecting victims, emphasizing collective measures.

The GS/OAS has also identified challenges in connection with certifying [victims] under the JEP’s legal proceedings, which, in turn, means limitations in terms of access to information from the voluntary statements and other proceedings. Such limitations are evidenced by the lack of understanding of processes and financial difficulties when it comes to obtaining and submitting documentation to the JEP. Added to this, the JEP is overwhelmed in its efforts to secure these certifications more quickly. In this context, the JEP is encouraged to make decisions aimed at overcoming the backlog and creating more accessible channels for victims in remote areas, with the appropriate government support.

The GS/OAS is calling for effective coordination between the JEP and Justice and Peace, since the latter has, via the Office of the Attorney General, created several frames of reference based on the Justice and Peace tribunals that could ultimately serve as the basis for building similar frames of reference in the JEP. At the same time, the GS/OAS believes the body of evidence amassed by Justice and Peace should be reviewed so it can be used in the proceedings before the JEP and can avoid duplication of efforts, which not only wears down victims, but can also lead to inconsistent opinions and frames of reference due to a lack of information.

In addition to the above, challenges persist with respect to the development, implementation, and monitoring of the alternative sentences [imposed by the JEP]. Accordingly, greater clarity is needed, particularly with respect to the repairing/restorative nature of these alternatives vis-à-vis victims and the need to coordinate with other agencies and programs, such as PNIS, PDETs, comprehensive reparation processes, etc.

The GS/OAS also believes it is necessary to better harmonize alternative sentencing, Reparation-related Jobs, Works, and Actions (TOAR), the conditions regime, and community service for peace of the Agency for Reintegration and Normalization (ARN). In this regard, the MAPP/OAS has provided the JEP with a document that compiles reflections, perceptions, regulations, and case law applicable to alternative sentencing

\[^{33}\] In this regard, the MAPP/OAS has developed a methodological guide that is helping several social organizations use those tools to submit reports to the JEP.

\[^{34}\] March 2020.
that could help the JEP, and specifically the Sección de Reconocimiento [Acknowledgement Section], when it comes to imposing those sentences.

The GS/OAS also appreciates the opening of eleven (11) Casas de la Verdad [Truth Houses]\(^{35}\) by the Commission for Truth, Coexistence, and Non-Repetition (CEV), as well as the initial deployment of the Disappeared Persons Search Unit (UBPD) with its territorial teams.\(^{36}\)

In working closely with the CEV, the MAPP/OAS has developed a knowledge transfer model based on reflections and lessons learned amassed over more than 15 years of work supporting and monitoring implementation of the different mechanisms of transitional justice, such as Law 975/2005 and Law 1448/2011.

In addition, the GS/OAS, through the MAPP/OAS, has developed a broad support strategy, both for the arrival of the CEV in the territories and for data collection days, for which different challenges have been identified, among them, the need to provide for differences and complementarity—primarily in the form of compensation—with respect to administrative reparations, and to create the appropriate conditions for collecting information that help to get to the bottom of what happened using a differential perspective.

For the GS/OAS the role documentation of coexistence initiatives plays in building democratic processes in the communities is key as is the creation of mechanisms and protocols aimed at ensuring security in the communities and for government employees as this work unfolds. As a result, it has made special reports available to the CEV with recommendations formulated during the work to support information collection on the so-called “trail of pain” in the department of Vichada.

### 5.1 Coordination with the Special Indigenous Jurisdiction

One of the challenges the JEP must address is how to work smoothly and in coordination with the Special Indigenous Jurisdiction (JEI), not only because of the need to comply with the law governing the collective rights of ethnically different groups, but also because it serves as a unique opportunity to create new dynamics that help ensure integral justice, with respect for ancestral systems and fostering effective restoration of the social fabric and national reconciliation.

In light of the foregoing, the JEP-JEI coordination process is perceived as an initiative that could help to fine tune and streamline national-level coordination processes and help ensure that each one is carried out based on a vision that looks beyond a differential approach and moves toward intercultural and inter-jurisdictional dialogue. With this in mind, during the period of this report, the MAPP/OAS delivered a preliminary document on “Indigenous justice and restorative legal pluralism,” which aims to contribute to the

\(^{35}\) Ibagué, Sincelejo, Villavicencio, Cúcuta, Popayán, Barrancabermeja, Cali, Valledupar, San José del Guaviare, Apartadó, and Tumaco.

\(^{36}\) Barranquilla, Sincelejo, Rionegro, Apartado, Barrancabermeja, Cúcuta, Villavicencio, San José del Guaviare, Puerto Asís, and Cali.

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debate and brainstorming surrounding harmonization between the JEI and the JEP, seeking as inputs the experiences of the jurisdictions themselves.

The GS/OAS acknowledges that in terms of the above, the Jurisdiction boasts two strengths: one is the presence of indigenous officials and magistrates who understand the JEI, its complexities, and how it works; and the second is the interest, both explicit and implicit, in avoiding the mistakes of previous coordination efforts and instead capitalizing on the successes thereof, which has taken the form of the Ethnic Commission, which meets in the framework of the Jurisdiction, and the development engagement protocols.

The GS/OAS welcomes the fact that, during the period covered by this report, the JEP organized a number of opportunities for inter-jurisdictional dialogue in the context of Case 002 “Situation in Tumaco, Ricaurte, and Barbacoas” and Case 005 “Territorial situation in the Norte del Cauca and southern Valle del Cauca region.” The MAPP/OAS has supported six of these events with indigenous authorities from the Awá, Nasa, and Misak peoples in the municipalities of Ricaurte, Tumaco, and Pasto in the department of Nariño, and in Caloto and Pitaló in the department of Cauca.

However, with the understanding that the Jurisdiction’s work is just beginning, it is still possible to strengthen and improve some of its internal processes. Accordingly, continuation of the technical, legal, and cultural work that helps define the scope of the “ethnic relevance” to be managed in the steps and procedures is essential. Moreover, consensus must be reached among the different chambers, the tribunal, the units, and the working groups of the JEP as to the nature of their engagement with indigenous peoples. Ensuring that this engagement is not tied to the particular interest of any chamber or magistrate, but rather to an institutional policy will be key.

6. **Justice In The Territories**

The GS/OAS reiterates its acknowledgement of the efforts of the Colombian State to enhance government presence when it comes to justice, the fight against impunity, and promotion of the culture of legality, through effective security and transparent justice.

In this connection, the GS/OAS notes the work of the Office of the Attorney General, which via its Strategic Plan (2016-2020), has focused its efforts on going after organized crime, helping to bring the armed conflict to an end without impunity, improving access to justice, and strengthening criminal justice in the territories via measures aimed at placing victims at the center and streamlining both investigative processes and channels for filing grievances.

The MAPP/OAS’ monitoring in the first half of 2019 revealed a justice-related government presence in both urban and rural areas in 65 municipalities where the Mission is represented. In this regard, there was a notable presence of prosecutors, magistrates, police inspectors, forensic medicine teams, judicial police, and, periodically, judicial brigades to enable communities to more easily access justice services. For example, in Tibú (Norte de Santander), a municipality experiencing high levels of conflict,
a forensic medicine center was set up at the beginning of the year to help with investigation processes there.

Despite the above efforts, however, the GS/OAS still observes institutional weaknesses that limit the possibilities of consolidating a culture of legality and fighting against impunity. Such weaknesses are primarily related to a lack of sufficient staff in prosecutors’ offices, of a permanent team of judicial police to facilitate investigations, and of “conciliators in equity.” This dynamic is especially acute in municipalities located in the departments of Cauca, Chocó, Nariño, Putumayo, and Bajo Cauca where the situation tends to be more critical in rural areas because of geographic challenges in accessing those territories and problematic security conditions.

Under these circumstances, different types of illegal activities are easier to carry out, especially when one or more illegal armed groups are present and operating in the territory. One of the most evident is de facto justice, in other words, things like extortion, restrictions on mobility, the establishment of norms of coexistence, or resolution of community conflicts imposed by illegal armed groups in order to control the population.

6.1 Special Indigenous Jurisdiction

The GS/OAS acknowledges that the Colombian State as a whole has promoted not just practical, but also legal, actions for protecting the collective rights of ethnic peoples, especially indigenous peoples, and applauds the continuation of actions to guarantee the jurisdictional autonomy of these communities. The GS/OAS also underscores the efforts of the indigenous authorities of the 102 peoples recognized in Colombia to enhance their own systems of justice in accordance with their cosmovision and to create more spaces for dialogue with other national jurisdictions.

In this connection, the GS/OAS has observed the following: an increasing number of justice proceedings spearheaded by indigenous authorities; the development of life plans among the different peoples; formalization of internal regulations and coexistence manuals in the different indigenous cabildos [assemblies], councils, and reserves; and implementation of alternatives adjusted to the uses and customs of the communities, such as Centros de Armonización Indígena [Centers for Indigenous Harmonization] or Casas de Reflexión [Houses of Reflection], in cases warranting deprivation of liberty for community members.

The GS/OAS has also observed consistent participation by the peoples and the government in the inter-jurisdictional departmental working groups as well as national indigenous organizations working regularly in the framework of the National Inter-Jurisdictional Commission for Coordination between the National Justice System and the Special Indigenous Jurisdiction (COCOIN). These serve as an opportunity for solving, in practice, the structural problems and particularities that have arisen out of the absence of a national coordination law.

37. Especially in the municipalities of Sipí and San José del Palmar.

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The GS/OAS values the creation of spaces for coordination in the departments of Vaupés and La Guajira, as well as training on the JEI offered by the Office of the Attorney General and its field offices. The GS/OAS also applauds the COCOIN meeting held in the first half of 2019 for purposes of following up on issues related to violence against women and children and adolescents, as well as the agreement reached there to develop a work plan that includes discussion about and the feasibility of prior consultation on the Ten-year Plan for Justice, the draft law on Coordination, and the establishment of five departmental working groups throughout Colombia this year.

Progress in this regard is essential if we bear in mind that approximately 30% of Colombian territory is indigenous, and that strengthening indigenous legal mechanisms is the ideal way not just to mitigate crime and fight against impunity in the territories, but also to prevent violation of and protect the rights of the indigenous population and prevent conflicts both within and outside the communities.

The GS/OAS is seeing a progressive strengthening of the JEI, but notes that major challenges remain in terms of indigenous justice processes and that making these visible and continuing to work on overcoming these challenges is important.

The first of these challenges is the persistence of factors in the territories that constrain the development of justice processes, for example, the presence of illegal armed groups. The ongoing presence of organized armed structures in indigenous communities hampers and limits both the actions of local authorities and the effective implementation of their justice system inasmuch it precludes the possibility of effectively prosecuting those who are harming the communities. This is not a trivial matter if one considers that there have been threats, intimidation, and deaths of indigenous leaders perpetrated by the organized armed groups present in ethnic territories.

The second challenge has to do with the uptick in illegal activities impacting the environment in indigenous reserves and national parks, as well as the serious difficulties indigenous authorities face in bringing these cases to justice. The GS/OAS is concerned about the increasingly visible proliferation of deforestation to make way for ranching, the illegal trafficking of species, expanding coca fields, water contamination, and illegal mining on the reserves. These territories are being targeted because of the wealth of natural resources and biodiversity they boast and because of how distant they are from population centers.

This situation poses challenges for the JEI, the ordinary jurisdiction, and the State when it comes to protecting natural resources. Accordingly, the GS/OAS hails both the recognition of the environment as a strategic national asset and the resulting environmental protection initiative known as “Artemisa,” spearheaded by the Colombian government with the support of the Office of the Attorney General, though it notes there

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38 According to official DANE figures, as of 2005, titled [indigenous] reserves occupied approximately 34 million hectares, or 29.8%, of Colombian territory. DANE “La visibilización estadística de los grupos étnicos colombianos” [Statistical view of Colombia’s ethnic groups]. Available at: https://www.dane.gov.co/files/censo2005/etnia/sys/visibilidad_estadistica_etnicos.pdf
is a glaring lack of coordination with the indigenous authorities present in a large swath of the territory where interventions are planned.

The GS/OAS believes it is important for the Office of the Attorney General and the Ministry of Justice to deepen their efforts in terms of regulations, investigations, and prosecutions of these types of crimes, while at the same time ensuring coordinated action with indigenous peoples.

7. Public Policy For Victims And Peace In The Territories

7.1 Restitution of lands and reestablishment of territorial rights

The public policy of land restitution and reestablishment of territorial rights is aimed at reversing the impact of the dispossession, forced abandonment, and other attacks on territories that occurred as part of the internal armed conflict in Colombia. For Colombia, this is one of the core pillars of comprehensive reparation for victims and a tool for raising the profile on how violence was used to deal with age-old agrarian disputes over land use and tenure, especially in rural areas.

In this connection, the GS/OAS recognizes efforts made by the Colombian State that enabled it to organize a significant deployment to a good part of its territory and handle 74.66% of the requests approved by the Ministry of Defense because the necessary security conditions were in place, which accounted for 58.68% of all of the requests submitted.39/

Despite this progress, concerns remain that just two years out from the expiration of this public policy, no legislative initiatives have been presented to extend it, even while armed conflict persists in some regions of the country, thereby impeding the processing of 25,989 requests (21% of the total). This figure could rise bearing in mind that, according to government sources, up until April 2019 alone, 25 mass displacements had occurred in Catatumbo, Bajo Cauca Antioquia,40/ Arauca, Urabá Chocó, and the southwestern part of the country, resulting in 7,123 victims.41/

The foregoing makes it possible to infer the number of cases of forced abandonment, as contrasted with the low number of requests for registration in the Registry of Forcibly

39 Land Restitution Unit, “Estadísticas de Restitución de Tierras-Registro de Tierras Despojadas y Abandonadas Forzosamente” [Land Restitution Statistics – Registry of Forcibly Dispossessed and Abandoned Lands], July 2019. Available at: https://www.restituciondetierras.gov.co/estadisticas-de-restitucion-de-tierras
40 In the municipality of Cáceres (Antioquia), the high number of displacements caused by the presence of illegal actors in the urban center who seek to control the territory is creating a situation conducive to the dispossession and seizure of abandoned homes. In this regard, there is a need to create pathways for protecting urban goods that foster the material and legal protection of properties.
Dispossessed and Abandoned Lands received during the same period—a mere 823\(^{42}\)—which is the lowest figure since the policy was instituted.\(^{43}\)

Preliminarily, the Land Restitution Unit appears to have refrained from implementing Decree 1167/2018, which contains measures that could be considered regressive when it comes to respecting the rights of victims. Instead, it has used a pro-victim approach as the framework for implementation. The GS/OAS believes this was a positive decision and reiterates the need to redouble efforts to massively socialize among the communities both the restitution process and the implications of the above Decree, which limits the ability to submit requests for restitution.

The GS/OAS also applauds the fact that Colombia has a robust administrative and judicial apparatus extending into the territories that has enabled the government to issue 5,045 individual judgments, 14 judgments in favor of indigenous communities, and 2 in favor of Afro-Colombian communities that were victims of impacts in the territories. Nevertheless, judicial backlog in terms of individual cases is striking—these account for 64.29% (17,978 cases) of all cases and include 52 claims by ethnic groups awaiting judgments and more than 100 precautionary measures that could turn into claims. These numbers are discouraging if we compare them to the progress made in eight out of the ten years the policy has been in force, and bearing in mind that, unlike the past two years, no agreement was reached in 2019 to address the backlog by creating temporary courts to take on some of the workload of the existing courts.

The GS/OAS looks positively on the fact that the URT and territorial agencies\(^{44}\) are promoting the creation of technical monitoring groups and the holding of interagency meetings to follow up on the orders issued in the restitution processes,\(^{45}\) particularly those associated with the reestablishment of territorial rights for indigenous and Afro-Colombian communities whose territories have seen an increased presence of illegal armed groups. Such groups are involved primarily in drug trafficking and have been imposing territorial and social controls, thereby endangering the physical and cultural survival of communities, which are seeing their capacity for food sovereignty and to use their territory destroyed and their ability to develop life plans or pursue ethno-development quashed.

The above can be seen in the cases of the Embera de Urada-Jiguamiandó and Nukak indigenous communities, the Yaguara 2 multi-ethnic reserve, the Afro-descendant communities of Jiguamiandó, Curvaradó, Alto Mira, and Frontera, and the indigenous and Afro-descendant communities of the Baudó river basin, where, despite there being

\(^{42}\) Figures, Victims Unit. 07/01/2019. Available at: http://cifras.unidadvictimas.gov.co/tierras?tema=40&subtema=41

\(^{43}\) MinTic, Datos Solicitudes de restitución según mes de presentación. Available at: https://www.datos.gov.co/Agricultura-y-Desarrollo-Rural/Solicitudes-de-restitucion-n-seg-n-mes-de-presentacion?src=b3k4

\(^{44}\) This is the case of the interagency follow-up meeting on the judgment reestablishing the territorial rights of the Community Council of the Yurumangui river basin in the municipality of Buenaventura issued under the leadership of the Secretariat of Peace of the Interior Department of the Valle del Cauca.

\(^{45}\) Especially with respect to construction of homes, property appraisals, road infrastructure works, and job training for the judgments’ beneficiaries, as well as their effective enjoyment of rights like health and education.

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precautionary measures in place, “settlers” continue to engage in coca raising, illegal mining, deforestation, and land grabbing within the ethnic territories, as well as confinement, use of APM/UXO/IEDs, recruitment of children and adolescents, and threats and killings targeting traditional authorities. These authorities complain about the ineffectiveness of prevention measures and protection systems afforded by the Colombian government and are therefore demanding that self-protection measures and strategies, like indigenous guards, be strengthened.

Lastly, the GS/OAS reiterates the importance of linking land restitution to other public policies like illicit crop reduction, humanitarian demining, and community rural land planning programs that include the mass formalization of land titles, multi-purpose cadasters, and the standardization of environmental protection laws, as called for in some of the PDETs/PATRs. All of this for purposes of pursuing interventions in the territories that make it possible to work broadly, and with ample participation, in a secure environment on social conflicts related to land use and ownership. Such interventions will also aim to economically revive regions affected by the armed conflict and develop the infrastructure necessary for implementation of socially and environmentally sustainable productive rural structures that will enable rural areas in Colombia to transform and move toward peace and rule of law.

7.2 Comprehensive reparation for victims

The National Development Plan (2018-2022) (PND) has outlined guidelines to assist and compensate victims. The document confirms what was announced in the Twenty-sixth semiannual report—victims would be included in social programs designed to overcome conditions of vulnerability under the Social Protection System. The rationale behind this was government efficiency.

Although victims agree with the government that social handout processes should not be maintained and the difficulties the state faces in implementing public policy must be overcome, they do not see a rights-based stance in the PND. For the individuals affected by the internal armed conflict, the differentiated approach afforded the victims is weakly reflected in the Plan; hence, their concern about what they consider could be a rollback in victims’ rights given a potential reduction in resources allocated, aims, and the absence of clear prioritized or targeted criteria.

Furthermore, with two years left before Law 1448/2011 lapses, discussion on progress that has been achieved in comprehensive reparations is particularly important. The GS/OAS encourages revisiting as an input the report of the Commission to Follow-Up

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46 Specifically, through the System to Identify Potential Beneficiaries of Social Programs. (SISBÉN)
47 The National Development Plan redirects resources for assistance and reparations, reduces the amounts for administrative reparations, and fails to define either resources or specific goals for access to the right to health, housing, or education. The “Pacto por la construcción de paz: cultura de la legalidad, convivencia, estabilización y víctimas” [Pact for peace-building: culture of legality, coexistence, stabilization, and victims] has an earmark of COL$10,431,000,000, and Reparación: Colombia atiende y repara a las víctimas [Reparations: Colombia assists and compensates victims] has COL$1,213,600,000.
48 Victim assistance and compensation aims dropped with respect to the past four-year period.
49 They have become the responsibility of other entities of the Social Protection System.

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and Monitor the Victims Law.\textsuperscript{50} In 2018 this report warned about defunding\textsuperscript{51} and the need to take measures to overcome delays in the Law’s implementation looking ahead to 2021. This situation shapes the debate on whether to extend or amend the Victims Law.

Guarantees of victims’ rights must be protected in either situation. In the case of an amendment to Law 1448/2011, victims demand they be given opportunities to debate changes to the public policy affecting them, thus contributing to the realization of their rights.\textsuperscript{52} In the case of an extension [of the Law], for the population affected by the conflict, it is essential that sufficient economic resources be ensured to go forward with the Law’s implementation.\textsuperscript{53}

\subsection*{7.2.1 Collective Reparation}

The GS/OAS acknowledges the institutional efforts undertaken to achieve comprehensive reparation. In keeping with reports from the UARIV, from January 1, 2018 to May 31, 2019, 724 measures of the Comprehensive Collective Reparation Plans (PIRCs) were implemented, which provide for measures of satisfaction, restitution, rehabilitation, guarantees of non-repetition, and compensation. The implementation of compensation measures has meant full compliance with six beneficiaries’ PIRCs.\textsuperscript{54} During this same period, 18 beneficiaries of collective reparation (SRC) formulated their PIRCs and an assessment or description of harm was prepared with 20 other collectives; this, of the approximately 600 beneficiaries recognized to date.

Nevertheless, comprehensive reparation of victims still faces challenges, especially in cases of collective reparations. By early 2019, the GS/OAS saw evidence of the turnover of teams of officials responsible for interacting with the beneficiaries of collective reparation (SRC), which led to a review of procedures through stocktaking exercises, under the guidelines outlined in Resolution 03143 of July 23, 2018.\textsuperscript{55}

Despite this being a parameter-setting exercise, some beneficiaries considered that the actions were repetitive and did not contribute to progress in reparations procedures. The GS/OAS continues to note challenges both in building trust between institutions and collectives and in providing logistic and financial resources when collective processes so


\textsuperscript{51} The estimated resources required to implement the public policy on victims and land restitution 2018-2021 is approximately \$129.29 trillion constant [Colombian] pesos as of 2018. Taken from the Fifth Follow-Up Report of the Congress of the Republic, Commission to Follow-Up and Monitor Implementation of Law 1448 of 2011.

\textsuperscript{52} In this regard, in September 2018, the political party Centro Democrático introduced a proposal to amend the Law, which is on its legislative agenda.

\textsuperscript{53} There is pending legal action before the Constitutional Court to have the effects of Law 1448 extended to 2030, pursuant to judgement T-25 of 2004 of the Court, and in keeping with the provisions of the Peace Agreements.

\textsuperscript{54} In 2018, the following PIRCs were implemented: the Comunidad de Pita, the Comunidad Del Centro Poblado Guayabal de Toledo, the Comunidad de Santa Isabel, the Comunidad de la Cabecera Municipal de Mistrató, and the Association of Campesino and Indigenous Women of El Zulia; in 2019, the PIRC for El Tire was implemented.

\textsuperscript{55} Pursuant to which, the Victim Assistance and Comprehensive Reparations Unit’s collective reparations operational model was adopted.
require for specific measures. Beneficiaries are requesting effective progress in processes for their collective reparation, inasmuch as seven years have gone by since the law was implemented and there has been little progress given the total number of collectives that have pursued the procedures.

### 7.2.1.1 Beneficiary of Collective Reparation: Communal Action Organizations

Communal Action Organizations (OACs) are voluntary organizations created to lead and foster community processes. The OACs’ creation and operation are an expression of participation and life in the community. Present throughout the country, the OACs are the organizations most closely linked to local dynamics, reflecting neighborhood or community rationales. The OACs’ grassroots foundations are the Communal Action Councils (JACs), which are the organizations that ascertain firsthand the different phenomena, opportunities, and risks communities face on a local level.

Society is organically taking the lead with actions to promote conflict resolution and territorial organization, and even resource management. The appearance of different kinds of organizations to protect community interests is, however, unfortunately becoming a risk factor given the presence of local actors who have territorial, economic, political, and social interests.

The transition period subsequent to the signing of the Final Agreement, the pace of the Agreement’s implementation, and the negotiation itself with the ELN created loopholes in local regulation. Given the prospect of change, different actors—both legal and illegal ones—took steps to consolidate their own positions and the OACs were one of the territorial actors impacted by this situation.

The GS/OAS recognizes the decisive support to the sector of President Iván Duque, who has expressed his backing of communal organizations as an important social force to revitalize the country. The implementation of specific measures by the Directorate for Democracy, Citizen Participation, and Communal Action of the Ministry of the Interior and the President’s support through political pronouncements and in the Communal Action’s very own forums demonstrate the interest that exists in prioritizing work with this sector of the Colombian population.

The signing of Document 3955 of the National Council on Economic and Social Policy (CONPES 3955) of December 31, 2018, as well as the launching of the Communal Actions Bank, has encouraged approaches that seek to bring about social cohesion among members of communal organizations, through citizen participation and a sense of belonging in their surroundings and environment. These constitute important initiatives to rebuild the social fabric and contribute effectively to peace-building at a territorial level.

The GS/OAS highlights forums such as the Communal Security Working Group, created under Ministry of the Interior resolution 1129 of 2018, in which entities of the State

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56 Entitled “Estrategia para el fortalecimiento de la Acción Comunal” [Strategy for strengthening communal action].

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analyze the security challenges faced by community residents from a territorial and national perspective. The GS/OAS nevertheless encourages the State to outline timely actions to investigate and punish the perpetrators of 145 cases of threats, 68 homicides, displacement, and stigmatization documented by the MAPP/OAS between October 2017 and October 2018, and urges it to provide prevention and protection measures to communal leaders regarding violations they are subject to in their communities.

During the first six months of 2019, the OACs have made headway in their collective reparation procedure, taking stock of the information compiled nationwide, reactivating its Action Committee, officially validating the decision-making model, and lastly, establishing the collective magnitude of the harm suffered, which led, by mutual agreement of the OAC and the Unit, to setting the goal of finalizing the harm assessment by the second half of 2019.

7.3 Participation in territorial peace
7.3.1 Effective participation of victims

From August to November 2019 elections will be held for members of the Working Groups on Effective Participation of Victims; these Working Groups were created under Law 1448/2011, regulated by Decree 4800 of 2011, and developed under different administrative provisions of the UARIV. They therefore have a broad and structured regulatory framework. In this respect, the GS/OAS highlights the significance of these groups as the means by which victims may advocate, through their organizations, with regard to public policy concerning them, including representatives of victims who live abroad.

During the first half of 2019, the MAPP/OAS monitored different information dissemination exercises implemented by the UARIV, Public Prosecution Ministry, Office of the Ombudsman, or the Pastoral Support Services. In these exercises, information was provided on the elections to the Working Groups on Effective Participation of Victims, victims’ organizations, and victim’s defense organizations. For the GS/OAS, these measures were very constructive as far as encouraging participation and disseminating the rights of victims, as well as the role of these different institutions in this process.

The GS/OAS noted the impact of informative exercises and training in 18 municipalities spread across 8 departments, namely: the departments of Arauca, Cauca, Cesar, Guaviare, and Meta, municipalities of Arauca, Piamonte, Palitas, San José del Guaviare and El Castillo, respectively, as well as the municipalities of Belén de los Andaquies, Curillo, San José del Fragua, and San Vicente del Caguán in Caquetá; El Carmen, El Tarra, Ocaña, San Calixto, and Villa del Rosario in Norte de Santander; in Bolívar; and Buenaventura and Pradera in Valle del Cauca.

57. UARIV resolutions 0388/13, 0588/13, 01448/13, 0828/14, 01281/16, 01282/16, 01336/16, 01392/16, 0677/17, and 00250 of 2019.
58. Current figures are based on monitoring from January 1 to May 30, 2019. For the final version, these data should be updated.
Of note are the training and updating workshops on elections and installation of municipal and departmental working groups for victims’ participation aimed at municipal attorneys and staff from offices of the ombudsmen, implemented by the UARIV using a theoretical and practical model. In the opinion of the GS/OAS, these institutional efforts develop skills and bring clarity to the installation of the Working Groups on Participation for the 2019-2021 period, which boosts the legitimacy of the individuals elected and contributes to building trust in institutions.

The GS/OAS has warned of the risks victims face and the need for effective measures to prevent them from being impacted and discontinuing their participation, and in general, to ensure their rights. There have been reports of victims being threatened in the municipalities of Fortul and Arauca (Arauca), Cáceres (Antioquia), and Valle del Guamuez (Putumayo) to deter them from assuming their role as representatives in these forums.

La GS/OAS thanks the Victims’ Unit for inviting the MAPP/OAS to support the process for electing the members of the Working Group on Effective Participation in the municipalities, departments, and at a national level. At the same time, the GS/OAS reiterates its commitment to join forces so these elections can be a democratic exercise and so that victims’ advocacy forums have a positive impact on the challenges identified when Working Group members were apprised of their role, as well as on good relations with territorial institutions, processes of transparency in use of resources, and independence of victims’ agenda vis-à-vis other political participation processes, among others.

7.3.2. Territorial Councils for Peace, Coexistence, and Reconciliation

In the first half of 2019 the GS/OAS noted progress in the design, creation, and installation of Territorial Councils for Peace, Coexistence, and Reconciliation, primarily at a municipal level. This underscores the determination of the Office of the High Commissioner for Peace (OACP) to foster, galvanize, and manage these arenas for participation.

In the municipality of Samaniego (Nariño), diverse sectors of civil society and the municipal administration consider the Municipal Council for Peace, Coexistence, and Reconciliation an arena for dialogue and exchange of views on matters of peace, reconciliation, and coexistence locally. Its operation during this period, however, was affected by the murder, in May 2019, of Paula Andrea Rosero Ordóñez, the municipal attorney who served as the Chair of its Executive Committee.

La GS/OAS highlights and celebrates the role of Paula Andrea, who was deeply involved in fostering participation and ensuring the rights of women and the community in Samaniego. Her reprehensible murder not only ended the life of this public servant, but has also impacted the community’s social fabric, constrained access to community rights, and had a chilling effect, particularly on women’s social and political leadership.

In the municipality of San Pablo, located in the south of the department of Bolívar, the creation of the Municipal Council for Peace, Reconciliation, and Coexistence was
spearheaded by the Working Group for Effective Participation of Victims. Coordination among diverse sectors of civil society and the decisive support of the municipal administration have been key in its creation. In this respect, the GS/OAS has noted that both civil society and institutions need training on the scope and potential of this Council.

At the same time the GAS/OAS considers that of the plethora of forums for participation that exist at a territorial level, the Territorial Councils for Peace, Reconciliation, and Coexistence have the potential to be a space that enables an exchange of views between sectors of civil society and institutions on matters that concern them in the territory.

7.3.3 Participation of women in territorial peace

Building a solid foundation for peace requires more and better spaces for democratic participation that is broad, plural, and inclusive and that considers and guarantees, inter alia, women’s representation and participation in the exercise of power. Given this, the GS/OAS is pleased that the Colombian State, through its different branches of government, is demonstrating visible progress in diverse political representation of women in decision-making spheres, including some that are vital in implementing the Final Agreement.

With regard to the mechanisms of the Comprehensive Truth, Justice, Reparation, and Non-Repetition System (SIVJRGN), it is noteworthy that the selection system has contributed to reducing the gender gap from an intersectional and territorial perspective and is breaking the glass ceiling in decision-making positions in the institution. In this respect, the work of the JEP, where 53% of judges are women, is to be highlighted, as is that of the Truth Commission (CEV) where 5 of the 11 judges are women, and the Disappeared Persons Search Unit (UBPD), which has a woman heading up its management. These mechanisms have defined within their principles, policies, and implementation procedures, instruments to materialize the gender approach in their work, which is considered unprecedented in their transition processes.

Furthermore, the creation and role played by the Judicial Committee for Women’s Equity of the Congress of the Republic stand out. Considering its importance and the entry into force of the Opposition Statute, the GS/OAS welcomes the fact that female senators and congressional representatives from 10 political forces, including from government, independent, and opposition political parties and movements, are members of the Judicial Committee.

In addition to the foregoing, of note is the work of the Special Office on Gender of the Commission to Follow Up, Promote, and Verify the Implementation of the Final Agreement (CSIVI), as well as women’s organizations, and the Network of Women Mayors for Democracy and Peace, who have been decisive in overseeing the

59 Law 1909 of July 9, 2018: "Pursuant to which the statute regarding political opposition and some rights of independent political organizations is adopted."
government’s response to commitments regarding women’s rights and peace under the National Development Plan (2018-2022).

The GS/OAS observed that the scenarios for designing and approving the National Development Plan (2018-2022), and in particular the “Women’s Equity Pact,” were characterized by active and democratic deliberation. Indeed, some of the actors from government, congress, and civil society mentioned played a decisive role and took differing stances on governance, guarantees of women’s rights, advancement of gender equity, and inclusion of a gender approach in the Final Agreement’s implementation.

As a result of this deliberation and leaving aside significant challenges to be addressed through agreements and social dialogue on the issue, the Women’s Equity Pact was approved, with an across-the-board allocation of COP$5.4 billion under the Pluriannual Investment Plan.60/ Four of the Plan’s articles61/ are directly related to gender equity policies and the inclusion of a gender approach in the Final Agreement’s implementation. Additionally, 3 out of the 12 proposals that the Judicial Committee for Women’s Equity and some women’s platforms presented were provided for in these articles. These have to do with the National Women’s System, the National Care System, and the Action Plan for the policy targeting rural women.

The GS/OAS highlights the technical guidelines and policies contained in the final document that laid the foundation for the National Development Plan. Specifically, the objectives associated with gender-related institutional strengthening in Colombia, women’s participation in scenarios of power and decision making, the inclusion of rural women as agents for transformation in rural areas, and equity for women in peace-building.

At the same time, the GS/OAS notes that there are five challenges to the development of the Pact for Women’s Equity and its link to the Pact for peace-building. The first is associated with the risks regarding mainstreaming the gender approach, for which it is necessary to combine political tools that include specific actions to mainstream the approach, such as creating gender-related institutions within national and territorial agencies and defining specific budget allocation floors and programs for women and local peace-building.

The second challenge is the result of embracing a macro vision of the Final Agreement’s implementation contained in the framework plan for implementation and the development of the current Policy on Stabilization and Peace with Legality. For some women’s organizations and congressional representatives who are members of the Judicial Committee for Women’s Equity, the progress in affirmative action to include a gender approach and intersectional perspective could be constrained by the new political vision for stabilization. One example is the difference in perspectives held by the national...

60 The chamber plenary’s final wording of Legislative Bill No. 311 of 2019 Chamber-227 of 2019 Senate “Pursuant to which the National Development Plan (2018-2022) ‘Pact for Colombia, Pact for Equity’ is issued.”
61 Article 122 related to special budget earmarks for peace; Article 123, special budget earmarks for women’s equity; Article 124, National Women’s System; and Article 281, Single Roadmap.
government and women’s sectors, including the special gender office of the CSIVI, regarding the concept of guarantees of non-repetition and security.

The third challenge corresponds to the need for collaboration with the territorial entities. The GS/OAS welcomes the dialogue the national government has undertaken with the Network of Women Mayors for Democracy and Peace, at the same time as it recognizes and draws attention to the challenges that women leaders face in exercising local governance with a gender and peace approach. Noteworthy are the efforts women in elected office undertake in order to overcome gender gaps in their political leadership and public administration. These women are allies for local transformations in favor of equity policies and require enormous support from the national government to make their development plans and commitments to creating municipal secretariats on gender viable.

The fourth challenge is related to acknowledging gender gaps in women’s leadership in communal action and making them visible as a decisive sector in public policies on gender equity nationally, departmentally, and locally. In this respect, weaknesses have been identified not only in women’s leadership and participation in communal action, but also as to their limited influence as political leaders with respect to the gender and peace agenda.

Finally, the fifth challenge has to do with the increase in political and gender-based violence associated with the armed conflict against women who hold elected office and exercise political and social leadership. The GS/OAS, through the MAPP/OAS, has reported an increase in the perception of threats, attacks, killings, and investigations and prosecutions of social protest that concern women who are communal action leaders, human rights defenders, local authorities—such as mayors, city council members, and municipal attorneys—and candidates in the local 2019-2022 elections in departments, such as Antioquia Arauca, Caquetá, Norte de Santander, Nariño, Putumayo, and Valle del Cauca.

7.4 Rural Development Plans and Regional Transformation Action Plans

The GS/OAS agrees with the comprehensive vision of building a single roadmap for executing Rural Development Plans (PDETs), drawn up in 16 Regional Transformation Action Plans (PATRs). These are to be implemented in the coming 15 months in keeping with the Framework Implementation Plan.

The roadmap aims to coordinate planning instruments and undertake technical and budget management, in keeping with the national government’s strategic focus on setting out attainable goals in a limited amount of time and with the budget provided for under

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62 The GS/OAS through the MAPP/OAS has been supporting Communal Action Organizations (OAC) as national beneficiaries of collective reparations.

63 Planning instruments such as: National Development Plan (PND), National Comprehensive Program for the Substitution of Illicit Crops (PNIS), the Framework Implementation Plan (PMI), Comprehensive Collective Reparation Plans (PIRC), and Territorial and Sector Plans.
the PND. One of the important aspects of the single roadmap is that it will define an execution schedule and investment plan for each PDET subregion, which ratifies the national government’s commitment to stabilizing the countryside and rural areas of 170 municipalities that the PDETs cover nationwide. The PND (2018-2022) underscores this priority, which is provided for under both Article 281 and in the foundation laid out therein in the Pact for Peace-Building: Culture of Legality, Coexistence, Stabilization, and Victims.

Nevertheless, while the single roadmap is being clarified and implemented, the GS/OAS notes four critical aspects that local communities and actors have expressed. First, there is the risk of failing to meet the expectations created by the participatory design of the PDETs; second, the failure to socialize and disseminate the PATRs in the territories; third, the delay in other strategies and plans, such as in the case of identifying and formalizing land titles based on land use and tenure in areas where there is social conflict; and finally, insecurity in PDET zones for leaders who have been heading up the PDETs’ participatory construction and for officials and contractors of the Territorial Renewal Agency (ART). Therefore, the GS/OAS calls attention to the urgent need to implement protection and security measures that ensure the mobility of officials and leaders responsible for the PATRs’ management, implementation, and oversight.

Also of note is the execution of more than 500 projects known as “small community infrastructure,” which are small and medium-sized infrastructure works which have involved leaders of the Communal Action Councils (JAC) and territorial social organizations, thus giving a vote of confidence to local capacity in municipalities. For example, in the region of Catatumbo more than 120 small community infrastructure works were planned. This boosted the credibility of the Presidential Council for Stabilization and the ART. The communities, however, hope that the government moves forward with the execution of these small infrastructure projects, given that it was the PATRs that had provided for structural solutions in the regions, such as infrastructure projects for tertiary roads and concrete proposals for substitution of illicit crops.

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64 According to data provided by the regional office of the MAPP/OAS, in regions such as Sur del Córdoba, Alto Patía, and Norte del Cauca, Catatumbo, the Nariño Pacific and border areas, Putumayo, the Caguán basin, Piedemonte Caqueteno, and Guaviare.

65 Examples of municipalities whose situation regarding property registries and titling is critical: Tumaco (Nariño), Vistahermosa (Meta), Calamar-El Retorno (Guaviare), Riosucio-Bajo Atrato (Chocó), Cáceres-El Bagre (Antioquia), Anorí (Antioquia), among others, where more than 63,000 initiatives under PATR have been approved. A determination was made that legitimate access to land must be resolved prior to executing these projects.
8. **Recommendations**

In keeping with the findings described above, the GS/OAS would respectfully like to make the following recommendations to the institutions listed below:

1. **National government**

   1.1 Allocate sufficient budget resources for the public policy on victims and land restitution, in particular, the budget to be used for implementing urgent measures to resolve the backlog in the jurisdiction specialized in land restitution.

   1.2 Furthermore, ensure that the entities that comprise the National Victim Assistance and Comprehensive Reparation System (SNARIV) have the financial and human resources required to comply in a timely manner with the orders issued pursuant to land restitution judgments, particularly those that order reestablishment of territorial rights to indigenous and Afro-Colombian communities.

   1.3 Pursuant to its regulatory authority, go forward with the design, budget resourcing, coordination, and implementation of the agrarian jurisdiction, as well as the multipurpose property registry, and plans for social legislation regarding rural property. These measures will have a positive impact on the transformation of Colombian rural areas, facilitating the advancement and sustainability of public policies for peace, as well as land restitution, and Rural Development Plans (PDETs).

2. **Office of the High Commissioner for Peace**

   2.1 Continue, together with the Ministry of Justice, the Office of the Attorney General, and the Financial Information and Analysis Unit of the Ministry of Finance, to coordinate and enhance strategies to weaken illegal armed groups’ funding sources and thus prevent revenues derived from legal and illegal economic activities from fueling these groups’ growth and expansion, which directly affects the most vulnerable communities.

   2.2 Continue to implement, in coordination with the Ministry of National Defense, land remediation strategies that include classes in “mine risk education” geared mainly towards communities, with the participation of children and youth. Furthermore, implement the strategy for the Ethnic Pact for Demining, coordinated by the Ministry of the Interior in the framework of the Peace Policy with Legality jointly with the program Descontamina Colombia; consider putting into place, together with public security forces and the Ministry of Foreign Relations of Colombia, a demining strategy in border areas.

   2.3 Bolster, in partnership with AICMA and the National Police Counter Narcotics Directorate, the Differential Assistance Procedure for the illicit crop eradicators community, in order to mitigate any risk personnel might face during this work.
3. **Presidential Council on Stabilization and Consolidation**

3.1 Implement complementary protection measures for PNIS communities and leadership in the nodes that this program covers and establish protocols for public officials and members of public security forces that support illicit crop eradication. This should take into account a territorial approach that can be adapted to the inherent dynamics of each of the zones prioritized in the program.

3.2 Continue the PNIS’ operational adjustments, especially those aimed at taking back administrative responsibilities that were taken on by leadership in the territories and to increase the program’s budget to mitigate gaps in the execution of its different components.

3.3 Create and develop arenas for dialogue and joint development of initiatives with communities and social leaders that provide for substitution frameworks other than the PNIS, including measures for rehabilitating the environment and using lessons learned during the implementation of other experiences of this kind.

4. **Ministry of National Defense**

4.1 Increase territorial deployment of the project “Transformación de conflictos sociales y paz territorial” [“Transformation of social conflicts and territorial peace”] by UNIPEP, in the framework of the National Police Model for Peace-Building, as an exercise in best practices for police interventions prior to violent escalation. Continue putting into operation the protocol for coordination of measures for respecting and guaranteeing the right to peaceful protest (resolution 1190/2018), which addresses these situations by means of a preventive, rights-based, differential, and territorial approach.

4.2 Supplement the strategy of forced eradication of illicit crops with social and productive programs that furnish effective support to coca-growing families in transforming their sources of income into legal ones. It is important that the intervention strategy provide for the particularities of each territory and that solutions address the technical flaws of previous programs (such as Plan Colombia) as well as mitigation strategies for security threats that the program participants may face.

4.3 National Security Council. Establish periodic assessments of the progress and difficulties in the Zonas Futuro [Future Zones], in order to expand and micro-target zones that require greater attention; or identify those areas that can be considered as Zonas de Construcción de Legalidad [Zones for Building Legality] or Zonas de Legalidad, Emprendimiento y Equidad [Zones for Legality, Entrepreneurship, and Equity].

4.4 Public Security Forces, particularly the national army and navy. Redouble efforts to contain and then bring to justice actions taken by illegal armed structures that affect ethnic territories engaged in processes to reestablish territorial rights, in
consultation with ethnic authorities about ongoing military control of sectors that are strategic for illegal armed groups. Ensure that the necessary military deployment and actions taken are in keeping with the principles of international humanitarian law (IHL), internal guidelines on entry into ethnic territories, and especially, the principles of distinction, proportionality, and precaution.

5. Ministry of the Interior

5.1 Prepare public policies regarding prevention and protection guarantees for social leaders and human rights defenders, including protection measures and training for public officials who operate in areas where there are illegal structures, such that they understand how to handle intimidating scenarios involving illegal armed groups and what the support procedures are in this respect. Along the same lines, move forward in a timely fashion with the process of reengineering the National Protection Unit (UNP) to coordinate implementation of collective protection measures under the national public prevention and comprehensive protection policy that entails a territorial, gender, and ethnic approach.

5.2 Install, disseminate, and implement in a timely fashion, and in conjunction with the Presidential Council on Women’s Equity, the Office of the High Commissioner for Peace, and the Presidential Council for Stabilization and Consolidation, the Comprehensive Guarantees Program for Human Rights Leaders. Additionally, strengthen the Gender Sub-Group of the National Commission for Security Guarantees at a national, regional, and local level.

5.3 In coordination with the National Planning Department, continue construction of the National System for Managing Social Conflict, with the involvement of departmental and municipal entities. Strengthen this technical instrument so it may assist in preventively managing social conflicts, their handling, and fulfillment of agreements. Involve, as a matter of importance, the development vision of communities and the proposals contained in the PDETs/PATRs.

5.4 In collaboration with competent entities, make strides to comply with the agreement signed in the framework of the 2019 Indigenous Minga, as a demonstration of the effectiveness, quality, and proper orientation of state intervention for the sake of rebuilding trust among social sectors and the national government, and to reduce the state’s social debt to indigenous peoples.

5.5 Include, in a decisive manner and with measurable and quantifiable affirmative actions, plans, programs, and projects aimed at strengthening women in communities under CONPES 3955 of 2018, associated with the Strategy for Strengthening Communal Action in Colombia.

5.6 The Directorate for Democracy, Citizen Participation, and Communal Action. Create mechanisms for recording updated information on risks and impairments to those engaged in communal action, differentiated by territory through the Communal Security Group, that enable development of timely and relevant
measures for prevention, protection, and non-repetition guarantees for these individuals in the country.

6. **Ministry of the Environment and Sustainable Development**

6.1 Implement the interagency protocol to combat deforestation provided for in the National Development Plan Sustainability Pact as a roadmap that supports consolidation of the five regional centers for environmental dialogue that are to be created as arenas for facilitation, coordination, participation, cooperation, and reflection in order to identify, prioritize, and discuss socioenvironmental conflicts at a regional level and at the same time strengthen existing forums for dialogue.

6.2 Design a coordination strategy with the Special Indigenous Jurisdiction in the framework of defending biodiversity, water, and the environment.

7. **Territorial Renewal Agency**

7.1 Make headway in preparing a schedule for disseminating the PATRs in the territories and socializing the new mechanisms and processes for execution of community works.

7.2 Develop urgent measures that enable women, youth, and differentiated ethnic groups greater access to community works to economically empower and strengthen their organizations.

8. **Land Restitution Unit**

8.1 Jointly with the ANT, design and implement an assistance protocol for secondary occupants settled in ethnic territories where judicial orders provide for reestablishment of territorial rights to indigenous or Afro-Colombian communities. Ideally, said instrument would have a differentiated procedure for campesino settler communities who are very dependent on illegal economic activities, particularly illicit crops. To this end, conduct the design process in collaboration with the ART as the authority in charge of the PNIS.

9. **Victim Assistance and Comprehensive Reparation Unit**

9.1 Design and implement mechanisms for interface and complementarity between the administrative reparations set forth under Law 1448/2011 and the processes designed in the SIVJRGNR for seeking the truth and searching for individuals reported as disappeared, in order to prevent potential revictimization in the access to rights.

9.2 Manage and secure financial and technical resources to implement collective reparation processes in a timely manner so victims may attain comprehensive reparation. Maintain seamless communication with the beneficiaries of collective reparation, bearing in mind resources available to comply with the procedures for more than 600 recognized cases.
10. National Government’s High-Level Office on Gender

10.1 In the Office’s bid to put into practice the 51 gender indicators of the Framework Implementation Plan for the Final Agreement, combine policy tools that, in addition to being cross-cutting, include creation of a gender-specific institutional framework in national and territorial entities and resourcing of a minimum specific budget allocation, as well as programs for women and local peace-building.

10.2 Strengthen dialogue and coordination with the Special Gender Office of the CSIVI in keeping with Articles 5(4) and 5(5) of Decree 1418 of 2018.

11. Intersectoral Commission to Prevent Recruitment and Use of Children (CIPRUNNA)

11.1 Reinforce the policy to prevent recruitment, especially through comprehensive prevention and protection for rural communities and families who run the greatest risk. As part of these actions, in conjunction with departmental and municipal governments, reinforce comprehensive policies for youth that prioritize the creation of academic, cultural, sports, and employment opportunities that help the children and youth in these municipalities consolidate a life plan in the framework of legality and peace-building.

12. Office of the Attorney General

12.1 Deepen the design of strategies to fight organized crime as part of the Strategic Plan (2016-2020).

12.2 Consolidate judicial police agencies in territories affected by organized crime, prioritizing departments like Chocó and Cauca.

12.3 Continue working with indigenous judicial authorities to forge better communication channels and interjurisdictional cooperation for combating organized crime.

13. Comprehensive Truth, Justice, Reparation, and Non-Repetition System

13.1 Commission on Truth, Coexistence, and Non-Repetition (CEV)

13.1.1 Create standardized processes to disseminate the system, providing information on the institutional services offered in the territorial strategy’s deployment.

13.1.2 Take actions to coordinate entities charged with implementing Law 1448/2011, especially with the UARIV, in order to reduce the risks of revictimization when victims’ information is provided to competent institutions.

13.2 Special Jurisdiction for Peace (JEP)
13.2.1 Extend the deadline for civil society to file reports by a year and subsequently assess whether to extend it for two more years in those areas where there is greater likelihood of impunity.

13.2.2 Design a strategy so that in those places where it is more difficult to submit reports, greater awareness can be provided about the Jurisdiction. At the same time, establish alliances with institutions like the Office of the Ombudsman that can build and provide technical capacity to organizations on the ground.

13.2.3 Devise a strategy so that crimes committed “among the ranks of the FARC-EP” can be reported, providing security and safeguards to complainants.

13.2.4 Standardize amongst all courtrooms and divisions the forms and requirements for certifying victims in order to avoid confusion or the need for double certification.

13.2.5 Create a strategy for dialogue and coordination with the institutions of Justice and Peace, specifically with the Judiciary and the Transitional Justice Directorate of the Office of the Attorney General.

13.2.6 Devise a strategy for dialogue and cooperation with the Presidential Council for Stabilization and Consolidation in order to build bridges for communication with respect to the imposition of alternative punishments.

13.2.7 Continue generating intercultural dialogue and deepen strategies for ethnically-relevant notifications and processes.
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