



**United Nations Special Rapporteur on the situation of human rights defenders  
Michel Forst  
Visit to Colombia, 20 November to 3 December 2018  
End of mission statement\***

**1. Introduction**

**Good morning, ladies and gentlemen,**

I would like to begin by warmly thanking the Government of Colombia for inviting me to undertake an official mission that took place from November 20 to December 3. I commend the Government of Colombia for its excellent cooperation and efforts to ensure a successful visit. I am grateful for the opportunity to have met with high-level representatives of the presidency, various ministries, governors and State institutions. I am grateful to all those who took the time to meet me and share their valuable experiences and perspectives, as well as those who helped organize this visit.

Before proceeding further, I would like to ask you to join me for a minute of silence in memory of José Antonio Navas, social leader of ASCAMCAT killed in Catatumbo, and Alba Edilma Cuevas killed in Cúcuta during my mission. Our minute of silence also pays tribute to all those who were killed in Colombia while defending human rights.

[minute of silence]

As Special Rapporteur, an international (external) observer and as a human rights defender myself, I would like to express my admiration and utmost respect for all the human rights defenders I have met and all those I did not have a chance to meet over the past two weeks. It is a bit difficult for a foreigner to fully grasp and understand the terrible effects of more than 50 years of armed conflict. The deep scars it has left, both on the individual and collective levels. Many of the people I have met here have suffered personal tragedies, have known the long journey of displacement or the loss of beloved ones. I am deeply, truly moved by the way these defenders have managed to turn adversity into a quest for social justice and positive change. I will leave Colombia having in mind these countless stories of solidarity, courage and resilience.

The purpose of my visit, which was agreed with the government, was twofold:

- to determine, in a spirit of cooperation and dialogue, whether the State of Colombia has been able to provide a safe and conducive environment for human rights defenders throughout the country.

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\* The present statement has not been edited by the United Nations Language Service. In case of discrepancy the English version prevails

- And to guide the efforts by the new administration to improve the protection of defenders and mitigate the risks they face.

I have therefore focused mainly on assessing some of the fundamental elements of a safe and enabling environment, namely: a favourable legal and institutional framework; access to justice; an independent and strong national human rights institution; effective policies and protection mechanisms that pay particular attention to groups at risk and apply a gender-sensitive approach; non-state actors that respect and support the work of defenders; and a strong and dynamic community of defenders.

As I did not want to limit my visit to Bogota, I went to Cucuta, Hacari, Medellin, Apartado, Santa Marta, Riohacha, Cali, Popoyan. I also had extensive discussions with defenders from Tumaco. As a result, I had the opportunity to meet with dozens of human rights defenders, about 60% of whom were women. This has reinforced my impression of a vibrant, active, dynamic and engaged civil society in Colombia. I have met a large number of families of missing persons, as well as defenders who have been arbitrarily arrested, community leaders, indigenous people and Afro-Colombians who have claimed to have been deprived or forcibly evicted of their land, defenders of sensitive issues such as sexual and reproductive rights or sexual orientation and gender identity.

## **2. Who are human rights Defenders? – The UN Declaration on Human Rights Defenders**

As you may be aware, States have agreed on a very broad definition of human rights defenders, which is enshrined in the Declaration on Human Rights Defenders, adopted by consensus in December 1998. During my visit, I had the opportunity to refer to this definition. While I understand the historical grounds of the concept of social leaders in Colombia, I recalled that for the UN, social leaders are human rights defenders together with all those who, individually or with others, act to promote or protect human rights in a peaceful manner, at the national and international levels. They are members of civil society organizations, journalists, bloggers, whistleblowers and political activists who defend the rights of freedom of expression, free assembly and a safe and healthy environment. They do not need to belong to a registered organization to be a human rights defender. They can be ordinary women and men who believe in the universality of human rights and act to defend them. They are agents of change who preserve democracy and ensure that it remains open, pluralistic and participatory. They defend the principles of the rule of law and good governance. Without human rights defenders and their invaluable contribution, our societies would be much less free and beautiful. And that's why I recalled at many occasions the need to have a formal recognition of the positive role of human rights defenders at the highest level of the state and by governors themselves.

Today, I will confine myself to preliminary observations and recommendations on some of the main issues, which will be elaborated in more detail in the report, once I fully review the materials and documents that I have collected during the visit. I will present my final report to the UN Human Rights Council in Geneva, in one of its future sessions.

## **3. Context**

My visit to Colombia takes place after a quite recent change in Government<sup>1</sup> and in the midst of nationwide protests by students, unions, truckers and indigenous people. I was told that the

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<sup>1</sup> Presidential inauguration of Ivan Duque of the Democratic Centre (*Centro Democrático*) party, on 7 August 2018.

electoral campaign laid bare deep divisions around the peace process on both sides of the political spectrum. Thankfully and in comparison to previous occasions, very few violent incidents were reported.

It also coincides with the 2-year anniversary<sup>2</sup> of a momentous peace accord that ended more than five decades of armed conflict between the Colombian government and the Revolutionary Armed Forces of Colombia (FARC). More than 10,000 FARC combatants surrendered their weapons and consolidated into 26 specific territorial zones, starting their transition to civilian life. Some of their top leaders now hold seats in Congress and Senate. Victims have been provided mechanisms for truth, redress and justice. This is undoubtedly a significant achievement. The Peace Accord has a well-developed human rights based approach and it sets out specialized mechanisms for the protection of human rights defenders and rural communities. Gender focused provisions are mainstreamed throughout the 5 chapters, ensuring women's equal participation and a specific sub-chapter on the rights of indigenous people. Nonetheless, despite tremendous efforts made - two years later, the effective implementation of the Peace Accord remains elusive and is fraught with challenges, some arguably linked to lack of sufficient resources and deficient inter-institutional coordination. Others may be linked to lack of sufficient political support by some sectors.

Regrettably, the national landscape continues to be marked by threats, gender-based violence and lethal attacks against human rights defenders, which is impacting heavily on civil society. The departments of Cauca, Antioquia, Norte Santander, Chocó, Nariño, Putumayo register high homicide rates, also of human rights defenders.

This negative trend is linked to the persistence of structural factors. The demobilization and exit of FARC-EP left a power vacuum in many rural regions. The lack of an integrated State presence and delays in the implementation of the peace accord has allowed illegal armed groups and criminal groups to enter areas and take over the illicit economies leading to augmented violence. The lack of access to basic services (i.e. health and education) poverty, and ramping unemployment rate hinders communities from becoming part of the legal economy, increasing their risk levels.

I was deeply troubled to learn that many rural-based human rights defenders have been killed for supporting policies derived from the Agreement, such as the Comprehensive Program for Substitution of Illicit Crops (PNIS). While I was not able to reach Tumaco in person, I had the opportunity to speak with some community leaders from this part of the country. I was shocked to hear about the critical situation in Alto Mira and Frontera, partly due to slow program implementation and inadequate state action. By delegating responsibilities to presidents of *Juntas de Acción Comunal*, political participation is being substituted with intimidation, extortion, forced displacement and assassination.

Many presidents of the *Juntas de Acción Comunal* are being forced, by illegal armed groups, to extort payments from the Program's beneficiaries. They can either comply, flee or be killed. If they comply, they risk being prosecuted for collaborating with the same illegal armed groups. Former combatants that have abandoned the reintegration process are frequently targeted and killed. In its last report<sup>3</sup> to the Security Council the U.N. Verification Mission referred to 71 such cases since the signing of the peace agreement until end of September 2018. Additional cases have subsequently been known by media outlets. Preventing further violence and

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<sup>2</sup> 24 November 2016

<sup>3</sup> [https://colombia.unmissions.org/sites/default/files/n1829781\\_en.pdf](https://colombia.unmissions.org/sites/default/files/n1829781_en.pdf)

promoting peace hinges on effective reintegration of former combatants into society, the acknowledgement of past human violations, suffering endured by victims and returning their lands, and addressing structural inequalities and political marginalization at the root of the conflict.

Preliminary peace talks with the National Liberation Army are at a standstill since August 2018. Attempts by the Catholic Church, the international community, civil society actors and more recently by the Senate's Peace Commission to get the negotiation going again have been futile<sup>4</sup>. This compounds the at-risk situation for indigenous and rural communities in certain regions, such as Choco, Cauca, Bolivar, Northern Santander and Arauca as they are caught in cross-fire as ELN, dissident groups and other criminal groups fight over territorial control. I was told that on 11 November 450 indigenous people, including children from Choco - one of the most marginalized areas of the country - arrived in Bogota to protest at increasingly deteriorating security conditions in their territories, the need to resume ELN talks as well as unfulfilled economic, social and cultural rights.

Catatumbo a particularly violence struck area of Northern Santander (approx. 200.000 inhabitants) registers the highest levels of internal displacements in the country. According to the *Defensoria del pueblo* (NHRI) 35.000 people were forcibly displaced (*desplazamientos masivos*) this year. Frequent combats between ELN and EPL bear a heavy toll on communities and human rights defenders. It is quite telling that during the very short time span of my visit there, two human rights defenders were killed, a woman and a man - both were Action Community Board representatives. I was shocked to hear that 5 peasant leaders from the same organization<sup>5</sup> have been killed here so far in 2018.

It is worth mentioning that in the Colombian context, social conflict usually intensifies in areas where mega projects - notably related to dams and extracting industries – are undertaken, often in areas primarily inhabited by indigenous peoples. Such a trend is unlikely to change until structural inequalities are resolved. In recent years, most social mobilization movements have been organized by indigenous peoples, peasants and Afro-descendants.

#### **4. Overall Assessment: Is there a safe an enabling environment in Colombia for human rights defenders?**

In the first meeting organized by the government, the key ministers and state institution were invited by the Vice-Minister of Foreign Affairs and the presidential advisor on Human Rights to meet with me and to present and discuss the key elements of a new Plan of action for the prevention and protection of human rights defenders, social leaders and journalist. This plan, the so called “Plan de Acción Oportuna”, was presented as a key priority of the new administration. The Advisor to the President clarified, that it sets the elements for the development of a holistic policy on this question, that will be developed in consultation and with the participation of civil society and human rights defenders, as well as with the involvement of the international community. I found this presentation ambitious and felt, in my overall discussions with members of the government, a political will to tackle the root causes of the extreme violence against human rights defenders. I listened carefully to the plan of the government to ensure the holistic presence of State institutions in the territories, going beyond a mere public security or military approach.

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<sup>4</sup> President Duque rejected the official travel by Senators Ivan Cepeda and Roy Barreres to Habana Cuba (24 November).

<sup>5</sup> ASCAMCAT affiliated to Marcha Patriótica.

I do hope that this mission and my recommendations will help the government in developing and further strengthen a national policy on human rights defenders.

During my visit, I have received dozens of testimonies indicating wide-spread and extreme violence against social leaders, community leaders, small-scale peasants, indigenous people and afro-Colombians, as well as women human rights defenders. I was deeply moved by these testimonies, including accounts by relatives of disappeared persons who showed me the portraits of their missing relatives and were seeking truth, justice and reparation.

Many reported that human rights defenders in Colombia work in a violent and dangerous environment. In particular, the promotion of illicit crop substitution and land restitution were highlighted as life-threatening work. Land claimants and community leaders are threatened by different armed groups or organized crime groups that accuse them of "siding with the enemy", leaving them no other choice but to abandon their homes to save their lives.

The perpetrators of these abuses are often unknown by the victims, albeit likely to belong to illegal armed groups (ELN or EPL) or FARC-EP's dissidence groups, and other organized crime groups<sup>6</sup>. These groups appear – at times- to have ties to local governments or security services, or organized armed groups. The unrelenting attacks against human rights defenders across the country depict a truly appalling at-risk situation for human rights defenders.

They are at risk in most parts of the country and do not feel safe because of the numerous attacks and threats, the criminalization of their work and the lack of access to justice. The stigmatization in public discourse by senior officials, sometimes at the highest level of the state exposes them to increased risks. They face defamation campaigns aimed at discrediting their work, often associating them to political opposition, of having ties with paramilitaries or calling them anti-patriots, criminals or even traitors.

I have also received a number of testimonies from defenders who state that they have been threatened and targeted by international or national companies, particularly by those in the extractive or hydroelectric sector. I have also received allegations of collusion between companies and politicians, sometimes at very high levels.

Although the National Protection Unit (UNP) has been strengthened and its working methods revised, I have received numerous examples on the lack of response or the inadequate means of protection provided to human rights defenders in rural or remote areas.

Having carefully considered the information received from the Government, civil society and other stakeholders, I regret to conclude that, despite a new and ambitious vision to develop a comprehensive policy on the prevention and protection of human rights defenders, social leaders and journalists in Colombia, particularly in rural settings, are currently not able to operate in a safe and enabling environment.

This is why I strongly encourage the government to look at this end of mission statement with my preliminary conclusions in three ways:

- As a global assessment of the situation of human rights defenders in Colombia and of the impact of the absence of a comprehensive policy on prevention and protection;<sup>7</sup>

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<sup>6</sup> This includes "Grupos Autodefensas Gaitanistas de Colombia".

<sup>7</sup> I regret that almost all recommendations of my two predecessors after their official visits to Colombia remained unimplemented.

- As a guidance tool for government efforts to develop a human security approach in close consultation with the beneficiaries, (i.e. at –risk groups);
- As a set of concrete, agile recommendations, to send a strong signal to the country and to the international community that a new era of protection and prevention has started.

## 5. Legislative and Institutional framework

### 5.1. Legislative Framework

Under the Colombian Constitution, international treaties and agreements that recognize human rights ratified by Congress have the status of constitutional enactments and thus take precedence in the domestic legal order, as provided by articles 53, 93, 94, 102 (2), and 214 (2) of the Constitution.

As of November 2018, Colombia has ratified almost all relevant Human Rights Treaties. However, it has not ratified the Optional Protocol to the Convention against Torture, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, nor the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

While Colombia is a State party to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP CEDAW), it does not recognise the competence of article 8 and 9, which would allow the CEDAW Committee to initiate a confidential investigation on alleged grave violations.

#### **Recommendation**

- **The ratification of these instruments and the recognition of the communication procedure under articles 8 and 9 of OP CEDAW, would provide human rights defenders with important tools to pursue accountability and to ensure freedom of torture, and realize the rights of women, persons with disabilities, and economic, social and cultural rights.**

Colombia has also ratified ILO Convention No.169 and endorsed the UN Declaration on the Rights of Indigenous Peoples (although it initially abstained). Further, the Constitution of Colombia also recognizes the principle of equality and the promotion of the rights of indigenous peoples and of Afro-Colombians,<sup>8</sup> while specifically enshrining the rights and autonomy of indigenous peoples,<sup>9</sup> as well as the rights of Afro-Colombian population.<sup>10</sup> Colombia has also incorporated the right to free, prior and informed consent into national law, which applies to both Indigenous Peoples and afro-Colombians,<sup>11</sup> as repeatedly and

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<sup>8</sup> See arts 7, 8, 10, 13, 17 and 70 of the Colombian Constitution

<sup>9</sup> The Colombian Constitution recognises: the ethnic and cultural diversity of the nation (arts 1 and 7); dialects and languages of ethnic groups (art 10); special voting constituencies (arts. 171 and 176) as well as property over the lands Indigenous Peoples occupy or use for their livelihood (article 63). The Constitution also recognises their right to constitute indigenous territories with autonomy to govern themselves, with their own authorities and to administer resources; the right to exploit natural resources in indigenous territories; to respect cultural, social and economic integrity and the right to be consulted. (art. 286, 287, 328, 329 in accordance with art. 1 and 330), as well as their right to establish a special jurisdiction and indigenous authorities (art. 246 and 330). It also recognizes access to culture (art. 70); the right to Colombian nationality of indigenous peoples sharing territory in border areas (art. 96).

<sup>10</sup> The Constitution recognises: their right to recognition of collective ownership and to the establishment of mechanisms to protect their cultural identity and to promote economic and social development (transitory art 55); their right to an educational process in accordance with their ethno-cultural needs and aspirations, as well as to be free from intimidation, segregation, discrimination or racism by the public administration (art 33).

<sup>11</sup> See Law 21 of 1991.

consistently held by the Constitutional Court.<sup>12</sup> On 5 May 2017, the Constitutional Court established that the prior consultations are binding.<sup>13</sup> On 15 November 2018, the Constitutional Court reinforced the right to prior consultation through another ruling (SU-123/18) clearly stating its inalienable nature<sup>14</sup>.

The Escazú agreement adopted in March this year includes specific binding provisions for the protection and promotion of individuals, groups and organizations that promote and defend human rights in environmental matters. So far, 16 countries in the LAC region have signed the Agreement<sup>15</sup>. Colombia is not (yet) one of them.

I am concerned about a new legislative initiative currently under discussion in the Congress, on the Right to Prior Consultation of ethnic groups, which was not consulted with the affected groups and would entail a serious step backwards<sup>16</sup>.

I am convinced that the *tutela* is an important Constitutional mechanism to ensure that the State fulfills its human rights obligations. Moreover, it has become the main tool for preventing and protecting violations of human rights by public authorities and individuals responsible for the provision of a public service, and is a critical tool for human rights organizations and defenders in their human rights work. Nonetheless, the *tutela* launched by the Army's 17<sup>th</sup> Brigade against the Comunidad de Paz de San José de Apartadó is deeply concerning.

Regrettably, the Army's use of the *tutela* in this incident sets a dangerous precedent and could have the collateral effect not only to silence and criminalize the Comunidad de Paz de San José de Apartadó, but to inhibit other human rights defenders from publicly denouncing alleged human rights violations. I will closely monitor the ruling of the Court and the situation of the San José de Apartadó community.

### **Recommendation:**

- **I encourage the Government to sign the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, and to sign the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean adopted in Escazú on March 2018.**
- **Urge the Government to speedily ratify the Convention on the non-applicability of statutory limitations to war crimes, to strengthen ongoing transitional justice efforts.**

### **5.2. Institutional developments**

The State with the participation of civil society has made significant efforts to establish an institutional framework for the protection of human rights defenders. This has been further enhanced by some provisions of the Peace Accord<sup>17</sup>. During my mission, I was referred in a number of occasions to the following:<sup>18</sup>:

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<sup>12</sup> See for example: T/201-17, SU-039 de 1997, SU-096 de 2017.

<sup>13</sup> T 002-17

<sup>14</sup> <http://www.corteconstitucional.gov.co/comunicados/No.%2049%20comunicado%2019%20de%20noviembre%20de%20018.pdf>

<sup>15</sup> <https://observatoriop10.cepal.org/en/treaties/regional-agreement-access-information-public-participation-and-justice-environmental>

<sup>16</sup> <https://www.lafm.com.co/politica/polemica-reforma-de-vargas-lleras-la-consulta-previa-fue-radicada>

<sup>17</sup> [https://www.procuraduria.gov.co/relatoria/media/file/flas\\_juridico/1721\\_PGN%20Directiva%20002%20DE%202017.pdf](https://www.procuraduria.gov.co/relatoria/media/file/flas_juridico/1721_PGN%20Directiva%20002%20DE%202017.pdf)

<sup>18</sup> In Spanish: El Proceso nacional y mesas de garantías nacional y departamentales para la labor de defensores de Derechos Humanos Líderes Sociales y comunales (2009); La Mesa por la protección a la Vida (2018); la Comisión Intersectorial de

- The National Process and National and Departmental Guarantees Roundtables for the work of Human Rights Defenders, Social and Community Leaders;<sup>19</sup>
- The Roundtable for the Protection of Life;<sup>20</sup>
- The Intersectoral Commission of Guarantees for the Women, Leaders and Human Rights Defenders<sup>21</sup>;
- The National Commission of Security Guarantees;<sup>22</sup>
- Comprehensive Security and Protection Program for Communities and Organizations in the Territories;<sup>23</sup> and
- Guidelines for the effective protection of the rights of human rights defenders, and their organizations, members of social movements, political movements, political and social leaders, and their organizations, and those who actively participate in this condition in the implementation of the final agreement for the termination of the conflict and the construction of a stable and lasting peace.<sup>24</sup>

Colombia urgently needs to elaborate and adopt a comprehensive public policy aimed at preventing human rights violations against defenders, as well as measures that address structural causes that contribute to the risk situation of defenders. I therefore welcome the launch of *Pacto por la Vida in Apartado*, in August, as well as the public statements by President Ivan Duque “that the protection of human rights defenders will be at the forefront of his government”. Subsequently, on 19 November, the President signed Decree 2137, which created the Inter-institutional Commission for the development of the so called “Timely Action Plan” (PAO, in Spanish). The Commission will be tasked to articulate, guide and coordinate the different protection programs and resources of different government entities involved in the individual and collective **prevention and protection of human rights defenders, social leaders, community organisations, and journalists**. The Commission will be integrated by 7 Government representatives.<sup>25</sup>

The plan outlines three main action routes, namely: a) strengthening the inter-institutional response, b) strategic territorial action and c) strategy for non-stigmatization. In the first meeting organized by the government, only a few days after the formal adoption of the PAO, I received information on this initiative.

PAO demonstrates a clear will to restructure and articulate a public policy for the protection of human rights defenders. I believe it's a key element to improve the efficiency of existing measures. However, as mentioned in this meeting – the participation of civil society,

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Garantías para las Mujeres. Lideresas y Defensoras de los Derechos Humanos y La Comisión Nacional de Garantías de Seguridad; Programa Integral de Seguridad y Protección para las Comunidades y Organizaciones en los Territorios.

<sup>19</sup>The process was established with the mandate to adopt legislative, Institutional and other measures in relation to the defence and promotion of human rights with a focus on prevention, protection and investigation, and is lead by the Ministry of Interior.

<sup>20</sup>Established by the General Prosecutor with the view to follow up on State obligations to provide comprehensive Protection to human rights defenders

<sup>21</sup> This Commission was established by Real Decreto 13/14 of 10 August 201 to coordinate and guide the formulation, implementation and monitoring of the Comprehensive Guarantee Programme for Women Leaders and Human Rights Defenders ( Programa Integral de Garantías para las Mujeres Lideresas y Defensoras de Derechos Humanos).

<sup>22</sup> It was established in the context of the implementation of the peace agreement, led by Presidency and aimed at the adoption of public policies to dismantle of criminal organizations or conducts that attack human rights defenders

<sup>23</sup><http://es.presidencia.gov.co/normativa/normativa/DECRETO%20660%20DEL%2017%20DE%20ABRIL%20DE%202018.pdf>

<sup>24</sup>[https://www.procuraduria.gov.co/relatoria/media/file/flas\\_juridico/1721\\_PGN%20Directiva%20002%20DE%202017.pdf](https://www.procuraduria.gov.co/relatoria/media/file/flas_juridico/1721_PGN%20Directiva%20002%20DE%202017.pdf)

<sup>25</sup> According to the Decree 2137 of 19 November 2018, the Commission will be integrated by: 1. The President of the Republic, or his delegate, who presides over it; 2. The Minister of the Interior, or his delegate ;3. The Minister of National Defense, or his delegate; 4. The Minister of Justice and Law, or his delegate; 5. The Commander of Military Forces, or his delegate; 6. The General Director of the National Police, or his delegate; 7. The National Protection Unit Director, or his delegate



Defensoria del pueblo, and Procuraduria in the development of the Plan is crucial. Equally so, the coordination of the PAO Commission with other previously established dialogue settings where civil society actors engage with State entities. It is important that the PAO does not overshadow or weaken existing protection mechanisms. **Building on previous agreements, mechanisms and policies will be fundamental to guarantee trust in the process by all concerned stakeholders.**

Every human rights defender I met with across the country mentioned the need of a comprehensive State presence in the regions. Although armed forces and security operations constitute a necessary intervention in the territories most affected by illegal groups, it cannot be the only State response and should come hand in hand with other measures, such as education, access to justice, health, infrastructure, social programs and implementation of previous agreements. I was pleased to hear from government authorities that this will be a key priority, by the PAO.

Upcoming government campaign against the stigmatisation of social leaders is a positive development. This campaign should address the different stakeholders, include full civil society participation and ensure zero tolerance on defamatory statements by public officials.

I would also like to commend the efforts made by the Procuraduria General de la Nacion, in its adoption of Directiva 002 of 2017 and other initiatives by local governors in coordination with Defensoria del Pueblo to tackle the violence against human rights defenders. I will comment more in-depth on this in my report to the UN Human Rights Council.

## **6. General trends**

- **Steady pattern of high number of killings, attacks, threats and other violations against human rights defenders with high levels of impunity**

In Colombia, being a human rights defender is a high-risk occupation. Available data from State institutions, OHCHR and civil society show alarming figures that so far remain unabated. While the general homicide rate in Colombia since the adoption of the peace agreement on 24 November 2016 has declined,<sup>26</sup> there has been an evident rise in the killings of human rights defenders, including social leaders.<sup>27</sup> In the words of the Defensor del Pueblo, “a human rights defender is killed in Colombia every three days, since 2016, making a total of 343 defenders up to 22 August 2018.”<sup>28</sup>

Human rights defenders are subject to threats, intimidation, forced displacement and disappearance and their families, also become a target. Threats may be received through leaflets, phone calls, whatsapp messages, and through third parties. “Somos Defensores” has documented an increase in the threats and intimidation against defenders, with 952 threats against defenders registered since 2016. In the case of women human rights defenders, they are also exposed to gender specific violations, including gender-based violence, both within their community and organizations and by external actors. These violations are undoubtedly under-

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<sup>26</sup> The current homicide rate in Colombia is 23, 07%, according to the Legal Medical Institute (Instituto de Medicina Legal).

<sup>27</sup> While figures are not uniformed, the variety of sources I received showed a dramatic increase of killings and attacks following the adoption of the agreement up to date.

<sup>28</sup> The Ombudsman Office registered: 134 killings in 2016; 126 in 2017; and 83 killings up to 22 August 2018. In the same period Somos Defensores reported 263 defenders killed and the Office of the High Commissioner for Human Rights 179 till July 2018.

reported. I received moving testimonies of women being threatened with attacks against their children.

*Where are they most at risk?*

Defenders in rural areas are most at risk, particularly in regions worst affected by the conflict and in areas with a historic presence of the FARC-EP. Following their demobilisation, the State failed in its responsibility to ensure protection of the civilian population. These regions have now a variety of organised armed groups, fighting for control over the territory and illegal economies, thus fuelling violence and forced displacement. According to a variety of sources (civil society, UN and Defensoría del Pueblo) the highest numbers of killings and other attacks and violations have been registered in Cauca, Antioquia, Valle del Cauca, and Norte de Santander followed by Nariño, Córdoba, Meta and Caquetá.<sup>29</sup>

*Human rights defenders, most at risk?*

Defenders most at risk are mainly peasants, indigenous peoples, afro-Colombians and women actively promoting the peace agreement (land reform and restitution as well as illicit crop substitution), as well as those demanding civil, political, economic, social or cultural rights. They are often social leaders in their communities, members or heads of associations and social movements, and exercise public functions at the lowest level of the territorial structure, in the Juntas de Acción Comunal. They are the ones defending their land (“el territorio”), environmental and collective rights, opposing the exploitation of natural resources by legal and illegal actors.

*Who are the perpetrators, and who is behind the attacks?*

Based on the testimonies received, the actual perpetrators of the killings, threats, intimidations and other attacks are often unknown to the victims and their families, for instance when “sicarios” are used, perpetrators are masked, or threats were anonymous or attributed to unknown groups (e.g. Aguilas Negras). Still, testimonies pointed to members of organised armed groups public authorities, and non-State actors present in the areas. Often questions arose and remain as to the masterminds behind the attacks.

I acknowledge the progress made in terms of jurisprudence and strengthening of both normative and institutional framework for the protection of human rights defenders in Colombia in recent years. Nevertheless, these advances have not resulted in a safer environment for defenders. Substantial challenges, persist, and more needs to be done in the current post-peace agreement scenario. Pervasive impunity, is one of the areas that urgently needs to be addressed.

## **Recommendations**

- **I encourage the government to adopt a more holistic prevention approach with an emphasis on the underlying causes of attacks in a multidimensional manner, including tackling of root causes.**
- **In my view, the government must prioritize the fight against corruption at all levels of the territory, organised crime and in particular the current situation where organised armed groups are *de facto* governing the territories. I urge the government to initiate a vetting process of state security forces and a strong anti-corruption campaign at all levels of the state, with the support of the international community, including the Organization of American States.**

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<sup>29</sup> See for example: “Todos los nombres, todos los rostros: Informe de derechos humanos sobre la situación de líderes/as y defensores de derechos humanos en los territorios.”

- **Lack of public recognition and stigmatization of human rights defenders**

Human rights defenders in Colombia operate in an extraordinarily complex security, social, political and economic setting. Political leaders should not only appreciate the complexity of defending human rights in Colombia and associated risks, they should use their authority to ensure that human rights defenders are promoted, respected and protected. An open democratic society should value their essential contributions to political participation, freedom of expression and a flourishing culture and society.

Unfortunately, I have received a catalog of shocking quotations by political leaders, public officials, and influential people, who tend to stigmatize and marginalize human rights defenders. Labelling human rights defenders as *guerrilleros* of this or that group, the internal enemy, terrorists, anti-development, or informants (so called “sapos”) seriously increase their exposure to risks and violations. It must be clear that they are not killed due love affairs, but for implementing peace, opposing the interests of organized crime, illegal economies, corruption unlawful tenure of land, and for protecting their communities.

I was particularly struck by some of the comments of Antioquia’s Governor Luis Pérez, associating social activists with illegal armed groups, questioning their honesty and truthfulness and suggesting that they should be prosecuted for peacefully protesting. Such remarks are conducive to an environment in which threats and violence against human rights defenders may seem permissible.

#### **Recommendations**

- **I have respectfully requested that Governor Pérez issues a statement to declare his support for human rights defenders. I hope that he will agree on the value of doing so.**
- **I also encourage all political leaders to publicly recognize the vital role of human rights defenders including social leaders in promoting peace, sustainable development and human rights.**
- **I recommend that at the next meeting of all Governors, intructions be given to refrain from such public statement and that similar instructions be given by Governors to their local administration.**

- **Criminalization of human rights defenders**

A new pattern of criminalization, or judicial set-up against human rights defenders seems to be emerging, accusing them of belonging to the ELN organised armed group, or for colluding with this group. Evidence in such cases appears to be weak and rely on single testimonies by persons who may have benefitted from reduced penalties for cooperating with the prosecutor office/investigations. Human rights defenders I met with during my visit to la Guajira, highlighted this occurrence in la Serrania del Perijia. This is highly troublesome in a modern democracy and counterproductive to ongoing peace-building efforts. Other similar cases have been reported in Cauca, and Nariño region. I will closely monitor developments in these judicial proceedings.

I also heard testimonies of the criminalization of defenders in the context of social protest. In such cases, defenders might be prosecuted for the crime of rebellion (crimen de rebellion), conspiracy to commit a crime (concierto para delinquir), terrorism, public road obstruction, attempted homicide, etc. Environmental defenders have been particularly affected and

criminalized for their participation in peaceful assemblies against extractive and business projects for the defence of the environment.

Unfortunately, in the majority of judicial processes against defenders, they are apprehended and subjected to preventive detention. I am also concerned by article 34A recently incorporated to the Penal Code.<sup>30</sup> This article foresees 6 up to 10 years of prison to those providing legal and other advice to serve the purposes of organised criminal or armed groups, unless this is granted in the context of legal defence. The article is not only vague, but grants discretionary powers to prosecutors and judges. It could certainly be used against human rights organisations and lawyers providing legal advice to social movements and human rights defenders.

### **Recommendations**

- **Judges, prosecutors and public officials should receive the necessary training on human rights and the UN declaration on defenders to avoid their criminalization.**
- **I also encourage the revision of article 34A**
  
- **High levels of impunity for attacks against defenders**

During the visit, I had the opportunity to meet with the Attorney General (AG) to understand ongoing efforts and results by the Attorney General's Office to identify and prosecute the intellectual and material perpetrators of attacks against defenders. I welcome the establishment of the Specialized Unit for the investigation and prosecution of crimes against human rights defenders and the guidelines provided in the Directive 002 of 2017 of the AG. I am pleased to see that the directive focuses on clarifying the definition of human rights defenders in line with the UN Declaration on Defenders, and on the due diligence and investigation process, that requires adopting as the first hypothesis, that defenders are killed in connection to their human rights work.

I was also informed about the decision of the AG to prioritize the investigation of 213 cases of killings reported by OHCHR since 2016. Out of the 213 cases of killings documented by OHCHR and prioritized by the Attorney General Office:

- In 20 cases out of the 213, the perpetrator(s) has been brought to justice and has been sentenced. Thus, 9,3% of the cases have been clarified.
- For the remaining 193 cases: in 20% of the cases, the judicial process is ongoing, in 14% of the cases there is at least one person with charges, and in 9% of the cases there is an arrest warrant.

I understand that efforts now must focus on halting and reverting the worrying trend of high number of killings and attacks against defenders, since the peace agreement, as well as on prevention and risk mitigation. However, for accountability purposes, the Government and relevant State institutions must also ensure the prompt investigation and prosecution of killings and attacks of defenders in preceding years. According to Somos Defensores since 2010, there has been at least 3607 attacks against defenders, including 2646 threats, 609 killings, 328 attempted killings, 22 disappearances, and 2 cases of sexual violence<sup>31</sup>. These crimes and human rights violations cannot be ignored and those responsible, including intellectual authors, must be brought to justice.

### **Recommendation:**

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<sup>30</sup> Law 1908 of 9 July 2018.

<sup>31</sup> <https://colombia2020.elespectador.com/pais/agresiones-contra-lideres-sociales-antes-y-despues-del-acuerdo-de-paz>

- **I encourage the Attorney General’s Office to cooperate with the Office of the Ombudsperson (NHRI) to explore options for the AGO to complement its registry with killings verified by this Institution, which are more numerous.**
- **The AGO must also advance in the investigation of killings and attacks against defenders that occurred prior to the Peace Agreement,.**
- **The Specialized Unit for the investigation and prosecution of crimes against human rights defenders and ex-combatants should receive additional staff and financial support to strengthen its capacity and response.**
- **The Inspector General (Procurador General) should also prioritize the monitoring and sanctioning as appropriate of inadequate behaviour and attacks by public officials against defenders throughout the territory.**
- **Shrinking civic space and criminalization of social protest**

My visit took place in the context of social mobilizations led by students at the national level, calling for the preservation of a public education model and its improvement. The testimonies I received described excessive use of force by the police, as well as the presence of violent infiltrators that do not form part of the student movement. Only in Bogotá 95 persons were arrested in the context of the demonstration of 15 November, 13 of which resulted in judicial processes.

I also learnt that spaces of dialogue and the occasional related gains had only been possible, after a long plight and strong mobilization by civil society, human rights defenders and everyday people, often at a high cost. For instance, the case of previous social mobilizations in Buenaventura in 2017. I heard the frustration of Trade Unions, peasants, afro-Colombian and indigenous leaders for the lack of commitment, progress and results by successive Governments, who systematically fail to deliver on the agreed actions, to the despair of civil society and human rights defenders. The recent adoption of the new Protocol on the right to Social Protest by the Ministry of Interior is a positive step forward.<sup>32</sup>

### **Recommendations**

- **I urge the State to step up its efforts to prevent all forms of excessive use of force by members of the security forces and ensure that all allegations of excessive use of force are investigated promptly, thoroughly and impartially, and that the perpetrators are prosecuted and punished.**
- **In particular, existing legislation and established practice on the role of Police in the context of demonstrations should be brought in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials<sup>33</sup> and with standards**

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<sup>32</sup> See the “Protocolo para la coordinación de las acciones de respeto y garantía la protesta pacífica como un ejercicio legítimo de los derechos de reunión, manifestación pública y pacífica, libertad de asociación, libre circulación, a la libre expresión, libertad de conciencia, a la oposición y a la participación, inclusive de quienes no participan en la protesta pacífica” adoptado el 3 de agosto de 2018 por resolución no 1190.

<sup>33</sup> <https://www.ohchr.org/Documents/ProfessionalInterest/firearms.pdf>

relevant to freedom of assembly,<sup>34</sup> opinion and expression and the right to participate in public affairs.<sup>35</sup>

## 7. National Human Rights Institution – Defensoria del Pueblo

I have been impressed by the numerous testimonies of human rights defenders and indigenous people that refer to the Defensoria del Pueblo (NHRI) as an effective protection mechanism throughout the country, acting swiftly and in an effective manner to guarantee and protect the rights of defenders. The early warning mechanism developed by the Defensoria has been mentioned at several occasions as an effective tool to alert on possible imminent attacks against defenders. Nonetheless, in a number of meetings in regions, the lack of response and action by local authorities to these alerts has been pointed out, signaling that they simply disseminate the early warning alerts without proper follow up or implementation.

As part of the institutional architecture of the State, the Defensoria del Pueblo plays a key role in ensuring a safe and conducive environment for defenders. It has been recently reaccredited with an A status by the Sub Committee on Accreditation. As a National human rights institution that comply with the Paris Principles the Defensor del Pueblo is in a unique position to guide and advise the government on its human rights obligations, and ensure that international principles and standards are adequately incorporated into domestic law and mainstreamed into public policies including that of Human Rights Defenders. Evidence shows that when the mandate of national institutions includes competence to investigate complaints and provide effective protection, they can play a leading role in cases where States' judicial systems are unable or unwilling to adjudicate on alleged violations against defenders.

I strongly believe human rights institutions should be vocal in their support of human rights defenders, and in condemning attacks against them. I commend the role played by the Defensor del Pueblo in that regard and encourage him to continue to voice the concerns of human rights defenders.

I encourage the government to systematically consult the Defensor del Pueblo and to task his institution to monitor the implementation of all human rights policies.

During my meetings, I have received credible allegations of threats and defamation of staff or regional representatives of the Defensor del Pueblo. The government should adopt a zero tolerance policy and investigate all allegations on threats and attacks against representatives of the Defensor del Pueblo, as such constraints and challenges can seriously undermine the independence, efficiency, credibility and impact of the institution. The government needs to legally and publicly protect and support all members and staff of the Defensoria whenever necessary.

In order to ensure the credibility of the work of the Defensor, the government should be responsive and ensure adequate follow-up and implementation of his recommendations.

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<sup>34</sup> See for examples 10 principles on the management of peaceful assemblies available at: <https://www.ohchr.org/Documents/Issues/FAssociation/10PrinciplesProperManagementAssemblies.pdf>. See also Principles on protecting civic space and the right to access resources available at <https://www.ohchr.org/Documents/Issues/FAssociation/GeneralPrinciplesProtectingCivicSpace.pdf>

<sup>35</sup> See General Comment 34 on Freedom of Expression and 25 on Participation on Public affairs of the UN Human Rights Committee. Naciones Unidas, Observación General No 34 y No 25 del Comité de Derechos Humanos sobre la libertad de opinión y expresión (CCPR/C/GC/34 and CCPR/C/GC/25).

## 8. National Protection Unit – Protection Program for Human Rights Defenders

In 2011, Decree 4065<sup>36</sup> created the National Protection Unit (UNP, in Spanish), which took over the protection functions developed since 1997 within the Ministry of Interior and Justice, and the Administrative Department of Security (DAS, in Spanish). The UNP is a national security agency, attached to the Ministry of the Interior, in charge of analysing protection requests, carrying out risk assessments and implementing measures for individuals and/or collectives that are at risk as a direct consequence of the exercise of their political, public, social or humanitarian activities or functions. The target populations of the program include human rights defenders, trade unionists, leaders or activists of trade associations, leaders or members of ethnic groups, journalists or social communicators, victims of the armed conflict and land claimants, amongst other actors.

Since its creation, the National Protection Unit reported having provided measures for 4367 human rights defenders, particularly through the provision of 4140 communication devices, 3360 armoured vests, 423 panic buttons, 3312 bodyguards, 616 armoured vehicles, 719 conventional vehicles and 17 motorcycles. Other common material measure is the provision of temporary relocation grants. Without ignoring that sometimes material measures, police protection or body guards provision can be useful and necessary for guaranteeing the safety of a human rights defender, it is imperative that States take into account and implement other protection measures tailored to the reality of the life and work of the defenders, as well as to take preventative actions.

Many human rights defenders I met with questioned the efficacy of the protection measures they had been offered by the National Protection Unit, particularly with regards to its limited individual and material focus; delays in the risk assessment and subsequent implementation of the agreed security measures; and the lack of a differential focus<sup>37</sup> and a preventative and collective approach adapted to the ethnic reality of the territory and its traditional forms of self-government.

I was informed of the advances of Decree 1066 of 2015 and its amending decrees<sup>38</sup>, which have broadened the protection responses by the National Protection Unit to include a collective approach. I was also informed that the National Protection Unit has recently adopted a Collective Protection Roadmap, which has to date evaluated and/or implemented collective measures in 36 cases. It is still necessary that the collective approach is promoted and strengthened, to ensure that measures agreed with defenders are adapted to the reality of the different contexts and groups of defenders at risk in Colombia.

During my meetings with the UNP Director and other staff, I noted with satisfaction the plan to go through a revamp and restructuring of the Unit, its protection routes and measures provided. This is a unique opportunity to make structural changes, provide an answer to the current challenges and to ensure broad participation by civil society in the design of roadmaps

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<sup>36</sup> <http://wsp.presidencia.gov.co/Normativa/Decretos/2011/Documents/Octubre/31/dec406531102011.pdf>

<sup>37</sup> The differential approach has a double meaning: it is both a method of analysis and a guide for action. In the first case, it uses a reading of reality that aims to make visible the forms of discrimination against those groups or settlers considered different by a majority or by a hegemonic group. In the second case, it takes into account this analysis to provide adequate attention and protection of the rights of the population. This being the case, the differential approach plays an important role as a tool that every public official must handle.

<sup>38</sup> Decree 1066 of 2015 has nine modifying decrees; the Decree 1534 - 21 of July 2015, Decree 1535 - 21 of July 2015, Decree 567 - 08 April 2016 and the 638 - 18 April 2016, Decree 1036 of 2016, Decree 1314 of 2016, Decree 299 of 2017, Decree 2078 of 2017 and Decree 660 - April 17, 2018

and approaches. Management tools should also be put in place to assure timely implementation of protection measures.

I was impressed by the creative and effective civil society led initiatives at local level, which have allowed them to protect themselves during the most complicated moments of the armed conflict and where the presence of State has been very limited or nonexistent. The local initiatives need to be at the center of the protection schemes agreed with defenders and their communities. Some of these initiatives still needs to be fully recognized or adopted by the State in order to better operate and develop, such as the *Guardias Campesina* and *Cimarrona*.

I had the opportunity to exchange with the Nasa Indigenous Guard in Northern Cauca, in my visit to Cxhab Wala Kiwe-Acin and to hear from peasants organisations and Afro-colombian communities about their experiences, such as in the cases of the humanitarian camps in areas particularly affected by illegal armed groups; and the conciliation and mediating committees created by the *Juntas de Accion Comunales*. Consulting human rights defenders is imperative to guarantee that a proper differential approach is adopted and that autonomous protection strategies are fully recognized and strengthened.

Despite the fact that the existent Protection Program has contributed to preventing certain violations against human rights defenders, it has not been a tool for transforming the environment in which human rights defenders operate. Its largely reactive and material focus undermines the effectiveness of its protection measures and exposes the National Protection Unit to straining its capacity due to a large number of cases which continue unresolved. I was also informed of cases where defenders who were beneficiaries of protection schemes were attacked and, in some cases, killed. While the situation of risk continues, governmental initiatives aimed to protect human rights defenders are crucial. Therefore, it should receive the support from all stakeholders. Cooperation and coordination with department governments and presence at local level also needs to be bolstered, especially considering that the majority of attacks against human rights defenders originate at a territorial level.

Based on the information and testimonies I gathered from State authorities, human rights defenders and civil society during my visit, I want to address some of the key challenges identified and propose recommendations to improve the protection programme efficiency.

*Key challenges:*

- The adoption of a differential approach, including gender and ethnic approach is still a work in progress<sup>39</sup> that requires consolidation. Women defenders have reported a lack of integral support and, in general, defenders have reported that their local strategies are seldom recognised and taken into consideration when accessing protection measures provided by the State. The reports brought to my attention also came from groups and defenders that were included in collective protection schemes. An additional concern is that the non-material measures agreed remain in a low implementation level.
- The central objective of a protection program is that HRDs can exercise their right to defend human rights in the best possible conditions. In some cases, the protection measures offered so far may pose additional difficulties and interfere with the work of HRDs. This is most noted in the provision of body guards, Police protection and

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<sup>39</sup>The International Human Rights Law is emphatic in recognizing that certain peoples and groups have differentiated protection needs based on specific situations of manifest vulnerability or of inequities and asymmetries of the historically constituted societies to which they belong. In the United Nations system, such special protection needs have been reiterated by human rights monitoring bodies such as the "Human Rights Committee" and the "Committee on Economic, Social and Cultural Rights".



armored vests. The provision of non-material measures that guarantee a comprehensive State response to the risks faced by human rights defenders, their families and communities is vital. It is important to note that provision of individual measures is compatible with a collective approach when tailored to the specific context of risk and activities of the defenders and the territory to be protected.

- In the past, a number of defenders did not receive a timely response to their protection requests. The case of Mr. Porfirio Jaramillo Bogallo, killed in January 2017 in Uraba is illustrative of this situation. There are still many reports of delays or last minute changes on implementation of agreed measures. In addition, defenders who were beneficiaries of protection schemes and had their protection scheme removed reported receiving further attacks and, in some cases, were later killed.
- The process for accessing the Protection Program of the National Protection Unit begins with the completion of a Registration Form, which requires a set of minimum documents to be sent with the form. A number of defenders I met were not able to timely place a formal request for protection due to difficulties in getting those documents. Of particular concern is that the human rights defender needs to present an accreditation to support his/her request. It was brought to my attention that women human rights defenders, whose work in many instances goes undervalued, may face additional obstacles to fulfil this particular requirement. It also poses additional challenge to those in situation of internal displacement, living in remote areas or are less connected to national and international organisations.<sup>40</sup>
- A number of defenders at risk become internally displaced as a mechanism of self-protection, leaving behind the rooting of their places of origin, their livelihoods and the schooling guarantees of their children. The current system seems to lack a systematic approach that guarantee means of subsistence, medical care or psychosocial attention to these defenders, which poses greater vulnerability to their situation. Amongst others, defenders have expressed to me the need to include their family members and in particular children in the risk analysis. Additional protection measures should be offered to guarantee their protection as well as the need to adopt protection measures that address the socioeconomic needs of internally displaced human rights defenders.
- Impunity for violations against human rights defenders and a lack of a holistic preventative approach limits the efficiency of any measure aimed to protect human rights defenders in the country.

## **Recommendations:**

**In light of the challenges recently mentioned, I urge the Colombian State to advance key areas of work of the National Protection Unit, in particular:**

- **Ensure broad participation of human rights defenders in the process of restructuring of the National Protection Unit, its protection routes and measures provided.**
- **As part of adopting a more preventive approach to protecting defenders, the National Protection Unit should look into enhanced cooperation schemes to ensure that protection measures adopted go hand-in-hand with prompt, impartial and exhaustive investigations.**

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<sup>40</sup> The UN Declaration on Human Rights Defenders encompasses a broad definition of who is a defender. What is most important in characterizing a person as a human rights defender is not the person's title or the name of the organization he or she works for, but rather the human rights character of the work undertaken. In fact, the human rights defender does not need to be part of a legally recognised instance in order to be a defender and a number of them undertake their activities on a voluntary basis.

- **The need to limit excessive and seemingly unnecessary paperwork for the inclusion in the protection program, as well as undue delays and long waiting periods between the time the first complaint is registered, the risk analysis, and the actual implementation of the measures. Such delays put human rights defenders at even greater risk.**
- **Prioritization of collective protection mechanisms: given that the highest risk situations for human rights defenders are concentrated in non-urban areas with greater State fragility and institutional weakness.**

## **9. Human rights defenders at risk**

### **9.1 Social and communal leaders, land rights defenders, defenders promoting the peace agreement and ECSR defenders**

I was deeply troubled to learn that many rural-based human rights defenders have been killed, threatened intimidated and forcibly displaced for their human rights work. Their human rights agenda, is what puts them at risk. They stand up for human rights and protect their communities from the different armed groups present in their areas. In the absence of State presence, they are left with no other choice but to interact with them. They oppose their presence in the proximity of their communities, the forced recruitment and sexual exploitation of their children. They intervene to save the lives of those the armed groups target and seek to oppose extortion. They push for the continued implementation of the peace agreement, the rural reform and in particular the substitution program for illicit crops, to the extent possible, putting their lives at risk.

From the State, these same defenders demand basic economic social and cultural rights, in particular access to drinkable water, primary school for their children, basic health care, electricity and roads. They also insist on the need for the government to urgently resume peace talks with ELN. In so doing, defenders might be labelled or even criminalized as collaborators or members of this armed organized group.

Available data and analysis, corroborates what I evidenced during my visits in the territories.

<sup>41</sup> Human rights defenders most at risk in the post accord era are the social and community leaders, members or the Presidents of the Juntas de Acción Comunal, including women human rights defenders, and ethnic leaders in areas with presence of illegal armed groups. At particular risk are defenders that support policies derived from the Agreement, such as the Comprehensive Program for Substitution of Illicit Crops (PNIS) and that claim land restitution. I was deeply moved by the testimony of a women human rights defender during my visit to Cúcuta. As the President of the Junta de Acción Comunal, she had led her communities to implement the illicit crop substitution program. As a result, two of her children and herself have been declared military targets by the organised armed groups opposing this program. She is faced with the difficult option to go back to her community and risk her life, or to be forcibly displaced. This is not an isolated case, but rather illustrative and a common example of a fate shared by many human rights defenders for their attempt to change the status quo in their communities.

Many of these rural human rights defenders belong to a variety of locally and nationally based organizations and movements. Since the signing of the peace agreement certain social

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<sup>41</sup> Comisión Colombiana de Juristas, *¿Cuáles son los patrones? Asesinatos de líderes sociales en el Post Acuerdo*, October 2018.

movements have been particularly targeted. Marcha Patriótica<sup>42</sup> and the Coordinadora Nacional de Cultivadores de Coca, Amapola y Marihuana (COCAM) registered the highest number of killings. I met with courageous defenders from these organizations during my visit, as well as with their family members, who strongly demanded that those responsible are brought to justice. Likewise, ethnic social movements, in particular Comunidades Construyendo Paz en los Territorios (CONPAZ) y el Consejo Regional Indígena del Cauca registered the highest number of threats.

My assessment is that Human Rights Defenders in rural areas with the presence of organized armed groups are operating in a coercive environment. They are at the forefront of pressure, threats, and attacks from various armed groups, and mistrusted by State public officials and security forces who consider them close to these armed groups, and often as collaborators.

## **9.2 Afro Colombian Defenders**

I met with a number of Afro-Colombian networks and Community Councils during my visit, such as RECOMPAS, CNOA, Puente Nayero Humanitarian Space, PCN, Cococauca, CCAMYF, amongst others. They are one of the groups most affected by the internal armed conflict and, therefore, by the impact of forced displacements and attacks. In addition to the presence of armed groups in their territories, Afro-Colombian defenders and communities face systematic institutional discrimination and the pressure posed by national and international companies seeking to exploit natural resources found in their territories.

It was brought to my attention that one of the main challenges is the lack of free, prior and informed consultation, as well as the increase in the number of killings of those who defend their territories and culture.

2018 marked the 25th Anniversary of the adoption of Law 70 of 1993. Through this Law, the transitory article 55 of the Political Constitution of 1991 is developed and some rights of the Afro-Colombian communities in the country are recognized, among other things, the collective property of black communities based on their traditional practices of production and their ways of life. It also establishes mechanisms for the protection of their identity and culture. The full regulation of this law is still pending, preventing the full enjoyment of the rights of the black people.

In their territories there are threats such as illegal and mechanized mining, the presence of illicit crops, monocultures, megaprojects and the presence of different armed actors. Faced with these problems, the black communities have advanced different strategies of territorial control of their territories, to strengthen their autonomy and preserve their ways of life. Among these strategies, they have built Cimarron Guards (unarmed forces in charge of overseeing the care and control of the territories), have carried out days of manual eradication of illicit crops and developed mechanisms to strengthen their organizations and preserve their identity.

### **Recommendations:**

**- I strongly encourage the Colombia authorities to guarantee the right to free, prior and informed consent of Afro-Colombian communities, and regulating effective mechanisms for participation.**

## **9.3 Defenders working for the rights of indigenous peoples**

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<sup>42</sup> The most affected members within Marcha Patriótica include: the Proceso de Unidad Popular de Suroccidente Colombiano (PUPSOC), the Asociación Campesina del Catatumbo (ASCAMCAT), the Asociación de campesinos del Sur de Córdoba, la Asociación Trabajadores Campesinos del Valle del Cauca (ASCATRAVA), the coordinación nacional de Organizaciones y comunidades Afrodescendientes (CONAFRO) and el Trade Union SINTRAGRIM.

During my trip I was fortunate enough to visit the Nasa territory in Cauca and to meet with human rights defenders from Awa, Wayuu, Wiwa, Nasa, Biri and Embera indigenous peoples in other departments. In most cases, the threats faced by indigenous people are intrinsically linked to defending their lands and protecting the environment. I did not see in any of these people the insurgents, criminals or anti-development that they are often portrayed to be. Instead, I saw peaceful communities who are genuinely worried about the future of their children as the forests that surround their communities are disappearing, the land they live in is being mined or the water they drink is poisoned. I was particularly touched by testimonies of Wayuu indigenous people in La Guajira.

I have heard many moving testimonies from humble and courageous communities who speak out against the violence of illegal armed groups, many of whom are believed to operate in collusion with local authorities and companies. The deployment of military forces is also depicted as a strategy to intimidate communities instead of protecting them from non-State actors such as security companies and illegal armed groups. In all the departments I visited, I was dismayed by the number of on-going conflicts affecting indigenous communities. Despite the efforts made by the State to recognize fundamental rights and freedoms of indigenous peoples due to the disproportionate impact caused by the armed conflict, little progress has been made regarding structural inequalities and root causes. In parallel, the business sector has been granted several permits both close to or even inside traditional indigenous territories.

Indigenous communities are among the most at risk groups of defenders working on economic, social and cultural rights. They are targeted for reporting on acts of corruption, defend and claiming rights to water, healthy environment, lands and territories. Their territories are affected by a number of economic interests ranging from mining and energy projects, agro industrial and extensive livestock, as well as illicit economies. Along with discriminatory practices that may affect the capacity of defenders from indigenous communities to request and effectively benefit from protection measures, they face repression that can range from intimidations, judicial harassment, stigmatization, arbitrary detention to torture, murders and enforced disappearances.

The lack or misuse of meaningful consultation as stated in ILO Convention n°169 is also a great risk factor as entire communities are being deprived from their lands and natural resources. In many occasions, consultations are a simple formality for projects that have already started to be implemented. I am concerned that the number of conflicts related to the protection of land and environmental rights will only keep growing, as long as the issue of the model of development and its sustainability is not addressed and broadly agreed with the communities affected by these projects.

### **Recommendations:**

- **I welcome the inclusion of an ethnic chapter in the Peace Agreement, as well as the increased recognition of indigenous jurisdiction and their autonomous governance systems. Ensuring its swift and effective implementation is imperative for their protection.**
- **I strongly encourage the Colombian authorities to guarantee the right to free, prior and informed consent of indigenous communities as stated in ILO-convention 169. Consultation processes should be meaningful in order to guarantee the protection and**

**respect of the rights of indigenous communities, in full compliance with United Nations Declaration on the rights of indigenous peoples.**

#### **9.4 Women Human Rights Defenders**

On the occasion of International Women Human Rights Defenders Day, I was in Cali. I would like to commend the incredibly important role played by women human rights defenders in the promotion of democracy, justice and peace in Colombia. In line with my commitment to develop a gender-specific approach to the situation of human rights defenders, I held a series of private meetings with women human rights defenders across the country. I was impressed by their strength, determination and resilience. But I was also deeply shocked by the diversity and magnitude of threats, attacks and re-victimization they face when seeking protection and access to justice, which leads to a notable decrease of female visibility in defending human rights.

Women human rights defenders, both from urban and rural settings, told me that female activists face barriers in the exercise of their leadership, among which there are gender stereotypes that stigmatize women who seek to take a political stand in their communities.

Similarly, the mobility in the territory represents a challenge, as female leaders living in urban areas cannot move freely, given the invisible barriers that exist between marginal neighbourhoods controlled by different illegal armed groups. On the other hand, rural women human rights defenders face greater distances and difficult geographical conditions that not only force them to be absent from their homes for longer periods – therefore often depicted as “bad women”, “bad mothers” or as threats to morality and traditional values - but also increase the possibility of encountering illegal armed groups. In their work, both urban and rural leaders are victims of all types of unreported violence (including sexual violence), with women in rural areas facing greater challenges when trying to be politically active and economically independent.

I regret to say that in Colombia, women continue to be one of the most affected group of the conflict. As it was highlighted during the meetings I had, women defenders face differentiated risks and disproportionate effects that are exacerbated according to the rights they defend, their sexual orientation and gender identity, their ethnicity, their territorial location and, in a common way to all of them, their belonging to a population victimized by the war. I was struck by the testimonies of Afro-Colombian and indigenous women defenders, such as the ones I met from Narino, Antioquia, Cauca and others.

In recent years, assassinations, torture, sexual violence and threats against women defenders have increased alarmingly. In relation to killings, while 6 cases were reported in 2016, I was informed of at least 12 cases in 2018, which would mean an increase of 100% in just two years. The extreme violence found on women’s bodies is telling. According to Programa Somos Defensores, "the homicides of women always denote higher levels of violence, including sexual violence".<sup>43</sup> The Ombudsman's Office has also raised attention to the seriousness of the attacks against women defenders: "out of 143 woman defenders accompanied by the

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<sup>43</sup>The case of Emilsen Manyoma Mosquera, Afro-Colombian leader of the Network of Communities Building Peace in the Territories (CONPAZ) in Buenaventura (Valle del Cauca), is an illustration of the use of this type of violence. After disappearing for three days she was found on January 17, 2017 with her throat cut, beaten, and with wounds from a knife and fire. Another highlighted case is that of Edenis Barrera Benavides, community leader of the neighborhood El Porvenir de Aguazul (Casanare) and president of the Civil Defense of her municipality, whose body was found on March 19, 2017 with multiple injuries on her body and signs of impalement.

Ombudsman's Office between January 2016 and October 31, 2017, 16.78% were victims of sexual violence.”

treatment of women as sexual objects, in addition to producing profound physical and psychological damage, generates humiliation and intimidation, and implies a violent denial of their construction as political subjects. Thus, women who exercise social leadership have been victims of more than one type of violence during events of aggression including: mutilations, bodies found with severe traumas, sexual violence and, even throat cutting and impalement<sup>44</sup>. The attacks have also taken the form of stigmatization in which degrading stereotypes are used about women's sex lives, sexist insults, questions about non-compliance with traditionally assigned gender roles, and devaluations of their contributions to social change<sup>45</sup>.

Women have often highlighted the indifference – if not the hostility - of public authorities. But their isolation can also stem from their own communities and close environments that do not support their human rights commitment. Finally, the lack of gender-specific approach to protection measures and access to justice also constitutes a major risk factor for all these women, especially those living in remote areas<sup>46</sup>.

### **Recommendations:**

- **Ensure immediate implementation of *Programa Integral de Garantías para Mujeres Líderesas y Defensoras de Derechos Humanos*. Ensure protection measures include a gender-specific approach both in the risk analysis and in the identification of comprehensive protection measures, as well as full participation of women defenders in its design and implementation.**
- **I also encourage State authorities to develop awareness campaigns and trainings on the specific risks facing WHRDs for public servants, particularly those who are in regular contact with women activists.**

## **9.5 Defenders of the rights of Lesbian, Gay, Bisexual, Transgender and Intersex people**

During my visit, I met with human rights defenders of the LGBTI community from different parts of the country. They clearly explained that the risks they face are twofold. On the one hand, they share the same fate of other human rights defenders, while they are also exposed to additional risks directly related to their plight for the recognition of their sexual orientation and gender identity, equality and the elimination of discrimination on these grounds. They denounced that conservative sectors of society, including sectors within the Evangelist Church, were opposing their calls for equality of rights without discrimination on the grounds of sexual orientation under the pretext of the notion of “gender ideology”. They noted with concern an increase in the number of public discriminatory statements against the LGBTI community, and the inaction of the State.

They also emphasized that organised armed groups also considered LGBTI persons as immoral and harmful to society, as evidenced by threats received during 2017. LGBTI defenders

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<sup>44</sup>Ibid.

<sup>45</sup> The collective threat that circulated in Bogotá D.C. in June of 2017 directed against the sector of defense of women's rights illustrates this type of threat. The pamphlet entitled “Death to bitches” expresses an attack on the infiltration of women in the public environment, using patterns of violence and discrimination against women, in the following terms: “fighting for the rights of women is shit if they’re only our servants. Let’s see if they are going to do housework, bastards.”

<sup>46</sup>As an example, the role of caregiver that women have historically assumed has a different impact if she is forced to move because of the threat, since it affects not only her leadership but also her entire family.

identified the need improve the protection response provided by the National Protection Unit (UNP) to ensure it adequately meets the specific needs of the LGBTI defenders.

### **Recommendations**

- **The National Protection unit should identify protection measures that respond to the specific needs of LGBTI individuals, in close consultation with LGBTI defenders.**

#### **9.6 Trade Unionists/Union Leaders**

I met with different trade unionists during my visit, and I was impressed to hear from them first hand their long plight. Trade Union leaders referred to almost three decades of struggle marked by the killings of some 3.170 members or leaders as well as numerous forced disappearance, thousands of death threats, forced displacement etc.

Trade Union members also denounced the obstacles in place to legally join trade unions, in particular for workers with service contracts; as well as the strict restrictions to exercise the right to strike. Trade unionists also denounced ongoing attacks against trade unionists in almost total impunity. Only in 2018, trade unions registered 18 killings, 6 attacks, 142 threats, and 6 cases of intimidation of their leaders and members.

During my visit, I also had the opportunity to learn about the so-called “Operación Dragón case.” This case was presented to me as an emblematic case that proves the role of active and retired military personnel in attempting to kill a political leader, Union Member and a member of a human rights NGO in connection to their work with the Trade Union Sintraemcali. Judicial proceedings have been ongoing since 2004. In October 2011 four members of the army were detained and charged with acting in concert to commit a crime. I will be closely following up the resolution of this case, as a number of dilatory practices are being pushed forward by the accused, aiming for the prescription of the criminal action.

#### **9.7 Journalists and media workers**

The situation of journalists, and media workers working on human rights issues and corruption, especially in the regions, is troubling. I have received credible testimonies and allegations of harassment, intimidation and the recent use of judiciary action as “tutela” by State Actors against investigative journalists, who work on human rights-related issues, report on corruption cases of high level authorities, or other similarly sensitive issues.

I have also been alerted on the risks faced by female journalists (e.g. misogynist online harassment), and journalists working in rural areas who are facing harassment from various State and Non-State Actors. A pervasive climate of fear has led to self-censorship, particularly in rural settings.

According to FLIP la “*Fundación para la libertad de prensa*” threats and attacks have notably increased between 2017 and now. So far, three killings and 190 threats have been registered, seriously undermining freedom of opinion and expression, and the right to access public information.

I am very concerned that these actions unduly restrict the exercise of the freedom of expression and stigmatize the work of independent journalists, which play a key role in the defense and promotion of human rights. The exercise of the freedom of expression is fundamental for the exercise of the right to defend human rights.

### **Recommendation:**

- **I encourage all political leaders to publicly recognize the importance of a plurality of views in a democratic society, the centrality of freedom of expression.**
- **High government officials and high public authorities must abstain from making public statements that stigmatize journalists and generate an environment of intimidation that gravely affects freedom of expression in Colombia.**

### 9.8 Students

During my visit there were student protests ongoing in many parts of Colombia. I received testimonies from student leaders involved in the protests in Bogota, Medellín and Riohacha. Many spoke of unnecessary use of force by the ESMAD (*Esquadron Movil Antidisturbios*). Many informed me that they faced threats for leading the protests. I was disturbed to learn of the apparent attack against one such leader: Alex Floréz Hernández. The information that I have received so far is that Mr. Floréz was attacked in his vehicle on Thursday, 29 November – thankfully he was in an armored vehicle provided by the National Protection Unit (UNP) and therefore was not physically injured.

The attack against Mr. Floréz’s is notable not only because of his leadership within the student protest movement, but because he has been receiving threats over a period of two years, going back to his advocacy in support of the peace agreement. Still, through this period despite repeated threats received by way of emails, telephone calls, text messages and pamphlets, no one has been arrested or otherwise implicated. The National Protection Unit has provided him with a protection scheme. Yet the threats and risks persist.

#### Recommendations:

- **I encourage the Fiscalía General de la Nación (AGO) to more vigorously investigate and prosecute threats against young activists and HRDs.**
- **I urge public officials to refrain from using stigmatizing language when referring to youth activists that engage in legitimate and peaceful protest, like those on-going**

### 9.9 Lawyers

Lawyers who represent victims of serious human rights violations are subject to particular risks, often coinciding with advances in judicial proceedings, or if involving high-ranking state security officials. On 29 October 2018, a female lawyer, received death threats including the threat of torture and rape, after having requested additional evidence in the investigation of a police officer charged with having killed a young male graffiti artist.<sup>47</sup>

During my visit, I also learned that victims in their quest for justice, acknowledgement and redress face similar risks. On 17 October 2018, the mother of a young man who was killed in 2008, during a so called “false positive” operation, received new threats directed at her and her lawyers.<sup>48</sup> The timing of the threat concurs with the formal submission of former Military General and Commander of the National Army to the Special Jurisdiction for Peace.

#### Recommendations:

<sup>47</sup> Diego Felipe Becerra, was killed in Bogota 26 August, 2011 by the Police. <http://www.elhomenoticias.com/justicia/abogada-del-caso-grafitero-asegura-que-recibio-anoche-amenazas-de-muerte5117/>

<sup>48</sup> El Espectador, “Amenazan a familiar de una víctima que asiste a la audiencia contra el general (r) Montoya”, 17 de octubre de 2018, disponible en: <https://colombia2020.elespectador.com/jep/amenazan-familiar-de-una-victima-que-asiste-la-audiencia-contra-el-general-r-montoya>



- **State protection and guarantees of non-recurrence need to be reinforced to better protect victims and human rights defenders in their quest for justice and recognition.**
- **This includes special measures to protect children, women, LGBTI individuals, Afro-descendent and indigenous peoples, amongst others.**

### **9.10 Lawyers and defenders that support victims of the conflict**

I am concerned at the continuous and heightened risk faced by individuals that denounce violations of the past and seek justice for victims of the armed conflict. I have met with and received information from associations such as CREDHOS – *Corporación Regional para la Defensa de los Derechos Humanos*, CCALCP - *Corporación Colectivo de Abogados Luis Carlos Pérez*, MOVICE – *Movimiento Nacional de Víctimas de Crímenes de Estado*, among others. The defenders I met, are targeted for their work supporting victims, as well as for representing human rights defenders that seek justice for attacks suffered in the context of the former DAS - Administrative Department of Security.

I was appalled to hear that they continue to receive death threats, and are subject to house and office break-ins, where in many occasions sensitive information goes missing. They are often the target of threatening pamphlets and falsely accused of belonging to subversive groups. Their work is fundamental to support victims in this new transitional justice setting, to advise and represent them as they start engaging with the Truth Commission (CEV), the Special Unit for the Search of Missing Persons (UBPD), and the Special Jurisdiction for Peace (JEP).

### **Recommendations**

- **Human rights defenders have stated that the best protection for them is the effective implementation of the Peace Agreements.**
- **Ensure security guarantees for those defenders that engage with the Comprehensive Transitional Justice System (SIVJRNR)**

## **10. Role of Non-States Actors**

- **Armed Organised Groups**

I was stunned to learn that for 100 USD you could “get away with murder”, or at least hire a hit-man (*sicario*). Coercive regimes based on the use of violence, generally linked to illegal economies, and weak state power in marginal areas of Colombia undoubtedly heightens risk levels for human rights defenders who may be perceived as a threat, or obstacle to business interest. They may also be caught in between warring parties, and be removed as collateral damage, or for being perceived as “siding with the enemy”.

Throughout my visit I was reminded of the fact that a variety of armed actors, ranging from organized crime groups both national and transnational, including GAO and sub-groups; FARC-EP's dissidence groups, and existing armed groups such as the National Liberation Army (ELN) and the Popular Liberation Army (EPL), are fighting over control, generating high levels of violence.

While it is clear that these groups pose a real threat to the life and freedoms of communities and human rights defenders, its less clear who orders the killings.

- **Business and Human Rights**

In a context of rampant violence linked to illicit economies and illegal armed groups, it is imperative to recall the role that other non-State actors play in the safety of human rights

defenders. During my visit, I have observed and received a number of testimonies on the impact that the actions of many companies have had on communities thorough the country and how some companies may have undermined efforts of human rights defenders.<sup>49</sup>

Human rights defenders I met with explained that they are persecuted for questioning or opposing current development models. They attest to being intimidated, criminalized, forcibly displaced, stigmatised and killed in areas with strong business activity. In addition, their communities are facing irreparable environmental damages that limits their ability continue to live in the territory – such as in the case where water reserves have been contaminated or are becoming more scarce.

Indigenous peoples and Afro-descendants, as well as peasants and environmental defenders account for most of the attacks, in areas with large-scale mining projects (particularly gold), agribusiness presence (palm oil plantations, banana, sugar-cane), related to the energy sector – both traditional energy (oil, gas, coal) and renewable energy (hydropower dams, wind and solar farms) and other infrastructure and touristic projects.

I regretted to hear that a number of concessions have been granted to national and international companies could pose additional risks to communities, including in territories where collective land titles are still to be granted and in sacred territories for indigenous communities. A recurrent complaint I received was in relation to the lack of free, prior, and informed consultation for indigenous and afro-descendant communities, as well as respect for the popular consultations in the case of other affected groups. In fact, I have received credible information on the misuse of the consultations processes to impose projects in the territory or without the proper participation of all communities affected.

During my visit, I also had the opportunity to meet with some Colombian-based international companies. I mentioned to them that I had be informed on allegations of possible implication of some of those companies on attacks and threats against human rights defenders and indigenous people and that it was my intention to ensure a proper follow up to those allegations.

I was pleased to learn about initiatives to protect human rights defenders by these companies. For instance, the Joint Declaration<sup>50</sup> in June 2018. I was also informed on the creation of a “life and integrity protection route” to clarify and improve what companies should do when they are informed about threats. I am supportive of such initiatives in the understanding that it includes a broad consultation and socialisation with civil society groups and populations nearby business projects and potentially affected by threats.

### **Recommendations:**

**In the context of business operations, public and private companies may play a role to protect, or on the contrary, to limit the space for civil society to defend and promote their rights. In order to play a positive role, I recommend that:**

- **Companies should ensure ample participation and validation of civil society and human rights defenders at risk on the new tools and complaints mechanisms developed**

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<sup>49</sup>According to testimonies and documentation provided by local and international organisations, there was at least 115 incidents between 2015-2018 in areas with strong and vast business operations.

<sup>50</sup> <http://www.derechoshumanos.gov.co/Prensa/2018/Paginas/Unidos-por-la-defensa-de-los-defensores-de-Derechos-Humanos.aspx>

to deal with attacks, threats and other incidents occurring in relation to the companies' projects.

- **Public and private companies must respect human rights, the internationally recognized principles on business and human rights, including the United Nations Guiding Principles on Business and Human Rights. They should publicly recognize and respect the positive role of human rights defenders. Companies must refrain from actions that can negatively affect the enjoyment of human rights in any way.**
- **Companies should advocate for prior and meaningful consultation with communities when they have the intention to participate in a project that can affect indigenous or Afro-descendant communities and promote the use of Popular Consultations to other communities, like in the case of peasants. Companies should refrain from taking actions that can affect these consultations, including those that can contribute to internal division of communities. Companies should offer all relevant information to the affected people by the projects in an accessible and culturally appropriate way.**
- **Companies must ensure that private security companies and other subcontractors respect the right of defenders and do not contribute or cause harassment or violent acts against affected communities. Companies should refrain from activating the judicial system against human rights defenders and find internal procedures to manage the social unrest that might be caused by the company's operations.**

## **11. The role of the international community**

I welcome the fact that the international community is concerned and actively involved in numerous activities related to the promotion and protection of human rights defenders. Thanks to the commitment and generosity of international donors, organizations and local communities deliver a considerable amount of programs, both on civil and political rights, but also on social, economic and cultural rights.

I have also met locally with a number of representatives of international organizations which use protective accompaniment – combining the physical presence of volunteers with advocacy and other activities – to safeguard defenders at risk and to expand their operational space. Accompaniment by local or international actors has helped to deter attacks and to provide psychological support to defenders, given that it demonstrates solidarity between and among defenders locally and transnationally. I commend the efforts of states to provide those organizations with a substantive financial support.

Nonetheless, a great number of defenders and local communities have pointed the fact that they are not in direct contact with embassies. This is notably the case for those who live in rural and remote areas and are the ones most at risk. Meeting with defenders at risk is an important way of showing concern for their welfare and support for their work. It is invaluable for counteracting isolation and stigmatization of defenders. Field visits to defenders outside of Bogota, in particular, are a valuable way of engaging with and providing support to a broad range of defenders.

Defenders in prisons and under house arrest are often more vulnerable to rights violations, and visiting them can have a protective effect. In particular, the rights and security of defenders in long-term imprisonment should be monitored, and relevant State authorities should be held accountable for their protection.

I have also noted numerous allegations of a clear responsibility of international companies operating in Colombia in direct or indirect attacks against human rights defenders. The paradox

is that those companies sometimes have their seat in countries, which are supportive of the protection of human rights defenders. As diplomacy is an instrument of Good governance embassies present in Bogota should scrutinize the respect of the UN “Protect, Respect and Remedy” framework and guiding principles by companies of their country.

**The international community in Colombia is recommended to:**

- **Publicly scrutinize and condemn violations of the rights of human rights defenders;**
- **Raise awareness of the positive role of human rights defenders and share good practices that have been effective in the protection of human rights defenders;**
- **Regularly meet and support human rights defenders, especially with those living in rural or remote areas;**
- **Continue to provide technical assistance to enhance the protection of human rights defenders;**
- **Facilitate and host events to enhance visibility and recognition of human rights defenders at risk;**
- **Monitor the HR respect of nationally-owned companies based in Colombia.**
- **Support and provide temporary shelter to human rights defenders and their families at risk;**
- **Monitor and scrutinize the respect of the UN "Protect, Respect and Remedy" Framework and Guiding Principles by companies of their country.**

## **12. The role of civil society, human rights defenders networks and platforms**

During the course of my visit, I have been privileged to meet with over 200 dedicated and brave rights defenders from all over the country. I was pleased to encounter such a vibrant bouquet of lively national and regional networks. I have been impressed by the extraordinary and unique combination of networks of social leaders, community leaders, trade unionists, women human rights defenders, indigenous community leaders, movements of victims, associations of peasants, and community action boards.

Human rights defenders themselves told me that they have a key role to play in contributing to a safe and enabling environment and to provide security to their members. They have understood that formal and informal networks that connect defenders and supporters to each other are a key factor in protection. Mainstream or thematic networks help defenders share information, coordinate actions, express solidarity, pool resources, allow rapid mobilization in times of crisis, and can mitigate the risks of threats and attacks. In some of my meetings I recalled that they are responsible for doing their work professionally, in a peaceful and non-discriminatory manner, and with due respect for international human rights principles.

Some defenders I have met felt isolated and not sufficiently connected to broader networks or marginalized and sometimes stigmatized due to the specific nature of their work or their remote location. It is important that Colombian human rights movement works towards strengthening networks outside Bogota and other metropolitan cities and reach out in an inclusive manner to defenders working in remote areas. I strongly urge human rights defenders to work together through networks and have a unitary strong voice.

One aspect of security often neglected by defenders is their own well-being. The stress of human rights work often takes a toll on the mental, emotional and psychological well-being of defenders. I encourage networks and organizations of defenders to recognize the signs

and symptoms of stress, depression, anxiety, post-traumatic stress disorder and burnout and to develop activities in the prevention and treatment of them.

In some of my meetings with defenders, it became clear that they were not aware of the variety of support offered by international mechanisms of the Inter-American system and the United Nations. It is thus essential that defenders have the possibility to make full use of international and regional human rights mechanisms, including UN special procedures, treaty bodies, the UPR and the Inter-American System for Human Rights, when reporting on human rights violations and breaches of international humanitarian law.

### **Recommendations:**

#### **Human rights organizations and network should:**

- **Develop awareness-raising strategies about the right to defend rights and to be protected for exercising that right, including through promoting the self-identification of human rights defenders, building social support for human rights and the work of defenders, and disseminating the Declaration on Human Rights Defenders;**
- **Foster a culture of “holistic security”, focusing in particular on the physical, digital and psychosocial dimensions of security, and facilitate the internalization of security awareness individually and collectively;**
- **Build and support networks among defenders and their allies at all levels, critically reviewing their impact on the protection of defenders and ensuring diversity and inclusiveness in the scope of work and membership;**
- **Develop concrete ways to strengthen the knowledge, skills and abilities of defenders, in particular on how to protect their rights and to manage their security;**
- **Recognize the signs and symptoms of stress, depression, anxiety, post-traumatic stress disorder and burnout and to develop activities in the prevention and treatment of them**

### **13. Key Recommendations**

#### **The Special Rapporteur recommends the Government to:**

- 1. Adopt and implement a comprehensive public policy on human rights defenders,** aiming to recognize and enable their important work and to ensure a safe environment for the defence of human rights. The policy should protect defenders from threats, attacks, killings, forced disappearance and displacement, gender based violence and the forced recruitment of their children with a strong focus on prevention and risk mitigation. The Government should:
  - Develop this policy with the participation of defenders including indigenous people, afro-Colombians and women defenders, civil society, and the international community;
  - Ensure the policy incorporates a territorial, ethnic, gender and age-sensitive approach;
  - Focus on prevention, stopping the killings and ongoing violations of human rights defenders rights, and ending impunity.
  - Assign adequate funding and kick start its implementation within the first year in office;
  - Monitor and publicly report on progress made in its implementation.
  - Link this policy to initiatives addressing root causes of attacks and vulnerability of defenders: poverty, lack of State control, presence of armed organized groups, illegal economies, corruption and lack of respect of human rights by Businesses.

- (See annex 1 with Additional Guidance for the elaboration of a Policy on Human Rights Defenders)

**2. Develop public communications and social media campaigns to promote and recognize the important role of human rights defenders.** The Government should:

- Launch concrete initiatives/campaigns at the national, department and municipal levels within the first year in office and throughout its term, including public statements.
- Promote a paradigm shift, with a focus on their important contribution in promoting human rights, peace and sustainable development in Colombia.
- Adopt a “zero-tolerance” policy against the stigmatisation of defenders by public officials or non-State actors, including private sector, and Media.

**3. Ensure a wide public democratic space where civil society and human rights defenders can participate meaningfully in public and political affairs.** The Government should:

- Consult with civil society and take into consideration their views on public policies, legislative and other initiatives, in particular in relation to the implementation of the peace agreement, the protection and promotion of human rights, and the situation of defenders.
- Ensure the effective protection of defenders and leaders in the context of the 2019 municipal elections and ensure their safe and affordable participation.

**4. Rationalize, improve and ensure effective coordination among the various initiatives in place for the protection of defenders and the promotion and defence of human rights.** The Government should in close cooperation with civil society:

- Map, assess, rationalize and improve existing initiatives and spaces of dialogue at all territorial levels to ensure efficient and coordinated action.
- Strengthen and (re)-activate: (a) El Proceso nacional y mesas de garantías nacional y departamentales para la labor de defensores de Derechos Humanos Líderes Sociales y comunales (2009);<sup>51</sup> La Mesa por la protección a la Vida (2018);<sup>52</sup> la Comisión Intersectorial de Garantías para las Mujeres Líderesas y Defensoras de los Derechos Humanos<sup>53</sup> and La Comisión Nacional de Garantías de Seguridad.<sup>54</sup>
- Ensure that social dialogue initiatives meet within the agreed periodicity; are action-oriented, adequately funded, focus on the implementation of agreed actions, and that progress made is monitored and publicly reported.

**5. Prioritize effective access to justice by defenders and accountability for attacks against them:**

- Allegations of threats, intimidation, attacks, killings and acts of violence against the life and physical integrity of human rights defenders including social leaders, as well as the forced disappearance and displacement, gender based violence and forced recruitment and sexual exploitation of children must be promptly, thoroughly and effectively

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<sup>51</sup> The process was established with the mandate to adopt legislative, Institutional and other measures in relation to the defence and promotion of human rights with a focus on prevention, protection and investigation, and is lead by the Ministry of Interior.

<sup>52</sup> Established by the General Prosecutor with the view to follow up on State obligations to provide comprehensive Protection to human rights defenders

<sup>53</sup> This Commission was established by Real Decreto 13/14 of 10 August 201 to coordinate and guide the formulation, implementation and monitoring of the Comprehensive Guarantee Programme for Women Leaders and Human Rights Defenders ( Programa Integral de Garantías para las Mujeres Líderesas y Defensoras de Derechos Humanos).

<sup>54</sup> It was established in the context of the implementation of the peace agreement, led by Presidency and aimed at the adoption of public policies to dismantle of criminal organizations or conducts that attack human rights defenders

investigated; and the intellectual and material perpetrators of such violations are brought to justice and held accountable for their acts;

- The Attorney General Office should ensure an increased focus on the investigation and prosecution of violations against defenders prior to 2016, the identification and prosecution of intellectual authors and the investigation of threats.
- Adequate investigation and prosecution procedures with a gender, age and survivor centred-approach must be developed for the prosecution of gender-based violence and forced recruitment and exploitation of children.
- Public officials of the justice sector, attorney general office and police should be trained on human rights as relate to human rights defenders and on ensuring a survivors centred, gender and age specific approach in the investigation and prosecution.
- The Attorney General Office should ensure increased focus and results on the investigation of alleged corruption of public officials and connections with illicit economies and organized armed groups, including at department and municipal level, to ensure that any agents of the State who provide support to such groups or allow them to act with their acquiescence, are brought to justice and punished

**6. Prioritize collective protection measures in the restructuring of the UNP, with broad participation of civil society.** Given that the highest risk situations for human rights defenders are concentrated in non-urban areas, the Government should:

- Strengthen communities existing self-protection mechanisms. These are among others, the mediating committees of the Juntas de Accion Comunales, humanitarian spaces and the peasant guard.
- In the case of Indigenous and Afro-Colombian communities, strengthening of their own means of self-governance and collective protection strategies, such as the indigenous and cimarrona guards.
- The security approach in the territories must be collective and with a focus on human security that addresses the structural causes of their risk situation.
- Consolidate collective and individual risk assessments that include the differentiated risks of the various categories, contexts, and gender of defenders and that identifies as well differentiated responses accordingly.
- Increase the provision of non-material type protection measures, including political, legal, and psychosocial aspects.

**7. Ensure political commitment and resources for the full implementation of the peace agreement, State's comprehensive presence in the territories and sustainable development** with the view to contribute to a safe an enabling environment for defenders and to address the root causes of attacks against defenders. The Government should:

- Publicly support and take steps to the implementation of the peace agreement, ensuring public reporting on progress made and challenges ahead.
- Prioritize the deployment of civilian State institutions in charge of security, justice, education, health and social services, particularly in FARC-demobilized areas.
- Adopt a human security approach to national security, and ensure that security forces are trained on human rights and gender, and sensitized on the situation of defenders.
- Implement rural development policies to achieve the progressive realization of economic, social and cultural rights, and the United Nations Sustainable Development Goals.





**Guiding Principles for the elaboration of policies and strategies  
for the protection of human rights defenders  
by the Special Rapporteur on the situation of human rights defenders**

The protection of human rights defenders in Colombia should be seen in the context of three obligations that international human rights law imposes on States. The obligation:

- to respect human rights by refraining from violating them;
- to protect such rights by intervening through protective action on behalf of defenders against threats by armed groups, paramilitaries and organized crime;
- and to fulfil them by ensuring a safe and enabling environment for defenders to enjoy their rights and to carry out their activities.

I propose seven principles to guide the government of Colombia when developing policies and strategies to protect human rights defenders. The government of Colombia should:

1. Adopt a rights-based approach to protection, empowering defenders to know and claim their rights and increasing the ability and accountability of those responsible for respecting, protecting and fulfilling rights.
2. Recognize that defenders are diverse; they come from different ethnic groups, backgrounds, cultures, belief systems and have diverse gender identities. From the outset, they may not self-identify or be identified by others as defenders.
3. Recognize the significance of gender in the protection of defenders and apply an intersectionality approach to the assessment of risks and to the design of protection initiatives and also recognize that some defenders are at greater risk than others because of who they are and what they do.
4. Focus on the “holistic security” of defenders, in particular their physical safety, digital security and psychosocial well-being.
5. Acknowledge that defenders are interconnected. The policy or strategy should not focus on the rights and security of individual defenders alone, but also include the groups, organizations, communities and family members who share their risks.
6. Involve defenders in the development, choice, implementation and evaluation of strategies and tactics for their protection. The participation of defenders is a key factor in their security.
7. Bear in mind that the protection should be flexible, adaptable and tailored to the specific needs and circumstances of defenders.