

*Preliminary Observations of the Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-recurrence in his Official Visit to Colombia*

Colombia, 29 September 2023

## **Introduction**

Between 19 and 29 September 2023, I carried out an official visit to Colombia. I would like to thank the Government for extending this invitation, and for its broad and efficient support during the preparation phase and the visit itself. I am also grateful for the invaluable support I received from the Colombia Office of the United Nations High Commissioner for Human Rights (OHCHR).

My visit included time in Bogotá, Cali, and Valledupar. I met with state employees,<sup>1</sup> victims and relatives of victims of the armed conflict, representatives of civil society organizations, academic institutions, representatives of United Nations agencies, international and regional organizations, and the diplomatic community. A detailed report of my observations and recommendations will be submitted to the United Nations Human Rights Council in September 2024. The observations and recommendations presented here today are preliminary and may be updated for the final report.

## **Context**

Over 50 years of the Colombian armed conflict, countless serious human rights and international humanitarian law violations were perpetrated. In its 2022 Final Report, the Truth Commission established that between 1985 and 2018 there were 450,664 victims of homicide, 80% of whom were civilians, 121,768 victims of enforced disappearances, 50,770 victims of kidnapping (1990 - 2018), 16,238 children and adolescents were victims of forced recruitment (1990 - 2017), about 8 million displaced persons, and more than one million exiles, with different statuses or recognition from a variety of countries (1982 - 2020).<sup>2</sup>

Peace negotiations have taken place since the 80s and led to the adoption of incipient transitional justice mechanisms. Law 975 of 2005, known as the Justice and Peace Law, sought to facilitate paramilitary demobilization and reincorporation into civilian life and their criminal investigation and sanction, with reduced and hybrid sentences as perpetrators of serious human rights violations. In 2011, Victims Law 1448 was passed, establishing a comprehensive reparations program, truth-seeking mechanisms, and land restitution procedures for victims of the armed conflict, thus, creating new implementing bodies, such as the Victims Unit, the Land Restitution Unit, and the National Center for Historical Memory. The 2016 signature of the Final Peace Agreement between the Colombian government and the FARC-EP led to the creation of a holistic transitional justice system in Colombia, with the creation of the Comprehensive System for Truth, Justice, Reparation, and Non-Recurrence (SIVJRNR) comprised of the Special Jurisdiction for Peace (JEP), the Search Unit for Presumably Disappeared Persons (UBPD), and the Commission for the Clarification of the Truth (Truth Commission - CEV), all of which have a temporary status. The SIVJRNR was created by point 5 of the Peace Agreement and incorporated into the Political Constitution of Colombia through Legislative Act 01 of 2017. Reflecting the spirit of the Peace Agreement, the system was created with the centrality of victims as a pillar, and incorporates ethnic, territorial, and gender approaches in the processes, structures, and actions of its institutions. Despite these important

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<sup>1</sup>The complete list of authorities will be detailed in the final report.

<sup>2</sup> <https://www.comisiondelaverdad.co/hallazgos-y-recomendaciones-1>, p. 179

advances, it is estimated that there was a minimal implementation of 37% of the Agreement's provisions and in 15% of cases implementation had not been initiated.<sup>3</sup>

Under the "Total Peace" policy adopted by the current government, peace negotiations are being carried out with other armed groups and armed criminal structures, seeking negotiated solutions to the conflict. Discussions on the type of transitional justice system that would accompany the peace negotiations have not yet seen progress, nor is there clarity regarding victim's participation in the design of said mechanisms, or when they will be consulted. This is a major concern among victims and civil society organizations. Likewise, the evident increase in violence in some regions of the country creates new challenges regarding the sustainability of peace, impacting the current negotiations and the work of the justice mechanisms that have been initiated. Since 2018, violence related to the armed conflict has intensified, with six conflict hotspots registered by the International Committee of the Red Cross, and an increase in massacres, sexual violence, child recruitment, forced displacement, the use of anti-personnel mines, and confinement. The rate of threats and murders against human rights defenders, social leaders, and former combatants has increased.<sup>4</sup>

The following are my preliminary observations and recommendations based on the five pillars of my mandate.

## **Truth**

### *The Search for Truth*

The Commission for the Clarification of the Truth was created for an initial three-year period, which was extended to four years, to seek the truth about what happened in the context of the internal armed conflict. The Commission ended its mandate in June 2022 with the presentation of its final report, with very important findings based on its investigations, and detailed recommendations referring to different sectors of government. The Commission's important work included the collection of extensive and varied information with a differential approach through 25 recognition spaces, testimonies from 27,290 individuals, and 1,008 coexistence initiatives. This is a transcendental step to clarify and recognize the truth about human rights and humanitarian law violations that occurred during the armed conflict, and to guarantee the rights of victims, including ethnic peoples and victims of gender-based violence.

A Follow-up and Monitoring Committee was created by Article 32 of Decree Law 588 and regulated by the Truth Commission, to monitor the implementation of its recommendations. The Committee began its mandate in June 2022 and has written its first follow-up report in addition to efforts to disseminate the Commission's final report. As an entity that was created without a legal status or administrative autonomy, budgetary execution and contracting is a current challenge, which has impeded the establishment of a sustained team, except for one individual who was hired with the support of international cooperation.

Unfortunately, on 2 May 2023, a plenary session of the Senate of the Republic decided to eliminate Article 8 of the bill for the National Development Plan, which referred to the State's obligation to fulfill the recommendations contained in the Commission's final report, generating criticism from diverse sectors of society. However, the Plan does include several of the Commission's recommendations. Given the importance of these recommendations, in July 2023, a UN Human Rights Council resolution mandated the Office of the United Nations High Commissioner for Human Rights to provide technical assistance to the Colombian State to implement various recommendations over a two-year period.

### *Search and Identification of Disappeared Persons*

The Search Unit for Persons Presumed to be Disappeared in the Context of and Due to the Armed Conflict (UBPD), which has an extrajudicial and humanitarian character, directs, coordinates, and contributes to the implementation of humanitarian search and location actions. The Unit has an extendable 20-year mandate.

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<sup>3</sup><https://www.es.amnesty.org/en-que-estamos/paises/pais/show/colombia/>

<sup>4</sup>Situación de derechos humanos en Colombia 2018-2022 - Informe de las plataformas y organizaciones internacionales para el Examen Periódico Universal Colombia 2023, p.8, 9, and 17.

In 2021, the Unit adopted strategies to strengthen the search for disappeared persons, including the signing of ten Regional Search Plans that seek inter-institutional coordination, the involvement of social sectors, and searchers' participation, particularly women. It is also implementing the second phase of the National Search Plan. The Unit reported that, to date, it has recovered 1,019 bodies, 15 individuals were found alive, it delivered the remains of 202 victims to their families, made progress in the consolidation of the National Registry of Graves, Illegal Cemeteries, and Burials with information on 7,807 sites used for the disposal of bodies, and collected 11,922 biological samples from family members. The UBPD reported that it coordinates actions with the Special Jurisdiction for Peace, the Attorney General's Office (FGN), and the National Institute of Legal Medicine and Forensic Sciences (INMLYCF). However, the coordination between these mechanisms is insufficient, hindering advances. Civil society organizations noted certain delays in the Unit's work and dissatisfaction with the results achieved to date. Many stakeholders mentioned an insufficient coordination and exchange of information between institutions.

The National Institute of Legal Medicine and Forensic Sciences performs the forensic identification process for disappeared persons. It has 147 attention points throughout Colombia and specialists from different disciplines who are responsible for identifying individuals disappeared in the context of the armed conflict. Given the specialization required by this work, Colombia has a shortage of qualified forensic medicine and genetics professionals, which is a hurdle for staff selection. To overcome this gap, the Institute offers ongoing specialized training to its staff, but does not provide the corresponding certifications. Access to technological resources is another challenge. Although the institute has suitable machinery, the procurement of supplies, especially reagents, is costly and sometimes difficult. Several stakeholders reported significant delays in the forensic analysis performed by the Institute on the remains of individuals disappeared during the armed conflict. Institute employees explained that the insufficient number of DNA samples from family members in the Genetic Data Bank, and difficulties due to irregular burials in cemeteries with mass graves (ossuaries), including victims and non-victims of the armed conflict, are major obstacles to their work. International cooperation contributions to specialized training and technical resources are not significant and could be expanded to meet the Institute's needs and the enormous challenges posed by its workload. Both the Institute and specialized international entities or donors should consider adopting cooperation projects to help undo what many stakeholders consider to be a concerning bottleneck.

To address coordination challenges, in May 2023 the National Search System was created. It was approved by the Congress of the Republic in the 2022-2026 National Development Plan and promotes coordination and cooperation between the different branches of government with competencies in the search for disappeared persons and to formulate a comprehensive public policy.

## **Justice**

Law 975 created the Justice and Peace Tribunal, where, since 2005, judicial proceedings have advanced for demobilized paramilitary members accused of serious human rights and international humanitarian law violations. The Tribunal reported that it has already issued 90 rulings, grouping 18,000 violent events, which led to the conviction of 900 defendants and the recognition of 84,837 victims. However, the issuance of rulings has been lethargic. Judicial authorities indicated that there were delays in receiving the investigations from the Justice and Peace Unit of the Attorney General's Office between 2006-2019, which slowed down the processing of cases. The current Attorney General's Office acknowledged this delay and reported significant progress in the last three years in the indictment of defendants and the search for disappeared persons, virtually doubling the number of resolved cases. Rulings from the Justice and Peace Tribunal allowed for a characterization of the dynamics within the paramilitary structures, their ties to Colombian military forces, and the participation of third parties in the armed conflict, although it did not prosecute the highest-ranking members of those structures.

Thanks to the Peace Agreement, one of the SIVJRNR's main institutions, the Special Jurisdiction for Peace (JEP) was established in 2017 for a 15-year period, renewable for an additional five years, to investigate, try, and punish members of the FARC-EP and members of State Security Forces who committed crimes in the context of the armed conflict prior to 1 December 2016. The JEP's work focuses on the most serious and representative events of the armed conflict, according to selection and prioritization criteria defined by law and the magistrates.

The State, with support from the international community, allocated important resources and capabilities to fund and develop the Jurisdiction's structures and processes. This effort should be commended. The JEP has a staff of 38 judges, elected by a Selection Committee, a three-chamber structure, a peace court, an investigation and

indictment unit, and an executive secretariate, as well as a broad territorial presence with representatives in manifold regions of the country. More than 13,388 accused parties appeared before the JEP and 332,518 victims were accredited. The JEP established a territorial approach with a permanent presence and hearings in the territories, bringing the judicial proceedings, and their restorative effects, closer to the communities. In turn, it adopted differential approaches in its proceedings, as was foreseen by the Peace Agreement. The JEP established two mechanisms to try and sanction the appearing parties. The dialogue-based route, which is available to those who meet the requirements of contributing to the clarification of truth, a recognition of responsibility for the crimes committed, a fulfillment of reparations to the victims, and a commitment to non-recurrence. This option culminates in the adoption of non-custodial sanctions for those considered guilty. On the other hand, the accusatory procedure applies to those who do not meet the aforementioned requirements and can lead to prison sentences of up to 20 years if the appearing parties do not acknowledge their responsibilities prior to sentencing.

Given the Jurisdiction's strict time limit, case selection and prioritization strategies were adopted. The JEP has opened 11 macro cases to date. I warmly welcome this Wednesday's opening of macro-case 11 on gender-based violence, as requested by numerous victims' and civil society organizations. The absence of a macro case on enforced disappearance has raised manifold criticisms, as it makes invisible the autonomous nature and massive scale of the commission of this crime. The principle of prioritization and selection of cases also led the JEP to focus on prosecuting high-ranking individuals. The middle and lower ranking members are not prosecuted but must voluntarily participate in restorative sanctions. Victims of rape committed by middle and lower ranking individuals have expressed dissatisfaction regarding the impunity they feel their cases face. Some victims expressed concern regarding the JEP's acceptance of members of the state security forces who have already been sentenced to prison in the ordinary justice system, despite an inclusion of this possibility in the Peace Agreement.

Under the regulatory framework proposed by the Peace Agreement, an effective contribution to the truth and the clarification of responsibilities by those appearing in the trials is a condition to access procedural benefits, such as the replacement of custodial sentences with restorative or "own" sanctions. I have heard numerous criticisms from civil society representatives, some State bodies, and the international community regarding the scant contributions to truth and the clarifications of responsibilities from many parties appearing before the JEP, which would not meet the standard of full, detailed, and exhaustive truth stipulated in the Agreement. Likewise, civil society representatives and victims have noted with concern that the sanctions proposed by the appearing parties and which have been rejected by victims—who consider them to be inadequate to redress the harm suffered (and in some cases revictimizing)—are considered by the JEP's Chamber for the Recognition of Truth and Responsibility and the Determination of Facts and Conducts, while sanctions proposed by the victims have not been equally taken into account. In that sense, victims have expressed concern that the Jurisdiction may not impose effective sanctions for the appearing parties, but rather sanctions designed by the accused which may not represent justice or adequate reparation for those victims.

In numerous circumstances I heard criticism regarding the ordinary justice system's inaction, particularly the Attorney General's Office, in the investigation and prosecution of those responsible for serious human rights and international humanitarian law violations during the conflict. This inaction also causes significant delays in the search for disappeared persons. Even though the law establishes that investigations into human rights violations committed during the armed conflict must continue until the Special Jurisdiction for Peace has issued a resolution of conclusions in each macro-case, the Office of the Attorney General of the Nation has made little progress, after the appearing parties go before the JEP. I have also received information of insufficient coordination between JEP judicial offices and a scarce exchange of information with the ordinary justice system, generating delays in the judicial proceedings.

## **Reparation**

Victims can access reparations through ordinary judicial channels, or through transitional justice mechanisms established since 2005. The ordinary reparations system includes criminal proceedings, civil proceedings, and the State's administrative responsibility in the ordinary justice system. The State has also adopted additional mechanisms. Law 975, Justice and Peace, contemplates a Reparation Fund with resources mainly resulting from assets seized or handed over by paramilitaries in the demobilization process under an alternative sentencing framework. The Fund administers these assets and pays the compensation established in the regulatory framework. Law 1448 of 2011 expanded the category of beneficiaries and the scope of available reparations by establishing the right to comprehensive reparation, which includes measures of satisfaction, rehabilitation, compensation, restitution, and guarantees of non-recurrence. The law, and its regulatory norms, created new institutions, such as

the Unit for the Attention and Comprehensive Reparation of Victims (Victims Unit), the Land Unit, and the Unified Victims Registry. The Victims Unit grants individual and collective reparations and provides humanitarian and emergency attention. Physical and psychosocial rehabilitation measures are provided to victims by the Program for Psychosocial Attention and Comprehensive Health for Victims (PAPSIVI), managed by the Ministry of Health. The Final Peace Agreement expands the existing systems by means of the Comprehensive System of Truth, Justice, Reparation, and Non-Recurrence (SIVJRNR) and underscores victims' participation, rehabilitation, collective reparations, and acts for a collective recognition of responsibility.

Colombia has established a holistic and ambitious reparations system, which extends to a large universe of victims. The Unified Victims Registry currently has 9.5 million registered victims, of which 7.5 million are subject to attention and/or reparations.<sup>5</sup> The Victims Unit provides services in 220 attention points and centers in every department of Colombia. However, the payment of compensations is excessively slow due to a lack of resources, poor institutional coordination, and bureaucratic obstacles. As of February 2023, 1.2 million reparations had been paid, representing 13% of the victims to be compensated. Additionally, there is a 3-year time limit to be registered as a victim, which starts at the moment of a victimizing event. This establishes an unfair burden for those who, due to the conflict, could not file their complaint prior to the cut-off date. Also, the physical and psychosocial rehabilitation measures offered by PAPSIVI have not enjoyed the effectiveness, financial or human resources, or capacity to adequately respond to the victims, who continue to face unattended urgent needs.

The Land Unit manages the land restitution and formalization program for victims of dispossession and forced abandonment that occurred since 1 January 1991 in the context of the armed conflict, including collective territories. The procedure includes an administrative phase (enrollment in the registry of dispossessed lands) and a judicial phase (restitution action). The Unit is responsible for the design and administration of the Registry of Dispossessed and Abandoned Land and handles, on behalf of the victims, the restitution requests or claims before the Land Restitution Judges. This mechanism contains innovative elements, such as legal presumptions in favor of the victim. However, the program presents challenges with a high rate of application rejections in the administrative phase, judicial backlogs, and a scarce execution of sentences by the responsible entities. Of the nearly six million hectares of land dispossessed during the armed conflict, by 2022 restitution or compensation had been ordered for 183,466 hectares.

This week the national government presented a bill to reform Law 1448, seeking to adapt it to victims' needs, and reiterating the need to ensure that there are no setbacks on the rights enshrined when the law was debated in Congress.

## **Memorialization**

To date, Colombia has not adopted a national public policy on memory, although a bill has been presented. Civil society organizations have made observations and suggestions on this bill. In the meantime, the State has established institutions with a memorialization mandate. The Justice and Peace Law created the National Commission for Reparation and Reconciliation (CNR), consolidating the Historical Memory Group (GMH), which produced numerous public memory reports on the armed conflict, with a certain emphasis on the voices of victims and their communities. Law 1448 of 2011 established the obligation to adopt truth and historical memory measures, implementing the National Victims' Day and Peace Week, and creating institutions with a mandate to ensure the collection, preservation, transmission, and access to information on the armed conflict, the violations that occurred, and actions of resistance. Examples include the National Center for Historical Memory (CNMH), and the Office on Human Rights Archives, which established a Special Registry of Human Rights, Historical Memory, and Conflict Archives, and foresees the creation of a Memory Museum, which has not yet been built.

I was told that during the previous administration there was a slowdown in the Center's work and that its director maintained a denialist stance regarding the existence of the armed conflict. This led social organizations that had lent archives to the CNMH to withdraw them, as they were concerned about how the files would be handled. I also heard numerous concerns about the Center's lack of autonomy and independence.

Regarding the Truth Commission's report, the information resources used to write the report have been compiled, and a "Truth Clarification Archive" was created, as well as a set of educational resources, and pedagogical and artistic products to disseminate the information gathered by the Commission to society. This information is

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<sup>5</sup><https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394>

available to the public on the Internet. These initiatives are a valuable contribution to the historical memory of the armed conflict. The archives or documentary collection of the Truth Commission's final report were transferred to the Nation's General Archive, but there is a lack of clarity regarding the policy on custody, access, and protection of these archives. I have been told that access to the CEV findings is scarce and difficult from the territories. Likewise, memory measures in these areas are limited and are usually civil society initiatives. In Bogotá and Valledupar, I received information about local government memory initiatives.

The Ministry of Education reported on educational measures regarding memory and the culture of peace, such as the Peace Course adopted by Law 1734 of 2014, the School Museums of Memory, and the initiative "Schools Embracing Truth." However, I was also told about the lack of a national educational policy to teach about historical memory and the culture of peace, given the educational autonomy of each department. In the opinion of civil society, this leads to an inadequate adoption of these measures in educational institutions in the territories.

## **Guarantees of Non-Recurrence**

Although there are several aspects to evaluate in this area, today I will prioritize security sector reforms, demobilization, and threats to peace. In my final report I will present an analysis of other relevant aspects.

### *Security Sector Reforms*

Colombia faces manifold challenges in terms of security sector reforms. Although reforms have occurred since the adoption of the 1991 Constitution in relation to state security forces, which for years have been tied to serious human rights violations in the context of the armed conflict and beyond, Colombia has not established a reform policy for this sector. Despite the democratic constitutional regulatory framework, the Government maintained the police under the Ministry of Defense and continued granting powers to the Armed Forces to maintain public order, which led to an important militarization of internal security. In recent decades, initiatives to reform state security institutions were primarily aimed at strengthening the monopoly of force, particularly in the context of fighting drug trafficking and armed groups. Likewise, a reform of the security model was not addressed in any of the peace negotiations. In the Final Peace Agreement, security sector reform was neglected.

The Truth Commission Report noted how the security model that has governed Colombia throughout most of its history has been permeated by the logic of the fight against the internal enemy and territorial control. This approach was not able to guarantee the population's security and rights and led to serious human rights violations. Likewise, the State security has left entire territories of the country unprotected. In contrast to this approach, the report called for the adoption of a policy focused on human security.

Although there have been some reform efforts and the adoption of training in human rights and international humanitarian rights within the Armed Forces, I have no information on the existence of an overall reform policy relative to the structures, norms, and control mechanisms of the Armed Forces. Nor has a structural purge of the security institutions been carried out to ensure that personnel suspected or accused of serious human rights violations are removed from their posts until their situation is clarified. However, in cases where the information received indicated such a link, the accused parties were removed from their posts, according to information provided by the Military Forces.

Following serious police violence during the 2021 Social Uprising, the government announced measures to reform the National Police in response to public concerns, including a new human rights policy and human rights training, a restructuring of the General Inspectorate, and changes to police uniforms. A Comprehensive Transformation Process (PTI) of the National Police, which seeks transparency and a modernization and professionalization of the Police, has been underway since 2021, underpinned by Law 2179 (2021) for the Professionalization of the Police Service and Law 2196 (2022) which issues the Police Disciplinary Statute. The current administration expressed its commitment to replace the old security policy focused on the fight against insurgencies and the internal enemy with a human security policy. In this regard, a comprehensive security strategy was adopted that seeks to achieve a more humane transformation of security and coexistence, through the provision of a flexible, differential, objective, and familiar public police service with a territorial approach.

Despite pressure from different social actors to achieve the separation of the police from the Ministry of Defense and the military justice system, this was not incorporated into the reform package. The expected reform of the

Military Criminal Justice system has not yet been carried out. One aim is to remove the investigation and prosecution of members of the state security forces accused of human rights violations from this jurisdiction.

### *Demobilization and Reincorporation*

The justice and peace process, the Victims Law, and the Final Peace Agreement include measures to favor the reincorporation of former paramilitary and FARC-EP combatants into civilian life, along with measures aimed at preventing a return to armed violence by these or other actors.

Article 35 of Law 1592 of 2012, which amended Article 66 of Law 975 of 2005, establishes the creation of a resocialization and reintegration public policy that facilitates reincorporation into civilian life for former combatants of organized illegal groups. The Victims Law lays out measures aimed at non-recurrence related to the end of the conflict, including: the demobilization and dismantling of illegal armed groups; the dismantling of economic and political structures that benefited from and supported illegal armed groups; the reintegration of children and adolescents who have participated in these armed groups; and the design and implementation of reconciliation strategies, projects and policies at societal and individual levels.<sup>6</sup> It also establishes guarantees related to the prevention of new violations, particularly violence directed against vulnerable groups, such as women, children, and adolescents, older adults, social leaders, members of trade union organizations, human rights defenders, and victims of forced displacement. Point 3 of the Final Peace Agreement focuses on the measures required for the termination of the conflict with the ceasefire and demobilization, disarmament, and reintegration processes for combatants (DDR), and the provision of security in the territories most affected by the violence. The Agency for Reincorporation and Normalization (ARN) has taken the lead in the territories and in accompanying ex-combatants with a package of financial, food security, educational, and employment and economic project promotion measures.

### *Threats to Peace*

The FARC-EP's demobilization and the Peace Agreement significantly contributed to a decrease in violence. However, violence has continued and even intensified in several regions of the country, especially in the territories farthest from the cities. There are several non-state armed groups fighting for territorial control in areas where the FARC-EP demobilized, in addition to other regions, as a strategy was not prepared (even as a part of the previous demobilization and peace agreements) and policies were not implemented to recover these power vacuums through a State presence, including both the state security forces and institutions that provide services to the community, in the liberated or more remote territories. These armed groups are currently expanding and include structures dedicated to illicit economies, FARC-EP dissidents, guerrillas, and rearmed or recycled paramilitaries in criminal groups. The reincorporation of demobilized ex-combatants faces major challenges such as security guarantees, the coverage of economic projects, and the long-term sustainability of the process.

Violence has also fiercely manifested itself in a steady and alarming increase in the number of murders and attacks against human rights defenders, social leaders, environmental activists, and demobilized ex-combatants of the FARC-EP. Numerous stakeholders have expressed major concerns about the upsurge in violence and conflict and how this is impacting society and jeopardizing the Peace Agreements' legitimacy. Guarantees of non-recurrence have not yet been achieved and seem to be an elusive goal. Illicit economies including drug production and trafficking, illegal mining, human trafficking, and logging continue to expand, fueling the cycle of violence. Early warnings issued by the Ombuds Office, a vital tool in this context, are unfortunately not adequately implemented by the corresponding local entities, leaving vulnerable people and communities defenseless.

### **Final Observations**

During my visit, I explicitly focused on analyzing the measures regarding truth, justice, reparation, memory, and guarantees of non-recurrence adopted by the Colombian State to address the serious human rights and humanitarian law violations committed in the context of the armed conflict. This set of measures is, of course, intrinsically related to the implementation of the 2016 Peace Agreement, but it does not encompass the agreement in its entirety, and at the same time exceeds it.

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<sup>6</sup>Articles 149 and 150 of the Victims Law

Since 2005, Colombia has established a series of measures in these five areas which, despite their varied scopes and implementation rates, have led to the construction of complex and sophisticated transitional justice mechanisms on regulatory, institutional, and programmatic levels. The processes resulting from the adoption of the Justice and Peace Law of 2005, the Victims Law of 2011, and the Comprehensive System of Truth, Justice, Reparation, and Non-Recurrence (SIVJRNR) created by the 2016 Peace Agreement, gave rise to an institutional framework that seeks, and in many cases succeeds, to respond to the needs of the Colombian society in its transition to peace.

Regarding the clarification of truth, Colombia has made commendable progress in identifying the roots, circumstances, characteristics, structures, and responsibilities that led to the serious human rights and international humanitarian law violations committed in the context of the conflict. The holistic, impartial, and skilled work of the Commission for the Clarification of the Truth, which resulted in its final report presented in 2022, should be highlighted and has my highest esteem. All state institutions with the authority to implement these recommendations should promptly adopt effective measures to do so. Likewise, the required resources must be allocated to the Follow-Up and Monitoring Committee and the necessary implementation capacities must be made available to perform its fundamental work. The report's findings should be disseminated, taught, and shared throughout the country to ensure appropriation by the entire Colombian population.

An essential dimension of truth seeking is the clarification of the fate and whereabouts of persons subjected to disappearances, including enforced disappearances. I applaud the establishment of the Search Unit for Disappeared Persons and the creation of the National Search System. However, I express my concern regarding the insufficient results achieved to date by the Forensic Institute of Legal Medicine, the National Attorney General's Office, and the Search Unit itself, for the reasons outlined above. While I understand the existence of structural challenges, such as the characteristics of the territory, mechanisms used by perpetrators to dispose of bodies, the passage of time, and the difficulties to access victims' relatives, I urge these entities to intensify and coordinate their efforts, including through the new National Search System, and to allocate the necessary resources to advance without further delay in the search for and identification of disappeared persons. The systematic collection and broad dissemination of genetic samples, celerity in forensic-genetic analysis, and progress in the search for and exhumation of bodies of presumed disappeared persons cannot wait any longer.

As I have noted, the State has adopted numerous processes to promote the judicial accountability of members of paramilitary groups, other non-state armed groups, and state security forces accused of serious human rights and international humanitarian law violations. I have taken note of the important efforts devoted to this difficult task in the context of an armed conflict, with all the inherent risks and sensitivities. The sentences issued by the Justice and Peace Tribunal offered justice and truth to the victims, in the cases that have been finalized. Despite these efforts, I have noted with concern the marked delays in advancing the cases before the Justice and Peace Tribunal, and difficulties in implementing the reparation measures contained in its rulings.

Meanwhile, the work being carried out by the Special Jurisdiction for Peace to investigate and elucidate the macro-criminal patterns and the highest-ranking parties involved in many of the serious violations committed during the conflict; the differential approaches adopted to demonstrate the victimizing events; and the dialogue and restoration opportunities that are promoted between victims and the appearing parties are very important contributions. The prosecution of very high-ranking military commanders is also noteworthy, the ordinary justice system did not reach these levels. No less important is the JEP's contribution to break away from denialism on issues such as "false positives," showing the systematic and generalized nature of these war crimes and crimes against humanity. I have noted with concern the criticisms regarding the lack of victim participation in the definition of sanctions designed by the appearing parties, which thus far have considered the perpetrators' opinion and do not provide a true restoration of the damages. Additionally, there has been an insufficient compliance of the standard of full, detailed, and exhaustive truth by some, to benefit from sanctions that are more lenient than the applicable sanctions in the ordinary justice system.

Regarding the shortcomings noted in both jurisdictions, I would like to emphasize that delayed justice is denied justice, and that the victims of violations that occurred decades ago have the human right to a prompt and effective remedy and to justice. It is a state obligation to promptly and adequately investigate, prosecute, and punish serious human rights violations in accordance with international standards. I consider it important to remember that unduly offering broad procedural benefits in cases of serious human rights violations generates difficulties that can lead to injustices and—in the end—impunity.



During my visit I met with many victims of the armed conflict. Their testimonies gave an account of unimaginable barbarities perpetrated against millions of people, and the continuity of many of these violations after the signing of the Peace Agreement. Just confirming the number of victims in Colombia, which surpasses 9.5 million people, is simply disheartening for them, as well as for the Colombian society and international community. Colombia undertook, with great effort and merit, an institutional mechanism to provide reparations to victims, rooted in the centrality of victims (as do the Peace Agreement and the SIVJRNR) and on the principle of comprehensive reparations, in compliance with the related international standards. Providing reparations to this gigantic number of victims, which continues to grow, is a major challenge. Looking solely at financial aspects, to effectively respond to this challenge financing mechanisms must be proposed for the reparations program, complementing the funding established in the national budget. Transitional tax policies, the effective seizure of assets from perpetrators (which has clearly been insufficient to date), and a clear division (and not juxtaposition) between UARIV's budgetary allocation for victim compensation and funds dedicated to humanitarian or emergency assistance to victims are necessary. Colombia also requires support from the international community in this area, whom I urge to study and adopt the related alternatives. Procedurally, the UARIV must ensure that the victim registration process does not place the burden of proof on victims to demonstrate the *force majeure* that prevented their registry, when it is clear that the armed conflict was the main obstacle in this regard. The lethargic processes for effective land restitution, even when there are resolutions from the Land Unit that favor victims, require inter-institutional coordination efforts that permit effective access to land for communities, mostly peasant, Indigenous, and Afro-Colombian peoples affected by forced displacement. The medical and psychosocial rehabilitation of victims has been deficient and requires immediate improvements.

I call on the authorities to adopt public policies on memory and historical memory education regarding the events that occurred in the context of the armed conflict, including the Truth Commission's findings and relevant court rulings, as well as guaranteeing the CNMH and the National Memory Museum's autonomy and independence, avoiding a permeability to political fluctuations that could lead to revisionism regarding violations that occurred during this period.

In Colombia, guarantees of non-recurrence are absolutely linked to an implementation of the guidelines laid out in the 2016 Peace Agreement and in previous regulations, and highlight many aspects that require urgent attention. Although I do not have time today to address them in their entirety, I would like to note that the insufficient implementation of essential aspects of non-recurrence contained in these regulations are generating serious human rights violations against Indigenous, Afro-Colombian and peasant populations, human rights defenders, as well as former combatants. I understand the difficulties of implementing some aspects of this agenda, and the delays inherited from the previous administration. I note this administration's renewed efforts to advance in peace negotiations with armed and criminal groups (negotiations that must include victims and civil society without delay), and the incipient proposal regarding the much needed and delayed agrarian reform.

However, these responses cannot fail to include strategies for an effective State presence in the territories most affected by the conflict, immediate and effective implementation of early warnings, providing comprehensive reparations to victims, which includes land restitution, and guarantees sustainable conditions for the return of victims, the reincorporation of former combatants, and the work of human rights defenders, including social leaders. The urgent reform of the State Security Forces, especially the military, which has seen less progress, must also be prioritized.

I would like to take this opportunity to recognize the significant progress and urge the Colombian State to advance in the pending points of the transitional justice agenda, in particular: the implementation of Truth Commission recommendations, accountability in the different relevant jurisdictions, the search for and identification of disappeared persons, reparations to victims, the adoption of public policies on memory and historical education on the armed conflict, and the implementation of measures identified to prevent the repetition of violations committed in the context of the armed conflict or its tragic continuity. The current violence and rupture of the social fabric are clear examples that society cannot move towards a future with peace and progress without addressing these issues.

I emphatically call for the definitive eradication of violence in Colombia, and the achievement of peace through justice and an unrestricted guarantee of human rights without discrimination.

I conclude by once again expressing my deepest sympathy for all the victims and their families.