

# LEARNER LESSONS

## AUTHORITARIANISM AND INEQUALITY

Taking stock of the third year of the government of Iván Duque Márquez

### CONCLUSIONS AND RECOMMENDATIONS

HUMAN RIGHTS REPORT ON THE THIRD YEAR OF THE IVÁN DUQUE ADMINISTRATION

#### Debts on the implementation of the Peace Agreement, conflict, humanitarian crisis, and human rights

A lack of integrity and synchronicity has been evident over the three years of the Iván Duque Márquez administration, along with the non-compliance, delays, defunding, absence of transparency, and access to information on the Peace Agreement's (AFP) implementation. The structural and political violence persists, as does an expansion of militarization and the stigmatization of communities and organizations. In the meantime, the governmental strategy is revealed as a demonstration of AFP fulfillment based on a distorted version of demobilization, disarmament, and reintegration (DDR). This is in addition to presenting alleged advances in illicit use crop substitution programs, which has not implemented the alternative plans and instead forced eradication efforts and

threats of aerial spraying intensify. At the same time, the agrarian jurisdiction is left in limbo, along with the transformative potential behind the action plans to transform the territory (PATR), the political reform, guarantees for the right to peacefully protest, the economic, social, and political reincorporation, and an implementation of the ethnic chapter and gender approach.

Issuing the **agrarian jurisdiction** established in the Peace Agreement—as a mechanism to resolve land ownership and use conflicts—continues to be a debt from the Duque administration. Regarding the PDET, even though plans were approved for the Montes de María, Catatumbo, Sur de Bolívar, southern Córdoba, and Putumayo subregions, the methodology used by the Territorial Renovation Agency (ART) to construct

these plans has been questioned, as they are subordinated to the Peace with Legality policy. This Duque policy is underpinned by the relationship between security and justice, where the PDET seeks to generate stability through military and economic intervention in the regions most affected by poverty, illegal economies, weak institutions, and violence. However, the policy does not recognize the pluri-ethnic, multicultural, and participatory approach that the AFP gave to those plans. The development and use of agglomeration economies do not respond to the development of a peasant and family-based economy, nor does it correspond to the production methods used by ethnic communities; nor does it favor comprehensive access to land, goods, and productive services. The vision of security that the Duque administration seeks to impose in these areas goes against the aim of making the countryside a scenario for reconciliation. The 1,168 projects that implement activities established in the action plans to transform the territory (PATR), through PDET projects, projects through the tax and Collegiate Administrative and Decision-making Body (OCAD-Peace), are related to the construction and improvement of tertiary roads, and the construction of infrastructure, energy, aqueduct, and sewage projects. The projects are important in these regions, but they are also a state duty under ordinary circumstances and are insufficient for a comprehensive fulfillment of the territorial development laid out in the Peace Agreement.

Not even the most basic right to life has been fulfilled in the area of **reincorporation**. At least 283 individuals who signed the Peace Agreement have been killed, 71% of them during the Iván Duque administration and 34 just in 2021 (up to 10 August). Regarding socioeconomic reincorporation, the individual benefits laid out in the Agreement (basic income and others) have been most common, whereas collective reincorporation has faced institutional roadblocks. The ex-combatants' access to land is still unresolved and

non-fulfillment in this point has contributed to a dispersion of ex-guerrillas. Five years later, there is no evidence of a comprehensive reincorporation plan that includes “social plans or programs.”<sup>1</sup> The government rhetoric regarding the fulfillment of its commitments on reincorporation is contradicted by the request of precautionary measures before the JEP Chamber on the Lack of Recognition of Truth and Responsibility to protect former FARC-EP members and the announcement of a proposed ruling where the Constitutional Court will declare the unconstitutional nature of the state's non-fulfillment of guarantees for the reincorporation to civilian life for over 13,000 ex-combatants who laid down their weapons.<sup>2</sup>

The **Special Transitory Peace Constituencies** (CTEP)—as established by point 2.3.6. to promote political representation for populations and regions especially affected by the conflict and abandonment—was restricted in 2017 when the Congress of the Republic, in a poor interpretation of the Fifth Law, did not approve its adoption. on 3 August, after several legal actions and innumerable “tricks” from the Iván Duque administration to deny representation from the regions most affected by the armed conflict, poverty, and with the highest levels of state abandonment, the national government finally signed and issued the legislative act to create the CTEP. Although this is a step forward its implementation depends, in large part, on the national government's will. Congressional regulation is still pending for issues such as a certification of the status as victim, the rules to register for a seat, and the financial and logistical aspects of educational campaigns, as well

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- 1 CEPDIPO, la paz pospuesta: Situación actual y posibilidades del Acuerdo con las FARC-EP. July 2021 <https://www.wradio.com.co/noticias/judicial/corte-constitucional-rajaria-al-gobierno—implementacion-de-los-acuerdos-de-paz/20210817/nota/4159116.aspx>
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as the issuance of ID cards in the areas that make up the CTEP. One risk is that restrictive conditions will be established during the regulation process and that the right to citizen participation as a reparation mechanism for communities affected by the conflict will be denied. Another area of concern is the attacks against social leaders. Sixty-eight percent of the murders between 2016 and 2020 occurred in CTEP municipalities. The leaders most affected are from Indigenous communities, which is even more serious when considering that for the new seats there are 380 Indigenous reservations (45% of the country's total), which could clearly affect representation for these populations. President Duque's delays in signing the law to create the Special Transitory Peace Constituencies, and the announcement from Presidential Advisor Emilio Archila on the analysis and regulation of the measure, without demonstrating the will to fulfill it immediately and proceed with its rapid organization so that these elections can take place alongside the Congressional elections in March 2022 are concrete examples of the government's lack of commitment with the Agreement and victims' rights.

Non-fulfillment of the Peace Agreement has favored systematic violations to the right to **social protest**, as was shown in the protests that began in April and that, according to the campaign Defender la Libertad, resulted in 87 homicides, 106 victims of gender-based violence, 3,365 individuals arbitrarily detained, and 1,905 injured people, 88 of which were victims of eye injuries from the Police. This sad situation could have been avoided, given that the Peace Agreement established the adoption of guarantees for social movements and organizations (2.2.1.) and **guarantees for demonstrations and peaceful protests** (2.2.2.). The breach in issuing this regulatory framework, per orders from the Supreme Court of Justice and international standards on the issue, was included in the recommendations formulated by the IACHR after it visited Colombia in June 2021.

Another major setback has to do with the specific measures focused on guaranteeing **the rights of women and LGBTI people**. This implementation is partial and delayed. At the end of 2020, only 20% of the 106 measures included in the Framework Implementation Plan (PMI) were being executed in a timely and appropriate manner. While 50% had partial advances, 26% had minimal or no advancement and there is insufficient information on the remaining 4%. The lack of institutional coordination, generalized defunding, and restricted territorial coverage are constant issues that are even more generalized for bisexual, lesbian, and transgender women, who, in many cases, are not recognized, even nominally, in the strategies for the gender approach.

On the other hand, empty words on governmental fulfillment are added to exemplary numbers on implementation. The Comptroller's Office of the Republic has warned that if the current delays to execute the resources allocated for Peace Agreement implementation (on average 5.6 billion/year) continue, what was planned for mid-term accomplishments will be achieved in 26 years, that is to say, twice the initial 15-year timeline and almost 5 of those years have already gone by. The same entity also stated that a third of the reported investment projects do not correspond to the objectives established in the Peace Agreement's Framework Implementation Plan. This demonstrates that, after three years, the Duque administration has pretended to put the Agreement in practice, risking the sustainability of the peacebuilding process and opening the door to a return of violence.

Over these three years, there has been ongoing **denial regarding what happened in the context of the armed conflict**, as well as pressure and attacks against the JEP, victims, and human rights organizations. The JEP was threatened with the bills for Legislative Act 024 and Statutory Law 327 of 2020, presented before Congress by representatives from the

Centro Democrático party. Both measures share the motivation and aim of abolishing the JEP, promoting aspects that are favorable to agents of the state security forces who benefit from a complacent and privileged treatment.

President Duque has attacked JEP rulings, such as those that announced the investigation and prioritization of extrajudicial executions cases, recognizing that state security forces committed 6,402 extrajudicial executions, 78% of which occurred between 2002-2008 during the Álvaro Uribe Vélez administration. The president stated that this decision was an alleged strategy to smear the Armed Forces (AS, 2021), as did the Minister of Defense Diego Molano (Gómez, 2021). Regarding the decision to charge FARC commanders for incidents of kidnapping or the taking of hostages, Duque referred to the punishments that he felt should be imposed, which in itself constitutes an interference with the JEP's independence.

At the same time, the lack of government actions to dismantle the paramilitary structure is evident. During the Iván Duque administration, there has been an expansion of diverse structures that arose out of the paramilitaries, under a discourse that depoliticizes the action of these groups and classifies them as criminal gangs or organized crime to separate their continuity from state responsibility and their relationship with political and economic powers.

**Undercover** transnational and **paramilitary operations**, such as the so-called Operation Gedeón to overthrow President Maduro, and the provision of arms carried out from Colombia<sup>3</sup>, or the incursion of a commando

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3 Caracol Noticias (27 January 2021). Mujer detenida en Colombia revela detalles de plan para tumbar a Nicolás Maduro. <https://noticias.caracoltv.com/colombia/mujer-detenido-en-colombia-revela-detalles-de-plan-para-tumbar-a-nicolas-maduro>

of 26 Colombian and 2 US military agents to carry out magnicide against the president of Haiti on 7 July, are now news stories. At the same time, the government does not allow the National Commission on Security Guarantees, created by the AFP, to fulfill its mandate to design a policy to dismantle these groups. In February 2021, and in fulfillment of precautionary measures ordered by the JEP, the national government delivered to this jurisdiction a proposal of guidelines for the dismantling public policy, which was not discussed or agreed upon in the Commission.

In the face of increasing violence and the presence of diverse armed groups throughout the national territory, the government response has been centered on increasing military force and investment, at the same time it has recycled the counter-insurgency discourse with the ELN or FARC-EP dissidents, especially the “Nueva Marquetalia.” The military response is focused on attacking the commanders of these groups, but not combating their structures. At the end of the first half of 2021, Brigades No. 2 and 3 were activated against drug trafficking and 63 squads received instruction and training. Nevertheless, the 10 areas prioritized by the army are the areas with the most growth in narcotics production and the presence of paramilitary groups. They also continue committing **international humanitarian law infractions**, mainly due to bombings that have affected the lives of minors and victims of forced recruitment. One example was what happened on 2 March 2021 when twelve people died, among them several minors. Minister of Defense Diego Molano justified the bombing of children and adolescents with the dangerous thesis that, once recruited, they stop being victims and become “war machines.” The Observatory of Childhood and Armed Conflict (ONCA - Observatorio Niñez y Conflicto Armado) of the Coalition against the Involvement of Children and Youth in the Colombian Armed Conflict (COALICO - Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia) registered 197

events of armed conflict related actions that directly affected at least 12,481 children and adolescents in 2020.

The expansion of diverse armed actors and the increasing violence over the last year has caused a true **humanitarian crisis** in the country. During the first seven months of 2021, 60 massacres were perpetrated with the murder of 221 individuals, while in 2020, they were 91 massacres with 381 victims.<sup>4</sup> According to the United Nations Office of the High Commissioner for Human Rights, “the number of massacres has grown constantly since 2018, with 2020 recording the highest number since 2014. The departments most affected were Antioquia, Cauca, Nariño, and Norte de Santander, with 62% of the incidents.” Of the 76 massacres documented by OHCHR, according to their registries, these involved the death of 292 individuals in 2020, and it indicates that criminal gangs were the alleged perpetrators in 66% of the cases.<sup>5</sup>

Curfews imposed by the Gaitanista Self-defense Forces and other groups were also registered in different municipalities of Antioquia, Córdoba, and the Pacific Coast of Nariño. There were 68 events of confinement that forced 36,101 individuals, from 192 communities, to remain isolated out of

fear of the armed actors in their territories.<sup>6</sup> Even though the **Comprehensive Security Program for Security for Communities and Organizations in the Territories** (decree 660/2018) exists to respond to the violence, in the last year it only advanced in the selection of the prioritized municipalities for its implementation and a revision of the methodology for their selection: San José de Uré (Córdoba), El Tarra (Norte de Santander), Guapi (Cauca), and Tumaco (Nariño). In the meantime, the reality experienced by these prioritized municipalities continues to be high risk.

**Forced displacement** increased by 193% in Colombia between January and June of 2021, affecting approximately 44,647 people, according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA). Meanwhile, CODHES reported that two months before finishing the 3rd year of the Iván Duque administration there have been 113 events of mass and multiple displacements, affecting more than 50,783 individuals. During 2020, the number of victims of anti-personnel mines increased by 46.5%. In 2020 there were a total of 167 victims, marking an increase of almost 300% in the number of victims. The victims were civilians in 61% of the cases.<sup>7</sup>

On the other hand, a set of **regressive decisions on victims' rights** were issued in 2021. Among these, it is worth highlighting the continuation of a prioritization methodology for the payment of compensations, the change in the operational model for collective reparation, a modification of the participation protocol, the co-responsibility model, or the protocol on returns and relocations. Ten years after Law 1448 of 2011 was issued, the government has yet to advance in guaranteeing victims' effective enjoyment of their rights, in dignifying their living conditions, or in the restitution of their land. Around 12% of Colombians are victims of the conflict and political violence, nevertheless, there are few advances in the program for

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- 4 Indepaz (22 July 2021). Informe de Masacres en Colombia durante el 2020 y 2021. In: <http://www.indepaz.org.co/informe-de-masacres-en-colombia-durante-el-2020-2021/>
- 5 United Nations. Human Rights Council (March 2021). Situation of human rights in Colombia. Report of the United Nations High Commissioner for Human Rights. Document A/HRC/46/76. Paragraph 9.
- 6 El Tiempo (13 July 2021). El desplazamiento se triplicó: van 30.378 víctimas más que en 2020. In: <https://www.eltiempo.com/justicia/investigacion/defensoria-alerta-por-aumento-de-desplazamiento-forzado-en-primer- semestre-602902>
- 7 El Espectador (5 March 2021). “En 2020 aumentarán en 46,4 % las víctimas de minas antipersonal”. In: <https://www.eltiempo.com/justicia/investigacion/minas-antipersonal-cifras-y-datos-de-afectaciones-por-artefactos-explosivos-victimas-en-2020-571159>

individual administrative reparations. Only 13.5% of the registered population has been benefitted individually, and the collective reparation processes continue to be stuck in the formulation or implementation phases; of 749 subjects of collective reparation, only 14 have concluded their collective reparation process. The most serious deficits in the victims' policy are related to the forcibly displaced population, which the institution has gradually removed from the humanitarian response plans. The land restitution plan also has considerable setbacks, in part due to a weakening of the URT. A positive element that should be noted is that, despite President Duque's ambiguity on this matter, Constitutional Court ruling C-588 ordered that Congress extend the law's term. Thus, the validity of the Victims and Land Restitution law was finally extended, as well as ethnic decrees, until 30 June 2031, through Law 2078/2021. This is excellent news because it opens the door to the possibility of responding to the backlog in reparation and land restitution for victims of the Colombian armed conflict.

The situation of **violence against human rights defenders** and leaders continues to be very serious. The program Somos Defensores has registered 950 attacks, 426 of which took place between 8 August and 31 December 2020, and 524 occurred between January and June 2021. The most common type of attack is threats, with a total of 662 incidents, followed by 130 murders, 85 assassination attempts, 34 arbitrary detentions, 16 enforced disappearances, 13 incidents of information theft, 8 malicious criminal prosecutions, and 2 sexual attacks. The Colombian Commission of Juristas (CCJ) documented 205 murders that took place between 8 August 2020 and 30 June 2021, of these 170 were men and 35 were women. Indigenous people are the groups of leaders and human rights defenders most affected by murders with 71 victimizing incidents, followed by the communal sector with 32 cases and peasants with 31 cases.

Concerning the responsible parties for these homicides, of the 205 murder cases documented by the CCJ, in 139 the author is unknown (67.80%), in 30 an unidentified armed group is the alleged author (14.63 %), and in 36 cases the allegedly responsible party has been identified (17.57 %). Defenders of **LGBT** rights and human rights defenders with a diverse gender identity and sexual orientation continue to be victims of multiple attacks. During the analyzed period, the murder of three LGBT defenders was registered, in the departments of Antioquia, Cauca, and Huila.

**Impunity continues to be a constant** in attacks and abuse against defenders. On 3 February 2021, the Prosecutor General stated that of the set of cases perpetrated since 1 January 2016, 63.52% have been clarified. Nevertheless, the Prosecutor does not refer to a guilty verdict when referring to clarification, but instead legal actions in the context of the investigation, which do not report motives, responsible parties, masterminds, structures, or alliances that have allowed for these crimes to take place.

On 3 February 2021, the Presidential Human Rights Advisor, Nancy Patricia Gutiérrez announced the creation of an Inter-sectorial Working Group to consolidate the homicide numbers for social and communal leaders and human rights defenders. Based on that announcement, the Offices of the Prosecutor General, Human Rights Ombudsperson, Inspector General, Ministry of Defense, and the Presidential Advisor decided to coordinate actions to standardize statistics with the alleged aim of generating targeting actions to respond to violence against leaders. Six months later, there is no information on the working group's advances, and there is an evident lack of public numbers from the Ombud's Office on the murder of defenders. The announcement has generated concerns, not only due to the risk of manipulated official numbers to feign a drop in violence but also because it puts at risk the autonomy of entities that focus on guaranteeing rights and control bo-

dies, such as the Inspector General’s Office and the Human Rights Ombuds Office.

On the **guarantees public policy** and the proposal of creating a CONPES—a process that the human rights coalitions pulled out of due to their lack of credibility—there is no information on the advances to build this policy. On the other hand, at the end of August 2020, the Department of the Interior launched a campaign against stigmatizing defenders and social leaders called #LiderEsColombia, which was not presented to the coalitions or the National Guarantees Process. Its last publication was on 6 January 2021, going unnoticed with a low level of impact.

This concerning situation shows that, due to governmental action, instead of moving towards consolidated peace Colombia faces an imminent intensification of violence, an increase in human rights violations, and a new escalation of the armed conflict. To avoid irremediable consequences, immediate action is required from diverse national and international stakeholders. For that reason **we recommend:**

1. To the **Iván Duque Márquez administration**, recognize that its Peace with Legality policy does not truly contribute to implementing the Agreement and advance in the adoption of all necessary measures for a comprehensive and synchronous implementation of the Peace Agreement, and in particular:
  - Implement, without further delay, the National Plans for the Comprehensive Rural Reform that must lead to a closing of gaps between the countryside and the cities, a reduction in rural poverty where a good life for peasant communities and ethnic groups is a central focus, as was agreed upon in Havana, and as the country demands.
  - A comprehensive, participatory, and effective implementation of the Development Plans with a Territorial Approach (PDET) and the necessary

representation in the House of Representatives for communities historically excluded from decision-making that affects them.

- Inter-institutional coordination and an efficient execution of funds allocated to implement the Land Fund.
  - Fulfill the international recommendations on the illicit use crop eradication program and on stopping the use of glyphosate due to the serious human rights violations and environmental damages that it causes.
  - Build an action plan, with participation from communities and social organizations for the policy to promote reconciliation, coexistence, and tolerance, and actions that guarantee women’s participation in the National Peace, Reconciliation, and Coexistence Council (CNPRC - Consejo Nacional de Paz, Reconciliación y Convivencia).
  - Ensure that the National Commission on Security Guarantees functions adequately, and design and adopt a clear policy for the dismantling of the paramilitary structure, with guidelines that incorporate the proposals presented to the government by civil society, and that it be based on a broad participation process, especially for those who live in the municipalities most affected by the armed conflict.
  - Guarantees and protection for social leaders in the Special Peace Constituencies and recognition that participation from these communities begins when they can freely and safely express themselves and live in their territories.
  - Implement the ethnic chapter and gender measures.
2. To the **Congress of the Republic**, advance bills to create the Agrarian Jurisdiction (including guarantees to the

right to differential justice mechanisms for peasant and LBT women, and the institutional options for RRI), advance the Political Reform, adopt the law on guarantees for social organizations and movements and to participate in protests, as well as reforming the planning law, among others. Along those lines, it is recommended that Congress carry out political control debates on the government due to the delays in implementing the Peace Agreement and due to the country's grave humanitarian and human rights situation.

3. To **judicial bodies**, especially the Constitutional Court, declare a State of Unconstitutionality and protect the rights of those who signed the Peace Agreement and of the people and communities affected by the Colombian State's repeated breaches in the Peace Agreement's implementation.
4. To the **international community**, strengthen all the monitoring and oversight mechanisms for the Peace Agreement's implementation. The diplomatic dialogue must be focused on proposing alternatives to accelerate its implementation. This includes requesting accountability from the Colombian Government on funds allocated for the Peace Agreement's implementation. Also, urge for ongoing accompaniment and efforts to reactivate negotiations with the ELN, respecting the conditions agreed upon for this process.
5. To the **United Nations Security Council**, extend the UN Verification Mission's mandate, which ends on 31 of October 2021, so that it can continue its verification activities on the fulfillment of the Peace Agreement concerning security guarantees.
6. To the **European Union**:
  - According to the approved framework that allows for the adoption of sanc-

tions against individuals, organizations, and organisms, including state and non-state agents, due to their responsibility in human rights violations, to adequately monitor the Colombian Government's non-compliance of its human rights obligations and consequently that it be incorporated in this list as a mechanism to generate pressure and condition improvements on the human rights situations.

- According to the program for gender equality and women's empowerment in foreign operations from the EU, presented by the Presidency of the Council, urge the Colombian government to fulfill the gender approach established in the Final Peace Agreement.
  - In the context of military cooperation with Colombia, ensure strict monitoring of state forces' actions and suspends any military support based on its responsibility in human rights violations.
7. To the **European Parliament**, that it monitors the 29 April 2021 resolution on the fifth anniversary of the Peace Agreement in Colombia.
  8. To all **civil society organizations in Colombia and abroad**, that they continue, without wavering, in the fight for full peace and the validity of human rights in all of Colombia.

## The Strengthening of Authoritarianism

In Colombia, democracy and social rule of law face immense challenges due to attacks from the Iván Duque Márquez administration. The government has implemented policies and deployed strategies to attack judicial independence, the autonomy of institutions, the defense of human rights, and the diverse citizen participation mechanisms in a country historically hard hit by violence and econo-

mic and social inequality. Even though attacks against judicial independence are not new in Colombia, they have expanded and increased considerably during this administration.

These measures are related, among other aspects, with a co-opting of control bodies, such as the Human Rights Ombuds Office, where Carlos Camargo was chosen despite his lack of experience and his close relationship with the government, or the Inspector General's Office, with the appointment of former Minister of Justice, Margarita Cabello, who once she was sworn in promoted a reform of the institution within Congress, ignoring Inter-American Court of Human Rights case law, by granting it the power to dismiss popularly elected public employees and granting it judicial police functions without judicial controls. This is in addition to permanent attacks on the justice system and the shameful role of the Prosecutor General, who openly acted in line with the government will.

The Duque administration's declaration of a state of emergency in response to the pandemic generated impacts citizen freedoms and rights, such as the de facto suspension of citizen participation spaces and procedures guaranteed in the legal system, impacts on the protection of personal data, a violation of the right to peacefully protest, and limitations to the right to access information. In the same vein, the violence against social leaders has affected democratic participation processes, affecting the processes for demands, control, and oversight in the regions.

The third year of the Iván Duque administration has signified a lack of recognition and invisibility regarding the situation of LGBT people in Colombia. The gender approach, which includes LGBT people, has not been implemented. This is in addition to increasing violence, a lack of political will to implement the national LGBT public policy, and a lack of guarantees for the rights of LGBT migrants. The initial statute for Venezuelans lacks a structural gender approach. In 2020, the highest homicide number, 226, was regis-

tered along with incidents of police violence and threats against LGBT people, and it is the year where state institutions have provided the least information on these incidents. It can be noted that there are setbacks to the rights of the LGTB population.

During the third year of president Duque **social struggles** increased and were particularly impacted.

Among the reasons behind the protests was a non-fulfillment of the Peace Agreement and the agreements reached with diverse urban, rural, and worker populations in the past. There was also a demonstration of the people's disagreement with the government's social and economic policies, and a rejection of the violence against social leaders. Unfortunately, the government's undemocratic trend was consolidated in this third year causing concern. It is more than not consulting, dialoguing, or showing interest in the citizens' opinions. Nor is it just its refusal to negotiate or reach agreements with sectors that oppose or disagree with government policies or decisions. The main characteristic of the government's undemocratic trend is its disproportionate and repressive response to social protests, mainly through police violence.

Indeed, delegating control over public space to the National Police under its handling of the pandemic led to an increase in state violence. Just in 2020, according to the NGO Temblores, 86 homicides were reported that involved the state security forces.<sup>8</sup> On 8 September 2020, after the National Police tortured and killed Mr. Javier Ordoñez, a wave of protests erupted, which were attacked by

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8 El Espectador. La Policía habría participado en el homicidio de 86 personas durante 2020: Temblores ONG. 24 February 2021. Consulted at: <https://www.elespectador.com/noticias/judicial/policia-habria-participado-en-el-homicidio-de-86-personas-durante2020/?outputType=amp>

police agents and concluded with 10 people murdered in Bogotá, 3 in the municipality of Soacha, and more than 300 people injured, 77 with firearms.<sup>9</sup> Also, over 70 individuals were detained in Bogotá between 9 and 10 September 2020.<sup>10</sup> The Campaign Defender la Libertad learned of at least 29 cases of torture and cruel and inhumane or degrading treatment that took place at the URI of La Granja.<sup>11</sup>

The government actions to respond to social demands in the context of the National Strike included a repertoire of violence that raised concerns nationally and internationally, associated with a disproportionate use of force, gender-based violence, and ethnic-racial violence in the context of the protests, violence against journalists and medical teams, irregularities during protective transfers, and cases of enforced disappearance. The Campaign Defender la Libertad has reported that 87 people died in the context of the national strike that began on 28 April, 27

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- 9 El Tiempo. Casos de exceso policial en Bogotá en protestas, 14 September 2020. Consulted at: <https://www.eltiempo.com/justicia/investigacion/comisionada-de-derechos-humanos-de-onu-habla-de-violencia-en-bogota-537787>
- 10 El Espectador. Estos fueron los abusos policiales durante las manifestaciones en Bogotá. 10 September 2020. Consulted at: <https://www.elespectador.com/bogota/estos-fueron-los-abusos-policiales-durante-las-manifestaciones-en-bogota-articulo/>
- 11 Information pulled from the Sistema de Agresiones a la Protesta (SIAP). Denunciation made by the Colectivo Jurídico Popular de Engativá before the Prosecutor General's Office of the Nation. 18 September 2020
- 12 Campaña defender la libertad un Asunto de Todas. BOLETÍN INFORMATIVO NACIONAL 21: #PARONACIONAL. July 22 2021. Consulted at: <https://defenderlalibertad.com/boletin-informativo-nacional-21-paronacional/>
- 13 Sistema de Agresiones a la Protesta de la Campaña Defender la libertad
- 14 IACHR. Observations and Recommendations of the working visit of the IACHR to Colombia on June 8 -10, 2021. Paragraph 34. P. 8. Consulted at: [https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita\\_CIDH\\_Colombia\\_ENG.pdf](https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf)

of which could be attributed to the state security forces, and the rest to civilians, a majority of whom are unidentified.<sup>12</sup>

The **state security forces' use of weapons** against demonstrators is alarming. At least 48 people were murdered with a firearm and there were 115 cases of individuals with gunshot wounds.<sup>13</sup> Several of the murders that occurred in the context of the strike have a common element, the presence of armed civilians who acted in coordination with state security forces. According to the IACHR report from its visit to Colombia, the Human Rights Ombuds Office reported 113 incidents of gender-based violence. Of those, 112 cases were presumably perpetrated by state force and the ESMAD, 99 against women and 13 against LGBTI people (...).<sup>14</sup>

Despite the 22 September 2020 ruling from the Supreme Court of Justice which established that there was a systematic, violent, arbitrary, disproportionate intervention from state security forces during citizen protests and issued 16 orders for authorities involved in social protest, the government and police have focused on providing a merely formal and non-material fulfillment of the orders related to the protection and guarantee of the right to protest.

In synthesis, during its third year, the Iván Duque administration consolidated itself as an enemy of democratic freedoms, citizen participation, ignoring judicial decisions that it sees as unfavorable and confronting the judiciary, rejecting human rights recommendations that come from international bodies, and it stands as a government that is no longer interested in hiding its inability to dialog, listen, and solve the social problems that affect the most vulnerable populations, and which allows blood to flow in the streets.

In this context, society must construct an agenda for Colombia to return to its democratic path and recover the checks and balance system, the balance and independence of its branches. It is essential to advance in a

reform of the justice system based on respect for judicial independence and a commitment to fight against impunity and guarantee human rights.

It is necessary that the national government, looking forward to its last year, take into account the necessary guarantees to reactivate democracy and political participation as fundamental rights, in an electoral year, where the responsibilities and controls carried out on these processes must be constant and include multiple actors.

In the regions with the Special Peace Constituencies, there must be guarantees and protection to ensure true representation of the populations most affected by the violence. It is imperative that the national government, through the Ministry of the Interior, convenes consistently and periodically the Commissions for Monitoring and Guaranteeing Elections, as it is from this entity that political organizations and civil society can exercise effective control to hold elections for the Municipal Youth Councils, as a first challenge, and the inter-party consultations as a predecessor to the 2022 elections, and finally the Congressional and presidential elections in March and May 2022, respectively.

It is urgent to implement a national LGTB public policy as a tool to guarantee the rights of LGBT people and include differential challenges faced by Venezuelan migrants to enjoy their rights and overcome discrimination and violence.

### Poverty, inequality, and hunger

Amid the COVID-19 pandemic, the national government has made decisions and adopted measures that have put in risk guarantees for the population's ESCR and have signified an increase in poverty and inequality. Twenty-one million Colombians are living below the poverty line and extreme poverty increased by 5.5 points, reaching 15.1%. The Iván Duque Márquez administration has left

millions of people who have lost their job and income without protection; thousands of medium and small businesses have gone bankrupt and hundreds of rural communities do not have the minimum conditions to face the pandemic. The policies have been focused on investing resources in the sectors with the greatest economic possibilities and political influence. The Gini index shifted from 0.526 in 2019 to 0.544 in 2020, which means that the groups with the greatest access to the wealth received a greater percentage of the income generated during the pandemic, including government aid that was upwards focused.

Among the reasons that lead to an expansion of poverty were the abrupt lockdown and consequent loss of income, without an effective substitution from the involved governments; the limited support for individual, family-based, and micro-business activities that were not included in the Formal Employment Support Program (PAEF); the loss of jobs in small- and medium-sized companies; and the repressive and restrictive response experienced by those who called for employment opportunities; among others.

Also, the levels of **hunger increased** in Colombia during the Duque administration. Even though this is a historic problem, and has a structural cause, the government has neglected its obligations regarding the human rights to food and adequate food. The nutritional situation in Colombia was exacerbated by the pandemic. During the crisis, 1.6 million families reduced their daily meals to twice a day. Food insecurity mainly affects rural homes and families with a woman, Indigenous, or Afro-descendant head of household. Seventy percent of the migrant populations' homes have moderate or severe food insecurity.<sup>15</sup> The red rags, a symbol of hunger, practically became the national flag, and there was

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15 The author's data is based on Stompanato (2021)

no political will to generate viable alternatives that allowed for quality food to reach the affected populations. The government did not advance in its fulfillment of recommendations from the United Nations Committee ESCR made in 2010 and 2017 to implement a food policy to combat hunger and malnutrition, especially in children, adolescents, women, displaced persons, and rural populations, to prioritize internal food production supporting small-scale growers and their access to local markets, to overcome food insecurity and promote more healthy food, among other aspects. The state-corporate capture was also demonstrated concerning food. The companies that make ultra-processed products made coordinated efforts to prevent the approval of the law against “junk food.” The law’s approval signified a serious defeat for the government and industries.

In terms of **gender**, the third year of the Duque administration was characterized as a year where women and girls had an increased risk of experiencing family violence and femicide. Women were exposed to increasing unpaid care and reproductive work, alongside a notable decrease in their participation in the labor market. None of the policies that responded to the pandemic took into account a participation or vision from a women’s rights perspective. This attitude extended to other areas of governance, as women and girls were left off the list of priorities. Between the pandemic response and repression of social protests, during the last year, there was an expansion of asymmetric power relationships that place Colombian women and girls at a serious disadvantage.

The **youth population** has suffered the effects of the pandemic on their lives and right to employment. Youth, between 14 and 26 years of age, make up 21.8% of the total Colombian population (10,990,268 young people) (DANE, 2020b). Among the measures adopted by the government concerning the pandemic, not one is focused on protecting or promoting youth employment. According

to DANE, during the pandemic, there was an alarming increase in unemployment reaching 21.4%, which has since dropped down to 15.1%. Unemployment among youth increased by 23.1% in 2021. According to the ILO, Colombia is the country with the highest percentage of unemployed youth, both before and after the health crisis. The youth-led social protests resulted in the government issuing Decree 688 of 2021, which recognizes the unemployment rate for youth and adopts the funding measure of 25% of a monthly minimum wage for additional workers between 18 and 28 years of age, up to 12 times. This policy is insufficient unless it is accompanied by structural measures such as access to public education (undergraduate, technical, and postgraduate) and public policies that reflect the comprehensive nature of rights (social security, pension) and break away from the “flexible” and outsourced jobs that have marked the disastrous labor policies for Colombian youth.

The **employment indicators** reached more than concerning levels during the pandemic. Nationally, the total unemployment rate for 2020 was 15.9%. Sub-employment, indicating job insecurity, was 37.4%. Garay and Espitia calculate that the country’s average poverty and vulnerability rates at the end of 2020 were above 60% and over 80% in rural areas. The development model over the last 30 years has created a highly exclusive social protection system and during the Duque administration improvements are not foreseen in the coverage for workers who pay into the contributory social security scheme. Instead, there have been setbacks in coverage for workers in the context of the pandemic. Additionally, regulations have been issued to open the door to a subsidized health system without social benefits, “pensions” below the minimum wage called Periodic Economic Benefits, insurance that does not respond for disability pensions such as in workers compensation, and it implements an hourly wage system that erases the possibility of negotiating the minimum wage and precarious labor relations.

While the labor and union crisis worsens, the human rights situation is not encouraging, the third year of the Duque administration has preliminary numbers of 131 cases of violence committed against unionists and more than half in the context of protests. That is why the approval of a basic income is urgent, to break away from a social welfare policy of conditioned subsidies, to promote a productive economy, to reactivate the agricultural sector, and to generate support through lever credits, among other aspects. The public budget must increase social costs and adopt measures to overcome anti-union violence and impunity.

Regarding the **right to health**, during the third year of the Duque administration, the pandemic has had very severe implications on the lives of the Colombian people, mainly in the social sectors with low economic levels, who are also the population that suffered most from COVID-19 and had the highest numbers for deaths caused by the virus, obviously worsening their living conditions given the social and economic circumstances. In Colombia, despite focusing on the hospital system, the care granted to moderate and severe cases of COVID-19 did not improve, sufficient ICU beds were not made available, not enough specialized staff was trained to provide these services, and there were not sufficient reserves of supplies, medicines, oxygen, and personal protection equipment to provide this very complex care. With Decree 580/2021 the government declared an economic reactivation and transferred care responsibilities onto each individual through selective isolation and social distancing based on individual responsibility, prioritizing the market economy over people's health and lives.

Regarding **vaccination**, although the government shows its advances to be a success, we are far from reaching those goals. The situation is even more dire because vaccine availability has been reduced due to, among other aspects, control from industries and

multinational pharmaceuticals, the application of a third dose which requires more doses, and the appearance of new variants. Meanwhile, the government investment to purchase the vaccines is unknown, as it has refused to grant access to contract information. The pandemic will not be resolved through selective isolation or vaccination, but by improving basic sanitation and nutritional conditions, with universal social protections, a public health system with a true presence in the regions that promotes health and provides promotion and prevention services, through primary care and health monitoring, as well as promoting a culture of care.

On the **right to education**, a survey performed to verify the state of COVID prevention measures promoted by the national government to implement rotating classes (at home classes for some students and in-person for others) and the return of students and teachers to the classrooms showed that in most cases the biosafety protocols had not been approved. Sixty-four percent of schools are in urban areas and 34% in the countryside. One of the safety measures is ventilation and 67% of the schools did not fulfill the requirement for permanent cross ventilation. On social distancing, of 30 institutions only 3 ensure adequate distances. Regarding water, 67.7% of schools do not have access to potable water during the school year, only 41.9% are connected to a sewage system, and just 4% of the country's 1,100 municipalities have a solid Internet connection. The teachers made great efforts to avoid infection among the eight million students in the public system. They used their homes and their own technological equipment, they covered the costs of public utilities, and gave extra time to support students and parents. Nevertheless, the government has not made an effort to provide adequate equipment to public schools and thus promote quality education that protects the health of the school community.

The situation is even more critical for **migrants**, a population of an estimated 1.8 mi-

llion individuals in Colombia. In March 2021, a protective statute was approved for Venezuelan migrants (ETPV) and a resolution to open a pathway to regularize the migratory status of close to a million Venezuelans with an irregular status. Although this is an important step, it is of concern that despite its 10-year validity, at any time the government could conclude its execution. Also, including Venezuelan migrants in the registry does not modify their migratory status. The pre-registry certificate does not give them access to rights. Regarding the COVID vaccine, only those with a regular migratory status can access the vaccines. The time limit to register in the ETPV for those who entered the country before 31 January 2021 is May 2022. There are over 19,000 people who have requested refuge/asylum and only 771 have been recognized, but this document does not provide them with access to rights in the country.

Migrants are victims of multiple types of violence. Between January 2015 and December 2020, 1,933 cases of homicides had been registered. Illegal armed structures have generated forced intra-urban displacements and the risk of recruitment by structures tied to micro trafficking and others have led to the displacement of families, while there is insufficient guidance, in particular from the Victims Unit (UARIV), and support for this population group who are also victims of the armed conflict.

On the other hand, there was a clear lack of attention from the Duque administration on its obligation to protect communities in contexts of **human rights abuses and violations related to companies**. During the three years of the administration, a drop in company responsibility has been registered, as well as a relaxing of environmental regulation procedures and a promotion of incentives for the private sector and foreign investment. All of this is a central element to reactivate the economy in the pandemic context. Contrary to state obligations, there are growing obstacles to citizen participation, an absence of

guarantees to investigate and punish human rights violations committed by economic actors, and an expansion of militarization in regions with business interests.

The same is true regarding the social and environmental impacts that would be generated by **fracking** to extract oil. In 2020, a bill was voted down by the House of Representatives, which sought to prohibit oil operations in the Amazon. Also, the Duque administration sought to include tax incentives and security for fracking in Colombia during the debate on the royalties law. Finally, the article was excluded due to control actions and social protests. Meanwhile, environmental organizations and over 30 congressional representatives presented a bill to prohibit fracking. In the context of the hearings, the United Nations Special Rapporteur on toxic substances and human rights and the IACHR Special Rapporteur on ESCR requested that Congress prohibit this activity, and in the end, the bill did not advance. Currently, 18 pilot projects do not have a social or environmental license, which is why it is necessary to insist on declaring these projects as inviable.

## International relations at risk

During the third year of the Iván Duque Márquez administration, there were changes in the international geopolitical scene. One of the most important is the change of government in the United States, from Donald Trump to Joseph Biden, which generated many expectations from Colombian NGOs who expect more of an emphasis on and more support for the Peace Agreement's implementation. However, the change has been slow and partial. In terms of foreign policy for Latin America, the approach has been to address the causes of Central American migration and the United States and Mexico border situation. Even so, little by little several American diplomats, including the temporary UN ambassador, Richard Mills, have sent messages on the need to implement the

Peace Agreement and protect human rights defenders and threatened social leaders, and there have been recent statements on Colombia in the context of the National Strike. The fact that 55 democrats rejected the abuses committed by state forces during the strike is important.

The Biden administration should use its political power to stop abuses committed by the police and ESMAD and to support the comprehensive implementation of the Peace Agreement for full peace and respect for human rights.

On the other hand, regarding **relations with the European Union**, 2021 has been a particularly important year due to an intensification of human rights violations in the country and the particular context of the Peace Agreement, given that November marks the fifth anniversary of the Agreement's signature, which has "renewed" interest from European states. Nevertheless, the EU's role continues to be on specific issues and has little force. On the other hand, during 2021 the EU is carrying out a programming and budget approval process which has redefined its financial policy and has restructured its international cooperation instruments. The restructuring of funds signifies a reduction of the general cooperation budget for Latin America and, therefore, Colombia. Seeing the amounts distributed between the different continents, it is evident that cooperation with Latin America is not an EU priority, as it is the region that will receive the least funds.

In his recent visit to Colombia, the EU Special Representative for human rights and Special Envoy for the Peace Process, Eamon Gilmore, focused on the Peace Agreement's 5th anniversary, stating that this is an opportunity to improve implementation, activate the pending mechanisms, and guarantee security for defenders, communities, and ex-combatants. The international community's rejection of human rights violations committed in the context of social protest must

strengthen the EU's control and oversight mechanisms regarding the Colombian state's human rights obligations.

Regarding international bodies for the protection of human rights, the current government's disdain for the Inter-American Human Rights System or the United Nations System has been evident over the last year, with actions showing little respect for the Inter-American Court in the Jineth Bedoya case, angry complaints to the United Nations High Commissioner due to its monitoring of human rights violations in the context of the national strike, the persistent refusal to receive to UN Special Rapporteurs, or the negative reaction to the IACHR recommendations after it visited Colombia in June 2021 all clearly show that the rhetoric of being open to international scrutiny is false and that, on the contrary, the government seeks to limit and block any potential monitoring of the human rights situation. Only when confronted with pressure from the international community has the Duque administration conceded and accepted to fulfill its international obligations.

Lastly, within the international scenario and human rights protection mechanisms, during the third year of Iván Duque, the 48<sup>o</sup> session of the **Permanent Peoples' Tribunal (PPT)** was held, focused on investigating Political Genocide, Crimes against Peace, and Structural Impunity in Colombia. The Tribunal noted an intensification of genocidal practices that, since the signature of the Peace Agreement and during the Iván Duque administration are being carried out against leaders and the grassroots of social movements and organizations, territories, and ex-combatants who signed the Peace Agreement.

It is fundamental that the PPT ruling be considered by the SIVJRN bodies and that is why the social and human rights organizations that have been targeted by these extermination practices hope that the report produced by the **CEV** will lay out the logics, relationships, and aims of this extermina-

tion process, which is not only limited to the material annihilation of human collectives but was also aimed at reorganizing societal relationships as a whole. Thus, in the context of the **UBPD's** functions, it is necessary that, in building national and regional plans to search for, locate, recover, identify, and return, with dignity the remains of the disappeared people, in the prioritization of contexts that perpetrated genocidal practices against these groups and collectives.

These processes must have active and inclusive participation from relatives, social organizations, ethnic peoples and communities, as well as from civil society organizations. Finally, it was requested that the **JEP** study, investigate, and try the macro cases from the legal concept of genocide, given its categorization as a crime in international law. As well as the characterization of crimes against humanity and war crimes contained in the ruling. The JEP will have the responsibility of advancing an understanding of

annihilation, the patterns of persecution, and the aim to partially destroy groups and collectives, which as stated by the PPT, will make it possible to expand the group of complicit parties, instigators, funders, authors, and masterminds for this crime.

The current international context is favorable to advance peace and human rights in Colombia. Key international actors, such as the United States or the European Union and its member states, among others, hold the key in their hands to pressure the Colombian government so that it fulfills the Final Peace Agreement, and so that it adopts the necessary measures to improve the human rights situation. Fulfillment of the diverse recommendations presented to Colombia over the last year must occupy an important place in the dialogue between the international community and the Colombian government. Backing the work of diverse international protection systems in Colombia as friends of peace and human rights is also fundamental.



Con el apoyo de:

