

# LEARNER LESSONS

## AUTHORITARIANISM AND INEQUALITY

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

### EXECUTIVE SUMMARY

In September 2019 and in the same month of 2020, when the first two years of Iván Duque Márquez's term of office were completed, the national human rights platforms produced thorough summary reports of government management in the fields of peace and human rights in the country. Now the exercise continues with the third report, built from pluralistic voices, both from social organizations and from the academia.

The analyses are focused around four thematic axes, which give the name to each chapter:

- Peace, humanitarian crisis and the situation of human rights defenders.

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1 In November 2016, *the Final Agreement for the Termination of the Conflict and the Construction of a Stable and Durable Peace* was signed in Colombia, which is referred here as *the Peace Agreement*. Its signatories were the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP, in Spanish), a guerrilla organization and the Colombian state headed by then-President Juan Manuel Santos.

- Undermining of democracy.
- Impoverishment and inequality.
- Colombia, the world and its relationship.

#### 1. Peace and humanitarian and human rights crises

The three years of Iván Duque Márquez's government have shown a continuous escalation of violence in many territories of the country. The reasons behind this are that Duque has intentionally not implemented the Peace Agreement signed in 2016<sup>1</sup> and has unilaterally reinterpreted it. Also, he has underfinanced the institutions created by the Agreement and placed obstacles to a negotiated conflict exit with the National Liberation Army (ELN in Spanish).

In this scenario, illegal armed actors have reorganized throughout Colombia, and the conflict escalation has translated into an aggravation of human rights violations and the humanitarian crisis in many regions.

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Particularly, Duque's third year of government has exposed the strategy of reducing the peace agreement to the fulfillment of a handful of commitments. The follow-up reports on implementation, presented by entities officially designated for this purpose, agree that the greatest lags are in item 1 (Comprehensive Rural Reform) and item 2 (Political Participation). The agrarian jurisdiction remains a glaring debt of the government; during the legislature 2020-2021, a draft on the creation of the agrarian jurisdiction was defeated in the Congress of the Republic and another draft excluded the creation of the agrarian jurisdiction. These were the two projects discussed in this regard.

Even though the Territorial Development Programs (PDET), have made strides in the institutional design, they do not respond to the original spirit of the Peace Agreement. This situation has been motivated by the distortion of the approach to the Integrated Rural Reform, the lack of awareness of the multi-ethnic and multicultural approach, the exclusion of strategic issues for the democratization of access to land and the lack of resolution of inequalities between urban and rural areas.

Concerning political participation, it is worth highlighting the special transitional peace seats (CTEP). After multiple political plays and legislative dilations, on August 3, 2021, the national government signed and issued the legislative act creating the CTEPs, a measure for political, symbolic and historical redressing of the communities most affected by the armed conflict. Although the signing and issuance of the legislative act is a step forward, its implementation depends to a large extent on the will of the government to proceed with its regulation through an act in the Congress.

Regarding gender approach, implementation of some measures was initiated in 2020, but they did not show progress; additionally, the rate of implementation of those with timely progress or partial implementation in 2018-2019 was lowered. Concerning access to land and rural land use, as of March 2021, it was recorded that, since the programs started, only three women had access to the land purchase Special Credit Line. 825 women and one LGBTI person have received hectares through the Land Fund and 452 women have benefited from the comprehensive land grant.

On another issue, part of the strategy for "tearing the Agreement apart" is to under finance it or to earmark few resources for its implementation. The fifth report of the Office of the General Comptroller of the Republic on the implementation of resources and the fulfillment of the goals of the peace component of the Multi-Year Investment Plan indicates that there is a worrying warning about the resource implementation rate (on average, **5.6 trillion** annually); if this pace is maintained, the planned medium-term fiscal framework would be achieved in 26 years.

By the same token, the government hoards resources from international cooperation and avoids compliance with the implementation of transparency tasks. The International Community (IC) has kept its commitment to accompaniment and verification, but the IC, in turn, highlights the lack of government accountability.

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In the three years of Iván Duque Márquez's rule, it has been evident that the expansion of illegal armed actors and their collusion with the territorial control of some of them has been encouraged. This has helped to overhaul, rebuild and centralize the nar-

co-paramilitary structures under the leadership of the Autodefensas Gaitanistas de Colombia (Gaitanista Self-Defense Forces of Colombia - AGC) or the Clan del Golfo.

In this regard, the main commitment of the Peace Agreement was to dismantle the paramilitary structures and to bring security and guarantees of participation to the regions affected by the conflict. This commitment has been breached. On the contrary, strategies have been deployed, both to prevent dismantling and to strengthen paramilitary actions in different regions.

At the beginning of 2021, intelligence reports leaked by the media informed that the five main illegal armed groups ended 2020 with approximately 6,800 combatants, distributed as follows: The so-called dissent of the former FARC, with 2,500; the Clan del Golfo, with 1,600; Los Caparros, with 100; Los Pelusos, With 150 and ELN with 2,450. However, several analyses show that during 2020 there was a noticeable expansion, both of the dissent coordinated by Gentil Duarte and New Marquetalia's.

The ELN has also grown in the last three years. They are now permanently present in ten regions where they have not been able to settle or strengthen in the last decade. Although ELN is now a much smaller group than it was in its heyday in the 1990s, it is in a relative expansion process, which continues.

2021 will mark thirty years since the ELN first sat at a negotiating table. Today, without a dialogue, the Duque government's lack of interest in this path is clear.

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During President Iván Duque's third year of government, violence against advocates of human rights or people that exercise social leadership remains a constant. There has

been a total of 950 attacks, of which 426 occurred between August 8 and December 31, 2020, and 524 occurred between January and June 2021. The largest number of attacks are threats, with a total of 662 events, followed by 130 murders, 85 attacks, 34 arbitrary detentions, 16 enforced disappearances, 13 cases of information theft, 8 prosecutions and 2 sexual assaults. The Government, on the one hand, tries to deny the situation by manipulating the numbers and, on the other, continues to neglect the tools incorporated in the Peace Agreement to deal with this situation.

In the first seven months of 2021, 60 massacres were committed, killing 221 people; in 2020, there were 91 massacres with 381 victims. Forced displacement in Colombia increased by 193 % between January and June 2021, compared with the same period the previous year; there were 44,647 displaced people during that period.

Enforced disappearances is another phenomenon that still lingers as well as extrajudicial executions. In this regard, one of the most far-reaching decisions taken by the Special Jurisdiction for Peace (JEP, in Spanish) was the Bill 033 of February 12, 2021. This bill acknowledged that "during the period between 2002 and 2008, approximately 6,402 people were killed illegitimately to be presented as combat casualties throughout the national territory".

As expected, the government did not accept that decision. On this and many other occasions, President Duque has publicly attacked the decisions of the JEP. The responses of the highest authorities of the State and the ruling party have been negationism and disqualification, both of the JEP and of the entities that have served as the source for documenting the cases.

The State's breaches with the victims of the conflict continue to this day. On June

10, 2021, the Act 1448 of 2011, which issued “Measures of care, assistance and comprehensive redressing for victims of the internal armed conflict”, marked ten years. Civil society organizations and institutions that surveil public policy have been clear in stating that the task is far from being accomplished.

The resources received do not meet the demands of the thousands of recognized victims. The national government is required to allocate around **357 trillion pesos** until 2030 to serve the 9'146.456 people acknowledged in the Single Registry of Victims (RUV). The Victims' Act continues to face several issues: A minimum of goals achieved against the total universe of victims, lack of adequate budgets, corruption problems, lack of integration with the peace agreement, persistence of a government-led negationist discourse on the armed conflict, and an increase in acts of violence that generate new victims.

Last but not least, the scale and brutality of the attacks committed during the protests of 2020 and 2021 corroborated two issues that affect the country: The action of the public force is also a risk factor for the defense of human rights, and the measures envisaged by the national Government are insufficient to deal with this violence, even more so when it is committed by its own agents.

## 2. Undermining of the democracy

In his third year of government, Iván Duque continued to permanently breach democracy and the rule of law in Colombia. Alarming elements of such behavior are the abusive use of the figure of the State of Emergency, the co-optation of control institutions and the strong state repression of social mobilizations.

The president endowed himself with extraordinary powers with the state of emergency issued when the pandemic began and abused it to issue decrees with the force of law not directly related to the crisis. In the face of this authoritarian behavior of the executive branch, the Congress of the Republic, with its virtual functioning, has done a poor exercise in placing checks and balances. In addition, procedures and spaces for citizen participation have been suspended.

Of particular concern is the effort of Iván Duque Márquez to attack judicial independence, the defense of human rights and the autonomy of justice and control institutions. In relation to the latter, he has co-opted core institutions of the Legislative and Judicial Powers, taking advantage of the weaknesses of the procedures and mechanisms for the election of the officers in their directorates: The Ombudsman, the Comptroller General of the Nation, the Procurator General of the Republic and the Attorney General of the Nation.

Other attacks by the Duque government on justice are associated with disrespect, and threats to the functioning of institutions. For example, the president questioned the writ of remand to former president and senator Álvaro Uribe in the context of the investigation against him for procedural fraud and bribery in criminal proceedings; He also disregarded the Sentence of the Supreme Court of Justice STC7641 of September 22, 2020, in favor of the right to protest; through this measure, specific orders were issued which, to date, have been breached by the Executive branch and the supervisory bodies.

However, the social mobilization did not cease between August 2020 and June 2021, given the deepening of the social and economic crisis and the continuing detriment of democracy. In the recent history of the

country, no government has been confronted in the way that Iván Duque's has been. In 2020 and early 2021, there were multiple urban and rural mobilizations associated with the consequences of the crisis deepened by COVID-19.

When the government announced its tax reform in April 2021, a significant portion of the population returned to the streets on April 28 in massive demonstrations. There was a continuous mobilization with broad national coverage that lasted for about two months and became a social outbreak, because even though the reform was defeated, it also combined social and economic demands, with different territorial and social sector approaches (youth, women, environmentalists, traders, unions among others).

In these months, most protests (88.5%) were peaceful. However, the national government used a narrative that referred to mobilizations as "acts of vandalism," and to their participants as "criminals," members of the FARC's dissent, or "vandals." A stigmatizing speech. Police officials interpreted these statements as orders or authorizations to violently intervene in the protests and attack those who were demonstrating.

159 people have been reported dead in protests, and 87 of them died in the strike that began in April 2021. The use of firearms by the public force against demonstrators is particularly alarming. At least 48 people were reportedly killed by firearms and 115 were wounded by firearms.

Likewise, four people were killed by tear gas and/or stunning grenades; two older people died from asphyxia caused by tear gas; one person was thrown by a tankette and another was incinerated. There were also 90 cases of eye injuries with anatomical and/or functional loss of one of their eyes. In addition, 106 people were victims

of gender-based violence. On the other hand, 3,365 people were detained, mostly in an arbitrary manner, and many of them were subjected to torture and/or cruel and degrading treatment during their transfer or detention.

The degree of human rights violations in Colombia during the national strike that began in April 2021 was so high that it prompted the need for the Inter-American Commission on Human Rights (IACHR) to make a working visit to Colombia between June 8 and 10. From this visit a document of observations was produced; and the government of Iván Duque, faithful to its anti-democratic spirit, rejected several of them.

Likewise, the third year of Iván Duque's government has meant a setback in the area for LGBT rights in Colombia. There are three issues: First, an increase in violence. This year, the highest number of killings, police violence and threats against LGBT people were registered; 226 were killed, 337 were threatened and 175 were victims of various forms of police violence. Second, the lack of political will to implement the LGBT National Public Policy and third, the differentiated problems of Venezuelan LGBT migrants were neglected.

In July 2021, in Latin America and the Caribbean, there were 4 million, 603 thousand 441 forced migrants and refugees of Venezuelan nationality. Approximately half of the population is in Colombia, according to the Colombian government. This population has been the victim of homicides, threats, displacement, xenophobia, sexual offenses and human trafficking in Colombia.

Between January 2015 and December 2020, there were 1,933 cases of homicide in which the victims were of Venezuelan nationality. Young men and people under 29 are the most victimized. Also, illegal armed structures in cities have generated forced

displacement within the city under threat to the Venezuelan population when they have failed to comply with rental payments in lodgings, of the so-called *paga-diarios* (daily payment) or tenancies in some capitals of the country.

In the third year of Iván Duque's government, the Temporary Protection Statute for Venezuelan Migrants (ETPV) was created, which will allow them to exercise any legal activity or occupation in the country for ten years. While the ETPV measure is an important step toward a response that needs to be given to the Venezuelan population, there are other issues that need to be addressed, with no way to solve them. Among them, the lack of legal certainty or the fact that the inclusion of the migrants in the initial phase of implementation does not change their immigration status, does not give them benefits or powers in the national territory, nor does it imply the granting of asylum, among other issues.

### 3. Impoverishment and inequality

Economic, Social, Cultural and Environmental Rights (ESCA) were at risk during the third year of Iván Duke's government. At this time, decisions were taken and measures implemented that, far from circumventing the social and economic crisis, led to increased poverty and inequality.

The national monetary poverty rose 6.8 points and reached 42.5 %, which means that 21 million Colombians are below the poverty line. Extreme poverty also increased by 5.5 points to 15.1%. Likewise, the Gini index rose from 0.526 in 2019 to 0.544 in 2020, meaning that groups with greater access to sources of wealth received a greater proportion of the income generated during the pandemic, including government aid, targeted upwards.

Colombia was one of the countries in the region that allocated the least resources to the attention of the pandemic crisis in this third year (about 4% of GDP, while the regional average was 6.1%) and it was the country where the fiscal consequences of this situation are now unpredictable: Even without spending much in relative terms, it was the country in the region that increased its public debt most significantly (this debt is, as of June 2021, equivalent to 66.5% of GDP). In the 2022 budget, this debt will take up a quarter of the expenditure.

On the other hand, among the government's misinformed decisions related to the management of the economy during the pandemic, are the efforts it has made with companies to jumpstart the economy. In the third year of Iván Duque's term, there is a decrease in responsibilities for companies, flexibility in environmental regulatory procedures, the promotion of incentives to the private sector and foreign investment, all of this as the main bet for economic reactivation in the context of the pandemic, while micro, small and medium-sized business (Mipymes) have not received strong support from the Government. Contrary to the State obligation of protection, there are growing obstacles to citizen participation, the absence of guarantees for the investigation and punishment of human rights violations committed by economic actors, and the deepening of the militarization of the territories in areas of business interest.

The benefits offered by the government to business actors were mainly in the mining-energy sector. It offered incentives to oil and mining companies to have the necessary cash flow to avoid suspension of the investments that were planned in the country. Much of the response of companies in these sectors to incentives has been humanitarian actions, which, apart from fulfilling the obligations of the State within

the health emergency, have been used to wash their brands, i.e., legitimize their actions in territories with environmental and social conflicts or related to armed conflict.

Regarding the violation of DESC by specific populations in the country, the report on Duque's third year emphasizes women and youth. Duque's third year of office was characterized by increased risks of domestic violence and femicides. As of March 2021, one woman was a victim of domestic violence every 11 minutes. In the context of the pandemic, the obstacles to reporting these events increased.

On the other hand, women were exposed to increased unpaid care and reproductive work, while their participation in the labor market declined significantly. By January 2021, of the 968 million 19 people employed, 38.9% were women, and 61.1% were men.

Concerning the younger population, the balance is also unfavorable. In the country, young population between the ages of 14 and 26 represented in 2020 21.8 % of the total Colombian population (10'990.268 young people). And almost 9% of the total population is people between the ages of 20 and 24.

Given that proportion of the young population in Colombia, it is logical to consider the importance of youth for the economic growth of countries and the need to adopt public policies that recognize it. However, this is not the case; in June 2021, the National Administrative Department of Statistics (DANE) published a report showing that from 2018 to 2019, youth unemployment figures rose from 17.0 to 18.5 percentage points.

Duque's government has tried to propose measures for youth employment, but these are limited to generating employ-

ment in public entities and reducing them to the creation of new positions and temporary jobs. Moreover, among measures taken, there is no cross-cutting measure to guarantee DESCs in order to make effective the participation of young people in the economy, beyond technical or direct labor.

With regard to the effects on the right to work, health, education and food, the following is taken as the result of Duque's third year of government: The violation of the rights of the working population is critical. In the national total, the unemployment rate in 2020 was 15.9 %, while in 2019 it was 10.5 % and in 2018 it was 9.7% %. The employment rate fell from 57.8 % in 2018 to 49.8% % in 2020. In addition, underemployment, an indicator of job insecurity, stood at 37.4 % in 2020.

The figures are also alarming in cases of anti-union violence. Between August 2018 and June 2021, there were some 495 violations of life, liberty and physical integrity of trade unionists, 63 homicides, 24 life attacks and 312 threats; 435 cases of violence against men and 60 cases against women. In addition, violent attacks were perpetrated against 25 trade union organizations in 19 departments of the country.

With regard to the right to health, by the end of July 2021, Colombia was close to completing five million people infected and 120 thousand deaths from covid-19. The country came to hold the world's shameful ninth place for the largest number of cases of contagion and deaths from covid. This reveals the epidemiological disaster that the pandemic has meant for the population, as a result of the Duque government's inadequate management of this public health phenomenon.

According to DANE, the distribution of covid-19 mortality in Colombia between 2 March 2020 and 9 May 2021 was concentra-

ted in the socio-economic strata 1 and 2 with 61.5%, while in strata 6 and 5 it was only 3.4 % of the national total. This distorts the idea that the pandemic has been democratically distributed, for the people in the most impoverished sectors are the most infected and killed.

Likewise, although Colombia emphasized hospital care for the pandemic, care for moderate and severe cases of COVID-19 was not improved. Not enough beds were provided for Intensive Care Units, nor were the necessary specialized staff required for these services trained and the sufficient reserves of inputs, medicines, oxygen and biosecurity elements required for these high-complexity care were not established.

With regard to the Human Right to Food and Adequate Nutrition (Dhana), there is a persistence of various forms of violation of this right, which are evidenced by worrying hunger figures. In nutritional terms, the figures indicate that stunting is suffered by 10.8% of girls and boys between the ages of 0 and 4, 7.4% who are between the ages of 5 and 12, and 9.7% of adolescents between the ages of 13 and 17. Also, excess weight (overweight and obesity) is increasingly affecting all population groups. This is observed in almost a quarter of the school population and in 17.9% of adolescents, as well as in more than half of the adult population (56.5%).

The pandemic worsened the food situation in Colombia. According to DANE, during this ongoing crisis, 1.6 million families reduced their food to only two meals a day. While red rags, emblems of hunger, became practically the national flag, there was no political will to generate viable alternatives that would allow the arrival and access to real food for the affected populations.

However, a positive aspect about Dhana during Duque's third year of government is

related to the approval in 2021 of the "junk food" law, which meant a defeat for the government and industry. During the legislative process and the debate on the law, neither Duque nor these companies ceased to put obstacles to its progress.

In terms of the right to education, an important element in this period of government is the return to classrooms through alternation (home classes for some students and in person class for others). The Colombian Federation of Education Workers (FECODE) conducted a survey to verify the status of biosecurity measures that the national government has promoted to implement alternation and found that in March 2021 only 6.5% of educational communities knew about them.

When asked whether school sites have sufficient natural or artificial ventilation, 43.3% of respondents answered yes and 56.7%, no, which means that more than half of the educational institutions are unventilated.

The survey figures also indicate that 67.7% of headquarters do not have access to safe drinking water. In addition, only 12.9% of the sites have Internet connectivity for the development of school activities. All of this complicates the return to the classroom and justifies the continuity of "home learning" until conditions of biosafety and psycho-security exist, even if government agencies, including control bodies, state that there are guarantees for a safe return.

Finally, with regard to environmental rights, the recommendations made by various environmental sectors, and national and international experts, which have exposed the serious consequences of fracking, have not been heard in Colombia. On December 24, 2019, President Duque presented the draft 328 of 2020, which sets out the guidelines for proceeding with the



Comprehensive Research Pilot Projects (PPII in Spanish). Since then, there have been different legislative initiatives to curb the possibility of implementing this technique in the country. In June 2021, the bill seeking the protection of the environment and communities was definitively defeated.

#### **4. Colombia, the world and its relationship**

In the third year of Iván Duque Márquez's rule, a change of government took place in the United States. Colombia's ruling party, Centro Democrático, attempted to incite public opinion in favor of Donald Trump and his congressional candidates in Florida.

Joe Biden's arrival at the White House created expectations for Colombia and its relationship agenda. Civil society organizations expected further development of support for the implementation of the Peace Agreement. In the United States and Colombia, organizations have pressed Biden to push this issue forward, which has not happened as expected, as US foreign policy toward Latin America focuses on Central American migration and the situation on the US-Mexico border.

Even so, there were some relevant facts. On January 21, 2021, the United States Acting Ambassador to the UN explicitly supported the Peace Agreement and condemned the violence against human rights defenders and former combatants. In turn, more favorable messages from the US ambassador to Colombia began to be heard on these issues.

On the other hand, a situation on which more forceful reactions were expected from the United States was the case during the 2021 national strike. After two weeks of the strike, a high-level delegation from the State Department and the White House traveled to Colombia; the delegation highlighted

the importance of the right to protest, called for dialog and to defuse violence and mentioned its concern for missing persons. But it was some people from Congress who made their pronouncements with proposals that were more in line with the requirements of the situation.

Fifty-five Democratic members of Congress condemned the abuses committed by the public force and called on the Secretary of State to denounce these facts and suspend direct aid to the Colombian police. They proposed that the Mobile Anti-riot Squadron (ESMAD), the main executor of violence against protesters, should stop receiving funds and to freeze sales of weapons, equipment, services or training.

Regarding relations with the European Union, 2021 has been a particularly important year. In November, the fifth anniversary of the signing of the peace agreement in Colombia is celebrated, which has meant that the interest of the states of Europe is "renewed" by updating their commitments. In its resolution of April 2021, the European Parliament acknowledged several elements of the country's reality: The serious situation of human rights and breaches of international humanitarian law and the increase in violence in the territories, displacement and massacres. In addition, it called for the comprehensive implementation of the Peace Agreement with a gender perspective and for the promotion of transitional justice mechanisms.

But this very Parliament, far from bluntly condemning the shortcomings in the implementation of the peace agreement and the setbacks in protecting human rights, has greatly welcomed the Colombian institutions and the efforts of the Duque Government in implementing it.

As for the 2021 national strike, several European political groups condemned the

the use of force by the police to suppress social mobilizations. Many members of the European Parliament asked the High Representative of the European Union for Foreign Affairs and Common Security Policy for a public condemnation. Since then, the commitments by European authorities have multiplied.

On the other hand, the European Union is moving ahead with a process of progress and approving budgets throughout 2021 in which it has redefined its financial policy and restructured the contents of international cooperation.

In 2020, it approved a new component of international cooperation: The Neighborhood, Development and International Cooperation Instrument (NDICI). This single instrument, worth 500 billion euros, should allow a more coherent and transparent and flexible financing. The funds restructuring implies a redefinition of the overall cooperation budget for Latin America and, therefore, for Colombia. The distribution of the amounts between the various continents it is possible that cooperation with Latin America is a priority for the EU, as it is the continent that will receive the least funds.

Finally, on the international scene and the mechanisms for the protection of

human rights, there was an event of great magnitude and importance in March 2021 the 48th Session of the Permanent Court of Peoples (TPP). It focused on investigating political genocide, crimes against peace and structural impunity in Colombia. It noted the increase of genocidal practices that have occurred since the signing of the Peace Agreement and under the rule of Iván Duque. There were 55 cases of genocidal practices, referring to ten axes of victimization.

In its judgment on the genocide in Colombia, the TPP found sufficient grounds to condemn the successive governments of Colombia, from 1946 to today, for their direct and indirect participation, by action and by omission, in the commission of a continuing genocide; for their responsibility in the perpetration of crimes against humanity and war crimes, for failure to comply with their obligations to prevent, investigate and punish genocide, war crimes and crimes against humanity and for having adopted military doctrines and security strategies based on the existence of an internal enemy.

It condemned the current Government for its non-compliance with the commitments made in the Peace Agreement.

