



Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Colombia

**United Nations High Commissioner for Refugees (UNHCR)
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NOTE

UNHCR *Eligibility Guidelines* are issued by the Office to assist decision-makers, including UNHCR staff, Governments and private practitioners, in assessing the international protection needs of asylum-seekers. They are legal interpretations of the refugee criteria in respect of specific profiles on the basis of social, economic, security, human rights and humanitarian conditions in the country/territory of origin concerned. The pertinent international protection needs are analysed in detail, and recommendations made as to how the applications in question relate to the relevant principles and criteria of international refugee law as per, notably, the UNHCR Statute, the 1951 Refugee Convention and its 1967 Protocol, and relevant regional instruments such as the Cartagena Declaration, the 1969 OAU Convention and the EU Qualification Directive. The recommendations may also touch upon, as relevant, complementary or subsidiary protection regimes.

UNHCR issues *Eligibility Guidelines* to promote the accurate interpretation and application of the above-mentioned refugee criteria in line with its supervisory responsibility as contained in paragraph 8 of its Statute in conjunction with Article 35 of the 1951 Convention and Article II of its 1967 Protocol and based on the expertise it has developed over the years in matters related to eligibility and refugee status determination. It is hoped that the guidance and information contained in the *Guidelines* will be considered carefully by the authorities and the judiciary in reaching decisions on asylum applications. The *Guidelines* are based on in-depth research, information provided by UNHCR's global network of field offices and material from independent country specialists, researchers and other sources, rigorously reviewed for reliability. The *Guidelines* are posted on UNHCR's Refworld website at <http://www.refworld.org>.

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ABBREVIATIONS

AFP	Agence France Press
AFRODES	Asociación Nacional de Afrocolombianos Desplazados
AI	Amnesty International
ASCSUCOR	Asociación de campesinos del sur de Cordoba
AUC	United Self-Defense Forces of Colombia
BACRIM	Bandas Criminales
CEDAW	Convention on the Elimination of Discrimination against Women
CERAC	Centro de Recursos Para el Análisis de Conflictos
CINEP	Centro de Investigación y Educación Popular
CODHES	Consultoría para los Derechos Humanos y el Desplazamiento
DAS	Departamento Administrativo de Seguridad
DDR	Demobilization, Disarmament and Reintegration
ECOSOC	United Nations Economic and Social Council
ELN	Ejército de Liberación Nacional
ERPAC	Popular Revolutionary Anti-Terrorist Army of Colombia
FARC	Fuerzas Armadas Revolucionarias de Colombia / Revolutionary Armed Forces of Colombia
FIP	Fundación Ideas Para la Paz
FLIP	Fundación para la Libertad de Prensa
HRW	Human Rights Watch
IACHR	Inter-American Commission on Human Rights
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
IDPs	Internally Displaced Persons
IFA/IRA	Internal Flight Alternative/Internal Relocation Alternative
Indepaz	Instituto de Estudios para el Desarrollo y la Paz
IOM	International Organization for Migration
LGBT	Lesbian, Gay, Bisexual, Transexual
NAGs	New Armed Groups
NGOs	Non-Governmental Organizations
NPU	National Protection Unit
NRC/IDMC	Norwegian Refugee Council/Internal Displacement Monitoring Centre
OAU	Organisation of African Unity
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OHCHR	United Nations Office of the High Commissioner for Human Rights
ONIC	National Indigenous Organization of Colombia
RNI	Red Nacional de Información
SIADDHH	Information System for aggression against Male and Female Human Rights Defenders in Colombia
UNCDES	The National Unit Against the Crimes of Enforced disappearance and Displacement

UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNODC	UN Office on Drugs and Crime
US DoS	United States Department of State
USAID	United States Agency for International Development
ZRC	Zonas de Reserva Campesina

Introduction

These Guidelines supersede the May 2010 *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Colombia* (2010 Guidelines).¹ They contain information about recent developments that may impact the assessment of international protection needs for persons from Colombia falling within certain risk profiles or finding themselves in certain circumstances.² The risk profiles outlined in this document are based on UNHCR's legal assessment of available country of origin information, as well as cases that have come to the attention of UNHCR and Government decision-makers. These Guidelines do not contain detailed guidance on exclusion considerations for persons from Colombian who apply for international protection, as UNHCR considers that decision-making practice in countries of asylum does not point to a specific need for such guidance.

This document is based on information available to UNHCR up to April 2015, *unless otherwise stated*.

I. Main Developments in Colombia

A. Background

On 15 June 2014, President Juan Manuel Santos secured a second term in office, in an election defined by the issue of peace.³ As part of his election platform, President Santos had undertaken to continue peace talks to end more than 50 years of armed conflict between the State and guerrilla groups,⁴ mainly the Revolutionary Armed Forces of Colombia (FARC), but also the *Ejército de Liberación Nacional* (ELN).⁵ Peace negotiations with the FARC began in October 2012 in Havana, Cuba, and were ongoing as at May 2015.⁶ The negotiations with the FARC have been described as the best chance in over a decade to put an end to hostilities.⁷ The FARC declared a unilateral and

¹ UNHCR, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Colombia*, 27 May 2010, HCR/EG/COL/10/2, <http://www.refworld.org/docid/4bfe3d712.html>.

² For information on the humanitarian and protection situation in Colombia, see SalaHumanitaria, an information platform provided by UN OCHA to support humanitarian operations: www.salahumanitaria.co.

³ The original election of President Santos in 2010 was considered by observers to be free and fair: US DoS, *2013 Country Reports on Human Rights Practices: Colombia*, February 2014, <http://www.state.gov/documents/organization/220641.pdf> (hereafter: US DoS, *2013 Human Rights Report*).

⁴ The following terminology for various armed actors will be used in these Guidelines: the term *security or regular armed forces* refers to the Governmental police or armed forces; the term *guerrilla* refers to the members of independent left-wing groups fighting against the Government and its regular armed forces or against right-wing paramilitaries and successor groups (e.g. FARC, ELN); the term *paramilitary* refers to the members of right-wing illegal armed organizations that operated on similar lines to a military force and which were ostensibly de-mobilized between 2003-2006; and the term *new armed groups (NAGs)* refers broadly to successor groups to paramilitary forces that emerged following the de-mobilization process in 2006.

⁵ Discussions on initiating the peace process between the Government of Colombia and the Ejército de Liberación Nacional (ELN) are ongoing, but have so far been unsuccessful. See El País, *El otro proceso de paz que no avanza en Colombia*, 11 July 2015, http://internacional.elpais.com/internacional/2015/07/11/actualidad/1436566275_949276.html. Note that Colombia's third largest guerrilla group, the *Ejército Popular de Liberación* (Popular Liberation Army) (EPL) has also expressed interest in joining the peace negotiations: For further information, see: Colombia Reports, *Colombia Guerrilla Group EPL Wants to Join Peace Dialogues*, 28 July 2014, <http://colombiareports.co/colombia-guerrilla-group-epl-wants-join-peace-dialogues/>.

⁶ The agenda of the peace negotiations has six subjects: integrated agrarian development, political participation, termination of the conflict, solution of the problem of illicit drugs, victims and implementation and monitoring. The two parties have since reached agreement on three of these subjects: see Mesa de Conversaciones en Dom, *Comunicado Conjunto. La Habana, 2 November 2014*, <https://www.mesadeconversaciones.com.co/comunicados/comunicado-conjunto-la-habana-02-de-noviembre-de-2014?ver=es>; BBC News, *What is at Stake in the Colombian Peace Process?*, 15 January 2015, <http://www.bbc.co.uk/news/world-latin-america-19875363>. For background, see UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 1; International Crisis Group (ICG), *Colombia: Peace at Last?* 25 September 2012, <http://www.refworld.org/docid/5062ef362.html> (hereafter: ICG, *Peace at Last?*), p. 1; ICG, *The Day After Tomorrow: Colombia's FARC and the End of the Conflict*, 11 December 2014, <http://www.refworld.org/docid/548aa21c4.html>. See also: BBC News, *Colombia to Temporarily Halt Bombing of Farc Rebels*, 11 March 2015, <http://www.bbc.com/news/world-latin-america-31827852>.

⁷ Amnesty International, *The Human Rights Situation in Colombia: Amnesty International's Written Statement to the 25th Session of the UN Human Rights Council (3-28 March 2014)*, AMR 23/008/2014, 13 February 2014, <http://www.amnesty.org/en/library/info/AMR23/008/2014/en>, p. 1 (hereafter: Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014); Amnesty International, *The Human Rights Situation in Colombia: Amnesty International's Written Statement to the 28th Session of the UN Human Rights Council (2-27 March 2015)*, 6 February 2015, <http://www.oidhaco.org/uploaded/content/article/485534216.pdf>.

indefinite cessation of hostilities in December 2014,⁸ and on 15 January 2015 the Government stated it was prepared to begin talks on a bilateral ceasefire in light of the FARC's compliance.⁹ In August 2013, the Government announced plans to open formal peace negotiations with the ELN,¹⁰ welcoming the willingness of the guerrillas to demobilize. Progress has reportedly been made in defining the agenda for the peace negotiations.¹¹

Despite the positive momentum of the peace talks, their successful conclusion is far from certain.¹² In addition, even if the peace talks with the FARC and ELN ultimately are successful, experts have suggested that it is unlikely that violence and internal and external displacement in Colombia will cease in the short to medium term.¹³ In large part, this is due to the emergence of new armed groups (NAGs), drawn from the remnants of right-wing paramilitary groups that were ostensibly demobilized between 2003-2006, and which are reportedly using violence and displacement to control populations and economic activities, including parts of the irregular economy. These groups are discussed in Section II.B.1 below (*Changing structures and patterns of organized violence*).¹⁴

In short, pending the successful conclusion of the peace talks with the FARC and ELN, levels of violence and internal and external displacement remain high in Colombia.¹⁵ Even if the peace process is successfully concluded, analysts have noted that Colombia would likely face a "difficult transition", for reason of guerrilla splinter groups that might decide not to demobilize; NAGs and drug-trafficking organizations that would seek to take advantage of an eventual FARC demobilization; as well as political violence against organizations related to or associated with the FARC.¹⁶ Observers have noted that at least 10 years would be required before peace would be restored in practice.¹⁷

⁸ Juliana Jiménez Jaramillo, *Colombia May Finally Be on the Verge of Peace*, 22 December 2014, http://www.slate.com/blogs/the_world/2014/12/22/farc_acease_fire_announcement_will_the_rebel_group_finally_lay_down_its_arms.html?wpsrc=fol_tw.

⁹ BBC News, *What is at stake in the Colombian peace process?*, 15 January 2015, <http://www.bbc.co.uk/news/world-latin-america-19875363>.
¹⁰ US DoS, *2013 Human Rights Report*, p. 16.

¹¹ ICG, *Left in the Cold? The ELN and Colombia's Peace Talks*, 26 February 2014, <http://www.refworld.org/docid/530ef01a4.html>, p. i (hereafter: ICG, *Left in the Cold?*); Juan Manuel Santos, *Alocución del Presidente Juan Manuel Santos al inicio del año 2015*, 14 January 2015, http://wp.presidencia.gov.co/Noticias/2015/Enero/Paginas/20150114_04-Palabras-Alocucion-del-Presidente-Juan-Manuel-Santos-al-inicio-del-2015.aspx.

¹² See, e.g. AFP, *Les négociations de paix avec les Farc suspendues en Colombie*, 17 November 2014, http://www.liberation.fr/monde/2014/11/17/les-negociations-de-paix-avec-les-farc-suspendues-en-colombie_1144478; BBC, *Farc Rebels Release Two Soldiers*, 25 November 2014, http://www.bbc.com/news/world-latin-america-30196288?ns_mchannel=social&ns_campaign=bbc_breaking&ns_source=twitter&ns_linkname=news_central; Virginia Bouvier, George A. Lopez, *Sidelining the Spoilers*, Foreign Policy, 26 November 2014, http://www.foreignpolicy.com/articles/2014/11/26/farc_colombia_peace_process_rebels_kidnapping_general_spoilers. Further, a basic negotiation principle, endorsed by the pre-accord between the Government and the FARC, is that nothing is agreed until everything is agreed: ICG, *Peace at Last?*, p. 25. See also: ICG, *Colombia: A Dangerous Setback*, 16 April 2015, <http://www.crisisgroup.org/en/publication-type/media-releases/2015/latin-america/colombia-a-dangerous-setback.aspx>.

¹³ ICG, *Peace at Last?*, p. 1; NOREF (Norwegian Peacebuilding Resource Centre), *The Humanitarian Dimension in the Aftermath of a Peace Agreement: Proposal for the International Community in Colombia*, February 2015, http://www.peacebuilding.no/var/ezflow_site/storage/original/application/f86b0584c5dd55d840090c83b68f05ae.pdf, p. 4, 6. According to a report published by the Fundación Paz y Reconciliación in February 2015, the levels of armed action by FARC decreased by almost 40 per cent in 2014, when compared with 2013, due to the ceasefires signed with the Government. However, an intensification of the attacks was noted after the ceasefire was signed as was the case in February and July 2014. At the same time, the ELN increased its attacks and expanded its territorial presence: Fundación Paz y Reconciliación, *Lo que hemos ganado*, 25 February 2015, <http://www.pares.com.co/wp-content/uploads/2015/02/Ver-Informe-Completo-Lo-Que-Hemos-Ganado1.pdf>, pp. 5, 9, 38.

¹⁴ See also, UNHCR, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Colombia*, 27 May 2010, HCR/EG/COL/10/2, <http://www.refworld.org/docid/4bfe3d712.html>.

¹⁵ ICG, *Peace at Last?*, pp. 1, 25.

¹⁶ According to the ICG: Colombia would "be likely to face a difficult transition if it reaches the post-conflict phase. Parts of NAGs and drug-trafficking organisations might stay calm during negotiations but may look to expand in regions currently under FARC control, possibly creating new violence. Post conflict security would likely be further complicated by resistance of FARC structures deeply involved in the drug business to follow the leadership into demobilisation": ICG, *Peace at Last?*, pp. 16-17. Further, a "deal would not eliminate violence. It likely would fail to convince some FARC elements to lay down arms, notably those deeply involved in the drugs trade. There would still be significant security threats from illegal armed groups rooted in the officially demobilised paramilitaries and from other organised criminal gangs": ICG, *Peace at Last?*, p. 1; see also *ibid.*, p. 22.

¹⁷ See, e.g. Sergio Jaramillo, *La transición en Colombia*, 9 May 2013, [http://www.altocomisionadoparalapaz.gov.co/herramientas/discursos/Documents/La%20transicion en Colombia 09 de mayo de 2013.pdf](http://www.altocomisionadoparalapaz.gov.co/herramientas/discursos/Documents/La%20transicion%20en%20Colombia%2009%20de%20mayo%20de%202013.pdf). As stated by the High Commissioner for Human Rights: "...stark social and economic inequities, impunity and weak rule of law continue to challenge the conclusion of peace...In the context of the ongoing armed conflict, human rights violations are committed daily, with a disproportionate impact on vulnerable or geographically isolated sectors of the population and on social actors, community leaders and human rights defenders." UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 6.

B. Changing Structures and Patterns of Organized Violence

I. New Armed Groups (NAGs)

Between 2003 and 2006, right-wing paramilitary organizations underwent a Government-run demobilization process.¹⁸ According to many observers, this process was not fully effective,¹⁹ and new armed groups (NAGs) have emerged, set up primarily by former paramilitaries that either did not or could not avail themselves of the 2005 Justice and Peace Law, continued their engagement in drug-trafficking or other forms of criminal activities, or failed to reintegrate into civilian life.²⁰ The five most powerful NAGs as at late 2014 were the *Rastrojos*, the *Urabeños* (also called *Gaitanistas* or *Clan Usuga*), *Paisas*, the *Aguilas Negras* and the Popular Revolutionary Anti-Terrorist Army of Colombia (ERPAC).²¹ The ERPAC was partially demobilized in 2011.²²

¹⁸ For information on the former paramilitary groups in Colombia, see, e.g. ICG, *Peace at Last?*, p. 21. Previous paramilitary groups emerged and strengthened during the 1980s in large part in reaction to peace processes with guerrillas, including FARC. The coalition behind the paramilitaries was diverse and included regional political and economic elites, drug traffickers who controlled large areas of land and parts of the military. The paramilitary movement thus substantially revolved around the effort to violently defend the status quo against the political, social and economic changes implied by reforms undertaken or promised as part of peace processes (p. 21). Paramilitary groups consolidated into a nationwide federation, the United Self-Defence Forces of Colombia (AUC): ICG, *Peace at Last?*, pp. 21-22, footnote 188.

¹⁹ The process of demobilization of the paramilitary structures in Colombia rested upon two separate but complementary legal frameworks. The first one, made up of Law 48 of 1997, Law 782 of 2002 and Law 1106 of 2006 as well as Decrees 128 of 2003, 3360 of 2003 and 2767 of 2004, was described as the general demobilization configuration, while the second legal framework, Law 975 of 2005 – the so-called Justice and Peace Law – and its regulatory decrees 4760 of 2005, 2898 of 2006, 3391 of 2006, 4417 of 2007, 315 of 2007 and 423 of 2007, focused on creating a system for individual demobilization. Amnesty International has noted that under the 2005 process the Government offered reduced prison sentences to thousands of paramilitaries who laid down their weapons. However only 22 who surrendered under the 2005 Justice and Peace Law were convicted of human rights violations. Hundreds were to be freed from prison later in 2014, having spent the maximum eight years in prison stipulated by the law. There are no effective measures in place to ensure that those released do not again incorporate themselves into paramilitary structures. Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 2. Amnesty International, *Colombia: New Law Strengthens Impunity for Human Rights Abusers*, 22 June 2009, <http://www.amnesty.org/en/library/asset/AMR23/017/2009/en/23c919fe-f3a0-466d-b5c5-d79f483267cb/amr230172009en.pdf>; Sergio Jaramillo, Yanet Giha and Paula Torres, *Disarmament, Demobilization, and Reintegration Amidst the Conflict: The Case of Colombia*, International Centre for Transitional Justice, June 2009, http://www.ictj.org/static/Publications/Giha_Torres_Jaramillo_DDR_Colombia_FullCaseStudy_FCS_2009.pdf; José Alvear Restrepo, *Evaluation of the Paramilitary Demobilization Process in Colombia*, ColPaz, 16 June 2009, http://www.educweb.org/colpaz/info-refanalisis/English/Referencia/info_ddhh_cajar.html.

²⁰ The Justice and Peace law established a legal process that applied reduced sentences to those who accepted responsibility for actions undertaken while they were part of armed groups and who report the human rights violations they have committed. Reduced sentences under the Justice and Peace Law are not available for crimes where amnesty is not applicable as specified under Law 975, namely homicide, enforced disappearance, torture, massacres, forced displacement, genocide, kidnapping and all those crimes considered as atrocious or against humanity and international humanitarian law. For further details, see International Federation for Human Rights, *Colombia: Paramilitary Demobilization in Colombia: On the Road to the International Criminal Court*, 4 October 2007, available (in Spanish) at <http://www.fidh.org/IMG/pdf/Colombiejustice481-32007.pdf>. One indicator of recidivism among demobilized paramilitaries is the level of arrests and homicides that have occurred. Between 2003 and 2010, 1,555 demobilized paramilitaries were reportedly killed, 179 of them in combat. Additionally 1844 were arrested: Permanent Council, *Fifteenth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia*, OEA/Ser.G, CP/INF. 6225/11, 15 April 2011, <http://www.mapp-oea.net/documentos/informes/Trimestrales%20MAPP/XVIngles.pdf>, p. 8. Fundación Ideas Para la Paz (FIP), *Narcotráfico: Génesis de los paramilitares y herencia de bandas criminales*, January 2013, http://archive.ideaspaz.org/images/Info%2019%20dimensiones%20geograficas_final%20web.pdf, p. 51. Permanent Council, *Ninth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OEA)*, OEA/Ser.G, CP/doc. 4237/07, 3 July 2007, <http://www.mapp-oea.net/documentos/informes/IXInformeingles.pdf>, p. 2-9. For details in the structure and modus operandi of the Red Cross, see, e.g. International Committee of the Red Cross (ICRC), *Colombia: Humanitarian Situation, Action 2013 and Perspectives 2014*, 9 April 2014, <https://www.icrc.org/spa/assets/files/2014/04-09-colombia-annual-report-2013-full-version.pdf>; *Semana*, *Formación y estructura de bandas criminales*, 1 December 2012, <http://www.semana.com/nacion/articulo/delinuencia-colombia-bandas-desbandadas/268712-3>; *El Nuevo Siglo*, *Bacrim operan en Bogotá por pandillas*, 5 September 2013, <http://www.elnuevosiglo.com.co/articulos/9-2013-bacrim-operan-en-bogota-C3%A1-por-pandillas.html>; *El País*, *En Cali las bandas delincuenciales pasaron de ser 'oficinas de cobro' a 'outsourcing' del crimen*, 17 November 2013, <http://www.elpais.com.co/elpais/judicial/noticias/cali-paso-oficinas-cobro-outsourcing-criminal>; FIP, *La crisis de Buenaventura la vive todo el Pacífico*, 21 May 2014 <http://cdn.ideaspaz.org/media/website/document/538795ac750bc.pdf>; FIP, *Crimen organizado y violencia homicida en Bogotá: Una mirada de largo plazo*, January 2013, http://archive.ideaspaz.org/images/Info%2020%20Crimen%20Organizado_final%20WEB.pdf.

²¹ For a detailed analysis of NAGs see: Gabriel Rojas Andrade and Paola Hurtado, CODHES, *Grupos posdesmovilización y desplazamiento forzado en Colombia: una aproximación cuantitativa*, July 2014, http://www.codhes.org/images/Articulos/GPD_y_desplazamiento_forzado_en_Colombia.pdf; and Jeremy McDermott, *The BACRIM and their Position in Colombia's Underworld*, Insight Crime, 2 May 2014, <http://www.insightcrime.org/investigations/bacrim-and-their-position-in-colombia-underworld?highlight=WvJiYWNyaW0iLCJiYWNyaW0ncvIsIldiYWNyaW0nIl0>. The *Urabeños* is the largest and most organized NAG in Colombia, with a presence throughout much of the country. Human Rights Watch (HRW), *The Crisis in Buenaventura: Disappearances, Dismemberment and Displacement in Colombia's Main Pacific Port*, March 2014,

NAGs initially emerged in regions previously under paramilitary control, and are now active in both rural and urban areas in more than 409 municipalities.²³ This includes areas under dispute with guerrillas and/or without a strong government presence. The rise in violence in urban areas in Colombia is of particular note.²⁴ NAGs have reportedly continued paramilitary practices of social

<http://www.refworld.org/docid/532c42414.html>, p. 12 (hereafter: HRW, *The Crisis in Buenaventura*). The *Urabeños* is believed to have links in 17 departments (50 per cent of all departments in Colombia) and across the American and European continents. The Attorney General's Office has estimated that as at 2014 the *Urabeños* had more than 2,600 members: El Colombiano, *Así ha sido la lucha de la Dijin contra "los Urabeños" en Antioquia*, 21 January 2015, <http://www.elcolombiano.com/asi-ha-sido-la-lucha-de-la-dijin-contra-los-urabenos-en-antioquia-XF1142000>. The NAGs have reportedly fought between themselves over land and territory. The most significant disputes have been between *Rastrojos* and *Urabeños*. According to information from the FIP, these two groups ultimately agreed to divide territory with the *Urabeños* taking the north and the *Rastrojos* taking the south of the country. However, the *Urabeños* has reportedly become the most powerful NAG due to its enhanced military capacity, as well as the fact that the Government has captured several *Rastrojos* commanders: FIP, *Seis tesis sobre la evolución reciente del conflicto armado en Colombia*, September 2014, <http://cdn.ideaspaz.org/media/website/document/5436b8c8dbf6e1.pdf>. See also: ICG, *Dismantling Colombia's New Illegal Armed Groups: Lessons from a Surrender*, 8 June 2012, <http://www.refworld.org/docid/4fd728682.html>, p. 1, footnote 1 (hereafter: ICG, *Dismantling Colombia's New Illegal Armed Groups*); ICG, *Peace at Last?*, p. 22; Policía Nacional, *Policía presenta a los más buscados de las Bandas Criminales (Bacrim)*, 24 February 2014, http://www.policia.gov.co/portal/pls/portal/JOHN.NOTICIAS_NUEVAS_DETALLADAS.SHOW?p_arg_names=identificador&p_arg_val=ues=358911. See also, e.g. El Tiempo, *Tres 'bacrim' tienen la mitad de hombres que Farc*, 6 September 2014, <http://www.eltiempo.com/politica/justicia/integrantes-de-bandas-criminales/14495955>; Indepaz, *Informe Sobre Grupos Narcoparamilitares*, 2013, <http://www.indepaz.org.co/wp-content/uploads/2013/08/Informe-VIII-Indepaz-final.pdf>; Government of Colombia, *Defensoría advierte presencia de "bandas criminales" en 168 municipios de 27 departamentos*, 4 November 2014, <http://www.defensoria.gov.co/es/nube/noticias/2631/Defensor%C3%ADa-advierte-presencia-de-%E2%80%9Cbandas-criminales%E2%80%9D-en-168-municipios-de-27-departamentos-bandas-criminales-bacrim-Nari%C3%B1o-derechos-humanos-SAT-Clan-Usuga-Conflicto-armado-Derecho-a-la-vida.htm>. Excel table available at: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0CC8OFjAC&url=http%3A%2Fwww.w.defensoria.gov.co%2Fattachment%2F700%2FBase%2520mapa%2520interactivo.xlsx&ei=SpZ8VJrbFdX7aqvIeIAG&usq=AFOjCNFKhVOG5e590dD7Cqc3CDWJMxvrgQ&bvm=bv.80642063.d.ZWU>. See also: Indepaz, *Informe Sobre Grupos Narcoparamilitares*, 2013, <http://www.indepaz.org.co/wp-content/uploads/2013/08/Informe-VIII-Indepaz-final.pdf>. There are also various regional offshoots from some of these groups. In Buenaventura, for example, the *Empresa* is a local criminal organization that essentially functions as the Buenaventura branch of the *Rastrojos* paramilitary successor group. HRW, *The Crisis in Buenaventura*, p. 12; The *Urabeños*, *Empresa*, and *Autodefensas Gaitanistas de Colombia* (AGC) continue to severely restrict residents' movement between neighborhoods of Buenaventura. VICE News, *Buenaventura: Dismemberment and Displacement (Full Length)*, 22 December 2014, <https://news.vice.com/video/buenaventura-dismemberment-and-displacement-full-length> (video). HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances-pacific-port>.

²² According to the ICG, "ERPAC, until its partial demise in 2011, exerted practically uncontested social and territorial control in parts of the vast but thinly populated eastern plains and had an at least intermittent presence far beyond. Both membership and modus operandi underscored a high level of continuity with its paramilitary predecessors in the region, the AUC's Centauros Bloc. ... Reflecting its paramilitary legacy, it enforced strict social control in areas of influence and was responsible for forced recruitment, displacements, targeted killings and other serious offences": ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. 5. For further history of ERPAC and the partial demobilization process undertaken in December 2011 see ICG, *Dismantling Colombia's New Illegal Armed Groups*, pp. 5 et seq. After the demobilization of ERPAC, two new structures were formed: *Libertadores de Vichada* and *Bloque Meta*: See, Instituto de Estudios para el Desarrollo y la Paz (Indepaz), *VIII Informe sobre grupos narcoparamilitares* 2012, <http://www.indepaz.org.co/wp-content/uploads/2013/08/Informe-VIII-Indepaz-final.pdf>. See also: Marguerite Cawley, *Colombia's BACRIM Expand as FARC Talks Peace*, InSight Crime, 5 November 2014, <http://www.insightcrime.org/news-briefs/colombia-bacrim-expand-farc-talks-peace>; Defensoría del Pueblo Colombia, *Defensoría advierte presencia de "bandas criminales" en 168 municipios de 27 departamentos*, 4 November 2014, <http://www.defensoria.gov.co/es/nube/noticias/2631/Defensor%C3%ADa-advierte-presencia-de-%E2%80%9Cbandas-criminales%E2%80%9D-en-168-municipios-de-27-departamentos-bandas-criminales-bacrim-Nari%C3%B1o-derechos-humanos-SAT-Clan-Usuga-Conflicto-armado-Derecho-a-la-vida.htm>.

²³ See, e.g. Instituto de Estudios para el Desarrollo y la Paz (Indepaz), *VIII Informe sobre grupos narcoparamilitares [2012]*, August 2013, <http://www.indepaz.org.co/wp-content/uploads/2013/08/Informe-VIII-Indepaz-final.pdf>. The regions with the strongest presence of NAGs are reportedly Chocó (93% of its municipalities); Cesar (92%); Córdoba (89%); Valle (76%); Sucre (73%); Meta (65%); Bolívar (53%); Antioquia (52%); Magdalena (50%); Cauca (46%); Atlántico (43%); Nariño (40%); Norte de Santander (39%); Instituto de Estudios para el Desarrollo y la Paz (Indepaz), *VIII Informe sobre grupos narcoparamilitares [2012]*, <http://www.indepaz.org.co/wp-content/uploads/2013/08/Informe-VIII-Indepaz-final.pdf>. See also US DoS, *2014 Country Reports on Human Rights Practices - Colombia*, 25 June 2015, <http://www.refworld.org/docid/559bd57528.html> (hereafter: US DoS, *2014 Human Rights Report*).

²⁴ For further information on current levels of urban violence in Colombia, see Protection Cluster Colombia, *Violence by Non-State Armed Groups in Urban Areas in Colombia from the Perspective of Citizen Security*, September 2014, http://www.globalprotectioncluster.org/assets/files/field_protection_clusters/Colombia/files/Protection_Cluster_Colombia_advocacy_paper_on_urban_violence_September_2014.pdf. For example, in Buenaventura, guerrillas operating in rural areas historically have been a major cause of displacement in the area. More recently however violence and displacement in Buenaventura is concentrated in its urban centre, where guerrillas have virtually no presence: instead neighbourhoods are reportedly dominated by NAGs (*Urabeños* and *Empresa*) which restrict residents' movements, recruit children, extort business and "routinely engage in horrific acts of violence against anyone who defies their will", notably dismemberment. See HRW, *The Crisis in Buenaventura*, p. 2; HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances-pacific-port>. Colombia's Ombudsman's Office has issued five reports warning of a range of imminent abuses against the city's population. In November 2013, after paramilitary successor groups displaced several thousands of people in the city over the course of the week, the national ombudsman travelled to Buenaventura with UN representatives and said that the city was experiencing a humanitarian crisis (p. 5).

control, including violence against community leaders and vulnerable groups.²⁵ In Córdoba and Urabá for example, the *Urabeños* reportedly exercise surveillance and control over daily life, including the ability to move freely.²⁶ In Urabá there are allegedly zones “totally controlled” by the *Urabeños*.²⁷ In contrast to their paramilitary predecessors, however, NAGs reportedly have highly decentralized structures, do not follow a single chain of command and are particularly adaptable.²⁸

Widespread and serious abuses by NAGs against civilians have been reported.²⁹ Approximately 30,000 Colombians displaced from 466 municipalities in 2011 identified NAGs as the armed actor responsible for their displacement.³⁰ According to UNHCR estimates as at 2014, NAGs are now responsible for a large percentage of human rights violations in Colombia.³¹ Indeed, some observers suggest that the NAGs are now responsible for more violent actions, deaths, threats, displacements and disappearances than traditional left-wing guerrilla groups,³² and constitute one of the greatest threats to public order.³³

The Government has characterized the NAGs as criminal gangs (*BACRIM*), rather than politically motivated actors and/or parties to the internal armed conflict.³⁴ However, the Constitutional Court, in its ruling of June 2013, determined that persons victimized by criminal entities and NAGs should

²⁵ ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. 2.

²⁶ For example one leader from an Afro-Colombian collective territory in Chocó reportedly told HRW that *Urabeños* members, dressed as civilians and carrying small firearms, have a constant menacing presence in the community, even sleeping in residents' homes: HRW, *The Risk of Returning Home: Violence and Threats against Displaced People Reclaiming Land in Colombia*, September 2013, <http://www.refworld.org/docid/523ff9b24.html>, p. 169 (hereafter: HRW, *The Risk of Returning Home*).

²⁷ HRW, *The Risk of Returning Home*, p. 169.

²⁸ According to information available to UNHCR, the structure of NAGs – lacking a central command and decentralization - is influenced by two objectives: first to avoid identification and arrest of members, and second to reduce costs by using local groups. Cf. ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. 2. The ICG also noted that ERPAC at least initially operated as an identifiable group, wearing uniforms and carrying AK-47 assault rifles. See also HRW, *The Risk of Returning Home*, p. 33 (noting that the *Urabeños* has approximately 2,370 members and a national command structure and cohesion).

²⁹ HRW, *The Risk of Returning Home*.

³⁰ HRW, *The Risk of Returning Home*, p. 170. These figures likely do not represent the full scale of the problem as authorities in some areas allegedly have refused to register victims displaced by NAGs.

³¹ UNHCR estimates that this percentage could be as high as 40 per cent, based on the percentage of claimants reporting to be fleeing persecution by NAGs among Colombian asylum-seekers in Ecuador: Information available to UNHCR. See also: Gabriel Rojas Andrade and Paola Hurtado, CODHES, *Grupos posdesmovilización y desplazamiento forzado en Colombia: una aproximación cuantitativa*, July 2014, http://www.codhes.org/images/Articulos/GPD_y_desplazamiento_forzado_en_Colombia.pdf; El Espectador, *Bacrim, responsables de la mayoría de violaciones de DD.HH. en Colombia*, 26 March 2014, <http://www.elespectador.com/noticias/judicial/bacrim-responsables-de-mayoria-de-violaciones-de-ddhh-c-articulo-483096>; Memorandum of Cartagena + 30, *Aportes de la Sociedad Civil Equatoriana Equatoriana*, undated, <https://movilidadhumana.files.wordpress.com/2014/04/ecuador-documentos-pac3ads-cartagena-30-mercosur-ampliado.pdf>; Marguerite Cawley, *Las BACRIM son Responsables del 30% de la Violaciones de Derechos Humanos en Colombia*, Insight Crime, 17 April 2013, <http://es.insightcrime.org/noticias-del-dia/las-bacrim-son-responsables-del-30-de-las-violaciones-de-derechos-humanos-en-colombia>.

³² The ICRC's 2012 report on Colombia affirmed that NAGs cause as many or more deaths, threats, displacements and disappearances as the internal conflict between the FARC and State forces. ICRC, *Humanitarian Action in Colombia: Report on Activities*, 2013, www.icrc.org/spa/assets/files/2013/colombia-report-2012.pdf, p. 2. See also: HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 2.

³³ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 86. In 2011, Colombia's Ombudsman's Office received more than 1,300 complaints of possible international humanitarian law violations by paramilitary successor groups, more than half the total reported violations attributed to identified armed actors that year HRW, *The Risk of Returning Home*, p. 170.

³⁴ See, e.g. Policía Nacional, *Policía presenta a los más buscados de las Bandas Criminales (Bacrim)*, 24 February 2014, http://www.policia.gov.co/portal/pls/portal/JOHN.NOTICIAS_NUEVAS_DETALLADAS.SHOW?p_arg_names=identificador&p_arg_val=ues=358911. For controversial implications flowing from the characterization of NAGs as BACRIMS (criminal groups), as opposed to parties to the non-international armed conflict, see ICG, *Dismantling Colombia's New Illegal Armed Groups*, especially pp. 2, 13-14. In the context of determining a well-founded fear of persecution for reason of one or more 1951 Convention grounds, it may be relevant, but it is not necessary, to decide whether various actors are parties to an internal armed conflict or are merely “criminal gangs” or otherwise. UNHCR, *Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence; Roundtable 13 and 14 September 2012, Cape Town, South Africa*, 20 December 2012, <http://www.refworld.org/docid/50d32e5e2.html>, paras. 7, 12. Further, note that while conflict and violence may involve aspects that are outside the scope of the 1951 Convention, such as economic and criminal motivations, these are regularly interconnected with 1951 Convention grounds. UNHCR, *Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence; Roundtable 13 and 14 September 2012, Cape Town, South Africa*, 20 December 2012, <http://www.refworld.org/docid/50d32e5e2.html>, paras 16. Note too a causal link between persecution feared at the hands of criminal gangs, broadly defined, and one or more of the grounds enumerated in the 1951 Convention can be established under certain circumstances: See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, <http://www.refworld.org/docid/4bb21fa02.html>. For example, people fleeing gang related violence may have a well-founded fear of persecution on account of their political opinion, especially where criminal and political activities heavily overlap: *ibid.*, para. 65. See also: UNHCR, *Living in a World of Violence: An Introduction to the Gang Phenomenon*, July 2011, PPLA/2011/07, <http://www.refworld.org/docid/4e3260a32.html>.

benefit from the attention, assistance and reparation established in the 2011 Victims Law.³⁵ Some observers have also contested the claim that NAG activities are free from political undertones; not least because it has historically been difficult to draw a clear line between politics and organized violence in Colombia.³⁶ Like the former paramilitary movement, NAGs have been said to focus their efforts on violently defending the status quo against political, social and economic changes implied by reforms undertaken or promised as part of peace processes.³⁷ For example, NAGs – or persons acting in the name of NAGs – have reportedly threatened and targeted individuals associated with or perceived to be associated with the Havana Peace Process.³⁸ There remains a risk that NAG efforts could undermine the success of the peace process in its entirety.³⁹

Similarly, threats, new incidents of forced displacements and killings⁴⁰ have reportedly been carried out against internally displaced persons (IDPs), their leaders and family members who have sought to reclaim land, particularly under the Victims and Land Restitution Law 1448 (Victims Law), enacted in June 2011 (entered into force in January 2014).⁴¹ Judges involved in the land restitution process have also reported threats.⁴² While various actors, including guerrillas and current landowners, are thought to be behind these threats and violence,⁴³ it is suggested that the primary instigators are NAGs

³⁵ Constitutional Court of Colombia, *Ruling No. 119*, 24 June 2013, <http://www.refworld.org/docid/546f328b4.html>.

³⁶ In Colombia, “violence remains a strategically deployed instrument to defend the status quo against potential political and social openings”. ICG, *Peace at Last?*, p. 21, see also p. 16. Analysis conducted by UNHCR indicates that there are objective reasons which do not allow to draw a line between politics and organized violence: 1) There is an ongoing conflict 2) They have shared interests or disputed with the guerrilla and other armed groups, such as mining, coca, and the control of the population and territories; 3) Social leaders and human rights defenders are an obstacle or an object of control, since they represent an opposition to their objectives by denouncing their actions; 4) For different reasons, the new groups can establish alliance with local political actors. They have shared interest in the control of public resources, in sectors such as education, public health or infrastructure. Hence, the main difference with the paramilitary is that their counterinsurgency actions are not so clear.

³⁷ ICG, *Peace at Last?*, p. 21. According to the ICG, “NAGs are more than pure criminal gangs the government likes to portray them as. Rather like their paramilitary predecessors, some seem to be enforcing other, broader interests that could potentially be affected by a peace process. Some are increasingly engaged in counter-insurgency operations, and some use forced displacement, as well as political violence, including threats and selective killings of social leaders, to increase their social and territorial control.” ICG, *Peace at Last?*, p. 22. See also: *Decreto No. 4800 de 2011, Por el cual se reglamenta la Ley 1448 de 2011, o Ley de Víctimas y Restitución de Tierras*, 20 December 2011, <http://www.refworld.org/docid/4ffe92f82.html>, Art. 211. Strategies that guarantees non-repetition. The entity referred to in Article 163 of Law 1448 of 2011 will coordinate the development of a strategy for compliance with the measures laid down in Article 149 of Law 1448 of 2011, aimed at achieving guarantees of non-repetition, and of others as per Article 150 of the Act, relating to the dismantling of economic and political structures that have fuelled the armed groups at the margins of the law. See also: *El Espectador, En tres años han sido capturados 122 funcionarios públicos por nexos con bandas criminales*, 14 March 2014, <http://www.elespectador.com/noticias/judicial/tres-anos-han-sido-capturados-122-funcionarios-publicos-articulo-480821>

³⁸ See, e.g. *Semana, Víctimas denuncian amenazas de las bacrim*, 2 November 2014, <http://www.semana.com/nacion/articulo/cuarta-delegacion-de-victimas-en-la-habana-blanco-de-amenazas/407911-3>. UNHCR notes that many of the threats against social and political leaders, victims’ representatives and human rights defenders participating in the Havana peace process have been attributed to NAGs. However it is not possible to verify the responsibility of NAGs for these threats. It is likely in some cases that the names of NAGs have been used to intimidate targets, and that these threats come from military or political groups that want to weaken and cast doubt on the peace process. See, e.g. *El Colombiano, Gobierno investigará amenazas contra defensores de Derechos Humanos*, 1 February 2015, <http://www.elcolombiano.com/gobierno-investigara-amenazas-contra-defensores-de-derechos-humanos-EB1201237>. In general, UNHCR’s field monitoring activities suggest that the use of the “brand” of NAGs is an increasingly serious issue: information available to UNHCR.

³⁹ See, e.g. ICG, *Peace at Last?*, p. 21 (noting that NAGs pose substantial threats to peace, even though they probably have a lower capacity to spoil negotiations than their paramilitary predecessors).

⁴⁰ See generally: HRW, *The Risk of Returning Home*; HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 5. Often issued repeatedly against the same victim, threats are carried out in many ways, ranging from text messages and phone calls to verbal messages delivered in person. The content of the threats also varies. According to HRW, multiple factors contribute to making the threats credible and terrifying.

⁴¹ The Victims’ and Land Restitution Law (Victims Law) outlines land restitution procedures for victims of armed conflict, providing a legal basis for assistance and reparations to persons, including victims of the State. The purpose of the Victims Law was to return millions of hectares of abandoned and stolen land to IDPs. As of September 2014, the Land Restitution Office established under the Victims Law received more than 66,000 restitution claims, and specialized judges issued 1,430 rulings ordering the return of approximately 75,300 hectares of land. US DoS, *2014 Human Rights Report*. See also, generally: HRW, *Colombia: Landmark Ruling for Land Restitution*, 20 February 2013, www.hrw.org/news/2013/02/20/colombia-landmark-ruling-land-restitution; and Amnesty International, *Un Título De Propiedad No Basta Por Una: Restitución Sostenible De Tierras En Colombia*, November 2014, https://www.es.amnesty.org/uploads/media/Land_restitution_report_SPA.pdf. For example, a 13 February 2013 ruling by a specialized land restitution tribunal ordered the restitution of 164 hectares of land on the Santa Paula farm in Córdoba, which had been seized by people linked to the national paramilitary coalition, United Self-Defence Forces of Colombia (AUC) between 1999 and 2002. See also: US DoS, *2013 Human Rights Report*, p. 14.

⁴² One land restitution judge in Córdoba interviewed by HRW said he felt an imminent risk for his safety due to attacks like the one against victims’ leader Ever Cordero Iviedo (9 April 2013), and the lack of adequate response by the government. In a 22 March 2013 letter to President Santos, dozens of specialized land restitution judges requested protection and cited abuses against land claimants as evidence of the danger to their own lives. HRW, *The Risk of Returning Home*, pp. 48-49.

⁴³ For the example, the FARC, see, HRW, *The Risk of Returning Home*, pp. 43-45. A primary motive behind the FARC’s threats against land restitution leaders is reportedly its desire to maintain control over areas often obtained in part by forcibly displacing civilians. Third parties

– or other actors using the names of NAGs to increase intimidation value.⁴⁴ One reason for this could be that the policy of land restitution has been perceived as an open challenge by Government institutions to the NAGs, which is why they have responded with escalation in violence against land claimants.⁴⁵ Regardless of the perpetrator, a common motive behind the threats and violence against landowners is reportedly to preserve control over a property or rural area from which the claimants had been displaced.⁴⁶ Evidence also suggests that NAGs sometimes target land restitution leaders because of their frequent interaction with authorities.⁴⁷ These threats and attacks have reportedly had a significant impact on progress in implementing the Victims' Law.⁴⁸ According to UNHCR statistics, 11 land claimants were killed in 2013.⁴⁹ These killings have reportedly entailed the additional displacement of claimant family members⁵⁰ and, in some cases, the abandonment of land restitution procedures.⁵¹

Despite the political undertones to their actions, however, it is uncontested that NAGs have a more important link with organized crime (notably drug trafficking) than with the traditional guerrilla-led

who took over IDPs land following their displacement are also reportedly another source of abuses (i.e. those who occupy or dispute land subject to restitution claims). They include paramilitary front men who have held and hidden the AUC's assets, to cattle ranchers, politicians, landowners, businesspersons and demobilized paramilitaries. HRW, *The Risk of Returning Home*, p. 38. NAGs have also been reported to have threatened or killed IDP land claimants and leaders on behalf of third parties seeking to hold on to the land. According to a source for HRW, "It is possible that regionally links subsist between state agents, businessmen, politicians, and the Bacrim... The Bacrim are instruments of the regional criminal elite for impeding victims from fighting for the restitution of land." There are not always links however between third parties responsible for threats and paramilitaries or their successor groups. HRW, *The Risk of Returning Home*, p. 41.

⁴⁴ While it is impossible to verify which actors are carrying out threats and killings, according to HRW there is compelling evidence that NAGs have carried out the majority of killings, attempted killings and new incidents of forced displacement, as well as a significant portion of threats. The *Urabeños*, Colombia's largest and most powerful NAG, is the group most frequently suspected of carrying out the abuses. HRW, *The Risk of Returning Home*, p. 33. Violence against land claimants and their leaders is reportedly concentrated in regions with a strong paramilitary legacy, corrupt or infiltrated local State institutions and significant NAG operations. Antioquia and the Caribbean coast departments, in particular Córdoba, reportedly account for over half the murders of 68 land restitution campaigners killed between 2005 and 2012; the Pacific coast departments of Valle and Chocó are also heavily affected. ICG, *Peace at Last?*, p. 22 (noting also that the *Urabeños* in particular are alleged to have been behind it in their strongholds in the Urabá region and Córdoba department, reportedly at the behest of front men from the old AUC with an interest in thwarting land restitution). In June 2012 the ombudsman's office warned against threats posed to communities demanding the restitution of land in the coastal department of Sucre. Following threats to thirteen social leaders and human rights defenders by a self-identified Anti Restitution Army, President Santos named in July 2012, for the first time two individuals supposedly behind such groups. ICG, *Peace at Last?*, pp. 22-23. See also: UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, paras 3 and 86 (noting that the majority of violations against those involved in land restitution are attributed to NAGs). Note that in some cases it is not possible to determine the perpetrator based on available information. HRW, *The Risk of Returning Home*, p. 28.

⁴⁵ HRW, *The Risk of Returning Home*, p. 34, citing Centre for Historic Memory, *¡Basta ya! Colombia: Memorias de guerra y dignidad*, August 2013, <http://www.centrodememoriahistorica.gov.co/descargas/informes2013/bastaYa/bastaya-colombia-memorias-de-guerra-y-dignidad-2015.pdf>.

⁴⁶ HRW, *The Risk of Returning Home*, p. 33 (noting that in several instances, NAGs inherited control over land that was unlawfully expropriated by former paramilitary groups).

⁴⁷ HRW, *The Risk of Returning Home*, pp. 37-38.

⁴⁸ The Government initially estimated that by the end of 2015 there would be judicial rulings in more than 150,000 land restitution cases under the Victims Law. However, as of November 2014, the Government had obtained land restitution rulings for 1,683 of the 70,634 claims it had received. Unidad Restitución de Tierras, *Reporte Avance en Proceso de Restitución de Tierras*, 21 November 2014, on file with UNHCR. As of September 2013, the government could only confirm three cases of families who had returned to live on their land due to rulings under the law. At time of writing, the Land Restitution Office had not provided updated data on the number of families who have returned to live on their land as result of the law. HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 5. See also: US DoS, *2013 Human Rights Report*, p. 14; HRW, *The Risk of Returning Home*, p. 47. For issues regarding implementation of the Victims' Law see further: Amnesty International, *Colombia: Death Threats to Women Land Claimants*, AMR 23/028/2014, 20 August 2014, <https://www.amnesty.org/en/documents/AMR23/028/2014/en/>, p. 2.

⁴⁹ Information available to UNHCR. This figure includes not only people who claimed their land under the Victims Law, but also those who sought land restitution using other legal frameworks. One high profile example was the March 2012 killing of land restitution leader Manuel Ruiz and his son Samir. US DoS, *2013 Human Rights Report*, p. 4. Another example was the 2012 killing of Miller Angulo, an Afro-Colombian activist who was a leader of AFRODES and a leader of the community land claims process in Tumaco, Nariño Department. Reportedly at least 20 other AFRODES leaders reported similar threats, and received some protective measures in 2013. US DoS, *2013 Human Rights Report*, p. 29. According to the National Restitution Unit, nine people who were registered as land claimers have been killed. However, 1112 people have applied for protection and 358 of them received protection measures: Statistics provided to UNHCR by the National Restitution Unit. HRW has documented 21 killings of IDP land claimants and their leaders since 2008 in departments of Antioquia, Cesar, Chocó, Córdoba, and Sucre. HRW, *The Risk of Returning Home*, p. 29. In 17 cases, evidence strongly suggests that the victims were targeted due to their efforts to reclaim land or similar activism. Some commentators have noted that the number of killings is relatively few compared to the widespread threats being made against IDP claimants and leaders since the Victim's Law started to be implemented in January 2014. It has been suggested that this may be due, e.g. to government officials' public condemnation of killings, protection measures the NPU provides to hundreds of threatened IDP claimants and leaders, and the high-profile political value of the Victims Law for the Santos administration. HRW, *The Risk of Returning Home*, p. 31.

⁵⁰ HRW, *The Risk of Returning Home*.

⁵¹ Information available to UNHCR.

counterinsurgency in Colombia.⁵² More generally, in urban areas such as Bogotá, Cali and Medellín, crime rates – particularly for homicides – continue to be very high.⁵³ While the situation in each city has its specificities, a common factor is that NAGs seek to dominate illegal economic activities previously controlled by small criminal organizations. In order to obtain funds and place pressure on communities, some NAGs also reportedly extort persons working in the formal and informal economy, such as tradesmen, business owners, street vendors, public transport employees, farmers, auto mechanics and messengers for payment of protection money or *vacuna* (bribes).⁵⁴ Other persons targeted by NAGs reportedly include youth leaders (who oppose recruitment or drug use); and teachers (who may constitute an obstacle to the recruitment of youth or who are subject to extortion in order to release part of their salary to NAGs). The city of Bogotá has reported killings of individuals who refused to pay for the “security” offered by “social cleansing” groups that impose curfews.⁵⁵ In the department of Meta, NAGs reportedly organize illegal roadblocks at which they ask to be shown receipts for protection money payments made by merchants and workers before they will allow access to given places or for the passage of foodstuffs, medicines, or work gear.⁵⁶ A common element in such territorial control strategies in urban areas are reportedly “invisible borders”, involving the prohibition for the inhabitants of a sector of a neighbourhood under the control of an armed actor to cross into the area controlled by another.⁵⁷

The report of the Secretary General of the Organization of American States (OAS) to the Permanent Council on the support mission to the Peace Process in Colombia (MAPP – OEA) has expressed concern more generally about the pressure NAGs place on different sectors of the population.⁵⁸ NAGs are reportedly responsible for homicides, forced recruitment, displacement, confinement, sexual violence, utilization of children and youths in illegal activities, widespread extortion, social control and threats that cause fear in the population.⁵⁹ Indigenous and Afro-Colombian leaders have reportedly been subject to threats and violence from NAGs, in part as the latter seek to exploit

⁵² FIP, *Narcotráfico: Génesis de los paramilitares y herencia de bandas criminales*, January 2013, http://archive.ideaspaz.org/images/Info%2019%20dimensiones%20geograficas_final%20web.pdf. See also Centro de Recursos Para el Análisis de Conflictos (CERAC), Alonso Tobón García, *Dinámicas y usos de la violencia neoparamilitar en el Valle del Cauca*, Documentos de CERAC No. 18, ISSN: 1909–1397, April 2012, http://www.cerac.org.co/assets/pdf/CERAC_WP18.pdf.

⁵³ Cali, Palmira, Pereira, Cúcuta and Medellín are included in the 2014 list of fifty cities with highest homicide figures in the world, see, Seguridad, Justicia y Paz, Consejo Ciudadano para la Seguridad Pública y Justicia Penal A.C., *For the Fourth Consecutive Year, San Pedro Sula is the Most Violent City in the World*, March 2015, <http://www.seguridadjusticiaypaz.org.mx/biblioteca/summary/5-prensa/199-the-50-most-violent-cities-in-the-world-2014>; See also: UN Office on Drugs and Crime (UNODC), *Global Study on Homicide 2013*, April 2014, http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf, p. 47, 73; El Tiempo, *Guerra por minería y narcotráfico aumento los homicidios en Bogotá*, 7 January 2015, <http://www.eltiempo.com/bogota/aumento-en-homicidios-en-bogota/15061785>; Personería de Medellín, *Informe sobre la situación de los derechos humanos en la ciudad de Medellín - 2012, 2013*, http://www.personeriamedellin.gov.co/documentos/INFORME_D1.pdf. Colombia Reports, *Bogota Doubles Up on Security amid Fears FARC Might Attack Colombia's Capital*, 25 June 2015, <http://colombiareports.com/bogota-doubles-up-on-security-amid-fears-farc-might-attack-colombias-capital/>.

⁵⁴ See, e.g. Defensoría del Pueblo, *Persiste el riesgo de violaciones de DDHH por cuenta del conflicto en el 10% de los municipios del país*, 4 October 2014, <http://www.defensoria.gov.co/es/nube/noticias/2326/Persiste-el-riesgo-de-violaciones-de-DDHH-por-cuenta-del-conflicto-en-el-10-de-los-municipios-del-pa%C3%ADs-D%C3%ADa-Nacional-de-los-Derechos-Humanos-Defensor%C3%ADa-del-Pueblo.htm?l-art0=15> [noting bribes and extortion of small businesses by NAGs].

⁵⁵ Information available to UNHCR.

⁵⁶ Permanent Council, *Fourteenth Quarterly Report of the Secretary General to the Permanent Council on the mission to Support the Peace Process in Colombia* (MAPP/OEA), OEA/Ser.G., CP/doc.4486/10, 26 April 2010, <http://www.mapp-oea.net/documentos/informes/XIVInforme.pdf>.

⁵⁷ See e.g. HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances-pacific-port>; HRW, *The Crisis in Buenaventura*, p. 18; Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), *Colombia: Displacement Continues despite Hopes for Peace*, 16 January 2014, <http://www.internal-displacement.org/americas/colombia/2014/displacement-continues-despite-hopes-for-peace>; Personería Municipal, Santiago de Cali, *Conflicto entre pandillas y fronteras invisibles, uno de los factores de muertes violentas en la población juvenil: Personería de Cali*, 19 April 2013, <http://www.proyectoscs.com/persoprueba/src/noticias/conflicto-entre-pandillas-y-fronteras-invisibles-uno-de-los-factores-de-muertes-violentas#.VRFGLZ1wa7Q>; Agencia de prensa IP, *Fronteras invisibles: mal que agobia a los barrios de Medellín*, 8 September 2010, http://www.ipc.org.co/agenciadeprensa/index.php?option=com_content&view=article&id=438:fronteras-invisibles-mal-que-agobia-a-los-barrios-de-medellin&catid=37:general&Itemid=150.

⁵⁸ Permanent Council, *Décimo noveno informe semestral del Secretario General al Consejo Permanente sobre la Misión de Apoyo al Proceso de Paz en Colombia* (MAPP/OEA), OEA/Ser.G., CP/INF. 7052/14, 3 December 2014, <http://www.mapp-oea.net/documentos/informes/XIXInformeSemestral.pdf>.

⁵⁹ Permanent Council, *Décimo noveno informe semestral del Secretario General al Consejo Permanente sobre la Misión de Apoyo al Proceso de Paz en Colombia* (MAPP/OEA), OEA/Ser.G., CP/INF. 7052/14, 3 December 2014, <http://www.mapp-oea.net/documentos/informes/XIXInformeSemestral.pdf>.

resources in territories occupied by Indigenous and Afro-Colombian persons, such as mining.⁶⁰ In addition, NAGs have reportedly co-opted Communal Action Boards,⁶¹ community councils and indigenous authorities and killed indigenous and community leaders posing obstacles to the group's consolidation.⁶² Like former paramilitary groups, some NAGs have also reportedly continued to engage in mass displacements of peasant farmers and indigenous communities in order to extend territorial control and access to resources.⁶³

2. Guerrilla Groups

Ten years of intense counter-insurgency warfare have reportedly weakened the combat strength of extreme left-wing guerrilla organizations in Colombia, primarily the FARC and the ELN, pushing them into rural areas and reducing their impact in the centre of Colombia.⁶⁴ Pending a successful conclusion of the Havana Peace Process, however, guerrilla groups allegedly continue to carry out violent attacks, issue threats, control certain civilian populations and cause new internal and external forced displacement.⁶⁵ In a positive development, the FARC declared a unilateral, indefinite cessation of hostilities in December 2014,⁶⁶ and on 15 January 2015 the Government announced that it was prepared to begin talks on a bilateral ceasefire in light of the FARC's compliance.⁶⁷

⁶⁰ Permanent Council, *Décimo noveno informe semestral del Secretario General al Consejo Permanente sobre la Misión de Apoyo al Proceso de Paz en Colombia* (MAPP/OEA), OEA/Ser.G., CP/INF. 7052/14, 3 December 2014, <http://www.mapp-oea.net/documentos/informes/XIXInformeSemestral.pdf>; Instituto de Estudios para el Desarrollo y la Paz (Indepaz), *Impacto de la minería de hecho en Colombia, Estudios de caso: Quibdó, Istmina, Timbiquí, López de Micay, Guapi, El Charco y Santa Bárbara*, May 2013, http://www.uis.edu.co/webUIS/es/catedraLowMaus/lowMauss13_1/terceraSesion/Impacto%20de%20la%20minería%20de%20hecho%20en%20Colombia.pdf, p. 5-6. See also: Fundación Paz y Reconciliación, *Lo que hemos ganado*, 25 February 2015, <http://www.pares.com.co/wp-content/uploads/2015/02/Ver-Informe-Completo-Lo-Que-Hemos-Ganado1.pdf>, p. 43 and pp. 55-58.

⁶¹ The Constitution recognizes Indigenous lands as collective "territorial entities" to be governed by Indigenous communities according to their own customs and by their own representatives. These lands are inalienable, meaning they cannot be taken away from the original owners. Following the same rationale, black ancestral communities were also recognized as entitled to collective property ownership under Law 70 in 1993. Understanding the specific land rights of Indigenous and Afro-Colombian communities is indispensable for understanding why armed groups seek to co-op communal action boards, i.e. they do so to control land use and exploitation of resources to be found in these territories. For more information see for example: Diana Maria Ocampo, Sebastian Agudelo, *Country Study: Colombia*, Americas Quarterly, 2014, <http://www.americasquarterly.org/content/country-study-colombia>. See also: Constitutional Court, *Ruling of 18 May 2010*, <http://www.corteconstitucional.gov.co/T-025-04/AUTOS%202010/135.%20Auto%20del%2018-05-2010.%20Adopci%C3%B3n%20de%20medidas%20cautelares%20comunidades%20de%20Curvarado%20y%20Jiguamiando.pdf>.

⁶² Information available to UNHCR. In the Departments of Córdoba, Sucre, Norte de Santander and Magdalena, for example, indigenous authorities, estate managers, and Communal Action Board members have reportedly suffered direct threats and intimidation following attempts to defend their territories against land grabs by NAGs. Since these collective territories have not been included in restitution procedures under the Victims Law, these parties have gone unprotected by the Government's National Protection Unit, which had set up a special protection framework (Decree 4912 of 2011). A related development that has increased risk for land claimants has involved legal occupants entering into business partnerships, often centred on agro-industrial projects, with the occupants who have acquired the land illegally. One example documented by Amnesty International involves the Afro-descendant collective land titles of the Jiguamiandó River Basin and the Curvaradó River Basin, Chocó Department. Here, powerful economic interests, operating with paramilitaries, have illegally acquired parts of the collective land titles and sought to involve members of the local population together with forcibly displaced people from other areas in agro-industrial projects. This has sought to both legitimize the project and to undermine the community's organizational structures. Amnesty International, *Colombia: A Land Title is Not Enough: Ensuring Sustainable Land Restitution in Colombia*, AMR 23/031/2014, 27 November 2014, <http://www.refworld.org/docid/54788a224.html>, p. 35. See also, e.g. killings of presidents of Communal Action Boards in La Uribe and Macarena municipalities of Meta: ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. 8.

⁶³ ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. 8.

⁶⁴ Information available to UNHCR. Note that the impact of the FARC in main cities has historically been caused by the FARC's ability to exert pressure on the roads between Medellín, Cali and Bogotá, as well as by the destruction of small municipalities along the road between Bogotá and Medellín. Only four incidents in major cities were ever carried out by the FARC: the kidnapping of the parishioner in the church "La Maria" in a posh neighbourhood in Cali (ELN, 1999), the kidnapping of the deputies from the Valle del Cauca Assembly (FARC, April 2002, Cali), the attack with non-conventional ammunition against the Presidential Palace during Uribe's term as president (FARC, Bogotá, 7 August 2002), and the attack against the Nogal Club in Bogotá (FARC, February 2003): Informational available to UNHCR. See also: ICG, *Peace at Last?*, pp. ii, 6.

⁶⁵ ICG, *Peace at Last?*, p. ii.

⁶⁶ Juliana Jiménez Jaramillo, *Colombia May Finally Be on the Verge of Peace*, 22 December 2014, http://www.slate.com/blogs/the_world/2014/12/22/farc_cese_fire_announcement_will_the_rebel_group_finally_lay_down_its_arms.html.

⁶⁷ BBC News, *What is at Stake in the Colombian Peace Process?*, 15 January 2015, <http://www.bbc.co.uk/news/world-latin-america-19875363>. See also Centro de Recursos Para el Análisis de Conflictos (CERAC), *Monitoreo de cese al fuego unilateral de las FARC*, 9 January 2015, <http://blog.cerac.org.co/monitoreo-de-cese-al-fuego-unilateral-de-las-farc-3>; Defensoría del Pueblo, *Monitoreo de la Defensoría al cese de las hostilidades indica que no hay evidencia de incumplimiento de las FARC*, 20 January 2015, <http://www.defensoria.gov.co/es/nube/noticias/3105/Monitoreo-de-la-Defensoría-C3%ADa-al-cese-de-hostilidades-indica-que-no-hay-evidencia-sobre-incumplimiento-de-las-Farc-cese-de-hostilidades-proceso-de-paz-Farc-SAT-Paz.htm>. While it is too early to predict the likely impact on the level of FARC-related security incidents as a result of the FARC's unilateral cessation of hostilities, sources suggest that the number and scope of armed operations by the FARC have been decreasing. See further: Centro de Recursos para el Analisis de

a) FARC

Despite suffering the loss of its main commanders,⁶⁸ the FARC remains unified, and retains its capacity to carry out coordinated and sustained military actions throughout the country.⁶⁹ However, the FARC has reportedly sought to strategically retreat to border areas with Venezuela (Arauca and Norte de Santander) and Ecuador (Nariño and Putumayo).⁷⁰ In 2014, the FARC carried out violent attacks in municipalities between Buenaventura and Tumaco. The FARC also increased its attacks in municipalities of Valle del Cauca, Cauca and Nariño (Pacific coast), with Tumaco the place with the greatest increase in armed attacks by the FARC since 2008.⁷¹

As of late 2014, it was estimated that the FARC may have some 7,000 fighters, plus support networks.⁷² In areas such as the Departments of Putumayo, Caquetá and Tolima (centre-south) and the Departments of Meta, Guaviare, Vaupes, Vichada (south-west), the FARC reportedly maintains exclusive social, political and economic control over the civilian population, including through the issuance of “Codes of Conduct”.⁷³ In these regions, communities are reportedly subject to restrictions on their freedom of movement, the use of anti-personnel mines (in part, used to protect illicit crops against manual coca crop eradicators) and the planting of explosives along community access paths.⁷⁴ The FARC also reportedly routinely prohibits communities in areas under its influence from interacting with security forces.⁷⁵ Indeed, the FARC has reportedly been strengthening the control mechanisms exerted on the population in its areas of influence.⁷⁶ Community council leaders have described the FARC’s social control as a direct threat to the autonomy and cultural traditions of Afro-Colombian communities, in particular.⁷⁷ Communal Action Boards have reportedly been forcibly co-opted and members are held accountable for non-compliance with norms and rules issued in FARC codes of conduct.⁷⁸ Killings of indigenous leaders and authorities in the north of Cauca also point to FARC involvement and its practice of imposing social order.⁷⁹

Conflicto, *El cese al fuego unilateral de las FARC reduce la violencia a mínimos históricos*, 26 January 2015, <http://blog.cerac.org.co/el-cese-al-fuego-unilateral-de-las-farc-reduce-la-violencia-a-minimos-historicos>; El Universal, *Onu respalda referendación de acuerdos de paz y cese bilateral al fuego*, 21 January 2015, <http://www.eluniversal.com.co/colombia/onu-respalda-referendacion-de-acuerdos-de-paz-y-cese-bilateral-al-fuego-182710>.

⁶⁸ Manuel Marulanda Velez (May 2008, natural death); Raúl Reyes (killed in the Fenix Operation undertaken in Ecuadorian territory (March 2008)); Jorge Briceño, FARC, known as Mono Jojoy (killed in the Sodoma Operation, September 2010) and Alfonso Cano FARC’s Commander in Chief (killed in the Odiseo Operation, November 2011); FIP, *Seis tesis sobre la evolución reciente del conflicto armado en Colombia*, September 2014, <http://cdn.ideaspaz.org/media/website/document/5436b8cddf6e1.pdf>.

⁶⁹ The FARC reportedly exploits the strategic advantages offered by the vast and ill-controlled borders with Venezuela and Ecuador, including possibilities to rest, re-equip and expand illicit business. See, e.g. ICG, *Peace at Last?*, p. 2. For an overview of the conflict, including the military “highpoint” of the FARC in 1998 see: ICG, *Peace at Last?*.

⁷⁰ FIP, *Seis tesis sobre la evolución reciente del conflicto armado en Colombia*, September 2014, <http://cdn.ideaspaz.org/media/website/document/5436b8cddf6e1.pdf>.

⁷¹ FIP, *Seis tesis sobre la evolución reciente del conflicto armado en Colombia*, September 2014, <http://cdn.ideaspaz.org/media/website/document/5436b8cddf6e1.pdf>.

⁷² ICG, *The Day after Tomorrow: Colombia’s FARC and the End of the Conflict*, 11 December 2014, <http://www.refworld.org/docid/548aa21c4.html>.

⁷³ Codes of conduct can reportedly regulate all aspects of daily life, including the sale of products, the purchase and sale of land, the choice of crops to be cultivated, visits of family members from other parts of the country, temporary leave visits and the use of land for livestock or other agricultural activities: FARC, “Manual de Convivencia”, on file with UNHCR. The FARC also reportedly retains sufficient territorial control in its strongholds to forcefully prohibit or severely restrict free movement of local populations temporarily through so-called armed strikes. There are no data on how often it does so, but such strikes are reportedly frequent in Arauca (also a core ELN region), Putumayo and Chocó. ICG, *Peace at Last?*, p. 8. These stopp. cause economic hardship as access to markets is interrupted or obstructed. They also lead to confinement of these communities in conflict zones, complicating access to public services and humanitarian support, while children’s school attendance suffers.

⁷⁴ See, e.g. FARC, “Manual de Convivencia”, on file with UNHCR; HRW, *Colombia: FARC Battering Afro-Colombian Areas*, 30 July 2014, <http://www.hrw.org/news/2014/07/30/colombia-farc-battering-afro-colombian-areas>.

⁷⁵ Civilians are, inter alia, forbidden to serve as guides or to enter military or police installations. ICG, *Peace at Last?*, p. 7.

⁷⁶ Social control mechanisms have reportedly been intensified with the aim of strengthening community cohesion. This is apparently related to the FARC’s objective of transition towards socio-political mobilisation on the national political stage following the conclusion of the Havana Peace Process. It may also be a reaction to the strengthening of the Government’s military intelligence capacity, evidenced in the development of operations against FARC’s commanders and the release of hostages (e.g. Ingrid Betancourt in Operation Jaque (July 2008)). See, for example, ICG, *The Day after Tomorrow: Colombia’s FARC and the End of the Conflict*, 11 December 2014, <http://www.refworld.org/docid/548aa21c4.html>, p. 12.

⁷⁷ For example, in July 2014, it was reported that the FARC had been committing widespread abuses in the mostly Afro-Colombian city of Tumaco and its surrounding rural areas: HRW, *Colombia: FARC Battering Afro-Colombian Areas*, 30 July 2014, <http://www.hrw.org/news/2014/07/30/colombia-farc-battering-afro-colombian-areas>.

⁷⁸ Information available to UNHCR. Transgressors reportedly receive severe sanctions. For instance, in the municipalities of Valle de Guamuez and San Miguel (Department of Putumayo) board members have reportedly faced public punishments and fines for non-

The number of offensive operations carried out by the FARC, such as attacks on police or military posts or infrastructure, remains lower than in the late 1990s and early 2000s. More recent operations are reportedly primarily defensive, aimed at protecting leaders and holding back, wearing out or distracting government troops by landmines.⁸⁰ Nonetheless, in conflict zones, civilian infrastructure continues to be exposed to armed attacks, including energy supplies and infrastructure.⁸¹ Guerrillas reportedly continue to routinely use civilians to shield combatant forces and forcibly displaced peasants to clear key drug and weapons transit routes in strategic zones, as well as imposing de facto blockades of communities in regions where they have significant influence.⁸² Schools, hospitals and houses have been turned into targets for guerrilla attacks, as soldiers use them to hide or security forces are stationed nearby.⁸³ The FARC reportedly continued to recruit children,⁸⁴ and they and the security forces are both reported to have used civilians, including children, for intelligence tasks.⁸⁵ In December 2014, the Government's Ombudsman's Office published a report on forced recruitment of indigenous and Afro-Colombian children with testimonies including of a child in Antioquia recruited by FARC at the age of 12 who was forced to kill and torture several of his friends.⁸⁶

Use of landmines also remains prevalent in Colombia – by the FARC,⁸⁷ but also by other armed actors.⁸⁸ The Government reported that landmines and unexploded ordnances killed six civilians and

compliance with FARC directives. See also, e.g. ICG, *The Day after Tomorrow: Colombia's FARC and the End of the Conflict*, 11 December 2014, <http://www.refworld.org/docid/548aa21e4.html>, p. 27.

⁷⁹ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 85.

⁸⁰ ICG, *Peace at Last?*, p. 3. The Fundación Paz y Reconciliación reported that the intensity of the attacks by the FARC decreased by almost 40 per cent in 2014 compared to 2013. Among the reasons behind the decrease, the study included the different ceasefires as well as a change in FARC's strategy, which was reported to be more focused on political actions in this election year, and with an eye on public opinion. In addition, the regular armed forces significantly reduced the armed interventions not as an indication of demoralization but rather as a "process of de-escalation of the armed conflict". See Fundación Paz y Reconciliación, *Lo que hemos ganado*, 25 February 2015, <http://www.pares.com.co/wp-content/uploads/2015/02/Ver-Informe-Completo-Lo-Que-Hemos-Ganado1.pdf>, pp. 5-6.

⁸¹ El Tiempo, *Apagón sorprendió a los habitantes de Buenaventura*, 17 December 2014, <http://www.eltiempo.com/colombia/cali/buenaventura-sin-energia/14990877> (noting latest attack on 17 December 2014). Alongside the recorded decrease in armed confrontations, the Fundación Paz y Reconciliación reported an increase in attacks against energy and oil infrastructure, or, in general, more targeted attacks against private property and assets as part of the extortion practices: Fundación Paz y Reconciliación, *Lo que hemos ganado*, 25 February 2015, <http://www.pares.com.co/wp-content/uploads/2015/02/Ver-Informe-Completo-Lo-Que-Hemos-Ganado1.pdf>, pp. 12-21.

⁸² US DoS, *2014 Human Rights Report*.

⁸³ The 2014 report of the Secretary-General under Resolution 1612 contains individual cases of occupation of schools committed by the FARC, for example: See United Nations, *Children and Armed Conflict. Report of the Secretary General*, A/68/878 - S/2014/339, 15 May 2014, http://www.un.org/ga/search/view_doc.asp?symbol=a/68/878.

⁸⁴ In its child recruitment report, the Colombian Ombudsman's Office highlighted the FARC's responsibility in 72 per cent of the cases registered in the southeast area of Colombia. Concrete examples of recruitment in different areas of the country have been identified in this report. The Government's Ombudsman's Office stated in December 2014 that 10 children are illegally recruited every month, and that this figure may be higher if one considers that most of these acts are perpetrated in rural areas where victims have no guaranteed access to justice. Throughout 2014, the Government's Ombudsman's Office was able to register a total of 119 cases of children who were victims of illegal recruitment perpetrated by armed groups. The NAGs (*Autodefensas Gaitanistas, Urabeños* and *Rastrojos*) allegedly recruited 55 cases, FARC 51 cases, and the ELN recruited 21 cases. Ombudsman's Office, *Cada mes 10 niños, niñas y adolescentes son reclutados por los grupos armados ilegales*, 15 December 2014, <http://www.defensoria.gov.co/es/nube/noticias/2993/Cada-mes-10-ni%C3%B1os-y-adolescentes-son-reclutados-por-los-grupos-armados-ilegales-reclutamiento-forzado-ni%C3%B1os-conflicto-armado-Conflicto-armado-htm>. It should be noted, however, that it was reported on 12 February 2015 that the FARC announced to have raised recruitment age from 15 to 17 years, see BBC News, *Colombian Farc: No recruitment of soldiers under 17*, 12 February 2015, <http://www.bbc.com/news/world-latin-america-31449443>.

⁸⁵ ICG, *Peace at Last?*, p. 7. For further information on recruitment of children by the FARC see ICG, *Peace at Last?*, p. 11.

⁸⁶ HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 1. See also: Secretary General's report on Resolution 1612 of the Security Council. The report from 6 March 2012 states that the FARC was responsible for recruitment of children in 122 municipalities in Colombia: see United Nations, *Report of the Secretary-General on children and armed conflict in Colombia*, S/2012/171, 21 March 2012, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/171. Examples are also included in the 2014 report: United Nations, *Children and Armed Conflict. Report of the Secretary General*, A/68/878 - S/2014/339, 15 May 2014, <http://www.refworld.org/docid/53b3b7654.html>. The phenomenon of recruitment of children belonging to ethnic groups also affects the right to education due to the presence of armed actors inside or around educational institutions, generating school dropout and displacement, in particular of indigenous and Afro-Colombian children. See: Ombudsman's Office, *Prevención del reclutamiento de niños, niñas y adolescentes: análisis de la política pública con enfoque étnico*, December 2014, <http://www.defensoria.gov.co/public/pdf/informedefensorialreclutamiento.pdf>, pp. 29 and 145;

⁸⁷ HRW, *The Risk of Returning Home*, p. 45, citing Colombian Campaign Against Landmines (International Campaign to Ban Landmines). A FARC pamphlet distributed in December 2014 announced the planting of anti-personnel mines in rural area of Putumayo: pamphlet on file with UNHCR.

⁸⁸ According to the Government, between 1990 and 2014, 11,006 persons were victims of landmines. 6,787 of these were military soldiers and 4,219 were civilians. Of these, 2,205 persons died and 8,801 persons were injured. In 2014, 39 persons died and 239 were injured; 95 of these were civilians. See Dirección Contra Minas, *Víctimas de minas antipersonal*, December 2014,

injured 65 between January and August 2014.⁸⁹ The widespread practice of using antipersonnel landmines poses a significant security risk for IDPs seeking to return to their land, including under the 2011 Victims' Law, but also for communities who remain in mined areas who are subject to serious mobility constraints.⁹⁰

Occasional alliances between NAGs and the FARC have been reported.⁹¹ But increasing numbers of confrontations between the FARC and NAGs, the rapid evolution of NAGs and the strength of FARC in some regions "caution against too strong an interpretation regarding a possible fusion".⁹² The break-up of these alliances has reportedly triggered armed confrontations, violence and forced displacement in some instances.⁹³

b) ELN

The ELN retains its ability to carry out armed attacks, disrupt public order and place pressure on communities through kidnappings and restrictions on freedom movement.⁹⁴ However, its military capacity has been significantly reduced, in part due to increased Government operations, but also due to attacks carried out by paramilitaries in the early 2000s, and strategic decisions by the ELN to prioritize its political influence and control over funding sources (such as the coca industry in the 1990s), rather than strengthening its military capability.⁹⁵ From a peak of an estimated 4,700 combatants organized in seven war fronts, by the end of 2013 the ELN had reportedly declined to 1,300 combatants spread over 26 rural and one urban front and 13 mobile brigades.⁹⁶ By early 2015 the number of combatants had reportedly increased again.⁹⁷ As in 2014, the ELN maintained a presence in Norte de Santander, Guajira, the Southern Bolivar region and the northern areas of Antioquia, as well as parts of Chocó, Cauca and Nariño. However, its traditional military stronghold was in Arauca, where it remains the dominant armed actor.⁹⁸

Despite its declining military strength, in recent years the ELN has carried out armed attacks in

<http://www.accioncontraminas.gov.co/estadisticas/Paginas/victimas-minas-antipersonal.aspx>. For further information on casualties see: Red Nacional de Información (RNI), *Reporte General*, 1 November 2014, <http://rni.unidadvictimas.gov.co/?q=v-reportes>.

⁸⁹ HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 2. Official statistics are available at: Presidencia de la Republica, *Víctimas Minas Antipersonal en el Mundo*, <http://www.accioncontraminas.gov.co/Paginas/victimas.aspx> (noting the total number of victims from 1990 to January 2015 as 11,043).

⁹⁰ HRW, *The Risk of Returning Home*, pp. 45-46.

⁹¹ The FIP has highlighted linkages between the FARC and groups such as the *Urabeños* and *Rastrojos* in the Nudo de Paramillo Putumayo and Tumaco. The fundamental link between these groups is drug trafficking: FIP, *La relación FARC - Bacrim y sus lugares comunes*, 16 October 2014, <http://www.ideaspaz.org/publications/posts/1068>. See also, ICG, *Peace at Last?*, pp. 10-11 (noting that in regions such as Catatumbo in the north east (bordering Venezuela), FARC reportedly works hand in hand with NAGs, and there are reports of joint operations and arms caches. Links with NAGs are reportedly largely based on the need for a business partner and based on opportunism).

⁹² ICG, *Peace at Last?*, p. 11.

⁹³ In December 2013, clashes between different armed groups in Buenaventura caused the displacement of 1,308 families. HRW, *The Crisis in Buenaventura*, pp. 19-20. In Buenaventura, a largely Afro-Colombian port on the Pacific coast, NAGs such as the *Urabeños* reportedly continue to commit atrocities, including abducting and dismembering people. The groups have caused Buenaventura to have the highest rate of forced displacement in Colombia, with more than 33,000 residents fleeing their homes in 2013, and 22,383 between January and November 1, 2014, according to government data released in November. HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 2.

⁹⁴ See, FIP, *Auge y declive del Ejército de Liberación Nacional (ELN): Análisis de la evolución militar y territorial de cara a la negociación*, November 2013, <http://cdn.ideaspaz.org/media/website/document/529debc8a48fa.pdf> (hereafter: FIP, *Auge y declive del ELN*, 2013).

⁹⁵ FIP, *Auge y declive del ELN*, 2013. See also: ICG, *Left in the Cold?*, p. i. "Though arguably at one of its weakest points in the last three decades, ELN is not on the brink of defeat or disintegration. Rather it has embarked on a timid recovery since 2009. Increased involvement in crime, including drugs, and closer links with its old rival FARC, have been instrumental. But ELN remains at its core a guerrilla group with political aspirations and functioning, albeit precarious, command and control over its traditionally decentralised structure. It also boasts relatively intact community relations, at least in its strongholds."

⁹⁶ FIP, *Auge y declive del ELN*, 2013. In 2012, the Ministry of Defence reported a significant decrease in the numbers of both FARC and ELN combatants: due to demobilization, deaths and captives, the two armed groups had reportedly lost over 5,000 combatants over a two-year period.

⁹⁷ The Fundación Paz y Reconciliación reported that by early 2015 the ELN included 2,500 combatants and approximately 7,500 affiliates: Fundación Paz y Reconciliación, *Lo que hemos ganado*, 25 February 2015, <http://www.pares.com.co/wp-content/uploads/2015/02/Ver-Informe-Completo-Lo-Que-Hemos-Ganado1.pdf>, p. 39. The ELN is nonetheless significantly smaller than the FARC, which had between 7,200 and 11,000 combatants in 2014. ICG, *Left in the Cold?*, p. 3.

⁹⁸ Fundación Paz y Reconciliación, *Presencia armada del Ejército de Liberación Nacional –ELN*, 5 August 2015, <http://www.pares.com.co/mapas/presencia-armada-del-ejercito-de-liberacion-nacional-eln/>. See also ICG, *Left in the Cold?*, p. 4. Fundación Paz y Reconciliación, *Lo que hemos ganado*, 25 February 2015, <http://www.pares.com.co/wp-content/uploads/2015/02/Ver-Informe-Completo-Lo-Que-Hemos-Ganado1.pdf>, pp. 39-43.

Chocó, Nariño, Norte de Santander, Arauca and Cauca.⁹⁹ This increase in military activity may have been motivated by a desire on the part of the ELN to confirm their credentials as a major armed actor, giving them a basis to impose minimum conditions when proceeding to peace negotiations.¹⁰⁰ In anticipation of peace talks, for example, there was a reported increase in attacks in the municipalities of Saravena, Arauca, Fortul and Arauquita in 2013 and 2014.¹⁰¹ The north-western Chocó department saw a consolidation of ELN presence; and in 2013 it overtook Arauca as the region with the highest number of ELN-led military operations.¹⁰² Generally the ELN has focused on sabotage and extortion, and relied on anti-personnel mines, rather than outright combat. Increasingly its combatants are widely dispersed and seek to blend into the civilian population.¹⁰³ Many ELN operations are directed against oil and energy infrastructure, and workers at such facilities have been kidnapping targets. This is consistent with the ELN's nationalistic discourse on the exploitation of natural resources.¹⁰⁴

The ELN's reported reversal of its longstanding policy of not engaging in the drug trade (in Cauca, Nariño and the Southern Bolívar and Catatumbo areas) has reportedly seen it conclude alliances with NAGs, in particular in regions where the ELN was relatively weak, including Cauca and Nariño. However, such links are reportedly unstable: in 2013 the ELN reportedly engaged in confrontations with the *Rastrojos* in Nariño and the *Urabeños* in Alto Baudó (Chocó).¹⁰⁵ Conversely, cooperation with the FARC has reportedly improved since 2009.¹⁰⁶ Joint or at least closely coordinated military actions by the FARC and ELN were responsible for some of the most notable attacks on State forces in 2013.¹⁰⁷ In Arauca, where the fighting had a particularly large impact on civilians, the two groups have reportedly begun a joint victims' reparation initiative in an effort to mend ties with communities.¹⁰⁸

Despite the "ambivalence and coercion inherent in all relations between civilians and an armed illegal group", ties between the ELN and local communities appear to remain relatively intact, in particular in areas where there has been a historical ELN presence.¹⁰⁹ The ELN also reportedly maintains its longstanding political influence in Arauca, where alleged links to politicians at both regional and local levels reportedly give it significant control over the budget, including oil exploitation royalties.¹¹⁰ Despite this, the largest displacement of indigenous people in the Department of Chocó during 2014 occurred in the context of confrontations between the ELN and a faction of the *Urabeños*, also known as *Autodefensas Gaitanistas de Colombia*. Further, during the unilateral ceasefire ordered by the FARC, the ELN continued to commit many serious acts of violence.¹¹¹

⁹⁹ FIP, *Auge y declive del ELN*, 2013.

¹⁰⁰ FIP, *Auge y declive del ELN*, 2013.

¹⁰¹ ICG, *Left in the Cold?*, p. 5.

¹⁰² ICG, *Left in the Cold?*, p. 5. For information on the decentralized structure of the ELN, see ICG, *Left in the Cold?*, p. 5.

¹⁰³ ICG, *Left in the Cold?*, p. 4.

¹⁰⁴ FIP, *Auge y declive del ELN*, 2013; ICG, *Left in the Cold?*, p. 4.

¹⁰⁵ ICG, *Left in the Cold?*, p. 6. See also Fundación Paz y Reconciliación, *Lo que hemos ganado*, 25 February 2015, <http://www.pares.com.co/wp-content/uploads/2015/02/Ver-Informe-Completo-Lo-Que-Hemos-Ganado1.pdf>, p. 38.

¹⁰⁶ For a history of the often violent relationship between the FARC and the ELN see ICG, *Left in the Cold?*, p. 7. In 2005, relations between the two guerrilla groups descended into open conflict. The ICG has suggested that given the territorial overlap between ELN and FARC implementing a ceasefire with FARC could be problematic if the ELN remains in the conflict, and the ELN ranks could grow if it offered a harbour for FARC fighters unwilling to demobilize. ICG, *Left in the Cold?*, p. i.

¹⁰⁷ ICG, *Left in the Cold?*, p. 8; FIP, *El ABC del ELN - Evolución del Frente de Guerra Oriental (territorialidad, iniciativa armada y relación con la población y las economías ilegales)*, April 2015, <http://cdn.ideaspaz.org/media/website/document/553e5e1a837cd.pdf>, p. 33.

¹⁰⁸ ICG, *Left in the Cold?*, p. 9. See also FIP, *Dinámicas del conflicto armado en Arauca y su impacto humanitario*, 4 July 2014, <http://www.ideaspaz.org/publications/posts/1011>.

¹⁰⁹ ICG, *Left in the Cold?*, p. 7 (noting care for community ties is consistent with the ELN's strategy since the 1980s).

¹¹⁰ ICG, *Left in the Cold?*, p. 7.

¹¹¹ Six significant crimes were attributed to the ELN in 2014-2015. Among them are: the killing of three policemen and one government official at a check point in the northeast of the country, Casanare (29-12-14); and the murder of three policemen in Nariño (20/01/15). See the Government statements: Ministro de Agricultura y Desarrollo Rural, *MinAgricultura repudia asesinato de funcionario del ICA y tres agentes de Policía en Casanare*, 29 December 2014, <https://www.minagricultura.gov.co/noticias/Paginas/MinAgricultura-repudia-asesinato-funcionario-ICA.aspx>; W Radio, *Eln es responsable de la muerte de tres policías en Casanare: general Palomino*, 30 December 2014, <http://www.wradio.com.co/noticias/actualidad/eln-es-responsable-de-la-muerte-de-tres-policias-en-casanare-general-palomino/20141230/nota/2568379.aspx>.

C. Ability and Willingness of the State to Provide Protection

I. Overview

The Government has made considerable efforts to enhance protection for victims of non-State armed actors including NAGs and left-wing guerrilla groups. Nonetheless, as suggested in Section II.B above, in areas where there is a strong presence of NAGs and/or guerrilla groups or areas affected by active conflict, the ability of the Government to provide protection is highly limited, due to lack of presence and capacity, as well as sometimes issues of corruption and complicity by local and regional authorities.¹¹²

The administration of former President Uribe was criticized by observers for minimizing the threat from NAGs.¹¹³ The Santos administration, however, has reportedly recognized NAGs as a threat to public security,¹¹⁴ and there have been some arrests of members and killings or captures of *Rastrojos*, *Urabeños* and ERPAC leaders.¹¹⁵ According to the Attorney General's Office, during the first half of 2014, more than 1,000 NAG members were captured; 458 of them belonging to the *Clan Usuga*.¹¹⁶ About a third of the members of ERPAC surrendered in December 2011, however the Government's process for managing the surrender has been criticized by observers.¹¹⁷ It was also feared that the release of 13 commanders of demobilized paramilitary groups in August 2014 would create further security risks.¹¹⁸ Despite the Government's strategy to combat NAGs, and the arrests and convictions mentioned above, the violations committed by these groups have not been significantly reduced, and their structures and control over illegal activities remain intact, according to observers.¹¹⁹ The spaces left by any arrests and convictions of members of NAGs are reportedly filled by other groups. Concerns have also been raised about the ability of NAG members to continue to coordinate armed

¹¹² For example, in Buenaventura, authorities have reportedly not been able to protect the population from NAGs as areas where *Empresa* or *Urabeños* are strong have scarce police presence. There have been reports of members of the police meeting with successor groups in neighborhoods of Buenaventura. HRW, *The Crisis in Buenaventura*, p. 4; HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances-pacific-port>. Factors that may be indicative of available State protection include: efforts to reform and expand the criminal justice system; and the establishment of witness protection programs. Factors indicative of a lack of effective State protection include lack of measures to ensure security to individuals at risk of harm, a general unwillingness on the part of the public to seek police or governmental assistance because doing so may be perceived as futile or likely to increase risk of harm, a prevalence of corruption, impunity and serious crimes implicating government officials, police and security forces. UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, <http://www.refworld.org/docid/4bb21fa02.html>, para. 29.

¹¹³ ICG, *Peace at Last?*, p. 23.

¹¹⁴ In November 2012, National Ombudsman Jorge Armando Otolora sent a letter to Defence Minister Juan Carlos Pinzon, noting that the "humanitarian situation is tending to worsen due to the increase in violence dynamics and conflict that is occurring in some regions, which makes evident the weakness of the State in responding to its effects and in providing assistance to victims, especially for those who are attacked and violated by the so-called BACRIM": HRW, *The Risk of Returning Home*, p. 171, citing Letter from Jorge Armando Otolora Gomez, National Ombudsman, to Juan Carlos Pinzon Bueno, Defence Minister, 7 November 2012.

¹¹⁵ ICG, *Peace at Last?*, p. 23. See also, ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. ii. Both the police intelligence and Attorney General's Office have reportedly increased their capacity to cope with NAGs. Intelligence is coordinated through the police-led Integrated Intelligence Centre against the BACRIM (CI2 BACRIM), operating since 2006. Since 2010, the Attorney General's Office has created a unit specialising in prosecuting NAGs; it has grown to over 70 prosecutors. ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. 14; HRW, *The Risk of Returning Home*, p. 168. Nevertheless, according to conservative police estimates authorities have failed to significantly reduce NAG membership and territorial presence – indeed recent reports indicate that the *Urabeños* in particular may be expanding. In May 2013, the police reported that the groups had 3,866 members operating in 167 municipalities, as compared to July 2009 estimates of 4,037 members in 173 municipalities. The police estimate that the *Urabeños* grew from 1,994 members to 2,369 members between February and May 2013. HRW, *The Risk of Returning Home*, p. 168.

¹¹⁶ Attorney General's Office, *Más de mil integrantes de bandas criminales capturados en 2014*, 1 July 2014, <http://www.fiscalia.gov.co/colombia/noticias/mas-de-mil-integrantes-de-bandas-criminales-capturados-en-2014/>.

¹¹⁷ See generally, ICG, *Dismantling Colombia's New Illegal Armed Groups*. See also: ICG, *Peace at Last?*, p. 23. In particular, ERPAC members faced criminal proceedings before ordinary courts and were not eligible for the benefits of the Government's demobilization, disarmament and reintegration (DDR) program (because they are classified as a criminal organization, BACRIM, and thus not part of internal armed conflict). ERPAC members were also not eligible under transitional justice measures such as the 2005 Justice and Peace Law. Remnants of ERPAC split into two competing groups (560 fighters as at February 2012): *Bloque Meta* (Ariari area of Meta department) and *Libertadores del Vichada* (Cumaribo (Vichada) and parts of northern Meta along the border to Casanare). ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. 12.

¹¹⁸ Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 2; US DoS, *2013 Human Rights Report*, p. 17.

¹¹⁹ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 88. For example, On 13 September 2012, a 14 year old girl was reportedly killed having unsuccessfully sought protection from the Colombian Family Welfare Institute, the police, the Prosecutor General's Office, an inter-institutional mechanism to prevent sexual violence and the National Ombudsperson's Office. HRW, *The Risk of Returning Home*, p. 167.

activity from prison.¹²⁰ More generally, it has been suggested that the capacity of NAGs to corrupt and intimidate serve to weaken the State's response in many rural and marginalized urban areas and affect local authorities, military, police and criminal justice sectors.¹²¹

The Government's national protection schemes¹²² have provided much needed relief to potential victims throughout the country.¹²³ However, access by some victims of NAGs to national protection schemes is reportedly difficult. For example, it has been suggested that local and regional authorities may dismiss threats and abuses by NAGs as a phenomenon of common crime, underestimating the operational capacities of NAGs and the effect of their activities.¹²⁴ It has also been reported that due to changing patterns of organized violence and its increasing complexity, victims are often unable or unwilling to identify the specific groups or perpetrators of threats and violence;¹²⁵ and that in such cases authorities tend to question the credibility of their protection claims.¹²⁶ Further, Decree 4912 of 2011, which establishes the National Protection Unit (NPU), enumerates targeted groups in an

¹²⁰ Presidency of the Republic concerning measures to counter extortion that is handled from prison, Presidencia, *Extorsión en cárceles*, <http://wsp.presidencia.gov.co/Seguridad-Ciudadana/estrategias-nacionales/Paginas/extorsion-carceles.aspx>, last updated 11 March 2014.

¹²¹ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 87.

¹²² The Colombian Government has established two institutional protection programmes. The State Prosecutor's Office runs a witness protection programme that seeks to protect witnesses who collaborate with judicial enquiries. The National Protection Unit (Ministry of Interior under Decree 4912 of 2011) administers another programme that benefits persons who, on account of their activities or their profile, face real risks of being harmed: in particular persons with prominent political, social, ethnic or cultural profiles, such as human rights activists, union leaders and those holding public sector positions. Amnesty International, *Colombia: A land title is not enough: Ensuring sustainable land restitution in Colombia*, AMR 23/031/2014, 27 November 2014, https://www.amnesty.nl/sites/default/files/public/land_restitution_eng.pdf, p. 36. [See sample form, available at: http://www.unp.gov.co/Documents/Formulario_proteccion.pdf]. Under the witness protection programme, attorneys and judges must request protection measures for witnesses. Conversely, the National Protection Unit programme's protection procedures are activated upon request of persons in need of protection. These measures include relocation to safe areas both inside and outside the country as well as police escorts. People facing extraordinary or extreme risks are additionally entitled to armoured vehicles and armed escorts. Protection measures are usually granted for a period of three months. Should risks prevail, beneficiaries can lodge another request, which triggers a new round of risk evaluation by the National Protection Unit, and can result in other protection measures. See Decree 4912 from 2011 (National Protection Unit) and Decree 1737 from 2010 (Witness protection).

¹²³ In 2013, the National Protection Unit received 14,956 protection requests, 17 per cent more compared to 2012 (12,757). The Unit qualified 57.7 per cent of these requests as extraordinary risk cases, 31.7 per cent as ordinary risk cases and 1 per cent as extreme risk cases. 55 per cent of protection requests were lodged by public servants, 14 per cent by victims of international humanitarian law and human rights violations (such as land claimants), 8 per cent by education personnel and 6.6 per cent by leaders of organizations, victims and civil society. 5 per cent was comprised of requests by diverse profiles including journalists, leaders of ethnic minorities and political activists. In 2013, 39 per cent of all risk evaluations were filed in the country's Andean region, 27 per cent in the Pacific Coast, 19 per cent in the Caribbean Coast, 8 per cent in the Amazonas region and 7 per cent in Orinoquia (the area bordering Venezuela). Between 2012 and 2013 the number of "extraordinary risk" cases increased by 94 per cent. Conversely, the number of "extreme risk" cases diminished by 8 per cent, while "ordinary risk" cases dropped by 2 per cent: Figures provided to UNHCR from the National Protection Unit for 2012 and 2013. Cf. weaknesses of national protection programmes noted by Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 2.

¹²⁴ Centre for Historic Memory, *¡Basta ya! Colombia: Memorias de guerra y dignidad*, August 2013, <http://www.centrodehistoriamemoria.gov.co/descargas/informes2013/bastaYa/bastaya-colombia-memorias-de-guerra-y-dignidad-2015.pdf>, p. 158. For instance, the US DoS noted that the Colombian Government has acknowledged that some former paramilitary members were active in organized criminal gangs, but claimed that the gangs lacked the unified command structure and ideological agenda that defined the former United Self-Defence Forces of Colombia (AUC): US DoS, *2014 Human Rights Report*. Police authorities from different regions have reportedly downplayed the gravity of abuses against IDP land claimants and leaders for example. And police are reportedly inconsistent in carrying out security check-ins, the main protection measure that police provide to such protected persons. HRW, *The Risk of Returning Home*, p. 174. See pp. 174 et seq for further specifics of these claims, including examples.

¹²⁵ Several reasons may explain the uncertainty of victims regarding persecuting agents: (a) persecuting agents using the names of well-known groups to increase the impact of their threats to victims; (b) more visible groups sub-contract local entities, which then act under the name of the larger group; (c) persecuted populations are not aware of changing structures among armed groups given the rise of new entities in a post-demobilization environment, rapidly shifting alliances, and the tendency of groups to operate in smaller units so that they cannot be easily be identified; and (d) individuals are reluctant to show doubt regarding persecuting agents out of fear that Colombian authorities will question the credibility of protection claims if the victim is unable to identify with precision the source of persecution: Information available to UNHCR. See also Recurso No. 6894/2005, Spain: Tribunal Supremo, 16 February 2009, <http://www.asylumlawdatabase.eu/en/case-law/spain-%E2%80%93-supreme-court-16-february-2009-68942005>, p. 7 [also in Refworld, in English, at: <http://www.refworld.org/docid/51e68cec4.html>] ("*Esta Delegación entiende que las alegaciones del solicitante además de detalladas y coherentes resultan verosímiles y coincidentes con la información disponible sobre Colombia y considera que, en el presente caso, existen particularidades que hacen creíble que el interesado desconozca el origen de las amenazas debido al clima de violencia existente en la zona, dado su perfil comunitario y el hecho de haber sido una autoridad municipal y considerando que en Colombia es habitual que el agente perseguidor no se identifique o lo haga falsamente*").

¹²⁶ One reason victims might not have identified NAGs as the perpetrator is that until a June 2013 Constitutional Court ruling, the Government had reportedly declined to register victims of NAGs as displaced persons entitled to certain government benefits: HRW, *The Crisis in Buenaventura*, p. 20; ICG, *Dismantling Colombia's New Illegal Armed Groups*, p. 15. See also: HRW, *The Risk of Returning Home*. See also Constitutional Court, *Ruling No. 119*, 24 June 2013, <http://www.refworld.org/docid/546f328b4.html>, pp. 7, 24, and 65.

exhaustive manner, focusing on persons with prominent political, social, ethnic or cultural profiles.¹²⁷ As such, it does not cover other at-risk groups that have demonstrably been targeted by NAGs, such as transport sector employees, vendors, miners, taxi drivers, estate managers, children at risk of forced recruitment or victims of sexual violence.¹²⁸

More generally, inadequate official investigation has reportedly made it difficult to address threats, attacks and killings.¹²⁹ The focus of investigative officials including prosecutors, as well as measures taken by the National Protection Unit, have been criticized by some observers for being overly focused on individual cases rather than collective and systemic issues – such measures tend therefore to address primarily high profile leaders in urban areas.¹³⁰ This has been the case for instance with respect to threats against land claimants.¹³¹ General distrust by Colombians of public and judicial authorities has also been noted, due to previous alleged ties between Government officials and former paramilitary groups and NAGs in particular;¹³² but also because victims who have reported incidents

¹²⁷ Decree 4912 of 26 December 2011 established the “Program for the Prevention and Protection of the rights to life, freedom and security of persons, groups and communities, of the Ministry of Interior and the National Protection Unit”. The Decree identifies different risk profiles that can be protected by the National Unit of Protection. See: Ministerio del Interior, *Decreto 4912 de 2011*, 26 December 2011, <http://www.mininterior.gov.co/la-institucion/normatividad/decreto-4912-de-2011>, article 6.

¹²⁸ Although such individuals do not necessarily have leadership functions, they can nonetheless become targets of armed groups operating in rural and urban areas. As these persons cannot avail themselves of national protection mechanisms, they are often compelled to seek safety in other areas of the country; and increasingly they also seek asylum in other countries. The absence of national protection programmes for at-risk persons has led NGOs and, in some cases, local authorities, to design alternative protection procedures. These include the evaluation of protection risks, shelter and humanitarian assistance for three months. Although measures may in some cases contribute to reducing protection risks, they often prove unsustainable, as they are not linked to Government protection policies. As a result, most of these persons are forced to return to areas where their life and liberty are at risk, without assistance or monitoring by state authorities. Information available to UNHCR.

¹²⁹ US DoS, *2014 Human Rights Report*. According to some reports, impunity and an inefficient justice system subject to intimidation limit the State’s ability to prosecute effectively individuals accused of human rights abuses and to bring to trial former members of paramilitary groups.

¹³⁰ HRW, *Colombia: FARC Battering Afro-Colombian Areas*, 30 July 2014, <http://www.hrw.org/news/2014/07/30/colombia-farc-battering-afro-colombian-areas>. See also: HRW, *The Crisis in Buenaventura*. Colombia’s Constitutional Court has noted the general ineffectiveness of individual protection measures: see, e.g. *Ruling No. 009 of 2015* (Por medio del cual se hace seguimiento a la orden segunda y tercera del auto 092 de 2008, en lo concerniente al traslado de casos de violencia sexual a la Fiscalía General de la Nación, y a la creación e implementación de un programa de prevención del impacto de género mediante la Prevención de los Riesgos Extraordinarios de Género en el marco del Conflicto Armado y El Programa de Prevención de la Violencia Sexual contra la Mujer Desplazada y de Atención Integral a sus Víctimas, en el marco del seguimiento a la Sentencia T-025 de 2004.), Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm> (with respect to violence against women).

¹³¹ HRW has noted there has been very little accountability for threats and attacks targeting IDP claimants. HRW, *The Risk of Returning Home*, p. 143. Victims have reportedly faced obstacles when seeking justice. These include authorities downplaying the nature of the threats, failing to contact victims after they filed a criminal complaint and in some cases refusing to accept a criminal complaint in the first place. (p. 144) In some cases, victims of threats said that authorities refused to accept their criminal complaints because they were unable to identify the perpetrator. (p. 144). Restitution leaders who had been repeatedly threatened have said that when they attempted to report a second or third incident justice authorities did not accept the complaints, claiming that the complaints of the first threat were sufficient. (p. 145). In other cases justice officials turned away victims by claiming they did not know the protocol for accepting complaints, or told victims to denounce the threat with authorities in the municipality where it had occurred. (p. 147). IDPs seeking land restitution have also reported denouncing threats with justice officials, only to discover later that their criminal complaints had never been formally registered by the Attorney General’s Office (p. 148). In several cases, IDP land claimants and their advocates told HRW that after filing criminal complaints about threats they received, justice authorities only contacted them for the first time roughly a year – or even longer – after reporting the alleged crime. (p. 150) Further, authorities in different regions including police have downplayed the seriousness of threats and prematurely assumed that attacks were unrelated to the victims’ activism. HRW, *The Risk of Returning Home*, p. 148. Land restitution leaders from several departments told HRW that when reporting threats and/or harassment, justice officials were dismissive of the risk they faced and insinuated that they were not telling the truth. See also: Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, pp. 2-3; Amnesty International, *Colombia: A Land Title is Not Enough: Ensuring Sustainable Land Restitution in Colombia*, AMR 23/031/2014, 27 November 2014, https://www.amnesty.nl/sites/default/files/public/land_restiution_eng.pdf, p. 19.

¹³² In recent years Attorney General’s Office officials from different regions have come under criminal investigation for alleged ties to paramilitary successor groups. HRW, *The Risk of Returning Home*, p. 151. One high profile example is that of former chief prosecutor in Medellín, Guillermo Leon Valencia Cossio, the brother of Colombia’s former Minister of the Interior and Justice. In March 2011 the Supreme Court convicted Valencia of conspiring with the *Urabeños*. (p. 151). In Codoa department the Restitution Unit denounced the alleged involvement of a local Attorney General Office official in obstructing land restitution. See: HRW, *The Risk of Returning Home*, p. 151.

have either not seen any action taken with respect to their case, or indeed may have faced reprisals.¹³³ Justice officials also reportedly face serious security risks in carrying out their work.¹³⁴

The Government has made visible efforts to end impunity among its own security forces, including to punish extrajudicial killings and torture.¹³⁵ However, a high rate of impunity for members of security services who commit violations reportedly persists, despite these efforts.¹³⁶ Ongoing ties between NAGs and some local and regional members of the security forces have also been alleged.¹³⁷ Allegations of “false positives” (i.e. killing of civilians by members of the military, who then present the bodies of the victims as those of combatants, whether guerrilla groups or NAGs) also persist, although there continued to be fewer reports than in 2008 - 2009.¹³⁸ Concerningly, however, in 2012 and 2013, in cases before the Inter-American Court of Human Rights, the Government reportedly denied the military’s participation in human rights violations for which military members had already been convicted in national courts.¹³⁹ Further, in regions such as Arauca, Caquetá, Norte de Santander

¹³³ HRW, *The Risk of Returning Home*, pp. 151 et seq. The National Unit Against the Crimes of Enforced disappearance and Displacement (UNCDES) was established in November 2010, but has reportedly made limited progress – in January 2013, the Unit was investigating 17,109 cases of forced displacement but had obtained convictions for only 28. HRW, *The Risk of Returning Home*, p. 156. Other prosecutorial units have similarly produced limited results in prosecuting cases of forced displacement. See p. 156, e.g. The Justice and Peace Unit established under the Justice and Peace Law. HRW, *The Risk of Returning Home*, p. 160.

¹³⁴ HRW, *Colombia: FARC Battering Afro-Colombian Areas*, 30 July 2014, <http://www.hrw.org/news/2014/07/30/colombia-farc-battering-afro-colombian-areas>. For example, on 17 July 2014, individuals who identified as FARC members intercepted four Attorney General’s Office individuals as they were driving back to the city of Pasto after exhuming bodies in Tumaco. The FARC reportedly held the officials captive for roughly two hours, during which they threatened to kill them, told them not to return to the area, and burned their car.

¹³⁵ See generally, US DoS, *2014 Human Rights Report*. Since 2006, more than 55 current and former members of Congress have been convicted for conspiring with paramilitaries. In August 2013, the Supreme Court ordered the arrest of Luis Alfredo Ramos, Senate President from 2002-2003, Governor of Antioquia from 2008-2011 and a presidential hopeful for the 2014 elections. On 17 September 2014, the Colombian Senate held a debate about alleged links between paramilitaries and former President Álvaro Uribe (2002-2010), who became a senator in 2014. HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 3. In October 2013, prosecutors formally identified Uribe’s security chief while president; retired police general Mauricio Santoyo as a suspect in an investigation into the forced disappearances of two human rights activists in 2000. In 2012, Santoyo pled guilty in United States federal court for collaborating with paramilitaries between 2001 and 2008. HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 3.

¹³⁶ Extrajudicial executions by the security forces continued to be reported, albeit in fewer numbers than during the administration of President Álvaro Uribe (2002-2010). However, the Office of the Attorney General reportedly failed to make progress in bringing to justice most of those responsible for these crimes, especially senior officers. Amnesty International, *Annual Report 2014/15 - Colombia*, 25 February 2015, <https://www.amnesty.org/en/annual-report-201415/>, p. 2. See also: US DoS, *2014 Human Rights Report*; Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 2. The latest World Justice Project report ranks Colombia at 79 out of 99 countries as regards the effectiveness of the countries’ criminal justice system: World Justice Project, *WJP Rule of Law Index 2014*, 2014, http://worldjusticeproject.org/sites/default/files/files/wjp_rule_of_law_index_2014_report.pdf.

¹³⁷ HRW, *The Risk of Returning Home*, p. 172-173. See specific instances reported. Evidence suggests that the problem is pronounced in regions such as Uraba and Cordoba. US DoS, *2013 Human Rights Report*, p. 3. In Buenaventura, for example, one of the areas with the highest disappearance rate by NAGs (*Urabeños* and *Empresa*), there are allegations of ties between such groups and certain members of the local security forces. Residents’ fear of retaliation for reporting crimes partly stems from their belief that authorities may leak information to NAGs. HRW, *The Crisis in Buenaventura*.

¹³⁸ The “false positives” scandal (Escándalo de los falsos positivos in Spanish) was a series of murders in Colombia, part of the ongoing armed conflict between the Government and guerrilla forces of the FARC and the ELN. Members of the military had poor or mentally impaired civilians lured to remote parts of the country with offers of work, killed them, and presented them to authorities as guerrilleros killed in battle, in an effort to inflate body counts and receive promotions or other benefits. The “false positives” were also conducted in regard to the paramilitary groups and NAGs, i.e. individuals who were not involved with these groups were killed and subsequently presented as members of these groups. For an analysis how “false positives” fit with human rights law see: OHCHR, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, 7 January 2013, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-17-Add3_English.pdf, para. 46. There has been a dramatic reduction in cases of alleged unlawful killings attributed to security forces since 2009; nevertheless, there were credible reports of some new cases in 2013 and 2014: HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 3. There have been allegations that the practice of “false positives” still persists. For example, reportedly, on 6 February 2013, army officers reportedly killed a civilian and falsely presented him as a FARC guerrilla killed in combat. US DoS, *2013 Human Rights Report*, pp. 2, 18. The Government’s response to “false positives” has been characterized as inadequate by OHCHR: UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 74. The Government does not keep statistics for cases of false positives, however the Human Rights Unit of the Attorney General’s Office had been assigned investigations into 4,774 cases of alleged unlawful killings by State agents committed between 2003 and 2008 and 1,310 cases were convicted with jail terms as of January 2014: Attorney General’s Office, *Informe de Gestión 2013-2014*, 2014, http://www.fiscalia.gov.co/colombia/wp-content/uploads/Informe-Fiscalia-2013-2014-web_final.pdf, p. 81. See also: HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 3. HRW, *On Their Watch - Evidence of Senior Army Officers’ Responsibility for False Positive Killings in Colombia*, 24 June 2015, <http://www.refworld.org/docid/558d25664.html> and Colombia Reports, *Santos Meets with HRW after Report on Top Commanders’ Involvement in Civilian Killings*, 25 June 2015, <http://colombiareports.com/santos-meets-with-hrw-after-report-on-top-commanders-involvement-in-civilian-killings/>.

¹³⁹ HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 4.

and Middle Magdalena, community leaders and human rights defenders have reportedly been detained based on allegations of collaboration with guerrillas, sometimes with scant or even fabricated evidence.¹⁴⁰ In Caquetá, communities report that security forces have blocked transport of food, medicine and other goods to rural areas, arguing that these were intended for the guerrillas or meant to be used for drug production.¹⁴¹ There has also been an alleged failure on the part of local authorities in Buenaventura to deliver timely humanitarian aid, due to delays in registering displacement.¹⁴²

Recent proposed legislative changes have been criticized by human rights observers as undermining accountability for human rights abuses, including constitutional changes concerning transitional justice and the military justice system.¹⁴³ NGOs continued to accuse domestic intelligence or security entities of spying on lawyers or human rights defenders, threatening them and breaking into their homes or offices to steal information.¹⁴⁴ There have also been allegations that the military has used its intelligence platform to intercept emails and text messages sent by the President and Government team negotiating with the FARC as part of the Havana Process.¹⁴⁵

2. Conflict-Induced Displacement and Returns

More than six million people have been forcibly displaced during the course of the conflict in Colombia.¹⁴⁶ Despite the promising Havana Peace Talks, as a result of threats, violence and social control exercised by non-State armed actors including NAGs, levels of internal and external displacement continue to be high.

The number of Colombian refugees, including individuals in a refugee-like situation, stood at about 357,900.¹⁴⁷ In Ecuador, the country with the largest number of Colombian refugees of a total of 54,015 in September 2013,¹⁴⁸ an estimated 800 to 900 persons continue to cross the border to seek asylum each month as at June 2015.¹⁴⁹ The number of persons reporting multiple displacements

¹⁴⁰ ICG, *Peace at Last?*, p. 7.

¹⁴¹ ICG, *Peace at Last?*, p. 7.

¹⁴² In October 2013, the Constitutional Court found that Buenaventura is one of the worst municipalities when it comes to recording displaced people's declarations and registering them, and determined that humanitarian emergencies are not being attended to there. HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances-pacific-port>; HRW, *The Crisis in Buenaventura*, p. 29.

¹⁴³ See, e.g. HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>. In 2013 and 2014, the Defence Minister submitted three different bills to Congress that would open the door to "false positives" being transferred from civilian prosecutors to the military justice system, which has long been criticized by observers as failing to systematically hold perpetrators accountable. Under the bills, the military justice system would also handle other past and possible future human rights abuses by military personnel, as well as other serious crimes such as conspiring with paramilitaries or gangs to traffic drugs. One of the bills would authorize the security forces to use lethal force against civilians in a broad range of situations. The bills are similar to a constitutional change to the military justice system adopted in December 2012, which the Constitutional Court subsequently struck down on procedural grounds in October 2013. Further, in June 2012, the Government secured Congressional approval of the Legal Framework for Peace constitutional amendment, which empowers Congress to limit the scope of prosecutions of atrocities to individuals found "most responsible" and provide statutory immunity to other alleged perpetrators. This will apply in the event of a peace agreement with the FARC. HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 4. See also: US DoS, *2013 Human Rights Report*, p. 16.

¹⁴⁴ US DoS, *2013 Human Rights Report*, p. 15. As of 15 November 2013, at least 11 cases related to illegal surveillance by the *Departamento Administrativo de Seguridad* (DAS) under the Santos administration had resulted in convictions, while 52 other cases continued. US DoS, *2013 Human Rights Report*, p. 15.

¹⁴⁵ El País, *Fiscalía investiga espionaje a Santos y suplantación de identidad de su hija*, 24 February 2014, <http://www.elpais.com.co/elpais/judicial/noticias/fiscal-caso-andromeda-investiga-chuzadas-correos-presidente-santos>; Observando, *Depuración de los servicios y actividades de inteligencia y garantías de no repetición en el Proceso de Paz*, March 2014, http://www.colectivodeabogados.org/IMG/pdf/depuracion_de_inteligencia_y_proceso_de_paz_-_observando_boletin_ccceu_nro_15-2.pdf. In January 2015, 20 soldiers were reportedly expelled from the armed forces as a result of these accusations; *Semana*, *Más de 20 miembros de las Fuerzas Militares fueron sancionados*, 23 January 2015, <http://www.semana.com/nacion/articulo/andromeda-hacker-el-informe-final/415516-3>.

¹⁴⁶ See for further information: Red Nacional de Información (RNI), *Reporte General*, 1 November 2014, <http://rni.unidadvictimas.gov.co/?q=v-reportes>. These figures are cumulative, i.e. they do not take into account IDPs who have perished or found a durable solution.

¹⁴⁷ UNHCR, *UNHCR Global Trends 2014: World at War*, 18 June 2015, <http://www.refworld.org/docid/558292924.html>, p. 10.

¹⁴⁸ Statistics reported by the Ecuadorian Refugee Directorate (Ministry of Foreign Affairs and Human Mobility) for the refugee population as of 30 September 2013, <http://www.cancilleria.gob.ec/wp-content/uploads/2013/04/total-refugiado-historia-septiembre-2013.pdf>.

¹⁴⁹ As at June 2015, approximately 800 to 900 asylum-seekers were crossing the border from Colombia to Ecuador each month. UNHCR, *Colombia Situation: UNHCR Presence | Key Figures of Colombian Persons of Concern, June 2015*, 30 June 2015, <http://www.refworld.org/docid/559b7f424.html>. See also World Food Programme (WFP), *Ecuador: Struggling Refugee Family Finds Welcome Breathing Space*, 17 June 2013, <https://www.wfp.org/stories/ecuador-struggling-refugee-family-finds-welcome-breathing-space>.

within Colombia before seeking international protection in Ecuador is also declining.¹⁵⁰ Most Colombian refugees in Ecuador in 2013 originated from Valle del Cauca, Nariño and Putumayo.¹⁵¹ Antioquia (7.4 per cent), Caquetá (7.4 per cent) and Cundinamarca (6.7 per cent) were the departments with the next greatest outflows processed by UNHCR.¹⁵²

In terms of internal displacement, according to Colombia's Victims Unit, as of 1 April 2015, 6,300,042 IDPs were included in the victim registry.¹⁵³ While annual displacement figures have declined in recent years, Colombia still has the second largest population of internally displaced people in the world.¹⁵⁴ Sixty-five cases of large-group displacements were recorded in 2014, compared to 100 cases in 2013, 137 in 2012, 83 in 2011 and 58 in 2010.¹⁵⁵ In the first four months of 2014, 25 large-group displacements were reported, mainly along the Pacific Coast, and particularly in five municipalities (Buenaventura, Guapi, Tumaco, Litoral del San Juan and Baudo).¹⁵⁶ Forced displacement disproportionately affected Afro-Colombian and indigenous communities (making up 36 per cent and 44 per cent of the overall IDP caseload, respectively).¹⁵⁷

II. Eligibility for International Protection

A. Potential Risk Profiles

This Section outlines a number of potential risk profiles for asylum-seekers from Colombia. UNHCR considers that asylum-seekers from Colombia falling within one or more of these risk profiles may be in need of international refugee protection under Article 1A of the 1951 Convention relating to the Status of Refugees (hereafter: 1951 Convention),¹⁵⁸ depending on the circumstances of the individual case. Potential risk profiles are based on UNHCR's legal assessment of available country of origin information as referred to in Section II above, and/or the profiles of asylum-seekers from Colombia who have come to the attention of UNHCR or Government decision-makers.

¹⁵⁰ Cases analysed by UNHCR in Ecuador demonstrated a decrease in the number of internal displacement instances in Colombia before the individual left Colombia to seek asylum, with an average of 1.2 internal displacements in 2010, which decreased to an average of 0.7 internal displacements in 2014. This was more pronounced among individuals who fled from the interior of the country and when the persecuting agent was reported to be a "guerrilla" or NAG. Individuals reported a decrease in the number of internal displacements due to persecution for all interior departments, other than Valle del Cauca, Nariño and Putumayo. Twenty-eight per cent of individuals who reported persecution in interior departments of the country in 2010 fled directly to Ecuador, with that number increasing to 50 per cent by 2014. By comparison, in border departments the percentage of individuals fleeing directly to Ecuador varied: 53 per cent in 2010, 41 per cent in 2011, 60 per cent in 2012, 49 per cent in 2013, and 67 per cent in 2014. Information available to UNHCR.

¹⁵¹ Statistics reported by the Ecuadorian Refugee Directorate (Ministry of Foreign Affairs and Human Mobility) for the refugee population as of 30 September 2013, available at: <http://www.cancilleria.gob.ec/>.

¹⁵² Information available to UNHCR.

¹⁵³ Article 3 of Law 1448 of 2011 designates as a victim any person who, individually or collectively, has suffered any harm as a result of events that occurred in the context of the internal armed conflict since 1 January 1985 that violate international humanitarian law or international human rights law. The same law establishes the victim registry (Registro Único de las Víctimas), which enables registered persons to access compensation. *Ley No. 1448 de 2011 - Por la cual se dictan medidas de atención, asistencia y reparación integral a las víctimas del conflicto armado interno y se dictan otras disposiciones*, 10 June 2011, <http://www.refworld.org/docid/4df7289d2.html>. Out of the total of 6,300,042 IDPs who were included in the victim registry as of 1 April 2015, 219,848 persons are victims recognized through orders of the Constitutional Court. See for further information: Red Nacional de Información (RNI), <http://rni.unidadvictimas.gov.co/?q=node/107>, updated 1 July 2015. These figures are cumulative, i.e. they do not take into account IDPs who have died or IDPs who have found a durable solution.

¹⁵⁴ In Buenaventura, a largely Afro-Colombian port on the Pacific coast, paramilitary successor groups such as the *Urabeños* reportedly continue to commit atrocities, including abducting and dismembering people. The groups have caused Buenaventura to have the highest rate of forced displacement in Colombia, with more than 33,000 residents fleeing their homes in 2013, and 22,383 between January and November 1, 2014, according to government data released in November. HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 2. See also HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances-pacific-port>. In 2013, 15 per cent of all large-group displacements occurred in the cities of Buenaventura and Medellín. Buenaventura, Tumaco and Litoral San Juan are Colombia's most violent municipalities, with 18 per cent of registered IDPs. Between 2011 and 2013, Buenaventura led all Colombian municipalities in the number of newly displaced persons. HRW, *The Crisis in Buenaventura*, p. 1. In 2013, more than 13,000 Buenaventura residents fled their homes. For more recent information on the situation in Buenaventura, see HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances-pacific-port>.

¹⁵⁵ Information available to UNHCR, based on statistics provided to UNHCR by the National Victims Unit.

¹⁵⁶ Information available to UNHCR, based on statistics provided to UNHCR by the National Victims Unit.

¹⁵⁷ Information available to UNHCR, based on statistics provided to UNHCR by the National Victims Unit.

¹⁵⁸ UN General Assembly, *Convention Relating to the Status of Refugees* ("1951 Convention"), 28 July 1951, UN Treaty Series, Vol. 189, p. 137, <http://www.refworld.org/docid/3be01b964.html>.

Not all persons falling within the risk profiles outlined in this Section will necessarily be found to be a refugee. Conversely, these risk profiles are not necessarily exhaustive. Accordingly, all claims by Colombian asylum-seekers need to be considered on their own merits in fair and efficient status determination procedures and based on up-to-date country of origin information.

Where relevant, particular consideration should be given to any past persecution to which applicants for refugee status may have been subjected.¹⁵⁹ In light of the history of violent conflict and human rights abuses in Colombia, the applicability of the exclusion clauses may need to be considered in certain cases.¹⁶⁰

Despite improvements in terms of security and human rights, the perpetuation of the conflict and the impact of new armed groups continue to generate risks that have a greater impact on certain sectors of the population.

1. Members of social and political movements associated to the Havana Peace Process and persons otherwise perceived to be associated with the Havana Peace Process¹⁶¹

Members of some social and political movements are becoming increasingly vulnerable as the peace process advances, due to greater political polarization in Colombia. During this process, certain political movements are gaining greater visibility and have also been attributed various political positions, which has led to increased stigmatization and various risks for their members. In early 2014, *Marcha Patriótica*¹⁶² (hereafter: Patriotic March Movement) reported that 30 of its members were killed during 2013, and that its group leaders and also some of its members faced continuous threats.¹⁶³ Members of the Patriotic March Movement were allegedly targeted due to their

¹⁵⁹ See relevant considerations on the significance of past persecution in UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, <http://www.refworld.org/docid/4f33c8d92.html>, p. 12, para. 45; and UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.unhcr.org/refworld/docid/3f2791a44.html>, para. 26.

¹⁶⁰ See Section D below.

¹⁶¹ See the following examples of incidents relating to persons in this risk profile: On January 12, former Afro-Colombian Senator Piedad Cordoba, who recently participated in a delegation of victims to visit the peace negotiation table in Havana, Cuba, was sent a death threat in the form of a funeral bouquet. The threat appears to have come from the paramilitary group, The Black Eagles (*Águilas Negras*), who have been targeting supporters of the peace effort. Washington Office on Latin America, *Afro-Colombian Activists Facing Increased Threats*, 15 January 2015, http://www.wola.org/commentary/afro_colombian_activists_facing_increased_threats. The Interior Minister, Juan Fernando Cristo, has said that the threats against Cordoba will be investigated and steps will be taken to protect her safety but at the same time political leaders and social activists continue to be targeted for their work in defence of human rights and in support of the peace process. Justice for Colombia, *Former senator and peace activist targeted by paramilitary group*, 14 January 2015, <http://www.justiceforcolombia.org/news/article/1774/former-senator-and-peace-activist-targeted-by-paramilitary-group>. See also: Colombia Support Network, *Forensic Medicine Confirms that Carlos Pedraza was Murdered in the Area of Paramilitary Influence where his body was found*, 1 February 2015, <http://colombiasupport.net/2015/02/forensic-medicine-confirms-that-carlos-pedraza-was-murdered-in-the-area-of-paramilitary-influence-where-his-body-was-found/>. On 1 January 2015, the son of Nilson Liz was murdered by unknown assailants. Nilson Liz is a representative of farming communities in Cauca who participated in the peace talks in Cuba and who was reportedly targeted in several murder attempts between 1997 and 2003. As of the end of February 2015, no pronouncements had been made by the Attorney General's Office on the motives behind the assassination: Colombia Reports, *Son of Peace Talks Victims Representative Murdered, 13 More Reps Receive Death Threats*, 21 February 2015, <http://colombiareports.co/son-of-peace-talks-victims-representative-murdered-13-more-reps-receive-death-threats/>.

¹⁶² Platform of the Patriotic March Movement, *Por la Segunda y Definitiva Independencia Juntar las Rebelías*, 31 October 2012, http://www.marchapatriotica.org/index.php?option=com_content&view=article&id=1561:plataforma-politica-30-de-octubre&catid=98&Itemid=472.

¹⁶³ Reports of accusations and murders of members of the Patriotic March Movement: Patriotic March Movement, *Acción Urgente*, 2 February 2014, http://www.marchapatriotica.org/images/accion_urgente_MP_MIA_UP.pdf.

participation in different agricultural movements,¹⁶⁴ with some members having been killed or threatened while they participated in mass demonstrations.¹⁶⁵

The Patriotic March Movement has also been associated with ‘farmer reserve zones’, a model used to organize and regulate agricultural territories. Even though farmer reserve zones are legally recognized as an organizational model and have been promoted by various social sectors,¹⁶⁶ leaders of movements advocating for farmer reserve zones have received threats.¹⁶⁷ During the peace process negotiations in Havana, farmer reserve zones were reportedly considered as a possible alternative for local organization and governance.¹⁶⁸ Consequently, those communities involved with advocacy for or the implementation of farmer reserve zones have faced stigmatization.

In recent years, members of other political movements have also been subjected to targeted killings, violence, harassment and threats. In early 2015, a leader of the People’s Congress was assassinated in Bogotá.¹⁶⁹ The National Agricultural Strike in April-May 2014 contributed to increased stigmatization of members of the agricultural movement.¹⁷⁰ In 2013, at least nine protestors were shot and died

¹⁶⁴ Threats against members of Patriotic March: Asociación de campesinos del sur de Córdoba (ASCSUCOR), *Alertan sobre inminente asesinato de defensor de DH, miembro de Marcha Patriótica y Asociación de Campesinos del Sur de Córdoba*, 26 February 2015, <http://www.colectivodeabogados.org/alertas-de-accion-206/denuncias-publicas/articulo/alertan-sobre-inminente-asesinato>; Cordinación nacional de organizaciones agrarias y populares, *Amenazas de muerte a miembros de la Marcha Patriótica y otras organizaciones sociales en el caribe colombiano*, 17 January 2015, <http://www.conapcolombia.org/?p=6980>; Patriotic March Movement, *Hostigamientos contra activistas de Marcha Patriótica*, 19 January 2015, http://www.marchapatriotica.org/index.php?option=com_content&view=article&id=2523:hostigamientos-contra-activistas-de-marcha-patriotica&catid=99&Itemid=476; Patriotic March Movement, *Acción Urgente - Comisión de Derechos Humanos del Movimiento Político y Social Marcha Patriótica*, 9 March 2014, http://www.marchapatriotica.org/index.php?option=com_content&view=article&id=2173:accion-urgente-comision-de-derechos-humanos-del-movimiento-politico-y-social-marcha-patriotica&catid=99&Itemid=476.

¹⁶⁵ Threats against members of Patriotic March: Asociación de campesinos del sur de Córdoba (ASCSUCOR), *Alertan sobre inminente asesinato de defensor de DH, miembro de Marcha Patriótica y Asociación de Campesinos del Sur de Córdoba*, 26 February 2015, <http://www.colectivodeabogados.org/alertas-de-accion-206/denuncias-publicas/articulo/alertan-sobre-inminente-asesinato>; Cordinación nacional de organizaciones agrarias y populares, *Amenazas de muerte a miembros de la Marcha Patriótica y otras organizaciones sociales en el caribe colombiano*, 17 January 2015, <http://www.conapcolombia.org/?p=6980>; Patriotic March Movement, *Hostigamientos contra activistas de Marcha Patriótica*, 19 January 2015, http://www.marchapatriotica.org/index.php?option=com_content&view=article&id=2523:hostigamientos-contra-activistas-de-marcha-patriotica&catid=99&Itemid=476; Patriotic March Movement, *Acción Urgente - Comisión de Derechos Humanos del Movimiento Político y Social Marcha Patriótica*, 9 March 2014, http://www.marchapatriotica.org/index.php?option=com_content&view=article&id=2173:accion-urgente-comision-de-derechos-humanos-del-movimiento-politico-y-social-marcha-patriotica&catid=99&Itemid=476.

¹⁶⁶ Farmer reserve zones were established as an alternative by the farmers organization for rural production in Law 160 of 1994. The model was subsequently regulated in Decree 1777 of 1996. Since 2012 it has gained support as a result of promotion of the model by the State and initiatives of different farming sectors. Canal Capital, *Rostras de las zonas de reserva campesina – 10 preguntas clave sobre Zonas de Reserva Campesina (ZRC)*, undated, <http://www.canalcapital.gov.co/Especiales/zrc/10preguntasClaves.pdf>; Decree 1777 of 1996, *Regulatory Decree of farmer reserve zones*, 4 October 1996, <http://www.desarrolloeconomico.gov.co/documentos/category/19-desarrollo-sostenible?download=225:decreto-1777-1996>.

¹⁶⁷ Cases of threats against active supporters of farmer reserve zones: Patriotic March Movement, *Amenazas contra César Jerez por lucha en el Catatumbo*, 6 February 2015, http://www.marchapatriotica.org/index.php?option=com_content&view=article&id=2544:amenazas-contra-cesar-jerez-por-lucha-en-el-catatumbo&catid=99&Itemid=476.

¹⁶⁸ The stigmatization of farmer reserve zones originated from the discussion on their role in the development model being negotiated in Havana, the promotion of the establishment of farmer reserve zones in different parts of the country, and large farmer protests. See: La Silla Vacía, *Las zonas de reserva campesinas desafían al Gobierno*, 21 September 2014, <http://lasillavacia.com/historia/las-zonas-de-reserva-campesinas-desafian-al-gobierno-48634>; Amnesty International, *Colombia: Protesters killed in Colombia*, 27 June 2013, AMR 23/028/2013, <http://www.refworld.org/docid/51d142fe4.html>. In addition, some authorities have expressed themselves negatively towards the establishment of farmer reserve zones. UIS no es UNO, *El ministro de defensa debe abstenerse de estigmatizar a los líderes de las protestas campesinas del Catatumbo*, 12 July 2013, <http://uisnoesuno.blogspot.com/2013/07/el-ministro-de-defensa-debe-abstenerse.html>; El Tiempo, *‘Que no nos crean bobos con zona de reserva campesina de Catatumbo’*, 30 July 2013, <http://www.eltiempo.com/archivo/documento/CMS-12956862>; KienyKe, *Mindefensa arremete contra zona de reserva campesina en Catatumbo*, 30 July 2013, <http://www.kienyke.com/noticias/mindefensa-arremete-contra-zona-de-reserva-campesina-en-el-catatumbo/>; W Radio, *Distrito no tiene facultades para crear zona de reserva campesina en Sumapaz: Gobierno*, 17 July 2013, <http://www.wradio.com.co/noticias/actualidad/distrito-no-tiene-facultades-para-crear-zona-de-reserva-campesina-en-sumapaz-gobierno/20130717/nota/1934212.aspx>; Terra, *MinDefensa denuncia que marchas están infiltradas por Farc*, 29 August 2013, <http://noticias.terra.com.co/colombia/mindefensa-denuncia-que-marchas-están-infiltradas-por-farc.71e7cc7ede5c0410VgnCLD2000000ec6eb0aRCRD.html>.

¹⁶⁹ Other movements that have emerged recently, like the People’s Congress, have been a target of threats. For more Information: People’s Congress, *La Proclama - Palabra del Congreso de los Pueblos de Colombia*, 13 October 2010, <http://congresodelospueblos.org/index.php/congresos-tematicos/instalacion-2010/102-proclama>. See also: People’s Congress, *DENUNCIA PÚBLICA Por el asesinato de Carlos Alberto Pedraza Salcedo*, 23 January 2015, <http://congresodelospueblos.org/index.php/pueblo-en-lucha/últimas-noticias/647-denuncia-publica-por-el-asesinato-de-carlos-alberto-pedraza-salcedo>.

¹⁷⁰ During the protests, more than 30 incidents were classified by social organizations as persecution against those who exercised their right to protest. At least three leaders among farmer and student movements were killed in Bogotá and Norte de Santander. See: Centro de Investigación y Educación Popular (CINEP), *Revista Noche y Niebla No. 49*, January-June 2014, <http://www.nocheyniebla.org/node/99>.

during different social protests.¹⁷¹ In January 2014, the Office of the UN High Commissioner for Human Rights (OHCHR) expressed concern over senior government officials' repeatedly making public statements alleging that armed groups were behind the events which 'risk causing stigmatization'.¹⁷² Such incidents have raised concerns regarding risks that could arise in a post-agreement scenario.¹⁷³ Given the degree of prevailing polarization and public accusations, observers consider it very probable that tensions will intensify further when the aforementioned zones are established and when new local authorities are elected.¹⁷⁴

Depending on the particular circumstances of the case, UNHCR considers that members of social and political movements associated with the Havana Peace Process and persons otherwise perceived to be associated with the Havana Peace Process may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.

2. *Indigenous Communities*¹⁷⁵

Members of indigenous groups do not often seek protection outside of the country (with the exception of communities that share territories with neighbouring countries, or that live in border areas) despite various vulnerabilities and threats. More specifically, the ongoing armed conflict in Colombia has progressively concentrated in areas inhabited by indigenous communities. This has resulted in violence and forced displacement of indigenous communities from their territories and has had a disproportionate impact on many such communities. Indigenous communities' vulnerabilities also stem from their attachment to territory, their organizational and cultural cohesion, as well as various socio-economic factors.¹⁷⁶ Over the past decade, indigenous communities have been subject to violent

¹⁷¹ UN Human Rights Council, *Annual report of the United Nations High Commissioner for Human Rights, Addendum : Situation of human rights in Colombia*, 24 January 2014, A/HRC/25/19/Add.3, <http://www.refworld.org/docid/5335418b4.html>, para. 64.

¹⁷² The public protest in June 2014 was specifically referred to, where an estimated 250,000 people participated. During this protest authorities arrested 837 individuals, of which 54 were kept in custody. Most charges, reportedly, related to violence and the destruction of property, and there were no charges of membership of an illegal group. UN Human Rights Council, *Annual report of the United Nations High Commissioner for Human Rights, Addendum: Situation of human rights in Colombia*, 24 January 2014, A/HRC/25/19/Add.3, <http://www.refworld.org/docid/5335418b4.html>, para. 65.

¹⁷³ These violent incidents bring to mind the case of the Patriotic Union; 4,000 of its members were killed between the mid-80s and the 90s, as reported by the International Crisis Group, see ICG, *The Day after Tomorrow: Colombia's FARC and the End of the Conflict*, 11 December 2014, <http://www.refworld.org/docid/548aa21c4.html>.

¹⁷⁴ The next election for local authorities will take place on October 2015.

¹⁷⁵ For a detailed account of the situation of indigenous peoples in Colombia's peripheries, see Maria Muller, *Displaced Indigenous Peoples in the Colombian Border Regions*, UNHCR New Issues in Refugee Research, Research Paper 264, October 2013, <http://www.unhcr.org/52710bf39.html>. For information on vulnerabilities of indigenous people generally see Inter-American Commission on Human Rights (IACHR), *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, pp. 255-273. In the past years NAGs reportedly killed 13 members of the Zenu indigenous community in Cordoba and Antioquia. During the last week of June 2011, for example, NAGs reportedly shot and killed five Zenú (Senu) indigenous people in north-eastern Colombia, including a vice-governor from the community of La 18 and two of his sons. A total of thirteen Zenú died in 2011. Center for World Indigenous Studies, *Colombia: Indigenous Zenu under fire from paramilitary groups*, July 5, 2011, <https://intercontinentalcry.org/colombia-indigenous-zenu-under-fire-from-paramilitary-groups/>. See also: HRW, *Colombia: Investigate Spate of Killings by Armed Groups*, 8 July 2011, <http://www.hrw.org/news/2011/07/08/colombia-investigate-spate-killings-armed-groups>. Afro-Colombian and indigenous communities along the Pacific Coast (Valle de Cauca, Nariño, Chocó and La Costa Caucana) face heightened protection risks due to violent territorial disputes between demobilized paramilitary successor groups as the *Urabeños*, *Rastrojos* and *La Empresa*. In 2013, their confrontations resulted in 27 large-group displacements, 11 in the first four months of 2014. In 2009, Colombia's Constitutional Court found that the fundamental rights of displaced Afro-Colombian population were being massively and continuously ignored, and identified Buenaventura as an emblematic case. HRW, *The Crisis in Buenaventura*, p. 5. According to the National Indigenous Organization of Colombia, 23 indigenous persons were killed in the first half of 2013. Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 1. Eleven homicides of indigenous persons were reported from 1 January to October 2014. US DoS, *2014 Human Rights Report*. Indigenous protesters face safety concerns, due to reported disproportionate use of violence against them by security forces and death threats from organized crime groups against individual leaders. US DoS, *2014 Human Rights Report*. Indigenous people are at a significantly higher recruitment risk, and in the case of hunter-gatherer communities the frequent restrictions on movement can threaten their livelihoods. In the first half of 2012, 54 indigenous persons were killed or died as a consequence of deficient health care. ICG, *Peace at Last?*, p. 8.

¹⁷⁶ Numerous indigenous communities inhabit border zones. Some even have communities on both sides of the border. Sociedad Geográfica de Colombia, *Grupos indígenas en la zona de frontera*, http://sogeocol.edu.co/Ova/fronteras_colombia/fronteras/poblacion/indigenas.html. Some of them have suffered gravely from the conflict, including Wayuu, Bari, Uwa, Macaguan (Hitnu), Sikuane, Siona, Cofán, Awa, Kofan, Waunan, Cuná - Tule, and Emberá, among others. Some have fled in search of international protection. UNHCR, *Situación Colombia indígenas*, 2012, http://www.acnur.org/t3/fileadmin/Documentos/RefugiadosAmericas/Colombia/2012/Situacion_Colombia_-_Pueblos_indigenas_2012.pdf?view=1.

attacks due to the strategic military value of their territories, as well as its economic value and natural resources.¹⁷⁷

The conflict has also accelerated the threat to the most vulnerable indigenous communities. For example, pursuant to Order 04 of 2009, the Constitutional Court ordered special measures in favour of 34 indigenous communities at risk of extinction.¹⁷⁸ Nevertheless, the number of communities at high risk has increased further in subsequent years. In Order 173 of 2012, the Court recognized the serious risk in which two or more communities found themselves and suggested the government take such measures as well for other communities in circumstances similar to those covered by Order 4 and 173.¹⁷⁹ In 2012, the National Indigenous Organization of Colombia (ONIC) reported that there were 32 communities with fewer than 500 members, 18 communities with fewer than 200 members and 10 communities with fewer than 100 members, and that 65 communities were at risk of extinction.¹⁸⁰

According to the Inter-American Commission on Human Rights (IACHR), indigenous persons are frequently victims of assassinations and disappearances perpetrated by armed actors or groups associated with them. Traditional authorities and indigenous leaders are most frequently targeted in retaliation for their opposition to the presence of NAGs in their territories, or for seeking territorial recognition. NAGs often target these individuals with the intention of instilling fear into their communities so that they will flee from their land.¹⁸¹ Between 2003 and 2012, 1,063 assassinations of indigenous community members were reported.¹⁸² The Nasa community continues to be most heavily impacted by violence. Between 1974 and 2012, 760 members of this community were killed.¹⁸³ In 2014, of the 16 murders of indigenous persons recorded in the country, seven took place in the Nasa community of the Cauca department.¹⁸⁴

The interference of armed groups in the territories of indigenous communities has increased, and with it the risks to these communities. According to the ONIC, the principal cause of displacement of indigenous communities is the constant confrontations between armed groups in their territories. Such confrontations have led to accusations of direct or indirect links [including different types of involvement] with the groups in conflict, as well as forced participation of members of indigenous communities in the conflict. Such factors have caused an increase in numbers [of violent incidents] in recent years.¹⁸⁵ The IACHR has also observed the strong correlation between violence and territorial

¹⁷⁷ The disproportionate impact of the conflict and violence on indigenous communities has been recognized by different players. See for example Constitutional Court, *Ruling No. 04 of 2009*, 26 January 2009, <http://www.refworld.org/docid/49cbab242.html>: “[...] impacto desproporcionado del conflicto armado y del desplazamiento forzado sobre el pueblo indígena respectivo”. IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 759. Organización Nacional Indígena de Colombia (ONIC), Consejería de Derechos de los Pueblos Indígenas, Derechos Humanos, DIH y Paz, *Informe 2014*, 2014, <http://cms.onic.org.co/wp-content/uploads/2014/09/Informe-Anual-2014-Derechos-Humanos-ONIC.pdf>.

¹⁷⁸ Constitutional Court, *Ruling No. 04 of 2009*, 26 January 2009, <http://www.refworld.org/docid/49cbab242.html>.

¹⁷⁹ The Court recognized the grave situation of the JIW and Hitnu communities in this decision. See: Constitutional Court, *Ruling of 23 July 2012*, <https://colaboracion.dnp.gov.co/CDT/DNP/Auto%20173%20de%202012.pdf>.

¹⁸⁰ In its magazine *Forensis*, the Institute of Forensic Science, published the study “Homicides of indigenous persons 2002-2013: an instrument for the illegal appropriation of land”. The figures by the National Indigenous Organization of Colombia, ONIC, about the danger of extinction for some of these communities are noted in the study. Instituto Nacional de Medicina Legal y Ciencias Forenses, *Homicidios de indígenas, 2003-2012: instrumento de apropiación violenta de la tierra*, 2013, <http://www.medicinalegal.gov.co/documents/10180/34861/2+1+homicidios+forensis+2012.pdf/93e08466-d8a4-4e3f-9baf-22181ae2bb28>.

¹⁸¹ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 762. As stated by the ONIC, the causes of these homicides are related to a) unfounded accusations; b) refusing to collaborate with illegal armed groups in their territories; c) being accused of collaborating with a certain armed actor; d) reporting human rights violations in their territories. See Report on Human Rights by the Organización Nacional Indígena de Colombia (ONIC), Consejería de Derechos de los Pueblos Indígenas, Derechos Humanos, DIH y Paz, *Informe 2014*, 2014, <http://cms.onic.org.co/wp-content/uploads/2014/09/Informe-Anual-2014-Derechos-Humanos-ONIC.pdf>, p. 8.

¹⁸² The communities most affected by number of homicides were Pueblo Nasa (659); Kankuamo (253); Wayuu (263); Embera Katio (211); Awa (157); Emberá Chami (140); Zenú (128); and Embera (117). The number of deaths between 2013 and 2014 increased by 60%. In 2013, the ONIC reported 10 deaths and 3,193 human rights abuses in its report on human rights. See ONIC, Consejería de Derechos de los Pueblos Indígenas, Derechos Humanos, DIH y Paz, *Informe 2014*, 2014, <http://cms.onic.org.co/wp-content/uploads/2014/09/Informe-Anual-2014-Derechos-Humanos-ONIC.pdf>, p. 3.

¹⁸³ Instituto Nacional de Medicina Legal y Ciencias Forenses, *Homicidios de indígenas, 2003-2012: instrumento de apropiación violenta de la tierra*, 2013, <http://www.medicinalegal.gov.co/documents/10180/34861/2+1+homicidios+forensis+2012.pdf/93e08466-d8a4-4e3f-9baf-22181ae2bb28>, p. 115.

¹⁸⁴ Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 51.

¹⁸⁵ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 780, 798 See: Somos Defensores, *La Divina Comedia*, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>.

interests. The IACHR linked the occupation of indigenous territories and the establishment of extractive industries with the increase in human rights abuses through armed violence, forced displacement and assassinations of indigenous persons.¹⁸⁶ The IACHR notes that the key factors behind the armed conflict in the territories of the indigenous persons are the interests in the ancestral territories by external actors— such as the Government and armed groups¹⁸⁷ – and economic actors. Indigenous territories are used by different armed groups as strategic military and economic areas, as routes for transit and sheltering of troops, for arms trafficking, and the cultivation, processing and trafficking of drugs.¹⁸⁸ These interests have increased in the last several years due to the expansion of coca cultivation and the increase in construction projects (roads, mining and hydro-energetic infrastructure). Consequently, as stated by the IACHR, 69.5 per cent of indigenous territories are at risk of exploitation.¹⁸⁹

Depending on the particular circumstances of the case, UNHCR considers that individuals who are members of indigenous communities may be in need of international refugee protection on the basis of their race, (imputed) political opinion, or on the basis of other Convention grounds.

3. Afro-descendant population¹⁹⁰

According to the 2005 census figures, there were 4.3 million Afro-descendant inhabitants in Colombia. They live mainly in the departments in the Pacific and Caribbean coasts, as well as in the mid and lower basins of the Cauca and Magdalena Rivers.¹⁹¹ Whilst the years of armed conflict have had a severe impact on the Pacific coast, the Afro-descendant populations inhabiting these areas are still disproportionately impacted by increased armed activities caused, inter alia, by the demobilization of paramilitary groups.¹⁹² Within this context, the IACHR has specifically expressed

See Report on Human Rights by the Organización Nacional Indígena de Colombia (ONIC), Consejería de Derechos de los Pueblos Indígenas, Derechos Humanos, DIH y Paz, *Informe 2014*, 2014, <http://cms.onic.org.co/wp-content/uploads/2014/09/Informe-Anual-2014-Derechos-Humanos-ONIC.pdf>, p. 4.

¹⁸⁶ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 761.

¹⁸⁷ AFRODES, *Re-victimización*, August 2010, http://issuu.com/afrodes/docs/re-victimizaci_n_2.

¹⁸⁸ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 759.

¹⁸⁹ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para.760.

¹⁹⁰ HRW documented abuses in Tumaco against more than 70 victims since 2013 in which there is strong indication the FARC was responsible, including 12 killings, 3 disappearances, 6 cases of attempted forced recruitment, and 5 cases of torture, among other types of abuse. HRW, *Colombia: FARC Battering Afro-Colombian Areas*, 30 July 2014, <http://www.hrw.org/news/2014/07/30/colombia-farc-battering-afro-colombian-areas>. In February 2014, 43 community board members of the *Rescate Las Varas* (in the municipality of Tumaco, Department of Nariño) were forced to flee to Bogotá in search of protection. VerdadAbierta.com, *Violencia, impunidad y silencio imperan en Tumaco*, 5 August 2014, <http://www.verdadabierta.com/victimas-seccion/desplazados/5397-violencia-impunidad-y-silencio-impera-en-tumaco>. In May 2014 two of the leaders were tracked down and killed. Washington Office on Latin America, *WOLA Calls Attention to Human Rights Violations against Afro-Colombian Groups*, 1 May 2014, <http://www.wola.org/es/node/4509>. See also, US DoS, *2013 Human Rights Report*, p. 43 et seq. The departments with the highest percentage of Afro-Colombian residents experienced some of the worst political violence, such as Buenaventura: HRW, *The Crisis in Buenaventura*; Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014. Afro-Colombian and indigenous communities along the Pacific Coast (Valle de Cauca, Nariño, Chocó and La Costa Caucana) face heightened protection risks due to violent territorial disputes between demobilized paramilitary successor groups as the *Urabeños*, *Rastrojos* and *La Empresa*. In 2013, their confrontations resulted in 27 large-group displacements, 11 in the first four months of 2014. In 2009, Colombia's Constitutional Court found that the fundamental rights of displaced Afro-Colombian population were being massively and continuously ignored, and identified Buenaventura as an emblematic case. HRW, *The Crisis in Buenaventura*, p. 5. Societal discrimination against indigenous persons and Afro-Colombians may restrict the ability of these groups to exercise their rights. US DoS, *2014 Human Rights Report*. See also IACHR, *Preliminary Observations of the Inter-American Commission on Human Rights After the Visit of the Rapporteurship on the Rights of Afro-Descendants and Against Racial Discrimination in the Republic of Colombia*, OEA/Ser.L/V/II.134, 27 March 2007, cited in HRW, *The Crisis in Buenaventura*.

¹⁹¹ As a response to *Ruling No. 05* of 2009 issued by the Constitutional Court on 26 January 2009, <http://www.refworld.org/docid/49cbabc2.html>, the national government presented an analysis of the impact of drug trafficking on afro-descendant communities. A description is presented for the demographic distribution of the population. See: Programa presidencial de derechos humanos, *Impactos de la guerra, el narcotráfico y la violencia en la población afrocolombiana 2000-2011*, 2011, <http://historico.derechoshumanos.gov.co/Prensa/Comunicados/2011/Documents/informe-afro-web.pdf>.

¹⁹² The increase of the impact of violence in the Pacific Coast is evidenced in the Advisory for Human Rights and Displacement, CODHES, *Document CODHES No. 26 of 2013. Humanitarian Crisis in Colombia persists. The Pacific in dispute*, <http://www.lwfcolumbia.org.co/sites/default/files/image/310513%20Informe%20%20desplazamiento%202012.pdf>. See also risk reports by the Ombudsman's Office – Structural Report on the Pacific Coast in Cauca. Defensoría del Pueblo, *Informe estructural situación de riesgo por conflicto armado en la Costa Pacífica Guacana Municipios de Guapi, Timbiquí y López de Micay*, April 2014,

concern over the industrial mining activities and other elements of extractive economies being implemented in violation of ethno-territorial rights.¹⁹³

An increase in violence and, notably, murders of Afro-descendant individuals has been observed in areas in the Pacific Coast. This increase is reportedly caused by an intensification of drug trafficking activities, the expansion of crop hectares used for coca cultivation, as well as disputes among armed groups following the demobilization of paramilitary groups.¹⁹⁴ The IACHR has expressed concern with regards to the increase in assassinations and attacks against civilian populations in rural and urban areas and the heightened urban violence against youth from displaced families.¹⁹⁵ The IACHR has reported that the risks faced by Afro-descendant populations are related to attempts to defend their territories, the increase in violence in the largest urban settlements on the Pacific coast (e.g. Buenaventura,¹⁹⁶ Istmina, Quibdó and Tumaco¹⁹⁷), and vulnerabilities resulting in displacement to large host cities (e.g. Cali, Soacha or Bogotá), where populations from the Pacific Coast traditionally seek refuge.¹⁹⁸

The Constitutional Court undertook a more comprehensive analysis of the risks affecting the Afro-descendant population in Colombia. The Court described the situation in Nariño as a scenario of generalized violence.¹⁹⁹ The Court furthermore emphasized that different armed actors and other economic agents are exerting pressure over leaders to cooperate with the development of certain types of economic activities, in particular, mine exploitation and palm oil monoculture projects. The Court recognized these pressures as a “cross-cutting factor [...] specifically affecting collective and ancestral territories in the department of Nariño”.²⁰⁰ The defence of territory and the implementation of self-governance over collective territories by Community Councils²⁰¹ has become increasingly difficult, given such pressures from different armed groups who are seeking to control these territories.²⁰² The Court noted that the collective impact of such factors has manifested itself “amongst

<https://www.humanitarianresponse.info/system/files/documents/files/IERCostaPacificaCaucana2014.pdf>, Defensoría del Pueblo, *Crisis humanitaria en Chocó: Diagnóstico, valoración y acciones de la Defensoría del Pueblo*, 2014, <http://www.defensoria.gov.co/public/pdf/crisisHumanitariaChoco.pdf>.

¹⁹³ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 626.

¹⁹⁴ According to the study “Impacts of war, drug trafficking and violence against Afro-Colombian population 2000-2011”: “the region was highly affected by organised crime: between 2003 and 2006 paramilitary groups demobilised. Even though this decreased homicidal violence on a national perspective, in areas inhabited by Afro-Colombians, especially in the Pacific coast, Lower Cauca and at the south of Córdoba, violence increased as a result of disputes between organised criminal gangs that serve drug traffickers”. See: Human Rights Observatory from the Presidency: Programa presidencial de derechos humanos, *Impactos de la guerra, el narcotráfico y la violencia en la población afrocolombiana 2000-2011*, 2011, <http://historico.derechoshumanos.gov.co/Prensa/Comunicados/2011/Documents/informe-afro-web.pdf>. According to the Vice-Presidency, “the transfer of crop areas from the south of the country (mainly the departments of Caquetá, Putumayo and Guaviare) to the Pacific region supports the heightened violence levels in territories mainly inhabited by Afro-Colombians”. Programa presidencial de derechos humanos, *Impactos de la guerra, el narcotráfico y la violencia en la población afrocolombiana 2000-2011*, 2011, <http://historico.derechoshumanos.gov.co/Prensa/Comunicados/2011/Documents/informe-afro-web.pdf>, para. 3.2.1. According to this report, crop areas in the Pacific Coast multiplied from 14,883 hectares in 2005 to 27,387 in 2008, and to 21,483 in 2010. Similarly, while in 2011 the coca planted in collective territories entitled to Community Councils accounted for 1 per cent of the total, in 2011 it grew to 21 per cent as a result of the pressure exerted by armed groups that were planting coca within increasingly more Afro-Colombian territories.

¹⁹⁵ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 626.

¹⁹⁶ Regarding the situation in the cities at the Pacific Coast, see HRW, *The Crisis in Buenaventura*, and its update: HRW, *Colombia: New Killings, Disappearances in Pacific Port*, 4 March 2015, <http://www.refworld.org/docid/54fd78b34.html>.

¹⁹⁷ In relation to the crisis in Tumaco, see HRW, *The Crisis in Buenaventura*.

¹⁹⁸ El Espectador, *Alerta en Soacha por el aumento de desplazados, especialmente de Buenaventura*, 5 April 2014, <http://www.elespectador.com/noticias/nacional/alerta-soacha-el-aumento-de-desplazados-especialmente-d-articulo-485092>.

¹⁹⁹ Constitutional Court, *Ruling No. 073/14*, 27 March 2014, <http://www.corteconstitucional.gov.co/relatoria/autos/2014/a073-14.htm>.

²⁰⁰ The Court concluded that several findings highlighted in Ruling No. 05 of 2009 were still taking place in the department of Nariño five years later. Constitutional Court, *Ruling No. 073/14*, 27 March 2014, <http://www.corteconstitucional.gov.co/relatoria/autos/2014/a073-14.htm>, para. 11. See Constitutional Court, *Ruling No. 05/09*, 26 January 2009, <http://www.refworld.org/docid/49cbabc2.html>.

²⁰¹ Colombia’s legislation recognised the process of ancestral settlement undertaken by Afro-Colombian communities and issued collective property titles denominated collective territories. The inhabitants of these territories are organised in Community Councils, which exercise government over the collective territory and administer it through an Action Board. See: *Ley No. 70 de 1993 por la cual se desarrolla el artículo transitorio 55 de la Constitución Política*, 27 August 1993, <http://www.refworld.org/docid/46d59b7a2.html>.

²⁰² According to the Constitutional Court to force the development of projects, mainly those of palm oil monocultures and mine exploitation, within collective and ancestral territories inhabited by Afro-Colombian communities on the Pacific Coast, several armed actors with direct interests (given their role in exploiting the product) or indirect interests (through the collection of *vacunas* (bribes)), usually result in community leaders being marked as military targets until their “consent” is obtained. Hence, resulting from specific dynamics within territories distorting the nature and goal of the previous consultation process, community leaders and representatives have become exposed

others through massive displacements of members of the Community Council Alto Mira and Frontera in 2008²⁰³ and of members of the Government Board from the Community Council Rescate Las Varas in 2013”.²⁰⁴ In relation to other communities, the Court reported that armed groups have exerted pressure and threatened community leaders in order to gain control over Government Boards, and in some cases they have formed new Boards. Hence, local governance and leadership structures have been weakened and the autonomy of ethnic communities’ reduced.²⁰⁵ Similar threats were reported in 2013 in the Community Council La Caucana, near to Buenaventura.²⁰⁶ The creation of a new Community Action Board was also observed in the region of Urabá in 2014, affecting the Community Council Pedeguita Mancilla where persons opposing the changes were threatened.²⁰⁷

The Constitutional Court emphasized its concern that threats received by the Afro-descendant community are connected with gold extraction activities.²⁰⁸ The IACHR expressed concern over violence linked to the installation of gold extraction machinery.²⁰⁹ Afro-descendant communities have also voiced their concerns over the interference of external actors – such as the Government and armed groups²¹⁰ – in the organizational processes²¹¹ as the mining process starts, violence during the mining process, the restitution of territories (overcoming environmental damage to the collective territory) and military operations meant to destroy mining machinery.²¹²

to pressures exerted by violent actors who seek to impose themselves by force. See: Constitutional Court, *Ruling No. 173 of 2014*, 27 March 2014, <http://www.corteconstitucional.gov.co/relatoria/autos/2014/a073-14.htm>, p. 22, para. 19.

²⁰³ Centro de Investigaciones Sociojurídicas (CIJUS), et. al., “*Buried rights: Ethnic and farmer communities in Colombia, nine case studies*”, Julieta Lemaitre (Comp), Bogotá, 2011, p. 39. Book on file with UNHCR.

²⁰⁴ Constitutional Court, *Ruling No. 073/14*, 27 March 2014, <http://www.corteconstitucional.gov.co/relatoria/autos/2014/a073-14.htm>, p. 23.

²⁰⁵ Constitutional Court, *Ruling No. 073/14*, 27 March 2014, <http://www.corteconstitucional.gov.co/relatoria/autos/2014/a073-14.htm>, para. 19. Pressure on Community Councils is not new nor exclusively affecting Afro-Colombian inhabited areas in Nariño; in 2010, the Constitutional Court intervened in relation to changes made to the Community Council in Curbaradó. See Constitutional Court, *Ruling of 18 May 2010*, http://centromemoria.gov.co/wp-content/uploads/2013/11/448_AUTO_CURVARADO_SUSPENSION.pdf. At least five people lost their lives in the context of the fight for control over the Community Council in Curbaradó: in 2008 Walberto Hoyos was murdered, in 2009 Manuel Moya, Graciano Blandon and his son were murdered and in January 2010 Argenito Díaz was killed, all within the framework of the existing tensions when defining the representative for the Community Council of Curbaradó. Amongst others, see: HRW, *The Risk of Returning Home*, pp. 29, 42, 48, 116-137; Constitutional Court, *Ruling of 18 May 2010*, http://centromemoria.gov.co/wp-content/uploads/2013/11/448_AUTO_CURVARADO_SUSPENSION.pdf.

²⁰⁶ The Community Council’s President, Demetrio López, was murdered on 23 February 2013 days after he was positioned as legal representative, following a failed attempt to create a new Action Board within the framework of a previous consultation process carried out for the construction of a double lane for the Buenaventura-Buga highway. See: La Silla Vacía, *El asesinato de Demetrio López: crónica de otra muerte anunciada*, 22 March 2013, <http://lasillavacia.com/historia-invitado/42497/destanthonny/el-asesinato-de-demetrio-lopez-cronica-de-otra-muerte-anunciada>, y Comisión intereclesial de justicia y paz, *Asesinado Demetrio López presidente de la Junta del Consejo Comunitario la Caucana*, 25 February 2013, <http://justiciapazcolombia.com/Asesinado-Demetrio-Lopez>.

²⁰⁷ UNHCR was informed by the Ombudsman’s Office of the actions undertaken in December 2014 to ensure protection measures by the National Protection Unit with the aim of protecting the leader’s life (and that of his family), who were threatened after resisting changes to be made to the Council. The Ombudsman’s Office also informed of the precautionary measures requesting to a Land Restitution Judge in Quibdó to avoid further affectations against the territory’s integrity as a result of changes within the Council’s administration. In relation to previous threats against leaders from this Community Council see: Corporación Nuevo Arco Iris, *Amenazas a reclamantes de tierra, paramilitarismo y operaciones ilegales empresariales*, 17 September 2013, <http://www.arcoiris.com.co/2013/09/amenazas-a-reclamantes-de-tierra-paramilitarismo-y-operaciones-ilegales-empresariales/>.

²⁰⁸ An example of this are the killing of 8 people and threats to members of the community council in La Toma (Cauca), in 2010. See: La Silla Vacía, *La Toma por el oro*, 21 August 2010, <http://lasillavacia.com/historia/17457>; In relation to the killings see: Semana, *Oro, violencia y muerte en Suárez, Cauca*, 8 April 2010, <http://www.semana.com/nacion/problemas-sociales/articulo/oro-violencia-muerte-suarez-cauca/115274-3>. Similarly, the illegal gold exploitation led the Land Restitution Unit (Unidad Restitución de Tierras) to request precautionary measures before a judge to prevent further effects on the territory governed by the Community Council. For the precautionary measures see: Juzgado primero civil del circuito especializado en restitución de tierras, *Restitución de tierras medida cautelar artículo 116 decreto 4635/2011*, 2 February 2013, https://www.google.com.co/url?sa=t&trct=j&q=&esrc=s&source=web&cd=1&ved=0CCAQFjAA&url=https%3A%2F%2Fwww.verdadabierta.com%2Fdocumentos%2Fnegocios-ilegales%2Ftierras%2F1081-restitucion-etnica-medida-cautelar-consejo-comunitario-renacer-negro-timbiqui-cauca&ei=UMMbVfCOcbZaqbOgegH&usq=AFQjCNGJQISBY4OB_khAdzcdNV4zUjpkw&cad=rja. See also, generally, Unidad Restitución de Tierras, <http://restituciondetierras.gov.co>.

²⁰⁹ See IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 654.

²¹⁰ AFRODES, *Re-victimización*, August 2010, http://issuu.com/afrodes/docs/re-victimizaci_n_2.

²¹¹ “Organizational processes” refers to the series of activities carried out to regain, preserve and develop the Afro-descendants’ own rights and cultural identities. See Art. 41 of *Ley No. 70 de 1993 por la cual se desarrolla el artículo transitorio 55 de la Constitución Política*, 27 August 1993, <http://www.refworld.org/docid/46d59b7a2.html>.

²¹² In March 2015 authorities destroyed with explosives the machinery being used for gold extraction. Communities manifested their concern over the risks associated to the authorities’ operations in undertaking the correspondent destruction. See: Cococauca, *La minería con maquinaria pesada incendiada por la fuerza pública sobre territorios colectivos en la costa pacífica de cauca*, 15 March 2015, <http://cococauca.org/2015/03/15/la-mineria-con-maquinaria-pesada-incendiada-por-la-fuerza-publica-sobre-territorios-colectivos-en-la-costa-pacifica-de-cauca/>.

The magnitude of the impact these external actors have on the organizational process is reflected in the human rights analysis issued by the Asociación Nacional de Afrodescendientes Desplazados, or National Association for Displaced Afro-descendants (AFRODES). At least 17 of the homicides that took place between 2008 and August 2010 were related to the defence and restitution of territories or to the promotion of cultural traditions, mainly in marginalized urban areas. For example leaders in these areas who have sought to protect the youth in their communities from being recruited or used by armed groups have been killed.²¹³ In addition, 22 homicides were reported alongside cases of threats, attacks, and sexual violence against persons linked to organizational processes within Afro-descendant communities.²¹⁴ In AFRODES' opinion, several Afro-descendant leaders, particularly those who are engaged in the defence of their communities and territorial rights, have been systematically persecuted and murdered. They therefore demand protection by the State.

Depending on the particular circumstances of the case, UNHCR considers that individuals belonging to the Afro-descendant population may be in need of international refugee protection on the basis of race, (imputed) political opinion, or on the basis of other Convention grounds.

²¹³ See report on leaders' human rights and Afro-Colombian communities' organizational processes: AFRODES, *Re-victimización*, August 2010, http://issuu.com/afrodes/docs/re-victimizaci_n_2.

²¹⁴ AFRODES, *Re-victimización*, August 2010, http://issuu.com/afrodes/docs/re-victimizaci_n_2.

4. **Persons in professions susceptible to extortion, including agricultural workers and small landowners, peasant farmers,²¹⁵ as well as persons involved in informal and formal commerce such as tradesmen, public transport workers, taxi drivers, and street vendors²¹⁶**

The number of victims of extortion is reported to be 2.5 times higher between 2010 and 2013 than in previous years.²¹⁷ Extortion has reportedly become a significant source of funding for all armed actors, particularly in connection with illegal mining and drug trafficking operations.²¹⁸

According to the analysis carried out by the Fundación Ideas para la Paz (FIP) extortion has increasingly become a fast and efficient funding source for the activities of criminal organizations. The underlying factors connected with the rise in extortion are: (1) weak governance in zones of crime and areas where armed groups operate; (2) a decrease in financial resources obtained through

²¹⁵ For peasant farming communities, see Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 1. See also IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 1154. Reportedly corrupt officials have handed over state-owned land meant for peasant farmers to landowners, companies, NAGs and allegedly corrupt politicians and businesspeople. Some notaries were allegedly responsible for “legalizing” lands bought from peasant farmers for below market rates and through often violent pressure, or legalizing the transfer of ownership of land which had, because of the conflict, been abandoned or its occupants forcibly displaced. In some cases, landowners reportedly evicted the peasant farmers working on their land to prevent them claiming ownership of it. Amnesty International, *Colombia: A land title is not enough: Ensuring sustainable land restitution in Colombia*, AMR 23/031/2014, 27 November 2014, https://www.amnesty.nl/sites/default/files/public/land_restitution_eng.pdf, p. 21.

²¹⁶ See, e.g. Ombudsman's Office, *Persiste el riesgo de violaciones de DDHH por cuenta del conflicto en el 10% de los municipios del país*, 4 October 2014, <http://www.defensoria.gov.co/es/nube/noticias/2326/Persiste-el-riesgo-de-violaciones-de-DDHH-por-cuenta-del-conflicto-en-el-10-de-los-municipios-del-pa%C3%ADs-D%C3%ADA-Nacional-de-los-Derechos-Humanos-Defensor%C3%ADa-del-Pueblo.htm> (noting bribes and extortion of small businesses). A large percentage of Colombian asylum-seekers in Ecuador were involved in informal and formal commerce before flight, corroborating strategies used by armed groups, both traditional and NAGs, to control licit and illicit economies. Reportedly, NAGs have also targeted persons working in the informal or formal economy. Street vendors, public transport employees, auto mechanics and messengers have reportedly been forced to pay a *vacuna* (bribe) to different armed groups in the city. Since these persons do not have leadership profiles, they do not benefit from national protection mechanisms as stipulated in Decree 4912 of 2011 [See above, Section II.C.1]. Information available to UNHCR. Community leaders from the Pacific coast ports of Tumaco and Buenaventura report NAGs establishing “invisible borders” between neighbourhoods and extorting anyone from large businesses to market vendors: NRC/IDMC, *Colombia: Displacement continues despite hopes for peace*, 16 January 2014, <http://www.internal-displacement.org/americas/colombia/2014/displacement-continues-despite-hopes-for-peace>. See also reports of extortion and control of economic activities, with references to motorcycle taxis and street vendors, individuals working on construction sites, in larger stores or businesses, and business people, in: HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances-pacific-port>, pp. 9-10. This report also documents the disappearance of a motorcycle taxi driver (the case of “Pedro” on p. 5). See also: “the war reached its boiling point this year in part due to constant extortion affecting port vendors and merchants”, in Vice News, *Chopping Houses, Fears of Witchcraft Leave Trail of Dismembered Bodies in Buenaventura*, 20 December 2014, <https://news.vice.com/article/chopping-houses-fears-of-witchcraft-leave-trail-of-dismembered-bodies-in-buenaventura>. For a report of a butcher being killed for reason of not having paid extortion money, see: Foreign Policy, *The Forgotten Streets*, 8 January 2015, <http://foreignpolicy.com/2015/01/08/the-forgotten-streets-buenaventura-farc-colombia-port-gangs-violence/>. The FARC and paramilitary successor groups have been responsible for widespread extortion in Tumaco, with victims ranging from large businesses to informal street vendors, as well as community council governments, according to victims, business leaders, and justice officials. HRW, *Colombia: FARC Battering Afro-Colombian Areas*, 30 July 2014, <http://www.hrw.org/news/2014/07/30/colombia-farc-battering-afro-colombian-areas>. See also: “According to a Colombian business federation, 90 percent of small business owners in the Medellín area are victims of extortion” in Kyra Gurney, *Few Escape Extortion in Medellín, Colombia*, InSight Crime, 16 September 2014, <http://www.insightcrime.org/news-briefs/few-escape-extortion-medellin-colombia>. See also: Natalie Southwick, *Colombia Micro-Extortion Targets Teachers, Bicycle Taxi Drivers*, InSight Crime, 23 September 2013 <http://www.insightcrime.org/news-briefs/colombia-micro-extortion>.

²¹⁷ According to the Bases for the Development Plan, the rate of victims went from 3 per 100,000 residents to 7.6. See National Department of Planning, *Bases del plan nacional de desarrollo 2014-2018. Todos por un nuevo país*, 2014, <https://colaboracion.dnp.gov.co/CDT/Prensa/Bases%20Nacional%20de%20Desarrollo%202014-2018.pdf>. See for example: Ministry of Defence, *Memorias al Congreso 2012-2013*, 2013, <http://www.mindefensa.gov.co/irj/go/km/docs/Mindefensa/Documentos/descargas/Prensa/Documentos/memorias2012-2013.pdf>; according to Fundación Ideas para la Paz, “the real dimensions of the crime are not known because a high number of cases are not reported, whether it is because of the difficulties of reporting for the victims or for fear of possible attacks or retaliations”. FIP, *Guía práctica para enfrentar el delito de la extorsión desde la empresa privada*, 2012, <http://cdn.ideaspaz.org/media/website/document/52f2662736952.pdf> (hereafter: FIP, *Guía práctica*, 2012). Interview with General Humberto Guataviza on 17 March 2013, as Commander of the Anti-extortion and Kidnap group, GAULA, of the National Police, in *El Nuevo Siglo, Delito de extorsión se extiende como plaga*, 17 March 2013, <http://www.elnuevosiglo.com.co/articulos/3-2013-delito-de-extorsion-se-extiende-como-plaga.html>. A recent study draws the attention to a rise in the reporting of extortion: during 2014, on average 13 cases of extortion were reported daily. According to its findings, the reasons for this sharp increase are rise in reporting, the intensification of extortion as a tool of illegal funding – compared to other modalities, such as kidnappings – and the lack of effectiveness of the authorities. See *El Tiempo, Durante el 2014 se registraron 13 denuncias diarias por extorsiones*, 14 April 2015, <http://www.eltiempo.com/politica/justicia/extorsiones-en-colombia-informe-de-la-u-sergio-arboleda/15570995>.

²¹⁸ FIP, *Guía práctica*, 2012. See also *El Tiempo, Durante el 2014 se registraron 13 denuncias diarias por extorsiones*, 14 April 2015, <http://www.eltiempo.com/politica/justicia/extorsiones-en-colombia-informe-de-la-u-sergio-arboleda/15570995>. InSight Crime, *Average 13 Extortions per Day in Colombia in 2014: Report*, Michael Lohmuller, 15 April 2015, <http://www.insightcrime.org/news-briefs/colombia-averaged-13-extortions-per-day-in-2014-report>.

drug trafficking and kidnapping (as a result of successful government action in these areas); and (3) the difficulties faced by authorities' to identify the varied extortion methods introduced by perpetrators to avoid being caught. FIP described the use of extortion as "an efficient criminal activity with lower logistical and reputational costs than kidnapping", which "facilitates the possibility of committing the crime [of extortion] without consequences".²¹⁹

Extortion is commonly practiced in rural as well as urban areas, with higher intensity in the latter.²²⁰ Urban extortion is reported to be committed by armed groups as well as by common criminal groups,²²¹ or through alliances between these groups. The smaller groups, such as the Combos of Medellín, are reported to act as fee collectors for larger groups. This way, smaller groups can transfer extortion proceeds to larger groups once a payment routine with the extortion victim has been put in place.²²²

The National Police identified market squares²²³ and transport terminals²²⁴ as urban areas highly affected by extortion. Still, the practice is not restricted only to these areas; certain activities in urban and inter-municipal transport,²²⁵ taxi²²⁶ and motorcycle taxi services are particularly vulnerable to extortion. Persons working in formal and informal commerce, whether in small or large businesses, are affected and in some areas extortion has become routine. This is the case in Buenaventura, where large scale protests against the situation of violence and extortion have taken place.²²⁷ Other persons affected include public servants,²²⁸ especially teachers,²²⁹ livestock farmers, farmers, victims of previous violence who received assistance or reparation (which exposes them to further extortion), persons receiving state subsidies, and large business owners or their employees.²³⁰

Extortion is linked to the dynamics of the armed conflict and has therefore, silently, grown in all areas where armed groups have influence.²³¹ Armed groups use extortion in areas where they have territorial and social control, as a strategy to ensure control over the population.²³² In particular for

²¹⁹ See FIP, *Guía práctica*, 2012.

²²⁰ See FIP, *Guía práctica*, 2012, p. 11.

²²¹ See FIP, *Guía práctica*, 2012; Interview with General Humberto Guatavonza on March 17, 2013, as Commander of the Anti-extortion and Kidnap group, GAULA, of the National Police, in El Nuevo Siglo, *Delito de extorsión se extiende como plaga*, 17 March 2013, <http://www.elnuevosiglo.com.co/articulos/3-2013-delito-de-extorsion-se-extiende-como-plaga.html>. See also: Natalie Southwick, *Colombia Micro-Extortion Targets Teachers, Bicycle Taxi Drivers*, InSight Crime, 23 September 2013 <http://www.insightcrime.org/news-briefs/colombia-micro-extortion>.

²²² FIP, *Guía práctica*, 2012.

²²³ Corabastos is scourged by four gangs: in the name of "paras" and militias, commerce is extorted and drugs are sold. 19 persons died in the first half of 2012. El Tiempo, *A Corabastos la azotan cuatro bandas*, 24 June 2012, <http://www.eltiempo.com/archivo/documento/CMS-11970085>.

²²⁴ Ministry of Defence, *Memorias al Congreso 2012-2013*, 2013, <http://www.mindefensa.gov.co/irj/go/km/docs/Mindefensa/Documentos/descargas/Prensa/Documentos/memorias2012-2013.pdf>.

²²⁵ After the homicide of two drivers for refusing to pay extortion fees in Barranquilla, a strike was undertaken by drivers. AND, *700 buses 'frenados' por miedo a extorsiones*, 13 June 2013, <http://diarioadn.co/barranquilla/mi-ciudad/700-buses-frenados-por-miedo-a-extorsiones-1.63961>.

²²⁶ Taxi drivers of Montería report extortion: El Universal, *Taxistas de Montería denuncian extorsiones*, 26 March 2014, <http://www.eluniversal.com.co/regional/taxistas-de-monteria-denuncian-extorsiones-155394>.

²²⁷ *Semana*, *Buenaventura, la nueva capital del horror en Colombia*, 24 March 2014, <http://www.semana.com/nacion/articulo/buenaventura-la-nueva-capital-del-horror-en-colombia/381512-3>.

²²⁸ Public officials are threatened to pay extortion fees with administration moneys. El Planeta, *Funcionarios públicos estarían siendo amenazados a pagar extorsiones con dineros de la administración*, 6 August 2012, <http://www.elplaneta.co/articulo/funcionarios-p%C3%BAblicos-estar%C3%AD-siendo-amenazados-pagar-extorsiones-con-dineros-de-la-administraci%C3%B3n>.

²²⁹ See "Gang dedicated to extorting teachers in Cauca dismantled" El Espectador, *Desarticulan banda dedicada a extorsionar a docentes del Cauca*, 11 November 2014, <http://www.elespectador.com/noticias/judicial/desarticulan-banda-dedicada-extorsionar-docentes-del-ca-articulo-527089>, and "40 teachers in Sucre claim to be victims of extortion" El Heraldo, *40 docentes de Sucre dicen que son víctimas de extorsión*, 24 January 2015, <http://www.elheraldo.co/sucre/40-docentes-de-sucre-dicen-que-son-victimas-de-extorsion-181648>; according to the main public teachers' union, FECODE, more than 500 teachers were threatened, among other reasons for extortion: FECODE warns that there are more than 5,000 threatened teachers in the country, RCN Radio, *Fecode advierte que son más de 5 mil los docentes amenazados en el país*, 10 November 2014, <http://www.rcnradio.com/noticias/fecode-advierte-que-son-mas-de-5-mil-los-docentes-amenazados-en-el-pais-174086#ixzz3VA1goHev>.

²³⁰ FIP, *Guía práctica*, 2012.

²³¹ "Extortion is linked to the dynamics of the armed conflict: This type of extortion is "presented as a crime that has generated a silent and indiscriminate growth in all the departments, with clear influence of illegal groups, who manage it as a war tax". See FIP, *Guía práctica para enfrentar el delito de la extorsión desde la empresa privada*, 2012, <http://cdn.ideaspaz.org/media/website/document/52f2662736952.pdf>.

²³² The newspaper Verdad Abierta published a report about the situation in the mining area in the south of Bolívar. Strategies for financing and population control were described: InSight Crime, *Urabeños, control social y corredores de coca en Colombia*, 29 August 2014, <http://es.insightcrime.org/analisis/urabenos-control-social-corredores-coca-colombia>.

NAGs, extortion is one of their principal strategies to obtain resources and is predominant, in their operations. NAGs use common criminal groups, which are more visible in larger cities than in country areas, to collect extortion fees. Contrary to their predecessors, NAGs are reported to extort fees from owners of businesses (be they large, medium or small) and persons of all social sectors including livestock farmers, street vendors, owners of market plazas, urban transporters, motorcycle taxi drivers, money lenders.²³³

Extortion victims are reported to be fearful of reporting to the police, because the armed groups responsible for the extortion are present in the areas where the victims live or work. Also, the perpetrators usually know where they and their family members, including their children and parents, live. In addition, extortion victims know that, even if the perpetrators are incarcerated, they can continue to extort them from jail or use alliances outside to take revenge.²³⁴

Depending on the particular circumstances of the case, UNHCR considers that persons in professions susceptible to extortion, including but not limited to agricultural workers and small landowners, peasant farmers, persons involved in informal and formal commerce such as tradesmen, public transport workers, taxi drivers, and street vendors may be in need of international refugee protection on the basis of their (imputed) political opinion, or their membership of a particular social group based on the applicant's occupation (where disassociation from the profession is not possible or would entail a renunciation of basic human rights),²³⁵ or on the basis of other Convention grounds.

5. Local and regional governmental authorities²³⁶

Colombia is organized in 32 departments, each led by a governor who is the representative of all municipalities in the department. There are 1,101 decentralized municipalities in Colombia,²³⁷ headed by a mayor elected by popular vote, who is the most senior executive government official at the municipal level.

Persons working for and/or representing the local authorities have historically been victims of violence.²³⁸ Threats and assaults have also been directed towards ex-mayors and candidates for the

²³³ FIP, *Guía práctica*, 2012. See also El Tiempo, *Escuche cómo extorsionan desde la cárcel a comerciantes de Medellín*, 27 May 2015, <http://www.eltiempo.com/colombia/medellin/nueva-modalidad-de-extorsion-en-medellin/15835278>.

²³⁴ As described in the report by the Ministry of Defence, one of the strategies is to use cell phone signal blockers in jails to control extortion from there. Ministry of Defence, *Memorias al Congreso 2012-2013*, 2013, <http://www.mindefensa.gov.co/irj/go/km/docs/Mindefensa/Documentos/descargas/Prensa/Documentos/memorias2012-2013.pdf>.

²³⁵ In relation to applicants who claim a fear of persecution as a result of pursuing their occupation, including for example business owners, street vendors and public transportation staff who have been pressured to pay rent and other extortionate demands, it should be noted that requiring an individual to abandon his or her occupation in order to avoid persecution amounts to arbitrary deprivation of the right to work. A particular social group based on the applicant's occupation may be recognized where dissociation from the profession is not possible or would entail a renunciation of basic human rights. UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, <http://www.refworld.org/docid/4bb21fa02.html>, para. 39. See also J. C. Hathaway and M. Foster, *The Law of Refugee Status*, Cambridge University Press, 2014, pp. 456-458.

²³⁶ NAGs and the FARC reportedly threatened and killed government officials. US DoS, *2014 Human Rights Report*. It was reported that six municipal council members were killed between January and June 2013, compared with five from January to September 2012 (p. 32). US DoS, *2013 Human Rights Report*, p. 43. As at July 2014, the NPU provided protection to 279 mayors, seven governors, and 4,504 other persons including members of departmental congresses, council members, judges, municipal human rights officers known as personeros and other officials related to national human rights policies. See generally, US DoS, *2014 Human Rights Report*. Some local officials reportedly resigned because of threats from the FARC. See also Ombudsman's Office, *Persiste el riesgo de violaciones de DDHH por cuenta del conflicto en el 10% de los municipios del país*, 4 October 2014, <http://www.defensoria.gov.co/es/nube/noticias/2326/Persiste-el-riesgo-de-violaciones-de-DDHH-por-cuenta-del-conflicto-en-el-10-de-los-municipios-del-pa%C3%ADs-ADs-D%C3%ADA-Nacional-de-los-Derechos-Humanos-Defensor%C3%ADa-del-Pueblo.htm?ls-art0=15> (noting threats against public servants and leaders of political parties, amongst others).

²³⁷ See: <http://www.dane.gov.co/>.

²³⁸ Between 1986 and March 2003, 162 mayors, 420 council members and 529 local government officials were killed. See Jorge Giraldo, "Política y guerra sin compasión", *Contribución al entendimiento del conflicto armado en Colombia*, Comisión Histórica del Conflicto y sus Víctimas, February 2015, <https://www.mesadeconversaciones.com.co/sites/default/files/Informe%20Comisi%C3%B3n%20Hist%C3%B3rica%20del%20Conflicto%20y%20sus%20V%C3%ADctimas.%20La%20Habana%2C%20Febrero%20de%202015.pdf>.

position of mayor, as well as against council members and the secretariats of the mayor's offices, particularly those with greater responsibility in the management of resources.²³⁹

Public officials responsible for the distribution of resources - such as the members of the secretariats for planning, development, health, education, and public works - are targets of violence. Armed groups seeking control over these resources have been targeting those responsible for their distribution.²⁴⁰ In this context, threats against municipal *personeros* are also common. Municipal *personeros* have the double task of defending human rights at a local level and monitoring transparency in municipal management. The National Unit for Protection informed UNHCR that 140 employees of the municipal *personerías* in 123 municipalities had been threatened in 2014.²⁴¹ Given the difficult situation for municipal *personeros*, the Ombudsman solicited special security measures for them.²⁴²

In general, threats are reported to intensify at the local level during elections of new mayors and council members. According to the Electoral Observation Mission (MOE), during the elections of 2011, there were 170 pre-electoral violent incidents against local authorities and/or candidates. This was 15 per cent higher than the number of incidents recorded during the 2003 elections. Between October 2011 and January 2012, 32 elected mayors were threatened and one was assassinated.²⁴³ The level of violence against mayors and council members has reduced over time but is still significant; for example, while 77 council members and 12 mayors were murdered in the 2002 elections, nine council members and eight mayors lost their lives in the 2011 elections.²⁴⁴ According to the Federation of Municipalities, between 2012 and 2014, two mayors and one mayor who had not yet taken office were assassinated.²⁴⁵ In 2013, thirteen council members were assassinated and close to 500 reportedly received direct threats.²⁴⁶ In October 2015, elections are scheduled to take place for local authorities who will take office for four years as of 1 January 2016.

Depending on the particular circumstances of the case, UNHCR considers that individuals who work for or represent local and regional governmental authorities may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.

²³⁹ Information available to UNHCR.

²⁴⁰ There are no consolidated statistics for this, though some examples illustrate this reality, such as: the Secretariat for Development for Saravena Noticias RCN, *ELN se atribuye asesinato del secretario de Desarrollo de Saravena, Arauca*, 17 August 2014, <http://www.noticiasrcn.com/nacional-pais/eln-se-atribuye-asesinato-del-secretario-desarrollo-saravena-arauca>; or the Secretariat for Planning for Puerto Guzman: MiPutumayo, *Asesinado el Secretario de Planeación de Puerto Guzmán*, 4 November 2014, <http://miputumayo.com.co/2014/11/04/asesinado-el-secretario-de-planeacion-de-puerto-guzman/>; or the ex-Secretariat for Health for Barranquilla: ADN, *Asesinan a neurólogo Jorge Daza Barriga en la puerta de su casa*, 25 January 2014, <http://diarioadn.co/barranquilla/mi-ciudad/jorge-daza-barriga-es-asesinado-en-barranquilla-1.93499>.

²⁴¹ A higher number of threats was recorded in declarations by the president of Fenalper. According to Andrés Santamaría, the number of *personeros* threatened towards the end of 2014 exceeded 200. *El Herald*, *200 personeros están amenazados en Colombia*, 23 October 2014, <http://www.elheraldo.co/cesar/200-personeros-estan-amenazados-en-colombia-171115>.

²⁴² See press release by the Ombudsman: Ombudsman's Office, *Defensor del Pueblo advierte preocupante situación de personeros amenazados en Colombia*, 30 August 2013, <http://defensoria.gov.co/es/nube/noticias/619/Defensor-del-Pueblo-advierte-preocupante-situacion-de-personeros-amenazados-en-Colombia-personeros-amenazados-en-Colombia-Unidad-Nacional-de-Porteccion-de-Derecho-a-la-vida-humana>.

²⁴³ See report by the MOE: Misión de Observación Electoral (MOE), *Violencia política post electoral*, 2013, http://moe.org.co/home/doc/moe_mre/2013/violenciapolitica.pdf.

²⁴⁴ Histórico de estadísticas del Observatorio de Derechos Humanos de la Presidencia de la República, *Cifras violaciones a los derechos a la vida e integridad, 2002-July 2012*, 2012, <http://historico.derechoshumanos.gov.co/Observatorio/Documents/Cifras-Nacionales-2002-Julio-2012.pdf>.

²⁴⁵ Federation of Municipalities. Information received by UNHCR.

²⁴⁶ See interview with the director of the National Unit Protection: *El Colombiano*, "Si hay violencia contra concejales": Villamizar, 9 January 2014, http://www.elcolombiano.com/si_hay_violencia_contra_concejales_villamizar-EAEC_277164.

6. *Public officials involved in the administration of justice, including judges and attorneys, as well as witnesses and other stakeholders in judicial proceedings*²⁴⁷

Judges, attorneys, witnesses, lawyers and other persons who participate in legal proceedings and investigations relating to violations of human rights or international humanitarian law that involve members of the public security forces or paramilitary/post-demobilization groups and guerrilla groups, have been killed, kidnapped, subjected to torture, ill-treatment and forced disappearance.²⁴⁸ The same applies to those investigating corruption, drug trafficking, and land disputes.²⁴⁹

In the latter part of 2013, threats against at least 530 judges were reported.²⁵⁰ Interventions in politicized cases, in particular on land restitution, have generated fear among judges. Judges belonging to the recently created jurisdiction for land restitution demanded increased protection from the State in response to increased use of threatening flyers.²⁵¹ In response, the Unit for National Protection established special protection schemes for 15 magistrates and 36 restitution judges.²⁵² According to the IACHR, the State does not guarantee the security of its judges, magistrates, attorneys and public defenders against all kinds of pressures, including attacks and threats aimed at their relatives or meant to destabilize their lives and future careers.²⁵³

The Ombudsman has also reported murders of and threats to public defenders. However, investigations into reported incidents against public defenders often pose significant difficulties due to the nature of their work. Public defenders exercise duties related to penal law and the defence of criminal cases both in their public ex officio function and as private lawyers; threats may relate to one or both of these activities.²⁵⁴ In October 2014, two killings, one attack and several threats against public defenders were registered in the departments of Antioquia,²⁵⁵ Caldas,²⁵⁶ Cauca²⁵⁷ and Nariño.²⁵⁸

²⁴⁷ See, e.g. National Ombudsman Office employees. According to the FENALPER, the country's main association created to protect the rights of public servants, 44 public sector employees received threats in 2013. Similarly, the Ombudsman's Office recently issued an alert to 63 public officials in 109 municipalities who subsequently received threats. El País, *Cada vez más personeros son amenazados en Colombia: Defensoría*, 18 October 2013, <http://www.elpais.com.co/elpais/judicial/noticias/cada-vez-personeros-son-amenazados-colombia-defensoria>. Most of these persons suffered persecution when investigating cases involving corruption by public officials, advocating for the rights of IDPs, providing support for land restitution claims and processing cases involving the right to health and shelter. In the majority of cases, threats are communicated through text messages and pamphlets. Antioquia, Putumayo, Arauca, Caquetá, Cundinamarca and Chocó are among the most affected departments: Information available to UNHCR.

²⁴⁸ OHCHR, *Statement of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, as She Concludes her Visit to Colombia*, 18 September 2009, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/1F7B4D313A4CD130C1257636002794F5?opendocument>; UN Human Rights Council, *Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy. Addendum: Situations in Specific Countries or Territories*, A/HRC/8/4/Add.1, 28 May 2008, <http://www.unhcr.org/refworld/docid/484d18fa2.html>, pp. 60-62; Lisa Haugaard, *So Far to Go: Human Rights in Colombia*, Latin America Working Group Education Fund, April 2008, http://www.aflicio.org/issues/jobseconomy/globaleconomy/upload/human_rights_colombia.pdf, p. 4.

²⁴⁹ UN News Service, *Climate of Fear Leads to Impunity for Criminals in Colombia, UN expert warns*, 17 December 2009, <http://www.unhcr.org/refworld/docid/4b307e78c.html>; The José Alvear Restrepo Lawyers' Collective, *Corporación Colectivo de Abogados José Alvear Restrepo (CCAJAR), Colombian Lawyers' Defense of Land Rights Brings Them into the Line of Fire. Resisting Forced Displacement in Colombia*, 3 April 2009, <http://www.colectivodeabogados.org/spip.php?article1531>.

²⁵⁰ According to information reported by the organization "Corporation of Judges and Magistrates of the Country". La FM, *En 2013 han sido amenazados 530 jueces en el país*, 10 September 2013, <http://www.lafm.com.co/noticias/en-2013-han-sido-amenazados-145450>.

²⁵¹ According to information reported by the organization "Corporation of Judges and Magistrates of the Country": *Semana, Crecen amenazas contra jueces de restitución de tierras*, 23 March 2013, <http://www.semana.com/nacion/articulo/crecen-amenazas-contra-jueces-restitucion-tierras/337671-3>.

²⁵² El Espectador, *Jueces de restitución de tierras siguen en riesgo de muerte*, 1 March 2014, <http://www.elespectador.com/noticias/judicial/jueces-de-restitucion-de-tierras-siguen-riesgo-de-muert-articulo-477959>.

²⁵³ IACHR, *Verdad, Justicia y Reparación*, OEA/Ser.L/V/II.Doc49/13, <http://www.oas.org/es/cidh/docs/pdfs/justicia-verdad-reparacion-es.pdf>, para. 1172.

²⁵⁴ Information available to UNHCR.

²⁵⁵ The Ombudsman reported the murder of two employees and threats against 16. Ombudsman's Office, *Amenazas y atentados contra servidores públicos se extienden a la Defensoría*, 4 October 2014, <http://defensoria.gov.co/es/nube/noticias/1062/Amenazas-y-atentados-contra-servidores-p%C3%BAblicos-se-extienden-a-la-Defensor%C3%ADa-amenazas-atentados-funcionarios-de-la-Defensor%C3%ADa-Derecho-a-la-vida-Derechos-Humanos-Derecho-a-la-Integridad.htm>.

²⁵⁶ See homicide of Javier Valencia: Ombudsman's Office, *Defensoría condenó asesinato de Defensor Público en La Dorada (Caldas)*, 4 October 2014, <http://www.defensoria.gov.co/es/nube/noticias/241/Defensor%C3%ADa-conden%C3%B3-asesinato-de-Defensor-P%C3%BAblico-en-La-Dorada-%28Caldas%29-asesinato--Caldas-Defensores-P%C3%BAblicos-Derecho-a-la-vida.htm>.

²⁵⁷ See homicide of human rights defender Hilda Lasso: Ombudsman's Office, *Repudio por asesinato de defensora pública en Puerto Tejada*, 4 October 2014, <http://defensoria.gov.co/es/nube/regiones/997/Repudio-por-asesinato-de-defensora-p%C3%BAblica-en-Puerto-Tejada-defensores-p%C3%BAblicos-Puerto-Tejada-Defensores-P%C3%BAblicos-Derecho-a-la-vida-Cauca.htm>.

²⁵⁸ See attack against public defender Oscar Montufar in Pasto, Nariño: Ombudsman's Office, *Rechazo por atentado contra defensor público en Pasto*, 4 October 2014, <http://defensoria.gov.co/es/nube/regiones/2382/Rechazo-por-atentado-contra-defensor-p%C3%BAblico-en-Pasto>.

Protective / security measures allowing safe participation as a witness in judicial processes continued to be insufficient. Paradoxically, as the investigations and trials for crimes committed by armed actors strengthen as a result of the creation of the Unit for Human Rights of the prosecutor's offices, victims and witnesses of human rights violations are reported to face increased security risks.²⁵⁹

Similar observations apply to several of the cases under investigation for extrajudicial executions, also known as "false positives".²⁶⁰ In 2013, the IACHR ordered precautionary measures to protect the life of a soldier who was a witness to a "false positive" case. In early 2015, in a similar case, the Supreme Court of Justice ordered the transfer of a process to Bogotá in order to mitigate the impact of threats against witnesses, family members and lawyers of the victims.²⁶¹

Depending on the particular circumstances of the case, UNHCR considers that public officials involved in the administration of justice (in particular those involved in investigating: (i) criminal acts committed by one of the NAGs or guerrilla groups; (ii) human rights cases that involve members of the armed forces; (iii) corruption cases; (iv) drug-trafficking; and (v) land disputes), judges and attorneys, as well as witnesses (in particular witnesses in trials against members of NAGs or guerrilla groups) and any other stakeholders in judicial proceedings may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.

[Defensor% C3% ADa-del-Pueblo-Pasto-Nari% C3% B1o-Oscar-Dami% C3% A1n-Montufar-Andrade-Derecho-a-la-vida-Derechos-Humanos.htm](#).

²⁵⁹ See Dejusticia (NGO) speech (in the framework of the process that led to the T234 sentence of 2012) in Constitutional Court, *Sentencia T-234/12*, 21 March 2012, <http://www.corteconstitucional.gov.co/relatoria/2012/t-234-12.htm>.

²⁶⁰ Precautionary Measure No. 186 of 2013, <https://www.oas.org/es/cidh/decisiones/pdf/MC186-13Resolucion3-13esp.pdf>.

²⁶¹ See press release by the OHCHR, *Corte Suprema ordenó trasladar proceso por "falsos positivos" a Bogotá*, 27 January 2015, http://www.hchr.org.co/acnudh/index.php?option=com_content&view=article&id=5706:corte-suprema-ordeno-trasladar-proceso-por-qlfalsos-positivosq-a-bogota-&catid=95:ejecuciones-extrajudiciales&Itemid=91.

7. *Human Rights Defenders,²⁶² including land restitution claimants and their leaders²⁶³*

A solid network of human rights organizations exists within Colombia. Their dialogue with the authorities has improved recently with the creation of the Mesa Nacional de Garantías (National Board of Guarantees for the Defence of Human Rights) mechanism. This mechanism was developed to facilitate discourse with the Government as a response to reports of human rights violations.²⁶⁴ Despite such improvements, the situation for human rights defenders continues to be reason for concern. This is evidenced by the 2,611 human rights defenders for whom the National Unit for Protection has established special protection measures.²⁶⁵

Human rights defenders risk being stigmatized in the context of the armed conflict. Threatening flyers are reportedly used to incite fear and to prevent further reporting of the armed groups' actions by human rights defenders.²⁶⁶ At the same time, in some instances State authorities are reported to have wrongly concluded that legal activities carried out by human rights defenders were either illegal or tied to armed groups.²⁶⁷ The promotion of the full exercise and enjoyment of human rights results in a high degree of exposure, leaving human rights defenders increasingly vulnerable to threats, harassment, and violence. This is reflected by the 626 reported cases of aggression against the life or physical integrity of human rights defenders in 2014 against the 366 cases reported in 2013.²⁶⁸ Among

²⁶² See, e.g. IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, paras. 1140, 1154 and 1148; US DoS, *2014 Human Rights Report*. Cases of threats, surveillance, information theft, sexual violence and homicides against human rights defenders continue to be noted by observers. The majority of cases were reportedly attributable to NAGs, although FARC has also been accused of killings of and threats and other violations against human rights defenders. Defenders who work on extrajudicial execution cases have reportedly received threats from State actors. In high conflict areas, defenders – particularly indigenous leaders – continue to be subject to accusations of being part of guerrilla groups, as well as to stigmatization and arbitrary detention. UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 37. Human rights defenders, including community leaders, also continue to face grave dangers. According to the human rights NGO Somos Defensores, more than 70 human rights defenders were killed and over 200 threatened in 2013 alone, while at least 30 human rights defenders were killed and over 100 threatened in the first six months of 2014. Indigenous and Afro-descendant activists, land activists and community leaders were among the victims. Amnesty International, *Colombia: A Land Title Is Not Enough: Ensuring Sustainable Land Restitution in Colombia*, AMR 23/031/2014, 27 November 2014, https://www.amnesty.nl/sites/default/files/public/land_restiution_eng.pdf, p. 9. The Office in Colombia of the OHCHR recorded 40 killings of human rights defenders between January and September 2014. This compared to more than 70 human rights defenders killed in 2013, according to the NGO Somos Defensores. Indigenous and Afro-descendant leaders, land activists and community leaders were among the victims. Amnesty International, *Amnesty International Annual Report 2014/15 - Colombia*, 25 March 2015, <https://www.amnesty.org/en/annual-report-201415/>, p. 4. According to Somos Defensores, 37 defenders mostly rural activists and leaders, were killed between January and September 2012. UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 40. Of these 36 had not requested protection measures from the National Protection Unit, which is better known and more effective at protection defenders in urban areas. According to local NGOs, 70 human rights defenders, including community, indigenous and afro-descendent leaders were killed in 2013.

²⁶³ Specific cases provided in Chapter II of HRW, *The Risk of Returning Home*, from p. 52. See also: Amnesty International, *Un título de propiedad no basta por una: restitución sostenible de tierras en Colombia*, November 2014, https://www.es.amnesty.org/uploads/media/Land_restitution_report_SPA.pdf; Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 2. Between January 2012 and September 2013 more than 700 displaced land claimants and their leaders seeking land restitution through the Victims' Law report to authorities that they had received threats. HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 6. IDPs reportedly face threats and violence for attempting to reclaim their land. HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 5. Threats against human rights defenders, including those claiming their rights to land restitution and return, attributed to NAGs. UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, A/HRC/22/17/Add.3, 7 January 2013, <http://www.refworld.org/docid/511ce59d2.html>, para. 86. See also Section II.B.1.

²⁶⁴ Highlighted in IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 1135.

²⁶⁵ Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 8.

²⁶⁶ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 1132.

²⁶⁷ See IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 1133.

²⁶⁸ The Information System for aggression against Male and Female Human Rights Defenders in Colombia of the Somos Defensores Programme, SIADDDH, states it as such in: Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 46. According to this report, these acts of aggression include threats, attacks, killings, sexual violence, arbitrary detention, disappearances, arbitrary use of the penal system, theft of information.

the threats against different social movements reported in the first half of 2014, actions²⁶⁹ against members of certain organizations for the defence of human rights stood out.²⁷⁰ These organizations include the Permanent Committee for the Defence of Human Rights, the Inter-Congregation Commission for Justice and Peace, the Movement for Victims of the State (MOVICE) and regional organizations such as Regional Corporation for the Defence of Human Rights (CREDHOS). Threats against persons involved in judicial proceedings regarding extrajudicial killings, known as “false positives”, should also be noted.²⁷¹

Between 1996 and May 2012, at least 290 human rights defenders were reported to have been killed.²⁷² In the first half of 2013, a further 37 were recorded as having been killed,²⁷³ and then during 2014, 55 human rights defenders were reportedly killed.²⁷⁴ Among the victims were agricultural, community, social, trade union and land restitution leaders.²⁷⁵ The IACHR observed that, in addition to being killed, human rights defenders are generally victims of ill-treatment, and often have also been subjected to failed attempts of murder, as well as, physical attacks, sexual violence, arbitrary detention or threats. The IACHR has reported that attacks are often committed inside their homes and often in the presence of their children or family members.²⁷⁶

In 2015, organizations for the defence of human rights reported a 71 per cent increase in the number of incidents of aggression committed against their members between 2010-2014.²⁷⁷ In particular, the use of individual and general threats was 2.3 times higher in 2014 than in 2013.²⁷⁸ These threats come mainly from groups such as the Águilas Negras and Rastrojos, as well as other NAGs.²⁷⁹

Although the State is taking measures to protect human rights defenders from aggression, in some cases there is no institutional response or the response is not timely. For instance, of the 55 persons killed in 2014, 31 had reported receiving death threats to the authorities.²⁸⁰ While protective measures have been put in place for 2,611 persons, it is not always effective: five of the protected persons were

²⁶⁹ The Centre for Investigation and Education for the People (CINEP) refers to human rights violations including oppression, repression, abuse of authority, kidnappings, acts of social intolerance. See Centre for Investigation and Education for the People (CINEP), *Revista Noche y Niebla No. 49*, January-June 2014, <http://www.nocheyniebla.org/node/99>.

²⁷⁰ See reports on the follow-up to the cases under the responsibility of the CINEP, *Revista Noche y Niebla No. 49*, January-June 2014, <http://www.nocheyniebla.org/node/99>. For more information on “false positives” see footnote 138.

²⁷¹ Information compiled by CINEP. See: *Revista Noche y Niebla No. 49*, January-June 2014, <http://www.nocheyniebla.org/node/99>. For more information on “false positives” see footnote 138.

²⁷² A report on this by the Colombian Commission of Jurists was quoted in IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>. In the Colombian Commission of Jurists report it is indicated that in the first semester of 2012, at least 63 human rights defenders had suffered some type of aggression, among these are highlighted 81 threats, 29 assassinations, 29 attacks, 17 arbitrary detentions, 3 alleged disappearances, 3 thefts and one case of sexual-based gender violence.

²⁷³ *Semana* magazine published a list of the cases recorded by Somos Defensores, with a description of each one of the cases. Available in: <http://www.semana.com/especiales/defensores-derechos-asesinados/index.html>.

²⁷⁴ According to Somos Defensores, the figures in 2014 (55) are lower than that recorded in 2013 (78): Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 50, but higher than the one recorded by the OHCHR in 2013 (39). See report: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-17-Add3_English.pdf, para. 70.

²⁷⁵ Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 51.

²⁷⁶ IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 1143.

²⁷⁷ According to the classification undertaken by the ‘Information System about aggression against male and female human rights defenders’, SIADDHH, by the programme Somos Defensores, included are: threats, assassinations, arbitrary detention, disappearances, arbitrary use of the criminal system, sexual violence, torture and theft of sensitive information. The report *La Divina Comedia* indicates an increase in the number of incidents of aggression; while in 2010, 174 incidents of aggression were registered, in 2013 this number rose to 366 and in 2014 it reached 626, which is 71 per cent higher than the number recorded in the previous year: see Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 50.

²⁷⁸ Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 49.

²⁷⁹ Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 60.

²⁸⁰ The report by the OHCHR notes that a delay in the adoption of measures is an additional risk factor: OHCHR-Colombia registered important delays in the implementation of protection measures by the National Protection Unit, thereby increasing the risk for defenders. These delays were mostly caused by lengthy bureaucratic procedures and insufficient and late budget allocations by the Ministry of Finance. OHCHR welcomes initiatives to increase differential and collective measures of protection, including the strengthening of the traditional “indigenous guards” mechanism. UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, 7 January 2013, A/HRC/22/17/Add.3, <http://www.refworld.org/docid/511ce59d2.html>.

reportedly killed despite protective measures being in place.²⁸¹ Furthermore, at least 3,621 requests for protection reportedly remained unanswered.²⁸² The absence of protection measures is further compounded by the fact that additional measures – such as judicial investigations and the identification of the causes of the risk – are not implemented or adequately addressed. Both the IACHR²⁸³ and the OHCHR²⁸⁴ have expressed concern over the level of impunity for crimes committed against human rights defenders. Local human rights organizations have also expressed concern, given the fact that the prosecutor’s office has not delivered “results in any cases”.²⁸⁵

Depending on the particular circumstances of the case, UNHCR considers that human rights defenders, including but not limited to land restitution claimants and their leaders, may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.

8. Journalists²⁸⁶

Since 1977, 143 cases of killings of journalists have been reported.²⁸⁷ In the context of the armed conflict, journalists are targeted for reasons related to their exercise of the right of freedom of expression, including for disclosing and disseminating information on the armed conflict, as well as issues related to drug trafficking, corruption, and more recently, land restitution.²⁸⁸ In the past five years, killings have frequently been related to journalists’ reporting of corruption by local authorities and to the dissemination of information on how NAGs operate.²⁸⁹ In some instances, journalists were reportedly targeted for reasons of having reported on sexual violence cases.²⁹⁰ In several cases, the

²⁸¹ Among the homicides of persons with protection measures, four were cases of land claimants and one was a journalist. See: Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, pp. 19-25.

²⁸² Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 8.

²⁸³ See IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, paras. 1195-1199.

²⁸⁴ UN Human Rights Council, *Annual report of the United Nations High Commissioner for Human Rights, Addendum: Situation of human rights in Colombia*, 24 January 2014, A/HRC/25/19/Add.3, <http://www.refworld.org/docid/5335418b4.html>.

²⁸⁵ “In addition to the worrying situation generated by this wave of threats, about to become a phenomenon, lies the scant importance that the public prosecutor’s office has given it. It has been more than eight years of reports and movements against this type of intimidation against social, political and human rights movements, and no investigator has yet given results in at least one case” (informal translation). Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>, p. 62.

²⁸⁶ See, e.g. Telesur, *Colombia’s Journalists Under Threat*, 27 January 2015, <http://www.telesur.net/english/news/Colombias-Journalists-Under-Threat-20150127-0050.html>; IACHR, *Violencia contra periodistas y trabajadores de medios*, 31 December 2013, http://www.oas.org/es/cidh/expresion/docs/informes/2014_04_22_Violencia_ESP_WEB.pdf [stating “en Colombia el índice de asesinatos de periodistas se ha reducido considerablemente. Entre 1995 y 2005 habrían sido asesinados en este país 75 periodistas. Entre 2006 y 2013 se habrían producido 14 asesinatos”]. See also: Fundación para la Libertad de Prensa (FLIP), *Informe sobre libertad de prensa durante los procesos electorales de 2014*, 2014, http://flip.org.co/sites/default/files/archivos_publicacion/Informe%20sobre%20libertad%20de%20prensa%20durante%20los%20procesos%20electorales%20de%202014.pdf. Cf. On 1 May 2013, unidentified gunmen opened fire against Ricardo Calderon, a leading investigative journalist who had just exposed in *Semana* magazine how army members convicted of atrocities were enjoying extravagant privileges at the Tolemaida military detention centre. HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 6.

²⁸⁷ See FLIP, *Periodistas asesinados*, <http://flip.org.co/es/cifras-indicadores/periodistas-asesinados>.

²⁸⁸ Reference to threats against journalists by the Anti-Restitution Group in: IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 938. See also FLIP, *Informe especial: El Doncello pierde su única voz de denuncia*, Luis Peralta, 18 March 2015, <http://flip.org.co/es/content/informe-especial-el-doncello-pierde-su-%C3%BAnica-voz-de-denuncia-luis-peralta>.

²⁸⁹ Among the cases reviewed by the FLIP are the death of Rodolfo Maya (2010), which was apparently related to his leadership in the Association of Indigenous Cabildos of Norte del Cauca, a role that he carried out from a community radio station. Also included are the deaths of Luis Eduardo Gómez (2011, Antioquia), for his investigations into new armed groups in Uraba, Guillermo Delgado (2012, Sucre), for his monitoring of flyers handed out by new armed groups, and Edison Molina (2013, Antioquia), for reporting local corruption. See: FLIP, *Periodistas asesinados*, <http://flip.org.co/es/cifras-indicadores/periodistas-asesinados>. See also CPJ, *Journalist Threatened after Reporting on Gangs in Colombia*, 16 March 2015, <https://cpj.org/2015/03/journalist-threatened-after-reporting-on-gangs-in-ph>.

²⁹⁰ See e.g. the case of journalist Jineth Bedoya, one of the most well-known journalists in the country. Christian Aid, *Sexual violence against women: A weapon of war in Colombia*, 3 December 2013, <http://www.christianaid.ie/whatwedo/partnerfocus/sexual-violence-against-women.aspx>. See also FLIP, *60 años de espionaje a periodistas en Colombia. Informe sobre el estado de la libertad de prensa en Colombia en 2014*, 9 February 2015, http://flip.org.co/sites/default/files/archivos_publicacion/Informe%20Anual%202014%20FLIP_0.pdf, p. 51. The IACHR called to the attention of the Colombian State the persecution problems that journalists have suffered in relations to their demand for justice. IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 938. See also, InSight Crime, *Periodistas colombianos cada vez más amenazados*, 22 January 2015,

authorities had established protective measures for the journalists, however some were reportedly killed within days after these measures were lifted.²⁹¹

According to the IACHR, the effect of intimidation is self-censorship.²⁹² In March 2014, 47 per cent of the 964 journalists interviewed confirmed that they have avoided publishing content over the past year because of fear for their lives, and 41 per cent because of fear of the presence of NAGs. Twenty-nine per cent of interviewees reported having been a victim of aggression as a result of information they had published.²⁹³ Between 2006 and 2014, at least 785 journalists received threats (433 of these were recorded during the last four years), including both direct threats and general flyers which listed the journalists' names. In the first few months of 2015, 15 new cases of threats against journalists have been reported.²⁹⁴

All actors involved in the conflict have reportedly engaged in violence against journalists in recent years. In May 2013, the chief of investigations of *Semana* magazine was attacked with a firearm when he was investigating irregularities in the main detention centre for military personnel accused of crimes including human rights violations.²⁹⁵ Journalists have been the target of violence by guerrilla groups, for example Elida Parra, who was kidnapped by the ELN in 2012.²⁹⁶

Depending on the particular circumstances of the case, UNHCR considers that journalists may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.

<http://es.insightcrime.org/analisis/periodistas-colombianos-amenazados>. See also FLIP, *60 años de espionaje a periodistas en Colombia. Informe sobre el estado de la libertad de prensa en Colombia en 2014*, 9 February 2015, http://flip.org.co/sites/default/files/archivos_publicacion/Informe%20Anual%202014%20FLIP_0.pdf, p. 98.

²⁹¹ In 2014, 114 journalists were under the protection of the NPU. The NPU had lifted the measures to protect Luis Carlos Cervantes days before he was killed. FLIP, *60 años de espionaje a periodistas en Colombia. Informe sobre el estado de la libertad de prensa en Colombia en 2014*, 9 February 2015, http://flip.org.co/sites/default/files/archivos_publicacion/Informe%20Anual%202014%20FLIP_0.pdf, p. 41. According to *El Tiempo*, in May 2015 around 100 journalists were under protection, *El Tiempo*, *En Colombia el periodismo se ejerce con escolta*, 3 May 2015, <http://www.eltiempo.com/multimedia/especiales/periodistas-asesinados-en-2014-en-colombia/15668395/1>. In the same report mentioned above, FLIP highlighted the inadequacies of the NPU's protection measures. The organization Somos Defensores reported that, days before Éndison Molina's homicide, the NPU had lifted the protection measures for this journalist. Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>. Likewise, the FLIP highlights the absence of a bodyguard by the National Police who had been assigned to Éndison Molina and Clodomiro Castilla at the time of the attack that cost them their life. See: FLIP, *Periodistas asesinados*, <http://flip.org.co/es/cifras-indicadores/periodistas-asesinados>; *El Espectador*, *Éndison denunció y encontró la muerte*, 8 February 2014, <http://www.elespectador.com/noticias/nacional/edinson-denuncio-y-encontro-muerte-articulo-473751>. For more recent cases see, for example, CPJ, *Journalist Threatened after Reporting on Gangs in Colombia*, 16 March 2015, <https://cpj.org/2015/03/journalist-threatened-after-reporting-on-gangs-in-.php>. In an interview in May 2015, FLIP director Pedro Vaca expressed concern over the admission by two journalists that attacks against them had been fabricated by the reporters themselves for fear, among other things, of having the protection from the NPU lifted. CPJ, *Fabricated Attacks by Colombian Journalists Mask Real Dangers*, 20 May 2015, <https://cpj.org/blog/2015/05/fabricated-attacks-by-colombian-journalists-mask-r.php>.

²⁹² IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 927. See also OHCHR Colombia, *La Oficina de la ONU para los Derechos Humanos expresa su preocupación por las amenazas en contra del periodista Gonzalo Guillén*, 6 May 2015, <http://www.hchr.org.co/publico/comunicados/2015/comunicados2015.php3?cod=50&cat=98>.

²⁹³ See IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>.

²⁹⁴ Calculations by UNHCR based on information from FLIP. FLIP, *Periodistas asesinados*, <http://flip.org.co/es/cifras-indicadores/periodistas-asesinados>. For the year 2014, see also Ombudsman's Office, *Defensor del Pueblo rechaza amenazas contra periodistas del Valle*, 29 September 2014, <http://www.insightcrime.org/images/PDFs/Defensordelpueblo.pdf>.

²⁹⁵ The investigations by *Semana* magazine became known as the Tolemaida Resort. See: *Semana*, *Tolemaida: El final de la novela*, 17 January 2015, <http://www.semana.com/nacion/articulo/tolemaida-el-final-de-la-novela/414938-3> and *Semana*, *Primeras decisiones de la Procuraduría por caso 'Tolemaida Resort'*, 2 July 2015, <http://www.semana.com/nacion/articulo/tolemaida-resortprimeras-decisiones-de-la-procuraduria/433438-3>. The IACHR highlighted the attack against the journalist in IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 932.

²⁹⁶ This case, together with the case of Romeo Langlois, French journalist kidnapped by the FARC in 2012, are reviewed in the aforementioned report by the IACHR *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, p. 387.

9. Trade union officials,²⁹⁷ including teachers²⁹⁸

Trade union officials continue to face significant security risks and threats to the right to life, even within the context of an overall decrease in the number of killings of trade union officials. Between 1994 and March 2012, 2,800 killings of trade union workers are reported to have taken place,²⁹⁹ with at least 654 trade union workers reportedly killed between 2002 and July 2012.³⁰⁰ The downward trend in killing of trade union workers is illustrated by the fact that in 2002, 196 trade union workers were killed, compared to 29 in 2011.³⁰¹ In 2013 the number of trade union worker killings was reportedly the lowest in 20 years.³⁰² Still, security risks for trade union workers remain significant.

In 2013, protective measures were in place for 1650 trade union workers.³⁰³ In the first semester of 2014, at least 5 trade union workers were victims of attacks, and two trade union headquarters were attacked with explosives.³⁰⁴ Reportedly, at least four trade union workers were assassinated in 2014.³⁰⁵

Many trade union members are teachers. Teachers have reportedly been forced to pay a share of their monthly salary to armed groups.³⁰⁶ They also must pay for security services and in some cases (e.g. in

²⁹⁷ See generally, e.g. Confederación General del Trabajo Colombia (CGT), *Informe de DDHH y registro de casos de sindicalistas víctimas CGT a mayo 2014*, http://www.cgtcolombia.org/proyectounioneuropea/images/1_Imagenes/Informe%20DDHH%20CGT-%20mayo%202014.pdf; HRW, *World Report 2015: Colombia*, January 2015, <http://www.hrw.org/world-report/2015/country-chapters/colombia>, p. 6; HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 1. According to the NGO, National Trade Union School (Escuela Nacional Sindical), 20 members of trade unions were killed by 11 December 2014; at least 27 were killed in 2013: Amnesty International, *Amnesty International Annual Report 2014/15 - Colombia*, 25 February 2015, <https://www.amnesty.org/en/annual-report-201415/>, p. 4; Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 2. Right-wing political parties reportedly stigmatize strike leaders as leftist collaborators. According to the *Marcha Patriótica* (a paramilitary-decimated left-wing political and social movement reconstituted in 2012, which has taken a lead role in organizing recent social protest movements), 29 of its activists have been assassinated since 2012, and three of its members were “disappeared”: *Semana*, *Marcha Patriótica se torna mortal*, 18 January 2014, <http://www.semana.com/nacion/articulo/asesinatos-de-miembros-del-movimiento-marcha-patriotica/371170-3>. See also US DoS, *2014 Human Rights Report*. Teachers continued to make up the largest percentage of union members and constituted the largest percentage of victims of violence by armed groups (11 educators killed between January and October 2013).

²⁹⁸ According to the Colombian National Ombudsman, in 2013 1,175 teachers faced protection risks in the country. <http://www.elespectador.com/noticias/politica/colombia-hay-1117-maestros-amenazados-articulo-460843>. Furthermore, in May 2014, the National Victims Unit reported that, since 1985, over 5,000 teachers had been victims of the conflict: 1,000 killed and 4,000 victims of threats or displacement. It also noted that approximately 70 per cent of teachers are displaced. National Victims Unit, *Más de 5.000 docentes son víctimas del conflicto armado en Colombia*, 15 May 2014, <http://www.unidadvictimas.gov.co/index.php/en/79-noticias/2316-mas-de-5000-docentes-son-victimas-del-conflicto-armado-en-colombia>. Eleven educators were reportedly killed between January and October 2013, compared with 14 between January and October 2012. For example, on 11 March 2013 unidentified armed men killed Mario Manuel Ruiz Tovar, a teacher in Las Victorias Rural Educational Center in the area of el Cedro, Nechi, Antioquia. As at October 2013, the Prosecutor General’s Office investigation was in its preliminary stage. US DoS, *2013 Human Rights Report*, p. 25. Threats and harassments reportedly caused many educators and students to adopt lower profiles and avoid discussing controversial topics. US DoS, *2014 Human Rights Report*. InSight Crime, *Colombia Micro-Extortion Targets Teachers, Bicycle Taxi Drivers*, 23 September 2013, <http://www.insightcrime.org/news-briefs/colombia-micro-extortion>. See also: “Colombia, for example, is one of the most dangerous places in the world to be an educator. Between 2009 and 2012, 140 Colombian teachers were murdered and more than 1,000 received death threats, according to government figures”, Global Coalition to Protect Education from Attack, *Attacking Education a War Tactic Globally: Colombia and Mexico Highly Impacted*, 27 February 2014, <http://www.protectingeducation.org/news/attacking-education-war-tactic-globally-study-shows-1>.

²⁹⁹ According to the study directed by Carlos Miguel Ortiz for UNDP. UNHCR, *Colombia: PNUD revela asesinato de unos 2.800 sindicalistas*, 13 March 2012, <http://www.acnur.org/t3/noticias/noticia/colombia-pnud-revela-asesinato-de-unos-2800-sindicalistas/>.

³⁰⁰ *Consejería Presidencial para los Derechos Humanos, Cifras Nacionales a Julio 2012 - Violaciones a los derechos a la vida e integridad*, July 2012, <http://historico.derechoshumanos.gov.co/Observatorio/Documents/Cifras-Nacionales-a-Julio-2012.pdf>.

³⁰¹ See historical registry of human rights abuses in: *Histórico de estadísticas del Observatorio de Derechos Humanos de la Presidencia de la República, Cifras violaciones a los derechos a la vida e integridad, 2002-July 2012*, <http://historico.derechoshumanos.gov.co/Observatorio/Documents/Cifras-Nacionales-2002-Julio-2012.pdf>.

³⁰² The government’s report was picked up by the IACHR: IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 194.

³⁰³ Reported in IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, para. 157. It was reported that 26 trade union workers were killed in 2013. See, for example, *Cambio Total*, *En 2013 aumentó la violencia contra el movimiento sindical colombiano. 26 sindicalistas asesinados*, 29 December 2013, <http://cambiototal-estadisticas.blogspot.ch/2013/12/escuela-nacional-sindical-ens-van-26-sindicalistas-asesinados-2013-colombia.html>; Equal Times Newsdesk, *Aumenta la violencia contra el movimiento sindical en Colombia*, 10 January 2014, <http://www.equaltimes.org/aumenta-la-violencia-contra-el?lang=en>. See also BBC, *Colombia: el país más peligroso para ser sindicalista*, 1 May 2013, http://www.bbc.com/mundo/noticias/2013/05/130430_colombia_sindicalismo_peligros_aw.

³⁰⁴ Information compiled by the Centre for Investigation and Education for the People, CINEP. See *Revista Noche y Niebla* No. 49, January-June 2014, <http://www.nocheyniebla.org/node/99>.

³⁰⁵ See Programa Somos Defensores, *La Divina Comedia*, 2015, <http://somosdefensores.org/attachments/article/132/la-divina-comedia-web-final.pdf>.

Cordoba and Putumayo) were forced by armed groups to facilitate the recruitment of children. Increased threats against teachers led the Ministries of Interior and Education to adopt Decree 1782 in August 2013 to regulate the relocation of teachers for security reasons.³⁰⁷ Teachers are entitled to benefit from protection by the National Protection Unit; a total number of 892 teachers were included in the protection program in 2013. NAGs and guerrilla groups reportedly killed, threatened and displaced teachers and their families for political and financial reasons; it is reported that teachers are often killed because they represent the only government presence in the remote areas where these groups operate and are trying to exert their control.³⁰⁸

Depending on the particular circumstances of the case, UNHCR considers that trade union officials, including but not limited to teachers, may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.

10. *Women with certain profiles or in specific circumstances*³⁰⁹

According to the Special Follow-Up Board of the T-025 Sentence of the Constitutional Court, women have been subject to systematic and non-incident violence during the armed conflict.³¹⁰ The Court considered in 2013 that this violence is intended to leave “a mark on the minds and bodies of women” as a warning by armed groups of the harm that can be inflicted to those who resist or oppose their socioeconomic interest or their social and territorial control.³¹¹ The Court further considered that violence against female human rights defenders serves as an example of the state of affairs regarding the situation of women’s rights and represents one of the most horrendous and terrifying chapters in the history of gender violence in the country.³¹² The Court identified violence against women who are human rights defenders or who are in leadership roles as strategically premeditated acts and, consequently, classified such violence as ‘systematic and non-incident’.³¹³

³⁰⁶ *Semana, Docentes, el nuevo objetivo de las ‘Bacrim’*, 8 March 2014, <http://www.semana.com/nacion/articulo/los-docentes-son-las-nuevas-victimas-de-las-bacrim/379680-3>. See also *El Espectador, En Colombia hay 1.117 maestros amenazados*, 27 November 2013, <http://www.elespectador.com/noticias/politica/colombia-hay-1117-maestros-amenazados-articulo-460843>.

³⁰⁷ *Decreto No. 1782 de 2013, Por el cual se reglamenta los traslados por razones de seguridad de educadores oficiales de las entidades territoriales certificadas en educación y se dictan otras disposiciones*, 20 August 2013, http://www.mineducacion.gov.co/1621/articulos-327651_archivo_pdf Decreto_1782.pdf.

³⁰⁸ According to the Colombian National Ombudsman, in 2013 1,175 teachers faced protection risks in the country. <http://www.elespectador.com/noticias/politica/colombia-hay-1117-maestros-amenazados-articulo-460843>. See also US DoS, *2013 Human Rights Report*, p. 25.

³⁰⁹ All parties to the conflict reportedly continue to be responsible for gender-based violence. Laws, resolutions, decrees and protocols exist to combat sexual violence but these are reportedly rarely implemented. Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 3. Including Judicial Ruling 092 of 2008, which called on the State to combat conflict-related sexual violence and impunity for such crimes. Women human rights defenders, including those working on sexual violence and impunity, continue to be threatened and killed. Amnesty International, *The Human Rights Situation in Colombia*, 13 February 2014, p. 3. A new law, signed by President Santos on 18 June 2014, could contribute to bringing to justice those suspected of criminal responsibility in conflict related crimes of sexual violence. Amnesty International, *Colombia: new law aims to address impunity for conflict-related crimes of sexual violence*, AMR 23/024/2014, 19 June 2014, <https://www.amnesty.org/en/documents/AMR23/024/2014/en/>. SGBV is reportedly widespread in Colombia. Lack of training and poor implementation of protocols reportedly create obstacles for women and girls seeking post violence care, with the result that many victims face delays in accessing essential medical services. Perpetrators of SGBV crimes are rarely brought to justice. HRW, *World Report 2014: Colombia*, January 2014, <http://www.hrw.org/world-report/2014/country-chapters/colombia>, p. 6. In 2012, HRW documented acts of sexual violence against displaced women leaders involved in a range of leadership activities. HRW, *The Risk of Returning Home*, p. 167 footnote 742, citing *Rights of Reach*. All parties to the conflict commit acts of sexual violence; however it has been suggested that in line with their internal rules and unlike the paramilitaries and NAG, the guerrillas appear not to use rape as a systematic tactic, but sexual slavery practices and forced abortion violate female FARC members’ rights to an unknown extent. ICG, *Peace at Last?*, p. 8. Constitutional Court, *Ruling No. 098 of 2013*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>, on the situation of women IDP leaders, including women campaigning for land restitution. HRW, *The Risk of Returning Home*, p. 48. See also IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, pp. 350-373.

³¹⁰ Constitutional Court, *Ruling No. 04 of 2009*, 26 January 2009, <http://www.refworld.org/docid/49cbab242.html>. See also, for example, NRC, *Buenaventura, Colombia: Brutal Realities*, September 2014, <http://www.nrc.no/arch/ img/9183706.pdf>.

³¹¹ Constitutional Court, *Ruling No. 098 of 2013*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

³¹² Constitutional Court, *Ruling No. 098 of 2013*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

³¹³ Constitutional Court, *Ruling No. 098 of 2013*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

Furthermore, the Court noted that despite issuing a warning in 2008 with regards to the extreme risk of violence against women, the situation continued to deteriorate.³¹⁴ Five years later, in Order 098 of 2013, the Court concluded that there was a growing trend of attacks against women, reflected in an increase in female human rights defenders having been killed.³¹⁵ More specifically, the Court concluded that there had been “an increase in the number of threats, incidents of persecution, and of physical and verbal aggression against women’s organizations and female leaders of displaced persons”, as well as “an increase in the number of acts of sexual violence against women”.³¹⁶ The deterioration of the situation appears to be associated with the fact that women have been increasingly seen as “exercising leadership in the promotion and defence of human rights”.³¹⁷ According to the Ombudsman, women are increasingly at risk of attacks owing to a greater visibility in the public sphere, the recognition of their role in the community and the strength they represent as a group.³¹⁸ Similarly, their participation in penal processes against demobilized paramilitary within the framework of the Law for Justice and Peace, whether by giving testimony or otherwise, as well as their participation in processes of land restitution, has exacerbated the risk level for women.³¹⁹

Evidence from different organizations and institutions referred to by the Constitutional Court has found that “when women continue with leadership activities, threats and harassment increase”,³²⁰ armed groups directly contact and make various threats against women with leadership roles or their family members. If these women refuse to leave their organizations or to stop reporting or denouncing violations, the armed groups “resort to physical attacks [...] increase the intensity, frequency and cruelty of psychological, physical or sexual aggression, in several cases leading to the death of these women or of their loved ones, after disrupting or destabilizing their mental, emotional or psychological health”.³²¹

Women cannot necessarily escape violence and threats by moving within the country. As highlighted in the court order 098 of 2013, the same armed group that made threats and imposed restrictions on women was commonly present in the area of displacement, be it urban or rural. This was especially true in urban areas, given that these are often on the periphery of large cities and experience a strong presence of armed actors, as well as in rural zones remaining under the control of armed groups.³²² Armed groups reportedly regularly interviewed displaced women before providing them with “permits” to settle in the zone of arrival and/or carry out any economic or informal commercial activity.³²³

In a more recent order by the Constitutional Court – Order 009 of 2015 – it found that sexual violence persists and is exacerbated in the framework of forced displacement and the armed conflict, with a

³¹⁴ Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>. According to the NGO Programa Somos Defensores, in the first trimester of 2015 the number of human rights defenders victims of attacks increased compared to the same period in 2014: 96 case between January and March 2014 against 295 (104 of which were women) cases in 2015. See Programa Somos Defensores, *Boletín trimestral SIADDHH - Agresiones contra Defensores(as) de Derechos Humanos en Colombia Enero – Marzo 2015*, April 2015, <http://www.somosdefensores.org/attachments/article/133/Boletin%20Enero-Marzo%20SIADDHH%202015.pdf>.

³¹⁵ See Constitutional Court, *Ruling No. 098/13*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

³¹⁶ See Constitutional Court, *Ruling No. 098/13*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

³¹⁷ See Constitutional Court, *Ruling No. 098/13*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

³¹⁸ Ombudsman’s Office, *Situation of differential impact of the conflict on women in the district of Cartagena. Thematic report*, September 2011, pg. 76-77, cited by the Constitutional Court in *Ruling No. 098/13*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>. In this ruling, the Court presented a classification of the motivations of the actors of violence, identifying: i) the need to eliminate leaders who represent obstacles to their present and future interests; ii) deterring organizational initiatives; iii) the elimination of the enemy, given the stigmatization that armed groups build against women’s organizations that they identify as the social support for the opposition group; iv) punishment for complaints and for participating in activities related to the rights to truth, justice and reparation. “Recently, this situation has been especially critical for male and female leaders who have been involved in or plan on being involved in land restitution”; v) retaliation on female leaders or communities for opposing the socioeconomic interests of the illegal armed actors “such as illegal crop cultivations, illegal crop processing and drug trafficking routes, custody of territories for the exploitation of economic mega projects, and control of routes for provisioning of supplies, among others. This characteristic becomes recurrent and continuous in the case of women human rights defenders who belong to indigenous, Afro-Colombian or farmer communities; vi) to demonstrate the bellicose and destructive capabilities against organizational processes; viii) as a mechanism to impose codes of conduct.

³¹⁹ HRW, *The Risk of Returning Home*.

³²⁰ Constitutional Court, *Ruling No. 098/13*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

³²¹ Constitutional Court, *Ruling No. 098/13*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

³²² Constitutional Court, *Ruling No. 098/13*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

³²³ Constitutional Court, *Ruling No. 098/13*, 21 May 2013, <http://www.corteconstitucional.gov.co/relatoria/autos/2013/a098-13.HTM>.

high probability of repetition.³²⁴ All the actors in the armed conflict are reported to have committed acts of sexual violence against women.³²⁵ In its 2015 Order, the Court describes the modus operandi of these groups: “i) the attack and intimidation of female human rights defenders, victims and land claimants’ leaders, ii) territorial expansion and social control, and iii) the substitution or suppression of the state’s authority in peripheral regions of the country”.³²⁶

According to information collected through the process of follow-up to Sentence T-025, the Constitutional Court concluded that “i) illegal armed actors have continued to commit acts of sexual violence against women; ii) these acts take place in contexts that include discrimination and gender-based violence; iii) they include all kinds of barbaric acts perpetrated by different armed actors against women; iv) they have also been perpetrated by non-armed actors, principally those belonging to networks close to the women who are displaced; vi) they have a high probability of repetition or of generating re-victimization; vii) they occurred with higher regularity in some departments or peripheral regions of the country; viii) the principal responsible parties include armed actors such as the paramilitary, the guerrillas, the armed forces and post-demobilization groups; ix) sexual violence has also been used as a weapon of war, given the intentions, modalities and occasions for its occurrence”.³²⁷

Victims of sexual violence have reported to UNHCR that they are fearful of reporting, principally out of mistrust of the authorities, fear of the presence of armed groups, and fear of retaliation.³²⁸ For example, the Constitutional Court has documented cases of women who were re-victimized after presenting allegations of sexual violence before the national prosecutor’s office, not only through being subjected to further sexual attacks, but also through new displacement.³²⁹ The Special Follow-Up Board of the Constitutional Court has reported knowledge of acts of aggression and threats committed against the defenders of these women and their families, on the basis of their activities and the support during criminal processes provided to female survivors of sexual violence.³³⁰ Such intimidation tactics against those defenders who are seeking to protect the rights of victims, further reinforces victims’ fears of reporting acts of sexual violence.

Depending on the particular circumstances of the case, UNHCR considers that women, in particular but not limited to women human rights defenders, women in social leadership positions and women who are members of indigenous groups or belong to the Afro-descendant community (see relevant other profiles), may be in need of international refugee protection on the basis of their membership of a particular social group (the particular social group of *women*, see relevant UNHCR guidance),³³¹ and/or their (imputed) political opinion, or on the basis of other Convention grounds.

³²⁴ According to the study by Doctors without Borders, cited by the Constitutional Court, 66 per cent of the 3,297 women assisted for sexual violence in the southern region of the country had already been victims of sexual violence in the past. Cited by Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³²⁵ The report by the Centro de Memoria Histórica (Centre for Historic Memory) describes different motivational factors that push actors in the armed conflict to commit these types of crimes. Department for Social Prosperity of the Presidency of the Republic of Colombia, Centre for Historic Memory, *¡Basta ya! Colombia: Memorias de guerra y dignidad*, August 2013, <http://www.centrodememoriahistorica.gov.co/descargas/informes2013/bastaYa/bastaya-colombia-memorias-de-guerra-y-dignidad-2015.pdf>, p. 77.

³²⁶ See Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³²⁷ See Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³²⁸ The UN Special Representative of the Secretary-General on Sexual Violence in Conflict stated that “the barriers for survivors to report and access justice are significant. This has resulted in under-reporting of sexual violence crimes.” *Statement by United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict Zainab Hawa Bangura: Breaking the Silence on Sexual Violence in Colombia*, 3 March 2015, <http://www.un.org/sexualviolenceinconflict/statement/statement-by-united-nations-special-representative-of-the-secretary-general-on-sexual-violence-in-conflict-zainab-hawa-bangura-breaking-the-silence-on-sexual-violence-in-colombia/>.

³²⁹ See Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³³⁰ See Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³³¹ See: UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, <http://www.refworld.org/docid/3d36f1c64.html>, and UNHCR, *Guidelines on International Protection No. 2: Membership of a Particular*

11. *Children with certain profiles or in specific circumstances, including in particular boys, and girls in areas where NAGs or guerrilla groups engage in underage recruitment*

Human rights abuses mostly affect children associated with artistic and cultural activities that armed groups perceive as threats to social control, children who oppose forced recruitment, children outside of the educational system, or students who get involved with income generation activities in the informal economy. None of these groups have access to national protection mechanisms.³³²

In late 2013, actions by armed groups were reported to have strongly affected children, especially in the departments of Antioquia, Caquetá, Cauca, Córdoba, Chocó, Nariño and Putumayo. According to an investigation carried out by the Taskforce for Resolution 1612 in Colombia, there were at least 400 serious violations of children's rights within the framework of the armed conflict, including forced recruitment, attacks and occupation of schools and the killing and maiming of children.³³³

As highlighted in the 2013 report of the Secretary General of the United Nations on children and armed conflict in Colombia, recruitment and use of children by non-State armed groups was widespread and systematic.³³⁴ It is a practice in which different groups are involved; cases of forced recruitment or use of children by the FARC and the ELN continued to be reported.³³⁵ NAGs are also reported to engage in the use and forced recruitment of children.³³⁶

Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees, 7 May 2002, HCR/GIP/02/02, <http://www.refworld.org/docid/3d36f23f4.html>.

³³² Information available to UNHCR. See also: US DoS, *2013 Human Rights Report*, p. 40.

³³³ UNICEF, *Annual Report 2013 – Colombia*, 29 May 2014, http://www.unicef.org/about/annualreport/files/Colombia_COAR_2013.pdf, p. 14. According to this report, no official figures exist regarding the number of children forcibly recruited by armed groups. See also UNICEF, *Entornos protectores para prevenir el reclutamiento de niñas, niños y adolescentes en Colombia*, 23 July 2013, <http://www.derechoshumanos.gov.co/Documents/130723-ENTORNOS%20PROTECTORES%20CD.pdf>. UNICEF reported the same issue for 2014: UNICEF, *Annual Report 2014: Colombia*, December 2014, http://www.unicef.org/about/annualreport/files/Colombia_Annual_Report_2014.pdf, p. 23. UN Security Council, *Children and Armed Conflict: Report of the Secretary-General*, 5 June 2015, A/69/926-S/2015/409, <http://www.refworld.org/docid/557abf904.html>, para. 222. See also IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, paras. 225 and 673. Para. 225: "the Commission considers that the crimes of sexual violence and recruitment of children remain invisible in the context of human rights violations investigations". Para. 673: "the Commission takes into account that the State has drafted a public policy on assistance and reparation to the victims of the conflict, including children". See also: Natalia Springer, *Como corderos entre lobos*, 2012, http://www.centrodehistoria.gov.co/descargas/informe_comoCorderosEntreLobos.pdf, p. 57 (noting potential abuse of demobilized child soldiers by government forces).

³³⁴ UN Security Council, *Children and Armed Conflict: Report of the Secretary-General*, 15 May 2013, A/67/845-S/2013/245, <http://www.refworld.org/docid/51b9864e4.html>, para. 173. Also, on forced recruitment, see USAID and IOM, *ABC sobre la prevención del reclutamiento de niños, niñas y adolescentes por parte de grupos armados organizados al margen de la ley y grupos delictivos organizados*, 2013, http://www.oim.org.co/component/docman/doc_download/432-abc-sobre-la-prevencion-del-reclutamiento-de-ninos.html?Itemid=. According to the Ministry of Defence, as of the end of 2014, 52 municipalities are at "high risk of forced recruitment of children". Ministry of Defence, *52 municipios en alto riesgo de reclutamiento ilícito de menores de edad*, 19 November 2014, http://cgfm.mil.co/rss-prensa/-/asset_publisher/wpQ1YHOwvyDI/content/52-municipios-en-alto-riesgo-de-reclutamiento-ilicito-de-menores-de-edad/pop_up?_101_INSTANCE_wpQ1YHOwvyDI_viewMode=print. Furthermore, it was reported that there have been warnings of forced recruitment of children in 30 departments. Caracol, *En el 90% del país se presenta reclutamiento de menores*, 8 April 2015, <http://www.caracol.com.co/noticias/regionales/en-el-90-del-pais-se-presenta-reclutamiento-de-menores/20150408/nota/2708993.aspx>.

According to its recent figures, the Colombian Institute for Family Welfare (Instituto Colombiano de Bienestar Familiar, ICBF) assisted 5,156 demobilized children between 1999 and 2013 [5,708 as of January 2015]. ICBF, *Infografía reclutamiento*, April 2014, <http://www.icbf.gov.co/portal/p/portal/RecursosWebPortal/Prensa/ABRIL%2016%20INFOGRAFIA%20RECLUTAMIENTO%20WEB.pdf>. See also Verdad Abierta, *¿Cuántos niños hay en la guerra?*, 23 February 2015, <http://www.verdadabierta.com/victimas-seccion/reclutamiento-de-menores/5629-cuantos-ninos-hay-en-la-guerra>. In its annual report for 2014, UNICEF notes that "[a]round 4,000 recruited children and adolescents were documented during 2013 in the report; 81 cases were verified in 25 departments of Colombia, in addition to the 342 children and adolescents demobilized from illegal armed groups reported by the Colombian Family Welfare Institute. These data underline that the problem of recruitment persists, even as the process of de-linking children from illegal armed groups continues". UNICEF, *Annual Report 2014: Colombia*, December 2014, http://www.unicef.org/about/annualreport/files/Colombia_Annual_Report_2014.pdf, p. 23.

³³⁵ Ombudsman's Office, *Prevención del reclutamiento de niños, niñas y adolescentes. Análisis de la política pública con enfoque étnico*, March 2014, <http://www.defensoria.gov.co/public/pdf/informedefensorialreclutamiento.pdf>. See also UN Committee on the Rights of the Child, *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Colombia*, 6 March 2015, CRC/C/COL/CO/4-5, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/044/70/PDF/G1504470.pdf?OpenElement>; UN Security Council, *Children and Armed Conflict: Report of the Secretary-General*, 15 May 2014, A/68/878-S/2014/339, <http://www.refworld.org/docid/53b3b7654.html>, para. 165. See also Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia (COALICO), *Comunicado Público: Los niños, niñas y adolescentes de Colombia esperan reconstruir la montaña bajo el sol (Día de las Manos Rojas 2015)*, 12 February 2014, <http://coalico.org/prensa/comunicados/322-comunicado-publico-los-ninos-ninas-y-adolescentes-de-colombia-esperan-reconstruir-la-montana-bajo-el-sol-dia-de-las-manos-rojas-2015.html>.

³³⁶ See e.g. on forced recruitment by NAGs: "Children live under the threat of recruitment and sexual violence, thousands have fled, and people continue to be abducted and disappeared with impunity", in HRW, *Colombia: New Killings, Disappearances in Pacific Port. Government Fails to Stop Criminal Groups' Abuses*, 4 March 2015, <http://www.hrw.org/news/2015/03/04/colombia-new-killings-disappearances>.

The 2014 Ombudsman report documents some of the activities that forcibly recruited (adolescent) boys and girls are forced to carry out, including military and/or combat activities, surveillance activities, as informants or *campaneros* (those in charge of warning of incoming threats); logistical support activities including cooking, clothes washing, trafficking and transportation of illegal substances; inducement of other boys and girls into forced recruitment; message delivery or transportation of supplies, arms or explosive devices; extortion, theft and acting as hit men.³³⁷

Forced recruitment has been observed in urban as well as rural areas.³³⁸ Eighty-one per cent of the 112 reports produced by the Early Warning System (SAT) of the Ombudsman's office, and covering the period between 2012 and the start of 2014, mentioned the existence of cases of forced recruitment, including child recruitment, or the risks of it being perpetrated. The Ombudsman noted that the risk of forced recruitment or use of children existed in 153 municipalities. Despite the municipal concentration of cases, the Ombudsman recognized that the problem affects almost all departments, given that these 153 municipalities fall within 28 departments, or 88 per cent of the departments in the country.³³⁹ Between 2009 and 2011, 343 cases of forced recruitment or use of children were reported;³⁴⁰ in 2013, 81 cases were verified by the United Nations.³⁴¹

Boys and girls were reported to be at risk of forced recruitment or use from as young as nine years of age. It was reported that the FARC used to have censuses of children of eight years old in order to identify and target boys and girls for recruitment.³⁴² In early 2015, the FARC reported to have 13 children under 15 fighting in its ranks.³⁴³ The 2012 report by the UN Secretary General noted the development of recruitment campaigns in schools by the ELN.³⁴⁴

[pacific-port](#). See also: HRW, *The Crisis in Buenaventura*, p. 22. See also Señal Radio Colombia, *47 % de los integrantes de guerrillas fueron reclutados siendo niños*, 29 October 2014, <http://www.senalradiocolombia.gov.co/noticia/47-de-los-integrantes-de-guerrillas-fueron-reclutados-siendo-ninos>. In early May 2015, a bill to introduce longer prison sentences for the recruitment of children by NAGs was presented to the Congress. *El Colombiano*, *Proyecto para aumentar penas por reclutar menores*, 5 May 2015, <http://www.elcolombiano.com/proyecto-para-aumentar-penas-por-reclutar-menores-FI1857403>.

³³⁷ Ombudsman's Office, *Prevención del reclutamiento de niños, niñas y adolescentes. Análisis de la política pública con enfoque étnico*, March 2014, <http://www.defensoria.gov.co/public/pdf/informedefensorialreclutamiento.pdf>.

³³⁸ UN Security Council, *Children and Armed Conflict: Report of the Secretary-General*, 5 June 2015, A/69/926-S/2015/409, <http://www.refworld.org/docid/557abf904.html>, para. 218. See also UN Committee on the Rights of the Child, *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Colombia*, 6 March 2015, CRC/C/COL/CO/4-5, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/044/70/PDF/G1504470.pdf?OpenElement>. For the effects of forced recruitment of children in rural areas, see Ombudsman's Office, *El conflicto armado y el riesgo para la mujer rural*, November 2014, <http://www.defensoria.gov.co/public/pdf/ElconflictoarmadoyelriesgoparalamujerruralDefensoriaONU2015.pdf>, p. 112.

³³⁹ Ombudsman's Office, *Prevención del reclutamiento de niños, niñas y adolescentes. Análisis de la política pública con enfoque étnico*, March 2014, <http://www.defensoria.gov.co/public/pdf/informedefensorialreclutamiento.pdf>. By December 2014, 7,637 victims of forced recruitment or use had been registered in the victim registration system of the government of Colombia. For that same date, the Colombian Institute for Family Welfare reported that it had assisted 5,387 victims of forced recruitment after their demobilisation from different armed groups, whether it was voluntary or through their arrest by the authorities. National Department of Planning, *Bases del plan nacional de desarrollo 2014-2018. Todos por un nuevo país*, 2014, <https://colaboracion.dnp.gov.co/CDT/Prensa/Bases%20Plan%20Nacional%20de%20Desarrollo%202014-2018.pdf>. See also footnotes 335-336.

³⁴⁰ UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in Colombia*, 6 March 2012, S/2012/171, <http://www.refworld.org/docid/4fbf73892.html>, para. 15. The same figure was reported in 2015: UN Security Council, *Children and Armed Conflict: Report of the Secretary-General*, 5 June 2015, A/69/926-S/2015/409, <http://www.refworld.org/docid/557abf904.html>, para. 219.

³⁴¹ UN Security Council, *Children and Armed Conflict: Report of the Secretary-General*, 15 May 2014, A/68/878-S/2014/339, <http://www.refworld.org/docid/53b3b7654.html>, para. 165. In October 2014, the Ombudsman reported an increasing trend of child recruitment in the department of Cauca (60 suspected cases in 2014). Ombudsman's Office, *Se agudiza el reclutamiento forzado de menores en Cauca: Defensoría*, 4 October 2014, <http://www.defensoria.gov.co/es/nube/regiones/596/Se-agudiza-el-reclutamiento-forzado-de-menores-en-Cauca-Defensor%EDa-reclutamiento-forzado-Cauca-grupos-armados-ilegales-Farc-Grupos-armados-ilegales-Cauca-hm>.

³⁴² UN Security Council, *Report of the Secretary-General on Children and Armed Conflict in Colombia*, 6 March 2012, S/2012/171, <http://www.refworld.org/docid/4fbf73892.html>, para. 17. In a video allegedly recorded by the FARC in November 2014, children are seen being trained for combat by armed men. *El Tiempo*, *Revelan video de las Farc entrenando niños para combatir*, 23 February 2015, <http://www.eltiempo.com/politica/justicia/las-farc-reclutando-menores/15290975>. In the dialogues taking place in Havana with the government of Colombia, the FARC announced in 2015 the suspension of all types of recruitment of youth under 17 years of age. See: BBC, *Colombian Farc Rebels 'Will Discharge Fighters under 15'*, 17 February 2015, <http://www.bbc.com/news/world-latin-america-31501537>. According to the FARC's previous recruitment policy, the age limit was 15 years old. FARC-EP, *Anuncio sobre menores en el conflicto*, 12 February 2015, <http://www.pazfarc-ep.org/index.php/noticias-comunicados-documentos-farc-ep/delegacion-de-paz-farc-ep/2452-anuncio-sobre-menores-en-el-conflicto> See also *El País*, *Las FARC anuncian que no volverán a reclutar menores de 17 años*, 12 February 2015, http://internacional.elpais.com/internacional/2015/02/12/actualidad/1423771470_110830.html.

³⁴³ In the dialogues taking place in Havana with the government of Colombia, the FARC announced in 2015 the suspension of all types of recruitment of youth under 17 years of age. See: BBC, *Colombian Farc Rebels 'Will Discharge Fighters under 15'*, 17 February 2015, <http://www.bbc.com/news/world-latin-america-31501537>. Carlos Arturo Lozada, a FARC negotiator in the dialogues in Havana, recently denied that FARC was demobilizing 17 year old recruits already in their ranks. *Caracol*, *FARC niegan haber continuado con el reclutamiento de menores*, 2 May 2015, <http://www.noticiascaracol.com/colombia/farc-niegan-haber-continuado-con-el-reclutamiento-de>

Different reports identify various strategies used by armed groups/NAGs to forcibly recruit and use children. For children living in large cities, groups are reported to resort to “i) using megaphones, offering work in lawful or illicit crops in order to subsequently sell the children to illegal armed groups; ii) infiltration of schools; iii) payment of rewards; iv) payment to youth who volunteer; v) offers of protection and good treatment in areas of high risk; and vi) offers of narcotic drugs, among others. Likewise, it is reported that in rural areas illegal armed groups resort to: i) kidnapping of children when the parents are absent; ii) romancing girls into forming relationships with members of illegal armed groups; iii) threatening the families of children; iv) offering loans; v) using children to recruit their classmates”.³⁴⁵

The Ombudsman identified risk and vulnerability factors in relation to the individual context of (adolescent) boys and girls, the social environment and state capacity. Domestic violence, sexual violence and child labour were identified as factors increasing (adolescent) boys’ and girls’ individual risk and vulnerability to becoming victims of forced recruitment. Within the broader social environmental context, a key factor identified was the absence of social networks of protection. In terms of state capacity, the Ombudsman highlighted the deficit of health and education services and the ineffectiveness of institutional mechanisms for prevention. The 2014 Ombudsman report also states that children face increased vulnerability and risk due to factors directly linked to the armed conflict including, the “presence of illegal armed actors (who do not necessarily have to have territorial control in the area); [the] development of illegal economic activities (illicit crops, illegal or artisanal mining, contraband) [and] forced displacement”.³⁴⁶

For children at risk and their families, prevention mechanisms have often proven ineffective and (onward) displacement often appears to offer the only escape. Once they arrive in a new location, families can still face persecution due to the monitoring by NAGs or guerrilla groups of assistance delivery or of shelters used by IDPs, or in the neighbourhoods of arrival, given that displaced families generally move to zones where other families displaced from the same place have already relocated.³⁴⁷

Depending on the particular circumstances of the case, UNHCR considers that children, in particular those from areas where guerrilla groups or NAGs engage in underage recruitment may be in need of international refugee protection on the basis of their membership of a particular social group and/or

menores. In late April 2015, the armed forces accused the FARC of recruiting seven children in Antioquia. La Tercera, *Ejército colombiano acusa a las Farc de reclutar a siete menores de edad*, 30 April 2015, <http://www.latercera.com/noticia/mundo/2015/04/678-627778-9-ejercito-colombiano-acusa-a-las-farc-de-reclutar-a-siete-menores-de-edad.shtml>.

³⁴⁴ UN Security Council, *Report of the Secretary-General on children and armed conflict in Colombia*, 6 March 2012, S/2012/171, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/171, p. 4. See also: United States Department of Labor, *2013 Findings on the Worst Forms of Child Labor - Colombia*, 7 October 2014, <http://www.refworld.org/docid/5448a5ec0.html>; HRW, *Colombia: FARC Battering Afro-Colombian Areas*, 30 July 2014, <http://www.refworld.org/docid/53e085494.html>.

³⁴⁵ See: Celis and Nieto, *Desplazamiento, Mecanismo temporal e insuficiente para la protección efectiva frente al reclutamiento forzado*, in Foundation Restrepo Barco, *El Reclutamiento Ilicito de Niños y Niñas a Grupos Ilegales*, 2013, pp. 181-196. The different forms of recruitment and use highlighted in that report can be reviewed in Governmental Policies such as: Colombia: CONPES No. 3673. *Política para la prevención del reclutamiento y utilización de niños, niñas, adolescentes por parte de los grupos armados organizados al margen de la ley y de los grupos delictivos organizados*, 28 July 2010, <http://www.refworld.org/docid/548acea94.html>. See also: Save the Children, *Niños, niñas y adolescentes vinculados al conflicto armado*, 4 January 2014, https://campusvirtual.univalle.edu.co/moodle/pluginfile.php/466044/mod_resource/content/1/Ni%C3%B1os%20vinculados%20al%20conflicto%20taller.pdf, p. 16; and the following Ombudsman Risk Reports: IR 06 of 2010; IR 08 of 2010 and IR 015 of 2010. See also for example Caracol, *Tribunal Internacional dice que Colombia va para un genocidio de menores*, 12 February 2011, <http://www.caracol.com.co/noticias/actualidad/tribunal-internacional-dice-que-colombia-va-para-un-genocidio-de-menores/20110212/nota/1425300.aspx>.

³⁴⁶ Ombudsman’s Office, *Prevención del reclutamiento de niños, niñas y adolescentes. Análisis de la política pública con enfoque étnico*, March 2014, <http://www.defensoria.gov.co/public/pdf/informedefensorialreclutamiento.pdf>. See also Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia (COALICO), *Comunicado Público: Día de las Manos Rojas. "Vamos a reconstruir el amor", voces de niños, niñas y adolescentes por la paz*, 12 February 2015, <http://coalico.org/destacadas/dia-de-las-manos-roja/56-dia-de-la-mano-roja-destacadas/320-comunicado-publico-dia-de-las-manos-rojas-qvamos-a-reconstruir-el-amor-qvoces-de-ninos-ninas-y-adolescentes-por-la-paz.html>. See also *Statement by United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict Zainab Hawa Bangura: Breaking the Silence on Sexual Violence in Colombia*, 3 March 2015, <http://www.un.org/sexualviolenceinconflict/statement/statement-by-united-nations-special-representative-of-the-secretary-general-on-sexual-violence-in-conflict-zainab-hawa-bangura-breaking-the-silence-on-sexual-violence-in-colombia/>.

³⁴⁷ See: Celis and Nieto *Desplazamiento, Mecanismo temporal e insuficiente para la protección efectiva frente al reclutamiento forzado*, in Foundation Restrepo Barco, *El Reclutamiento Ilicito de Niños y Niñas a Grupos Ilegales*, 2013, pp. 181-196. See also Ombudsman’s Office, *El conflicto armado y el riesgo para la mujer rural*, November 2014, <http://www.defensoria.gov.co/public/pdf/ElconflictoarmadovelriesgoparalamujerruralDefensoriaONU2015.pdf>, p. 112.

their (imputed) political opinion, or on the basis of other Convention grounds.

Asylum claims made by children, including any examination of exclusion considerations for former child soldiers, need to be assessed carefully and in accordance with the UNHCR Guidelines on child asylum claims.³⁴⁸

12. *Individuals of diverse sexual orientations and/or gender identities*

Individuals of diverse sexual orientations and/or gender identities (SOGI) are victims of discrimination.³⁴⁹ Social movements demanding the recognition of the rights of gay men and lesbians have progressively made important, though insufficient, progress, including the recognition of the inheritance rights of same-sex couples, same-sex marriage and adoption by couples of the same sex.³⁵⁰ Paradoxically, simultaneously with the advancement in terms of recognition of the rights of these individuals, violent incidents seem to have increased.

Persons of diverse sexual orientations and/or gender identities have reportedly been exposed to torture in detention and to police violence. Furthermore, authorities often do not initiate investigations into cases of homicide and sexual violence against persons of diverse sexual orientations and/or gender identities.³⁵¹ A SOGI rights organization in Colombia, Colombia Diversa, has recorded and verified 550 cases of homicide relating to sexual orientation and/or gender identity in the period 2009-2014, including amongst the victims at least 86 transgender women and at least 18 SOGI rights defenders.³⁵² Monitoring confirmed that between 2010 and 2014, at least 70 flyers containing threats against the lives or integrity of persons of diverse sexual orientations and/or gender identities had been disseminated.³⁵³

The Constitutional Court has indicated, specifically for women of diverse sexual orientations and/or gender identities, that according to reports reviewed “they have been obliged to displace forcibly, after having received threats and having been exposed to violent acts because of their diverse sexual orientation and/or gender identity.”³⁵⁴ The Court further noted that “According to the cases recounted before the Special Follow-Up Board of the Constitutional Court, a recurring cause of displacement for these women is the intimidating presence of illegal armed groups”.³⁵⁵

³⁴⁸ UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/09/08, 22 December 2009, <http://www.refworld.org/docid/4b2f4f6d2.html>.

³⁴⁹ In his speech at Havana, the director of Colombia Diversa said, “Ladies and gentlemen, 35 years ago we were criminals; persons without voices; without rights; without social or legal recognition. Seventeen years ago we could not be teachers in public or private schools. Eight years ago we had no rights as couples, that is, we could not share our rights or our goods. Four years ago our families were not protected by the Constitution. Still today equality is denied and stereotypes persist. Still today we are not considered sisters and brothers with full rights”. See, speech by the Director of Colombia Diversa at the peace dialogues in Havana, 6 March 2015, <http://www.colombia-diversa.org/2015/03/intervencion-completa-de-colombia.html>.

³⁵⁰ These subjects have been treated by the Constitutional Court in the following rulings: economic rights for same-sex couples, *Sentencia C-075/07*, 7 February 2007, <http://www.corteconstitucional.gov.co/relatoria/2007/c-075-07.htm>; pensions for survivors of same-sex couples, *Sentencia T-051/10*, 2 February 2010, <http://www.corteconstitucional.gov.co/relatoria/2010/t-051-10.htm>; adoption and marriage, *Sentencia C-577/11*, 26 July 2011, <http://www.corteconstitucional.gov.co/relatoria/2011/c-577-11.htm>; *Comunicado No. 6*, 18 February 2015, <http://www.corteconstitucional.gov.co/comunicados/No.%2006%20comunicado%2018%20de%20febrero%20de%202015.pdf>; marriage, *Sentencia C-283/11*, 13 April 2011, <http://www.corteconstitucional.gov.co/relatoria/2011/c-283-11.htm>; exemption from compulsory military service for transgender women, *Sentencia T-099/15*, 10 March 2015, http://www.corteconstitucional.gov.co/RELATORIA/2015/T-099-15.htm#_ftn196.

³⁵¹ Colombia Diversa and The International Gay and Lesbian Human Rights Commission (IGLHRC), *Shadow Report on the LGBT Community in Colombia Presented to the Committee Against Torture*, 9 March 2015, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/COL/INT_CAT_CSS_COL_20164_E.pdf. See also: US DoS, *2013 Human Rights Report*, p. 46 (noting at least 18 killings between January and August 2013 were reported, due to prejudice regarding sexual orientation or gender identity); IACHR, *Verdad, justicia y reparación*, 31 December 2013, <http://www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf>, pp. 401-421. See also: UN CEDAW & IGLHRC, *From Forced Sterilization to Forced Psychiatry: Violations of the Human Rights of Women with Disabilities and Transgender Persons in Colombia*, October 2013, <https://iglhrc.org/sites/default/files/Shadow%20Report%20CEDAW%20-%20English%20FINAL%20.pdf>.

³⁵² Colombia Diversa, *Shadow Report on the LGBT Community in Colombia Presented to the Committee Against Torture*, 9 March 2015, <http://www.colombia-diversa.org/2015/03/iglhrc-y-colombia-diversa-entregaran.html>.

³⁵³ Colombia Diversa, *Threats against Life and Human Rights Violations of Lesbians, Gays, Bisexuals and Transgender Persons (LGBT)*, 5 March 2015. See Colombia Diversa, *Intervención de Colombia Diversa en el proceso de paz*, 6 March 2015, <http://www.colombia-diversa.org/2015/03/intervencion-completa-de-colombia.html>.

³⁵⁴ Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³⁵⁵ Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

The Constitutional Court as well as Colombia Diversa have emphasized how the armed conflict has exacerbated violence and threats against persons of diverse SOGI. Between 2012 and 2014 at least 1,299 cases of violence recorded against “LGBT persons” had taken place in the context of the armed conflict, with 2014 seeing the highest number of incidents. During 2014, a total of 82 homicides, 23 cases of harm caused by attacks by armed groups, fights or harassment, 189 threats and 947 cases of forced displacement of “LGBT persons” were reported.³⁵⁶

According to the Constitutional Court, as reported by NGOs, armed groups have imposed on persons of diverse SOGI “widely accepted gender roles by threatening to use violence as a punishment for not conforming.”³⁵⁷ The Court recognized that this “could manifest itself through: the imposition of heterosexual sexual preferences, the establishment of guidelines regarding physical appearance, prescriptions regarding adequate behaviour in domestic and social environments, and the link of sexual diversity with the disturbance of public morals”.³⁵⁸ The NGOs reporting to the Court emphasized that the punishments perpetrated by guerrilla group members and members of paramilitary groups, included, inter alia, threats, assassinations, forced disappearances, grave physical and psychological harm and, above all, *forced displacement* of lesbian, gay and transgender persons”.³⁵⁹

State authorities, especially the police, are reported to participate in violent acts against persons of diverse sexual orientations and/or gender identities. In its report for the Committee against Torture, Colombia Diversa recorded 212 incidents of police violence in the period 2008 – 2014.³⁶⁰ Moreover, police reportedly often fail to acknowledge the existence of prejudice as the primary cause of violent incidents against persons of diverse sexual orientations and/or gender identities; in some cases such incidents are reportedly classified as personal violence having been caused by the behaviour of the victim.³⁶¹

Individuals of diverse SOGI are not included among the profiles identified by the government as specifically at risk of violence or harm and therefore are not eligible for special protection. Consequently, it remains extremely difficult for individuals to qualify for extraordinary protection measures such as those that can be applied by the National Protection Unit. Only SOGI activists could meet the criteria for such measures as human rights defenders. Furthermore, there are no examples of criminal law cases that “recognize sexual orientation and gender identity as motivations or aggravating factors for the crime [homicide]”.³⁶²

Depending on the particular circumstances of the case, UNHCR considers that individuals of diverse sexual orientations and/or gender identities may be in need of international refugee protection on the basis of their membership of a particular social group based on their sexual orientation and/or gender identity, or on the basis of other Convention grounds.

It should be borne in mind that individuals of diverse sexual orientations and/or gender identities cannot be expected to change or conceal their identity in order to avoid persecution.³⁶³

³⁵⁶ Colombia Diversa, *Personas LGBT víctimas del conflicto armado: subregistro e impunidad*, 5 March 2015, <http://www.colombia-diversa.org/2015/03/personas-lgbt-victimas-del-conflicto.html>. According to this report, persons of diverse sexual orientations and/or gender identities were victims of the armed conflict in 276 cases in 2012, 462 cases in 2013, and 557 cases in 2014. See also Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³⁵⁷ Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³⁵⁸ Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm>.

³⁵⁹ Constitutional Court, *Ruling No. 009/15*, 27 January 2015, <http://www.corteconstitucional.gov.co/RELATORIA/Autos/2015/A009-15.htm> (emphasis in the original source).

³⁶⁰ Colombia Diversa, *Shadow Report on the LGBT Community in Colombia Presented to the Committee Against Torture*, 9 March 2015, <http://www.colombia-diversa.org/2015/03/iglhrc-y-colombia-diversa-entregaran.html> and the intervention by the director of Colombia Diversa at the dialogues in Havana: Colombia Diversa, *Intervención de Colombia Diversa en el proceso de paz*, 6 March 2015, <http://www.colombia-diversa.org/2015/03/intervencion-completa-de-colombia.html>.

³⁶¹ Colombia Diversa, *Cuando el prejuicio mata: Informe de Derechos Humanos de personas LGBT en Colombia*, 26 June 2014, <http://www.colombia-diversa.org/2014/06/cuando-el-prejuicio-mata-informe-de.html>.

³⁶² Colombia Diversa, *Shadow Report on the LGBT Community in Colombia Presented to the Committee Against Torture*, 9 March 2015, <http://www.colombia-diversa.org/2015/03/iglhrc-y-colombia-diversa-entregaran.html>.

³⁶³ UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 23 October 2012,

B. Refugee Status under UNHCR's Broader Mandate Criteria or Regional Instruments, or Eligibility for Complementary Forms of Protection

The 1951 Convention forms the cornerstone of the international refugee protection regime. The criteria for refugee status contained in the 1951 Convention need to be interpreted in such a manner that individuals or groups of persons who meet these criteria are duly recognized and protected under that instrument. Only when an asylum-seeker is found not to meet the refugee criteria in the 1951 Convention, for example because the feared persecution is found not to be for reason of a Convention ground, or if the threshold for applying the 1951 Convention definition is not otherwise met, should broader international protection criteria as contained in UNHCR's mandate and regional instruments be examined.³⁶⁴

I. *Refugee Status under UNHCR's Broader Mandate Criteria*

UNHCR's mandate encompasses individuals who meet the refugee criteria under the 1951 Convention and its 1967 Protocol,³⁶⁵ but has been broadened through successive UN General Assembly and ECOSOC resolutions to a variety of other situations of forced displacement resulting from indiscriminate violence or public disorder.³⁶⁶ In light of this evolution, UNHCR's competence to provide international protection to refugees extends to individuals who are outside their country of origin or habitual residence and who are unable or unwilling to return there owing to serious threats to life, physical integrity or freedom resulting from conflict, generalized violence or other events seriously disturbing public order.³⁶⁷

In the context of Colombia, assessments of the threat to life, physical integrity or freedom resulting from conflict, generalized violence or events seriously disturbing public order should include both the direct impact of the violence as well as the longer-term, more indirect consequences of violence and conflict. In this respect and in the specific context of Colombia, relevant factors include the information presented in Section II.B relating to (i) the strict measures of control, including social and economic control, over civilian populations by NAGs and/or guerrilla groups in certain parts of the country, including by means of threats and intimidation, extortion, and restrictions on freedom of movement seriously affecting the State's ability to provide protection; (ii) forced and under-age recruitment by NAGs and guerrilla groups; (iii) the impact of violence and insecurity on the humanitarian situation as manifested by food insecurity, poverty and the destruction or systematic undermining of livelihoods in rural and urban settings; (iv) high levels of organized crime and the ability of non-State actors and/or government officials to commit violent crimes and human rights abuses with impunity; and (v) systematic constraints on access to education or basic health care as a result of insecurity.³⁶⁸ These and other manifestations of the impact on the civilian population of the presence and operations of NAGs and guerrilla groups in some parts of the country indicate that an *ordre public* based on respect for the rule of law and human dignity has been seriously eroded.

Against this background, UNHCR considers that individuals who originate from areas affected by active conflict or from areas where non-State armed actors, including NAGs or guerrilla groups, have

HCR/GIP/12/01, <http://www.refworld.org/docid/50348afc2.html>; see also for example Court of Justice of the European Union, *X, Y, Z v Minister voor Immigratie en Asiel*, C-199/12 - C-201/12, 7 November 2013, <http://www.refworld.org/docid/527b94b14.html>.

³⁶⁴ Note in particular that in some armed conflicts or other situations of violence, harm may appear to be indiscriminate. However, the underlying causes, character and/or impact of the violence causing harm may reveal that it is in fact discriminate. UNHCR, *Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence; Roundtable 13 and 14 September 2012, Cape Town, South Africa*, 20 December 2012, <http://www.refworld.org/docid/50d32e5e2.html>, para. 17.

³⁶⁵ UN GA, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, <http://www.refworld.org/docid/3ae6b3ae4.html>.

³⁶⁶ UNHCR, *Providing International Protection Including Through Complementary Forms of Protection*, 2 June 2005, EC/55/SC/CRP.16, <http://www.refworld.org/docid/47fdfb49d.html>; UN GA, *Note on International Protection*, 7 September 1994, A/AC.96/830, <http://www.refworld.org/docid/3f0a935f2.html>.

³⁶⁷ UNHCR, *Note on the Mandate of the High Commissioner for Refugees and his Office*, October 2013, <http://www.refworld.org/docid/5268c9474.html>.

³⁶⁸ For general considerations (not specific to Colombia), see UNHCR, *Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence; Roundtable 13 and 14 September 2012, Cape Town, South Africa*, 20 December 2012, <http://www.refworld.org/docid/50d32e5e2.html>, paras. 10-12.

a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection. Those who are found not to meet the refugee criteria of the 1951 Convention may be eligible for international protection under UNHCR's broader mandate on the grounds of serious threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order.

2. *Refugee Status under the Cartagena Declaration*

Colombian asylum-seekers who seek international protection in any of the countries that have incorporated the refugee definition included in the Cartagena Declaration on Refugees (Cartagena Declaration)³⁶⁹ into their national legislation may qualify for refugee status on the grounds that their lives, safety or freedom have been threatened by generalized violence,³⁷⁰ foreign aggression, internal conflicts, massive violation of human rights or other circumstances that have seriously disturbed public order.³⁷¹

Following similar considerations as for UNHCR's broader mandate criteria, UNHCR considers that individuals originating from areas where non-State armed actors, including NAGs or guerrilla groups, have a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection under the terms of the Cartagena Declaration, on the grounds of that their lives, safety or freedom were threatened by serious and widespread human rights abuses committed by NAGs or guerrilla groups in areas they control or otherwise have a strong presence and operate; or by other circumstances that have seriously disturbed public order, including the direct and indirect consequences of conflict-related violence. Individuals originating from areas in Colombia affected by active conflict may, depending on the individual circumstances of the case, be in need of international protection under the terms of the Cartagena Declaration, on the grounds of that their lives, safety or freedom were threatened by generalized violence. The assessment needs to be carried out in each case at the time of adjudication.

3. *Refugee Status under Article I(2) of the 1969 OAU Convention*

For the same reasons as above, UNHCR considers that individuals who originate from areas affected by active conflict or from areas where non-State armed actors, including NAGs or guerrilla groups, have a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection under the terms of Article I(2) of the Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention).³⁷²

³⁶⁹ *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>. Although the Cartagena Declaration (unlike the OAU Convention: see below) is included in a non-binding regional instrument, the Cartagena refugee definition has attained a particular standing in the region, not least through its incorporation into 14 national laws and State practice. For guidance on the interpretation of the Refugee Definition in the Cartagena Declaration, see: UNHCR, *Summary Conclusions on the Interpretation of the Extended Refugee Definition in the 1984 Cartagena Declaration: Roundtable 15 and 16 October 2013, Montevideo, Uruguay*, 7 July 2014, <http://www.refworld.org/docid/53c52e7d4.html>.

³⁷⁰ The IAHRC has used a number of indicators to describe situations of "widespread violence". These include, but are not limited to, the following: a) the number of violent incidents as well as the number of victims of those incidents is very high; b) the prevailing violence inflicts heavy suffering among the population; c) violence manifests itself in most egregious forms, such as massacres, torture, mutilation, cruel, inhuman and degrading treatments, summary executions, kidnappings, disappearances of persons and gross breaches to IHL; d) the perpetration of acts of violence is often aimed at causing terror and, eventually, creating a situation such that individuals are left with no option other than flee the area affected; e) violence can emanate from state and non-state agents, and when it emanates from the first, or from others acting at the instigation or with the acquiescence of state's authorities, the authors enjoy impunity; f) where violence emanates from non-state agents, authorities are unable to effectively control them; and g) the level and extent of violence is such that the normal functioning of society is seriously impaired. See for example IACHR, *Violence and Discrimination against Women in the Armed Conflict in Colombia*, (Chapter II, "The armed conflict in Colombia and its impact on women"), OAS/Ser.L/V/II. Document 67, 18 October 2006, <https://www.cidh.oas.org/pdf%20files/InformeColombiaMujeres2006eng.pdf>.

³⁷¹ *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>, para. III(3).

³⁷² Organization of African Unity, *Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention")*, 10 September 1969, 1001 UN Treaty Series 45, <http://www.refworld.org/docid/3ae6b36018.html>.

4. *Eligibility for Subsidiary Protection under the EU Qualification Directive*

Persons originating from Colombia who seek international protection in Member States of the European Union and who are found not to be refugees under the 1951 Convention may qualify for subsidiary protection under Article 15 of the 2011 Qualification Directive, if there are substantial grounds for believing that they would face a real risk of serious harm in Colombia.³⁷³

C. Considerations Relating to the Application of an Internal Flight or Relocation Alternative

An assessment of the possibility of the application of an internal flight or relocation alternative (IFA/IRA) requires an assessment of the relevance as well as reasonableness³⁷⁴ of the proposed IFA/IRA. In the case of Colombia, there are three possible scenarios to be considered: a possible IFA/IRA in areas fully controlled by the government, a possible IFA/IRA where non-State armed actors have a strong presence and operate, and a possible IFA/IRA in areas affected by armed conflict.

1. *Relevance of IFA/IRA*

Where the claimant has a well-founded fear of persecution at the hands of the State and its agents, there is a presumption that consideration of an IFA/IRA is not relevant for areas under the control of the State.

In light of the available evidence of serious and widespread human rights abuses by NAGs and guerrilla groups in areas in Colombia where they operate and have a strong presence, as well as the inability of the Colombian Government to provide protection against such abuses in these areas, UNHCR considers that an IFA/IRA is not available in areas where NAGs, guerrilla groups or other armed non-State actors operate and have a strong presence. A possible exception may exist for individuals who may have ties with the leadership of these groups or persons who are otherwise influential within these groups in the proposed area of relocation.³⁷⁵

³⁷³ Serious harm for the purposes of the Qualification Directive is defined as (a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict. European Union, *Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 13 December 2011, <http://www.refworld.org/docid/4f06fa5e2.html>, Articles 2(f), 15. In light of the information presented in these Protection Considerations, applicants may, depending on the individual circumstances of the case, be in need of subsidiary protection under Article 15(a) or Article 15(b) on the grounds of a real risk of the relevant forms of serious harm, either at the hands of the State or its agents, or at the hands of non-State armed actors. Equally, in light of the fact that Colombia continues to be affected by a non-international armed conflict, and in light of the information presented in these Protection Considerations, applicants originating from or previously residing in conflict-affected areas may, depending on the individual circumstances of the case, be in need of subsidiary protection under Article 15(c) on the grounds of a serious and individual threat to their life or person by reason of indiscriminate violence. In the context of the non-international armed conflict in Colombia, factors to be taken into account to assess the threat to the life or person of an applicant by reason of indiscriminate violence in a particular part of the country include those outlined above in Section III.B and II.C with reference to the analysis of "generalized violence" under UNHCR's broader mandate. These factors, either alone or cumulatively, may be found to give rise to a situation in a particular part of Colombia that is sufficiently serious to engage Article 15(c) without the need for the applicant to demonstrate individual factors or circumstances increasing the risk of harm: See Court of Justice of the European Union, *Elgafaji v. Staatssecretaris van Justitie*, C-465/07, 17 February 2009, <http://www.refworld.org/docid/499aaee52.html>, para. 43. Where, after all relevant evidence has been considered, this is found not to be the case in the part of Colombia from which the applicant originates, it falls to be considered whether the applicant's individual characteristics are such as to reveal specific vulnerabilities which, combined with the nature and the extent of the violence, give rise to a serious and individual threat to the applicant's life or person.

³⁷⁴ The decision-maker bears the burden of proof of establishing that an analysis of relocation is relevant to the particular case. If considered relevant, it is up to the party asserting this to identify the proposed area of relocation and provide evidence establishing that it is a reasonable alternative for the individual concerned. See UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/pdfid/3f2791a44.pdf>, paras. 33-35.

³⁷⁵ Note also that individuals may face restrictions on areas of proposed relocation or return. In many rural and urban areas of Colombia, illegal armed groups regulate the movement of people, including the entry and exit to areas under their control. In FARC-controlled areas, notably in the Departments of Guaviare and Putumayo, any absence must be authorized by the Communal Action Board, which reports to the FARC area commander. Individuals leaving communities without authorization for more than 15 days are not allowed to return. Their families are also forced to leave when they are unable to substantiate the reason for departure, with sanctions including assassination. In urban areas disputed by various armed groups, as in Buenaventura, Medellín, Cali and Tumaco, city dwellers are not allowed to move freely from one neighbourhood to another. Armed groups impose strict entry and exit restrictions on people in neighbourhoods under their control. Persons

Additionally, UNHCR considers that no IFA/IRA is available in areas affected by active conflict in Colombia, regardless of the actor of persecution.

Where the agents of persecution are non-State agents, consideration must be given to whether the persecutor is likely to pursue the claimant in the proposed area of relocation. Given the purported ability of some NAGs and guerrilla groups to operate country-wide,³⁷⁶ and indeed internationally as part of international criminal networks,³⁷⁷ a viable IFA/IRA may not be available to individuals at risk of being targeted by such actors.³⁷⁸ It is particularly important to note the operational capacity of NAGs and the FARC, in particular, to carry out attacks in all parts of Colombia, irrespective of territorial control. Further, in relation to individuals fleeing persecution at the hands of non-State agents, an internal flight alternative may not be relevant in areas under State control when State authorities tolerate or condone acts of persecution, including corruption, perpetrated by NAGs or guerrilla groups. Further consideration should be given to: (i) the presence of illegal checkpoints throughout the country and the possibility that individuals attempting to relocate may be identified and targeted at such checkpoints by armed groups; (ii) the reach and ability of armed group networks to trace and target individuals, both in rural areas and in urban centres, including in cities such as Bogotá, Cali, and Medellín; and (iii) the profile of the asylum-seeker and the existence of any reasonable grounds to believe that he or she will be traced and targeted.

2. Reasonableness of IFA/IRA

Whether an IFA/IRA is “reasonable” is determined on a case-by-case basis, taking into account the personal circumstances of the applicant, including the impact of any past persecution.³⁷⁹ Other factors that must be taken into account include the safety and security situation in the proposed area of relocation; respect for human rights in that area, and the possibilities for economic survival,³⁸⁰ in order to evaluate whether the individual would be able to live a relatively normal life without undue hardship in the area of relocation, given his or her situation.

UNHCR considers that particular attention must be given to the availability of basic infrastructure and access to essential services in the proposed area of relocation; access to housing in the proposed area of relocation; the presence of livelihood opportunities, and, in particular for Afro-Colombians and peasants to the extent to which the applicant can expect to receive genuine support from his or her

deemed by armed groups to be unknown or unwanted can face severe punishment, including dismemberment. Attempts by individuals to relocate are further compounded by alliances between different armed groups that constantly change. As a result, persons are unable to predict security and protection conditions and are unable to choose exit routes. Information available to UNHCR. For further information on the modus operandi of NAGs see for example: Jeremy McDermott, James Bargent, *La última generación de las organizaciones narcotraficantes de Colombia: las BACRIM*, InSight Crime, December 2013, on file with UNHCR; Bernardo Perez Salazar, *Bandas Criminales en Colombia: De rivales narcotraficantes a aliados estratégicos de proyectos criminales globales*, May 2014, Fundación Paz y Reconciliación, on file with UNHCR. See also A.A. Martinez and others, *Violencia Urbana: Radiografía de una region*, Bogota: Aguilar Ediciones, 2014.

³⁷⁶ Parties to the armed conflict in Colombia have demonstrated their capacity to operate throughout the country. Similarly, NAGs (*Urabeños*) are reported to have nation-wide networks with other armed groups and are able to trace and target individuals anywhere in the country. This capacity also exists among illegal armed groups that operate across borders in Ecuador and Venezuela. See for example Ariel Fernando Avila, *La Frontera Caliente Entre Colombia Y Venezuela*, Fundación Arcoris, 2012.

³⁷⁷ Information available to UNHCR. For further information on the modus operandi of NAGs see for example: Jeremy McDermott, James Bargent, *La última generación de las organizaciones narcotraficantes de Colombia: las BACRIM*, InSight Crime, December 2013 on file with UNHCR ; Bernardo Perez Salazar, *Bandas Criminales en Colombia: De rivales narcotraficantes a aliados estratégicos de proyectos criminales globales*, May 2014, Fundación Paz y Reconciliación, on file with UNHCR. See also A.A. Martinez and others, *Violencia Urbana: Radiografía de una region*, 2014, Book on file with UNHCR; See also El Tiempo, *Cartel de Sinaloa ya está en cinco zonas del país*, undated, <http://app.eltiempo.com/archivo/documento/CMS-12671625> (suggesting that Mexican criminal groups are operating in various parts of Colombia, which inter alia reflects the international nature of criminal networks involving Colombian NAGs).

³⁷⁸ Cases analysed in Ecuador over the past four years suggest that relocation within Colombia is perceived not to be safe as it can expose individuals to persecution by the original persecuting armed group(s) or allies that control relocation areas. Information available to UNHCR.

³⁷⁹ UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/docid/3f2791a44.html>, paras. 25-26.

³⁸⁰ *Ibid.*, paras. 24, 27-30.

[extended] family in the context of the general weakening of traditional and community protection mechanisms.³⁸¹

Where the proposed area of relocation is an urban area where the applicant has no access to accommodation and livelihood options, and where he/she cannot be reasonably expected to fall back on meaningful support networks, the applicant will likely find himself or herself in a situation comparable to that of urban IDPs. Under these circumstances, to assess the reasonableness of the IFA/IRA, adjudicators need to take into account the scale of internal displacement in the area of prospective relocation, and the living conditions of IDPs in the location, as well as the fact that many IDPs are exposed to various human rights abuses, including forced evictions.³⁸²

D. Exclusion from International Refugee Protection

Among Colombian nationals or habitual residents seeking international protection, there may be individuals who have been associated with acts falling within the scope of the exclusion clauses provided for in Article 1F of the 1951 Convention.³⁸³ Exclusion considerations would be triggered, in particular, in cases involving possible participation in acts of violence including unlawful attacks against civilians, attacks on schools and hospitals, destruction of cultural and religious sites, murder, torture and other forms of ill-treatment, kidnappings, hostage-taking, rape and other forms of sexual violence, forced displacement and recruitment and use of children.³⁸⁴ In all such cases, it will be necessary to examine carefully any issues of individual responsibility for crimes which may give rise to exclusion from international refugee protection. Given the potentially serious consequences of exclusion from international refugee protection, the exclusion clauses need to be interpreted restrictively and applied with caution. Participation in armed conflict is not, as such, a ground for exclusion. Similarly, mere membership in a group or organization is not a sufficient basis to exclude. A full assessment of the circumstances of the individual case is required in all cases.³⁸⁵

³⁸¹ Certain regions of Colombia witness high levels of violence and are not suitable to be areas for relocation. The same is true for slum areas in the country's capital and other cities, which do not offer conditions of safety and dignity. Certain cities which receive increasing numbers of IDPs from other areas in search of anonymity and safety. However, IDPs have been reported to face serious protection risks in their areas of displacement including human trafficking, extortion, sexual violence and forced recruitment by NAGs. Licit income generation opportunities and public services are scarce, impeding integration of IDPs in their area of displacement. Other regions do offer conditions of relative safety. However, lack of social networks, absence by state authorities and unavailability of licit income generation opportunities prevent most IDPs from accessing their socio-economic rights. For example, surveys published in early 2015 by the National Victims Unit and the Controller's Office, respectively, suggest that 63.8 per cent of IDPs live under the poverty threshold, and 33 per cent of IDPs live in extreme poverty: Departamento Administrativo Nacional de Estadística (DANE), *Encuesta de Goce Efectivo de Derechos (EGED) – Resultados 2013-2014*, January 2015, <http://www.dane.gov.co/index.php/estadisticas-sociales/encuesta-de-goce-efectivo-de-derechos> and Contraloría General de la República, *Seguimiento Ley de Víctimas*, <http://www.contraloria.gov.co/web/seguimiento-en-tiempo-real/encuesta-victimas>. Note also that despite protection measures granted by National Protection Unit programmes, most individuals benefiting from such measures continue to face persecution upon relocation. Information available to UNHCR, provide by the National Protection Unit. It is for this reason that Decree 4912 foresees evacuation of extreme-risk cases to other countries, subject to agreement by a receiving country. See *Decreto No. 4912 de 2011, Por lo cual se organiza el Programa de Prevención y Protección de los derechos a la vida, la libertad, la integridad y la seguridad de personas, grupos y comunidades del Ministerio del Interior y de la Unidad Nacional de Protección*, 26 December 2011, <http://www.refworld.org/docid/4cf37e4b2.html>.

³⁸² See, for example, NRC/IDMC, *Global Overview 2015: People Internally Displaced by Conflict and Violence - The Americas*, 6 May 2015, <http://www.refworld.org/docid/55a6175e33.html> and US DoS, *2014 Human Rights Report*.

³⁸³ UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, 4 September 2003, HCR/GIP/03/05, <http://www.unhcr.org/refworld/docid/3f5857684.html>.

³⁸⁴ See, for example, UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia*, 23 January 2015, A/HRC/28/3/Add.3, <http://www.refworld.org/docid/551948de4.html>.

³⁸⁵ In some cases, individual responsibility for excludable acts may be presumed if membership and participation in the activities of a particularly violent group is voluntary. Detailed guidance on the interpretation and application of Article 1F of the 1951 Convention can be found in UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, HCR/GIP/03/05, 4 September 2003, <http://www.refworld.org/docid/3f5857684.html>; and *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, 4 September 2003, <http://www.refworld.org/docid/3f5857d24.html>.