



The Republic of Colombia

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Submission by CIVICUS: World Alliance for Citizen Participation,
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And

Temblores ONG

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1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2 Temblores ONG is a CSO that seeks to activate, incite and mobilise community processes for social transformation. Its goal is to shake hegemonic structures that guarantee the maintenance of exclusion, violence, discrimination and the systematic denial of rights of communities and populations.
- 1.3 In this submission, the two organisations examine the Government of Colombia's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Colombia's fulfilment of the rights to freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in 2017. To this end, we assess Colombia's implementation of recommendations received during the 3rd UPR cycle relating to these issues and provide follow-up recommendations.
- 1.4 During the 3rd UPR cycle, the Government of Colombia received 27 recommendations relating to the space for civil society (civic space). It accepted all 27. An evaluation of a range of legal sources and human rights documentation demonstrates that the Government of Colombia has not implemented 20 recommendations relating to civic space, and has partially implemented seven recommendations. While the government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination, acute implementation gaps were found with regard to the right to freedom of peaceful assembly and the hostile environment for HRDs and social leaders.
- 1.5 We are deeply concerned by the level of violence against HRDs, social leaders and journalists, who continue to work in an environment marked by killings, threats, harassment and physical attacks. Successive governments have made few advances in addressing structural causes of this violence. Additionally, the implementation of protection mechanisms has been ineffective, leading to a rise in violence in recent years even with multiple protection instruments in place.
- 1.6 We are further alarmed by the systematic violation of the right to freedom of peaceful assembly. Protests in Colombia have been repeatedly met with disproportionate and excessive force, resulting in extrajudicial killings, injuries, arbitrary detentions and multiple other human rights violations.

1.7 As a result of these issues, civic space in Colombia is currently classified as ‘repressed’ by the CIVICUS Monitor, indicating the existence of severe civic space restrictions.¹

- Section 2 of this submission examines Colombia’s implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- Section 3 examines Colombia’s implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines Colombia’s implementation of UPR recommendations and compliance with international human rights standards concerning freedom of expression, media freedom and access to information.
- Section 5 examines Colombia’s implementation of UPR recommendations and compliance with international human rights standards related to freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3rd cycle.
- Section 7 is an annex on the implementation of 3rd cycle UPR recommendations related to civic space.

2. Freedom of association

2.1 During Colombia’s examination under the 3rd UPR cycle, the government did not receive any recommendations on the right to freedom of association and creating an enabling environment for CSOs.

2.2 Article 38 of the Colombian Constitution guarantees the right to freedom of association. Article 103 of the Constitution also establishes that the ‘State shall contribute to the organisation, promotion, and guidance of professional, civic, trade union, community, youth, charitable, or nongovernmental public-purpose associations, without prejudicing their authority so that they may constitute democratic means of representation in the various organs of participation, agreement, control, and oversight of the public actions that they undertake’.² Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Colombia is a state party, also guarantees freedom of association.

2.3 While Colombia’s legal framework has supported the development of a diverse and vibrant civil society, with generally straightforward procedures for the establishment and operation of CSOs,³ in practice the fear of violence and reprisals poses a barrier to the exercise of the right to freedom of association. The loss of hundreds of social

¹ CIVICUS Monitor: Colombia, <https://monitor.civicus.org/country/colombia>.

² ‘The Political Constitution of Colombia’, 1991 (amended 2015), https://constituteproject.org/constitution/Colombia_2015?lang=en.

³ ‘Civic Freedom Monitor: Colombia’, International Center for Not-For-Profit Law, updated 5 January 2023, <https://www.icnl.org/resources/civic-freedom-monitor/colombia>.

leaders and HRDs over recent years has not only affected their immediate communities but also ultimately weakened democratic participation and civic space in Colombia.⁴

- 2.4** Separately, Colombia's labour legislation imposes a ban on strikes by workers in a wide range of public services, including those in the health, education, sanitation, telecommunications and transport sectors. Article 417 of the Labour Code also prohibits federations and confederations from convening strikes.⁵
- 2.5** In 2022, the International Trade Union Confederation classified Colombia as a country where there is 'no guarantee of rights', placing it among the world's 10 worst countries for working people. The organisation underscored the continuing violence against trade unionists, prevailing impunity for attacks and cases of union-busting and targeted dismissals of labour leaders. There were at least 13 murders of union members in 2021 to 2022, with six further assassination attempts and 99 cases of death threats.⁶

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

- 3.1** Under Colombia's previous UPR examination, the government received 26 recommendations on the protection of HRDs, journalists and civil society representatives. Among the recommendations, the government committed to 'ensure that human rights defenders are able to carry out their work free from intimidation, threats, harassment and attacks and guarantee their safety, especially those working in rural conflict-prone areas' and 'ensure that all perpetrators of attacks and threats against human rights defenders are brought to justice'. It accepted all 26 recommendations. However, as examined in this section, the government has failed to operationalise the majority of these recommendations effectively. It has not implemented 19, and partially implemented seven of the recommendations.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees freedoms of association, peaceful assembly, and expression. In 2019, Colombia also signed the Escazú Agreement, a binding regional treaty containing specific provisions on the protection of environmental defenders and access to justice.⁷ However, despite these commitments, the risk of violence and retaliation

⁴ 'Semi-Annual Report January-June 2022 - On the edge of darkness', Programa Somos Defensores, December 2022, <https://somosdefensores.org/wp-content/uploads/2022/12/Semi-annual-report-2022.pdf>.

⁵ 'Labour Code', International Labour Organization, <https://eplex.ilo.org/country-detail/?code=COL&yr=2019>.

⁶ 'Global Rights Index 2022: Colombia', International Trade Union Confederation, 2022, <https://www.globalrightsindex.org/en/2022/countries/col>.

⁷ Observatory on Principle 10 in Latin America and the Caribbean, <https://observatoriop10.cepal.org/en/treaties/regional-agreement-access-information-public-participation-and-justice-environmental>.

continues to mark the environment for HRDs and social leaders. Physical attacks, harassment, intimidation and killings by state and non-state actors remain frequent.

- 3.3** Colombia's National Protection Unit (UNP), operating under the Ministry of Interior since 2011, is tasked with protecting people at risk but faces serious implementation constraints, including lack of appropriate funding and limited capacity.⁸ The UNP focuses on providing protection measures on an individual basis, generally within urban areas. However, civil society groups have argued that collective and preventive strategies are necessary and would be more appropriate in rural areas or for campesino, Indigenous and Afro-descendant communities.⁹ After 2018, under the Iván Duque presidency, the mechanism also restricted the sharing of information with civil society, undermining their meaningful participation.¹⁰
- 3.4** Additionally, over recent years, Colombian authorities have adopted an array of legislative and policy instruments aimed at addressing the pervasive violence against civil society, communities and HRDs. Decree 660 of 2018, for example, established a collective protection programme for communities and organisations, including their leaders, representatives, activists and HRDs.¹¹ In the same year, Decree 2,137 created an intersectoral commission to develop a timely action plan (PAO) for the protection of social leaders. In December 2021, then-President Duque announced the launch of a new national policy to strengthen the respect and guarantees for the defence of human rights.¹² However, there has been limited coordination of the various mechanisms in place. The large number of institutions has also led to the dilution of resources and duplication of efforts.¹³
- 3.5** Civil society group Programa Somos Defensores outlined that Decree 660 makes local authorities responsible for promoting protection policies, while other instruments continue to emphasise a centralised approach focused on individual protection. While Decree 660 was considered an important tool to promote collective safeguarding strategies, there has been little progress and insufficient resources for its

⁸ 'A deadly January in Colombia', CIVICUS Monitor, 18 February 2021, <https://monitor.civicus.org/explore/deadly-january-colombia>.

⁹ 'Why do they want to kill us? Lack Of Safe Space To Defend Human Rights In Colombia', Amnesty International, 8 October 2020, <https://www.amnesty.org/en/documents/amr23/3009/2020/en>.

¹⁰ 'El CERREM oculta información relevante sobre la seguridad de los periodistas', 5 August 2020, Fundación para la Libertad de Prensa (FLIP), <https://www.flip.org.co/index.php/es/publicaciones/informes/item/2558-el-cerrem-oculta-informacion-relevante-sobre-la-seguridad-de-los-periodistas>.

¹¹ Decree 660, 2018, <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=85922#:~:text=El%20presente%20cap%C3%ADtulo%20tiene%20por,los%20%C3%ADderes%2C%20lideresas%2C%20dirigentes%2C>.

¹² 'National Policy of Guarantees and Respect for Human Rights Defenders', Defence Work (CONPES 4063), 29 November 2021, <https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/4063.pdf>.

¹³ 'Left Undefended: Killings of Rights Defenders in Colombia's Remote Communities', Human Rights Watch, 10 February 2021, <https://www.hrw.org/report/2021/02/10/left-undefended/killings-rights-defenders-colombias-remote-communities>.

implementation.¹⁴ Meanwhile Decree 2,137 adopted a militarised approach criticised by human rights groups, and civil society was not meaningfully engaged in the creation and implementation of the PAO.¹⁵

- 3.6** Despite the 2016 Peace Agreement between the Colombian government and the Revolutionary Armed Forces of Colombia – People’s Army, violence against social leaders has surged since 2017. This has particularly affected social leaders working in excluded communities and land and environmental defenders in rural areas. They continue to be caught in the crossfire of territorial disputes between illegal armed groups and sometimes find themselves at further risk for supporting communities to implement aspects of the Peace Agreement such as the substitution of illegal crops. Meanwhile only a small part of the Agreement’s provisions has been implemented and mechanisms created under it to dismantle illegal armed groups have proven fragile.¹⁶
- 3.7** According to monitoring by Programa Somos Defensores, 680 HRDs were murdered in Colombia between January 2018 and June 2022.¹⁷ In December 2022, Colombia’s Ombudsperson said killings of HRDs had reached a record high, with 199 cases recorded in the 11 months of the year to date. This was the highest figure since the Ombudsperson’s Office began recording such killings in 2016.¹⁸
- 3.8** The hostile environment for HRDs is also marked by multiple other violations, in particular threats, physical attacks and arbitrary detentions. Programa Somos Defensores registered 996 such violations in 2021, an increase from 2020 when the organisation documented 969 cases.¹⁹
- 3.9** Similarly, attacks on journalists and members of the press by state and non-state actors have risen in recent years, according to monitoring by Fundación para La Libertad de Prensa (Foundation for Press Freedom – FLIP). In 2022, FLIP registered 218 such cases, the highest number in 15 years. Five journalists were killed between 2020 and 2022. Physical attacks, harassment, stigmatisation and forced displacement were also common violations in the reporting period.²⁰

4. Freedom of expression, media freedom and access to information

¹⁴ ‘Garantías para el Cambio’, Programa Somos Defensores, December 2022, https://somosdefensores.org/wp-content/uploads/2022/12/GARANTIAS-PARA-EL-CAMBIO_2022_compressed.pdf.

¹⁵ ‘Theatre of Shadows – Annual Report 2021’, Programa Somos Defensores, May 2022, <https://somosdefensores.org/wp-content/uploads/2022/12/Annual-report-2021.pdf>.

¹⁶ Amnesty International, October 2020, op. cit.

¹⁷ Mapa de Asesinatos, Programa Somos Defensores, <https://somosdefensores.org/mapadeasesinatos>.

¹⁸ ‘Colombia: four journalists killed in the second half of 2022’, CIVICUS Monitor, 30 December 2022, <https://monitor.civicus.org/explore/colombia-four-journalists-killed-second-half-2022>.

¹⁹ Programa Somos Defensores, May 2022, op. cit.

²⁰ ‘El guardián desnudo’, FLIP, 8 February 2023, <https://www.flip.org.co/index.php/es/publicaciones/informes-anales/item/2993-quinta-edicion-paginas>.

- 4.1** Under the 3rd UPR cycle, the government did not receive any recommendations relating to freedom of expression, media freedom and access to information.
- 4.2** Article 19 of the ICCPR guarantees the right to freedoms of expression and opinion. Article 20 of the Constitution of Colombia also guarantees the right to freedom of expression. However, in practice, this right is constrained by the difficult environment for the media. Members of the media are vulnerable to intimidation and violence while carrying out their work and in retaliation their reporting. According to Reporters Without Borders, the coverage of issues such as the environment, armed conflict, corruption or alleged collusion between politicians and illegal armed groups can lead to systematic reprisals.²¹
- 4.3** Defamation remains a criminal offence under Colombia's Criminal Code. Articles 220-222 specify libel and slander, including 'indirect libel and slander' for those who 'publish, reproduce or repeat a libel or slander made by another person'. These offences are punishable by imprisonment and fines.²²
- 4.4** In December 2022, the Chamber of Representatives approved anti-corruption Bill 369, which included an amendment to Criminal Code provisions on defamation, empowering judges to suspend or cancel the legal status of any organisation whose members have defamed or slandered any active or former government official. Following pressure from civil society and media, the article including these provisions was removed from the text before the legislation was finalised.²³
- 4.5** Journalists and members of the press in Colombia have sometimes faced prosecutions for criminal defamation. In April 2021, Jeremy McDermott, director and legal representative of the Medellín-based news organisation InSight Crime, was accused of libel by a business leader. The lawsuit stemmed from a six-part series of reports about the business leader's alleged former activities in narco-trafficking and paramilitary groups.²⁴ The case was dismissed by the Public Prosecutor's Office for lack of evidence in December 2021.²⁵
- 4.6** In a separate case, in October 2020 journalist Vicky Dávila Hoyos and media outlet Radio Cadena Nacional SAS were ordered to pay more than US\$43,000 in damages to the family of a police colonel who was removed from a posting after the outlet published reports making corruption allegations against him. On 24 March 2021, the

²¹ 'Colombia 2022', Reporters Without Borders, <https://rsf.org/en/country/colombia>.

²² Criminal Code, 2000, <https://www.refworld.org/docid/3dbd1fd94.html>.

²³ 'Colombia: surveillance of civil society and detention of protest leaders', CIVICUS Monitor, 2 March 2022, <https://monitor.civicus.org/explore/colombia-surveillance-civil-society-and-detention-protest-leaders>.

²⁴ 'Journalist Jeremy McDermott faces new criminal defamation suit in Colombia', Committee to Protect Journalists, 21 April 2021, <https://cpj.org/2021/04/journalist-jeremy-mcdermott-faces-new-criminal-defamation-suit-in-colombia>.

²⁵ 'Colombian Prosecutors Dismiss Memo Fantasma Libel Case Against InSight Crime Director', InSight Crime, 14 December 2021, <https://insightcrime.org/news/colombia-dismiss-libel-case-insight-crime-director>.

Supreme Court confirmed the conviction.²⁶ Local and international press freedom organisations condemned the dangerous precedent set by this decision, warning that it could undermine press freedom by leading to self-censorship.²⁷

- 4.7** Journalists covering mass demonstrations during a National Strike held in 2021 faced unprecedented state-led violence.²⁸ Between 28 April and 9 May, FLIP registered 122 violations affecting 141 journalists and media outlets in the context of the protests.²⁹ Among other incidents, officers of the Mobile Anti-Riot Squadron (ESMAD), Colombia's militarised anti-riot police force, fired teargas cannisters directly at clearly identifiable journalists and assaulted reporters documenting violence against protesters.³⁰ There were also allegations of internet shutdowns during the protests, which are under investigation by Colombian authorities.³¹
- 4.8** In 2020, an investigation by *Semana* magazine showed that military intelligence officials carried out an extensive monitoring operation targeting more than 130 people, including over 30 national and foreign journalists. Reporters' profiles included public and private information, including on their family, friends, sources, deduced political leanings and places visited.³² On 1 May 2020, the Ministry of Defence announced 11 officials had been dismissed in connection with complaints of irregular surveillance.³³ Over a year later, the authorities had not provided clear information about who was targeted, what the profiles contained and how they were used.³⁴ Journalists investigating human rights violations and corruption in military forces have also reported facing surveillance and intimidation.³⁵

²⁶ 'Protests against tax reform lead thousands to the streets in Colombia, face brutal police repression', CIVICUS Monitor, 19 May 2021, <https://monitor.civicus.org/explore/protests-against-tax-reform-lead-thousands-streets-colombia-face-brutal-police-repression-4pdy>.

²⁷ 'Condena a Vicky Dávila restringe la libertad de prensa', FLIP, 6 April 2021, <https://www.flip.org.co/index.php/es/informacion/pronunciamientos/item/2699-condena-a-vicky-davila-restringe-la-libertad-de-prensa>.

²⁸ 'The Differentiated Effects of Violence against the Press', Voces del Sur Unidas, 2021, <https://vocesdelsurunidas.org/wp-content/uploads/2022/11/SHADOW-REPORT-2021.pdf>.

²⁹ 'Silencio de autoridades en ataques contra el periodismo promueve la censura', FLIP, 11 May 2023, <https://flip.org.co/index.php/es/informacion/pronunciamientos/item/2721-silencio-de-autoridades-en-ataques-contra-el-periodismo-promueve-la-censura>.

³⁰ 'Colombia: four months since the beginning of National Strike', CIVICUS Monitor, 1 October 2021, <https://monitor.civicus.org/explore/colombia-four-months-beginning-national-strike>.

³¹ 'Colombia: Avanza investigación por interrupciones de internet en el marco de las protestas de 2021', Access Now, 26 January 2023, <https://www.accessnow.org/press-release/colombia-investigacion-interrupciones-internet-protestas-2021>.

³² 'Social leaders and journalists at increased risk during COVID-19', CIVICUS Monitor, 21 May 2020, <https://monitor.civicus.org/explore/social-leaders-and-journalists-increased-risk-during-covid-19-nic3>.

³³ 'FLIP condemns massive surveillance, profiling of local and international journalists by Colombian army', FLIP, 1 May 2020, <https://flip.org.co/index.php/en/public-statements/item/2517-flip-condemns-massive-surveillance-profiling-of-local-and-international-journalists-by-colombian-army>.

³⁴ 'Illegal Profilings: One year of Silences', FLIP, 1 February 2020, <https://flip.org.co/index.php/en/public-statements/item/2674-illegal-profilings-one-year-of-silences>.

³⁵ CIVICUS Monitor, February 2021, op. cit.

4.9 Enacted in 2014, Colombia's access to information legislation establishes strong rights protections encompassing the three branches of government.³⁶ Constitutional court jurisprudence has also played a role in shaping access to information rights, often strengthening protections.³⁷ However, while there have been advances in the implementation of access to information legislation, practical challenges remain.³⁸ In 2022, for instance, FLIP reported that several journalists complained of recurrent difficulties in accessing information from the Public Prosecutor's Office. Many received denials of requests related to sensitive topics, such as investigations into enforced disappearances during the 2021 National Strike.³⁹

4.10 Media groups in Colombia have also expressed concern about obstruction of press access to judicial proceedings involving government officials and security agents. In 2019, several journalists were denied access to a high-profile corruption trial, leading free expression advocates to appeal to the Constitutional Court.⁴⁰ In May 2020, the Court issued a ruling safeguarding press access to judicial proceedings and setting out rules for the denial of access to hearings in exceptional cases.⁴¹ However, unwarranted limitations of access still occur. In June 2022, two separate judges denied journalists access to hearings of security officials accused of employing excessive force during protests.⁴²

5. Freedom of peaceful assembly

5.1 During Colombia's examination under the 3rd UPR cycle, the government received one recommendation on the right to freedom of peaceful assembly. The government accepted the recommendation, committing to 'intensify efforts to investigate and prosecute all those responsible for extrajudicial killings, including commanders'.

³⁶ Law 1712, 2014,

<http://wsp.presidencia.gov.co/Normativa/Leyes/Documents/LEY%201712%20DEL%2006%20DE%20MARZO%20DE%202014.pdf>.

³⁷ 'Global Right to Information Rating: Colombia', Centre for Law and Democracy, <https://www.rti-rating.org/country-data/Colombia>.

³⁸ 'Acceso a la Información Pública', Voces del Sur Unidas, April 2022, <https://vocesdelsurunidas.org/wp-content/uploads/2022/04/Informe-Acceso-a-la-Informaci%C3%B3n-VDS-1.pdf>.

³⁹ 'La Fiscalía obstruye sistemáticamente el acceso a la información', FLIP, 8 June 2022, <https://www.flip.org.co/index.php/es/informacion/pronunciamientos/item/2917-la-fiscalia-obstruye-sistematicamente-el-acceso-a-la-informacion>.

⁴⁰ 'Colombia: Llamado a la Corte Constitucional para garantizar la libertad de expresión y el acceso a la información frente a investigación que se adelanta por corrupción en las cárceles', Article 19, 1 April 2020, <https://www.article19.org/es/resources/llamado-a-la-corte-constitucional-para-garantizar-la-libertad-de-expresion-y-el-acceso-a-la-informacion-frente-a-investigacion-que-se-adelanta-por-corrupcion-en-las-carceles>.

⁴¹ 'Corte aclara cuándo se puede limitar el acceso de prensa a audiencias', El Tiempo, 7 May 2020, <https://www.eltiempo.com/justicia/cortes/corte-constitucional-aclara-cuando-se-puede-limitar-el-acceso-de-prensa-a-audiencias-judiciales-492990>.

⁴² 'Colombia: human rights defenders and local leaders impacted by violence in rural areas', CIVICUS Monitor, 10 August 2022, <https://monitor.civicus.org/explore/colombia-human-rights-defenders-and-local-leaders-impacted-violence-rural-areas>.

However, as evidenced below, the government has only partially implemented this recommendation.

- 5.2** Article 37 of the Colombian Constitution guarantees the right to ‘gather and demonstrate publicly and peacefully’.⁴³ Article 21 of the ICCPR also guarantees the right to freedom of peaceful assembly. However, in practice, the right to peaceful assembly in Colombia is often violated through police repression and criminalisation. There is a pattern of security forces deploying disproportionate and excessive force in response to protests, resulting in cases of extrajudicial killings, injuries, arbitrary arrests, disappearances and multiple other human rights violations.⁴⁴
- 5.3** In a 2017 ruling, the Colombian Constitutional Court ruled that a statutory law was required to regulate the right to freedom of peaceful assembly. This came as a response to a legal challenge to a Police Code adopted in 2016 whose provisions regulating protests undermined this right.⁴⁵ However, as of June 2022 Colombia had not adopted a statutory law adequately regulating and guaranteeing the right to freedom of assembly.⁴⁶
- 5.4** In recent years, the government also adopted various other measures affecting freedom of peaceful assembly. Notably, in January 2021 Decree 003 provided guidelines for police on the use of force during protests. This decree was issued in compliance with a ruling of the Superior Court of Justice (STC7641-2020), which responded to a tutela action filed by civil society groups. In its ruling, the Court found that there was repeated and constant disproportionate aggression by Colombia’s public forces against protesters.⁴⁷ Decree 003 outlined a series of principles, definitions, duties and protocols of the Public Force’s actions before, during and after protests. Yet there are significant gaps in the measure, including the lack of instruction regarding human rights training and of tools to investigate abuses.⁴⁸
- 5.5** In addition, in January 2022, then-President Duque signed a new Citizen Security Law (2,197/2,022), which was introduced in Congress following months of mass demonstrations in the 2021 National Strike. The legislation includes several provisions that could be used to criminalise demonstrations and hardens penalties

⁴³ Constitution of Colombia, op. cit.

⁴⁴ ‘Executive Summary: Temblores ONG, Indepaz and PAIS Report to IACHR on the systematic violation of the American Convention and the jurisprudential scope of the Interamerican Court of Human Rights (IACHR) with respect to the use of public force against the civil population in Colombia, during the protests that took place between April 28 and June 26 of 2021’, Temblores ONG, Indepaz and PAIS, 2021, https://www.temblores.org/files/ugd/7bbd97_3ff4e9c4b0f14b3ea288049e2985d0e2.pdf.

⁴⁵ ICNL, op. cit.

⁴⁶ ‘¿Cómo avanzar en la garantía del derecho a la protesta pacífica?’, DeJusticia, 12 July 2022, <https://www.dejusticia.org/como-avanzar-en-la-garantia-del-derecho-a-la-protesta-pacifica>.

⁴⁷ ‘Supreme Court of Justice protects the right to protest against police violence’, DeJusticia, 24 September 2020, <https://www.dejusticia.org/en/supreme-court-of-justice-protects-the-right-to-protest-against-police-violence>.

⁴⁸ Temblores ONG, Indepaz and PAIS, 2021, op. cit.

for offences frequently used to prosecute protesters, such as ‘land invasion’.⁴⁹ Article 20, for instance, creates a new offence of ‘obstruction of public function’, which carries prison sentences of three to five years for those who impede the performance of any ‘public function’.⁵⁰

- 5.6** Protesters in Colombia can face serious charges for taking part in protests. According to UN human rights experts, at least 228 individuals who took part in anti-government protests during the 2021 National Strike have been charged with serious offences, including ‘terrorism’ and ‘conspiracy to commit crimes’. More than 180 protesters remained in prison or under house arrest as of March 2023 and, if convicted, some may face more than 22 years in prison. The UN experts warned that the use of egregious charges against protesters encourages stigmatisation and ‘poses a serious threat to the promotion and protection of human rights and fundamental freedoms and to the legitimacy of international counter-terrorism frameworks and laws’.⁵¹
- 5.7** Since 2019, Colombia has experienced intense waves of social protest. In November 2019, over 200,000 protesters took to the streets in a nationwide strike. Protesters’ issues included opposition to labour, pension and tax changes under discussion by the National Congress, the killings of community leaders and general dissatisfaction with the government’s failure to implement the Peace Agreement fully. On the days before the strike, the government published a decree with security measures that included closure of international borders for the day and powers for local authorities to impose curfews. Areas of Bogotá were militarised and the city’s metropolitan police conducted raids in at least 15 locations.⁵² On several occasions during the protests, the police used excessive force against protesters, including beatings and improper use of less-lethal weapons. During a protest for education on 23 November 2019, 18-year-old Dilan Cruz was hit on the head by a projectile fired by the anti-riot police. He died from his injuries three days later.⁵³
- 5.8** In September 2020, the violent detention and police killing of Javier Ordóñez in Bogotá once again brought thousands to the streets in protest against police brutality. The violence used against Ordóñez, a 43-year-old lawyer who was brutally beaten and died in police custody, sparked indignation across Colombia. When people protested on the night of 9 September 2020, they were met with repression and excessive force. Police fired teargas and flashbang grenades and disproportionately used lethal and

⁴⁹ ‘La nueva Ley de Seguridad Ciudadana nos hace más inseguros’, DeJusticia, 28 June 2022, <https://www.dejusticia.org/column/la-nueva-ley-de-seguridad-ciudadana-nos-hace-mas-inseguros>.

⁵⁰ Law 2,197, 2022, http://www.secretariassenado.gov.co/senado/basedoc/ley_2197_2022.html.

⁵¹ ‘Colombia: Misuse of counter-terrorism measures to prosecute protesters threatens human rights, say UN experts’, UN Human Rights Office, 29 March 2023, <https://www.ohchr.org/en/press-releases/2023/03/colombia-misuse-counter-terrorism-measures-prosecute-protesters-threatens>.

⁵² ‘Indigenous communities in Colombia under attack’, CIVICUS Monitor, 26 November 2019, <https://monitor.civicus.org/explore/indigenous-communities-colombia-under-attack>.

⁵³ ‘Colombia: Abuses Amid Massive Demonstrations’, Human Rights Watch, 10 March 2020, <https://www.hrw.org/news/2020/03/10/colombia-abuses-amid-massive-demonstrations>.

less-lethal weapons against protesters. According to monitoring by the Grita platform, 12 people were killed between 9 and 10 September 2022 and 139 were physically injured, 31 of them with firearms. Some of those killed were not taking part in demonstrations but were wounded by police using indiscriminate force. At least 163 people were detained and four reported facing sexual violence perpetrated by police officers. In less than 48 hours, there were 178 incidents of police violence affecting 271 people.⁵⁴

5.9 At the end of April 2021, a tax reform bill sparked nationwide anti-government protests. Thousands joined the National Strike against the bill and the mobilisation developed into long-lasting, widespread protests making multiple demands. The response to the historic wave of protests was characterised by heavy police repression in various cities.⁵⁵

5.10 Police forces systematically violated protocols on the use of force, increasing the risk of causing permanent and lethal injuries. Between 28 April and 26 June 2021, there were at least 228 instances of police firing lethal weapons during the protests. In almost half the cases, officers aimed directly at protesters' bodies. At least 33 people were killed with firearms used by the police during this period. Temblores ONG also documented the firing of various less-lethal weapons at the bodies of protesters, including teargas, stun guns, rubber bullets, pellets, reduced lethality grenades and marbles. There were 258 such cases recorded, killing four people and injuring 207, 70 of whom sustained eye injuries. In addition, security forces threw stun grenades and teargas at homes over 100 times.⁵⁶

5.11 Over three months of the 2021 National Strike, there were 617 cases of physical violence against protesters, 44 homicides reportedly perpetrated by police forces and 2,005 arrests. There were also cases of enforced disappearances and criminalisation.⁵⁷ According to Amnesty International, there were numerous examples of gender-based violence, including sexual violence. These affected particularly women and LGBTQI+ people.⁵⁸

5.12 Many of the violations documented in the context of protests have been perpetrated by anti-riot police force ESMAD. ESMAD is frequently deployed to disrupt and disperse protests, and according to Colombia's Superior Court of Justice, it constitutes 'a serious and current threat to anyone who intends to mobilise to peacefully express their opinions, because their actions, far from being isolated, are constant and reflect

⁵⁴ 'Ni un minuto de silencio: 9S sin olvido', Temblores ONG, September 2021, https://www.temblores.org/files/ugd/7bbd97_0b7639441bea42b4844440bb322f1bc.pdf.

⁵⁵ CIVICUS Monitor, October 2021, op. cit.

⁵⁶ Temblores ONG, Indepaz and PAIS, 2021, op. cit.

⁵⁷ Ibid. op. cit.

⁵⁸ 'Colombia: The police does not care for me: Sexual violence and other gender-based violence in the 2021 National Strike', Amnesty International, December 2022, <https://www.amnesty.org/en/documents/amr23/6234/2022/en>.

a permanent and individualised aggression within the framework of the protests'.⁵⁹ In Temblores ONG's evaluation, ESMAD materialises the militarisation of civilian life and the criminalisation of protests associated with the country's long-standing armed conflict. Despite the repeated abuses, little government action has been taken to reform this police force and hold its leaders and officers accountable.⁶⁰

5.13 A new police disciplinary statute adopted in 2022 established the appointment of a Special Delegate Inspector for Public Demonstrations, who would carry out disciplinary investigations for alleged abuses by members of the police forces during public assemblies.⁶¹ However, according to Temblores ONG, this is an ineffective strategy to promote accountability for these violations, as the disciplinary processes involving members of police forces will continue to be undertaken by the institution itself. A gap remains in the creation of external and independent oversight mechanisms for Colombia's security forces.

6. Recommendations to the Government of Colombia

CIVICUS and Temblores ONG call on the Government of Colombia to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In the light of this, the following specific recommendations are made:

6.1 Freedom of association

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit freedom of association.
- Guarantee the effective and independent functioning of autonomous trade unions by removing proscriptions on the formulation of independent labour unions and undue limitations on the right to strike.

⁵⁹ 'Observaciones y recomendaciones de la visita de trabajo de la CIDH a Colombia realizada del 8 al 10 de junio de 2021', Inter-American Commission of Human Rights, June 2021, https://www.oas.org/es/cidh/informes/pdfs/ObservacionesVisita_CIDH_Colombia_SPA.pdf.

⁶⁰ 'Silencio Oficial: Un aturrido grito de justicia por los 20 años del ESMAD', Temblores ONG, December 2019, https://www.temblores.org/files/ugd/7bbd97_1a73045e774d4bfd8ca72dd197f1cb88.pdf.

⁶¹ Law 2196/2022: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=176046>.

6.2 Protection of human rights defenders

- Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work, conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment.
- Undertake a consolidated process of repeal or amendment of legalisation and decrees that unwarrantedly restrict the legitimate work of HRDs, in line with the UN Declaration on Human Rights Defenders.
- Undertake a comprehensive review of the various mechanisms for protection of HRDs, social leaders and journalists to ensure their effective coordination and guarantee meaningful civil society participation in their implementation and oversight.
- Implement policies related to collective protection strategies for HRDs and communities at risk, particularly Decree 660, and ensure adequate resources for their fulfilment.
- Ratify the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) and incorporate it in domestic law.
- Immediately and unconditionally release all HRDs, including journalists and bloggers, detained for exercising their fundamental rights to freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment.
- Publicly condemn at the highest levels of government instances of harassment and intimidation of CSOs and activists.

6.3 Freedom of expression, media freedom and access to information

- Ensure freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Reform the Criminal Code to remove provisions on defamation in order to bring it into line with best practices and international standards, in conformity with ICCPR article 19.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive.

- Take steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Develop an action plan to ensure that internet laws comply with the government's commitment to guarantee freedom of expression, media freedom and access to information, including by ensuring free access to electronic media, ceasing censorship and surveillance, liberalising electronic media ownership rules and enabling journalists, bloggers and other internet users to play a full and active role in promoting and protecting human rights.
- Investigate the arbitrary use of communications surveillance on journalists and civil society leaders, and sanction those responsible.
- Harmonise the legal framework that regulates communications surveillance to ensure that the law is accessible and clear and meets international human law and standards, and establish an independent and effective oversight mechanism with a mandate to monitor all stages of interceptions of communications.
- Implement legislative measures to enable access to information and establish mechanisms to facilitate public access, in line with international best practices.
- Refrain from adopting any laws providing for censorship or undue control over social and conventional media content.
- Refrain from censoring social and conventional media and ensure that freedom of expression is safeguarded in all arenas, including in the arts.

6.4 Freedom of peaceful assembly

- Adopt best practices on freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, which calls for simple processes for the notification of assemblies being held rather than permission being required, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.
- Adopt a statutory law on the policing of social protests in order to appropriately regulate and fully guarantee the right to freedom of peaceful assembly.
- Reform protocols on the use of force and of weapons in the context of protests to ensure their compliance with human rights standards. Demilitarise ESMAD and transform it into a civilian police force.
- Review and update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent

application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.

- Establish independent oversight and accountability mechanisms for security forces, in consultation with civil society organisations.
- Unconditionally and immediately release all protesters, HRDs and journalists detained for exercising their right to freedom of peaceful assembly and review their cases to prevent further harassment.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces in the context of protests.
- Publicly condemn at the highest levels all instances of the use of excessive and brutal force by security forces in response to protests, launch formal investigations into such instances and bring the perpetrators to justice.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to freedom of peaceful assembly by state authorities.

6.5 Access to UN Special Procedures mandate holders

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; 2) Special Rapporteur on the situation of human rights defenders; 3) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; 4) Special Rapporteur on extrajudicial, summary or arbitrary executions; 5) Working Group on Arbitrary Detention; and 6) Special Rapporteur on the right to privacy.

6.6 State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society,

and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

7. Annex: Assessment of implementation of civic space recommendations under the 3rd cycle

Recommendation	Position	Themes	Assessment/Comments on level of implementation
120.41 Ensure that all perpetrators of attacks and threats against human rights defenders are brought to justice (Montenegro); Source of position: A/HRC/39/6 - Para. 120	Supported	B52 Impunity H1 Human rights defenders S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented
120.76 Reinforce measures to protect human rights defenders and to fight impunity for attacks against human rights defenders (Slovenia); Source of position: A/HRC/39/6 - Para. 120	Supported	B52 Impunity H1 Human rights defenders S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Partially implemented
120.34 Intensify efforts to investigate and prosecute all those responsible for extrajudicial killings, including commanders (United States of America); Source of position: A/HRC/39/6 - Para. 120	Supported	D51 Administration of justice & fair trial B52 Impunity D22 Extrajudicial, summary or arbitrary executions S16 SDG 16 - peace, justice and strong institutions Affected persons: - judges, lawyers and prosecutors	Partially implemented
120.37 Ensure that judicial authorities conduct, in accordance with international law standards, full, prompt and impartial criminal investigations and prosecutions of crimes under international law and human rights abuses against human rights defenders (Finland); Source of position: A/HRC/39/6 - Para. 120	Supported	D51 Administration of justice & fair trial H1 Human rights defenders S16 SDG 16 - peace, justice and strong institutions Affected persons: - judges, lawyers and prosecutors	Not implemented
120.65 Ensure that activists, human rights defenders and other social and community leaders, especially in rural areas, are equally and effectively protected also in view of the current challenges facing the implementation of the final peace accord, by, inter alia, ensuring an effective presence of government institutions in all areas of the country (Germany); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders A42 Institutions & policies - General Affected persons: - human rights defenders	Not implemented

120.57 Strengthen the programme on prevention and protection that includes victims of armed conflicts, human rights defenders, journalists, trade union leaders, land claimants and political leaders (Plurinational State of Bolivia); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders A42 Institutions & policies - General S16 SDG 16 - peace, justice and strong institutions Affected persons: - media - persons affected by armed conflict - human rights defenders	Not implemented
120.60 Strengthen the existing mechanisms for the protection of human rights defenders, focusing on rural areas and territories where illicit economies flourish (Costa Rica); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders A42 Institutions & policies - General S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented
120.55 Ensure that human rights defenders are protected while carrying out their important work and the judicial authorities conduct full and impartial criminal investigations so that perpetrators are held accountable (Austria); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders B51 Right to an effective remedy D51 Administration of justice & fair trial B52 Impunity S16 SDG 16 - peace, justice and strong institutions Affected persons: - judges, lawyers and prosecutors - human rights defenders	Not implemented
120.56 Recognize and actively support the work of human rights defenders, including women human rights defenders, with specific measures to put an end to impunity for the violence committed against them and ensure the effective implementation of the existing protection mechanisms (Belgium); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders B52 Impunity A42 Institutions & policies - General S16 SDG 16 - peace, justice and strong institutions Affected persons: - judges, lawyers and prosecutors - human rights defenders	Not implemented
120.73 Prevent and investigate all attacks against human rights defenders and community leaders, including trade unionists, indigenous leaders and environmentalist defenders, and bring those responsible to justice (Norway); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders D51 Administration of justice & fair trial B52 Impunity S16 SDG 16 - peace, justice and strong institutions Affected persons: - judges, lawyers and prosecutors - human rights defenders	Not implemented
120.30 Strengthen efforts to protect activists and investigate alleged human rights violations and abuses, including by implementing guidelines set out in the Attorney General's directive 002/2017 (Australia); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions Affected persons:	Not implemented

120.66 Consider establishing a protection programme for women rights defenders, taking into account their needs and realities from a gender-differentiated perspective, and allocate adequate financial and human resources for its implementation (Ghana); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders F12 Discrimination against women S05 SDG 5 - gender equality and women's empowerment Affected persons: - women - human rights defenders	Not implemented
120.81 Implement a comprehensive protection system for human rights defenders, especially for Afro-Colombian and indigenous communities, backed by public statements that promote the role of human rights defenders (United Kingdom of Great Britain and Northern Ireland); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders G1 Members of minorities G3 Indigenous peoples S16 SDG 16 - peace, justice and strong institutions Affected persons: - minorities/ racial, ethnic, linguistic, religious or descent-based groups - Indigenous peoples - human rights defenders	Partially implemented
120.71 Take steps to ensure the effective protection of human rights defenders and of persons belonging to minorities and indigenous peoples (Italy); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders G1 Members of minorities G3 Indigenous peoples S16 SDG 16 - peace, justice and strong institutions S10 SDG 10 - inequality Affected persons: - minorities/ racial, ethnic, linguistic, religious or descent-based groups	Not implemented
120.67 Ensure the continuation of current measures to safeguard the work of human rights defenders and the ongoing judicial investigations into the murders of human rights defenders (Uruguay); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders S16 SDG 16 - peace, justice and strong institutions Affected persons: - judges, lawyers and prosecutors - human rights defenders	Partially implemented
120.77 Ensure that human rights defenders are able to carry out their work free from intimidation, threats, harassment and attacks and guarantee their safety, especially those working in rural conflict-prone areas (Sweden); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders S16 SDG 16 - peace, justice and strong institutions Affected persons: - judges, lawyers and prosecutors - human rights defenders	Not implemented
120.51 Redouble efforts to investigate threats and acts of violence against human rights defenders and punish perpetrators of such acts (Argentina); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented

120.58 Take further actions to improve the prevention of, and response to, threats, attacks and killings of human rights defenders and social leaders, through strengthening security, timely investigations and addressing impunity (Canada); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders B52 Impunity D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Partially implemented
120.59 Take effective measures to combat the killing of human rights defenders and bring the perpetrators to justice (Congo); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders D51 Administration of justice & fair trial B52 Impunity S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented
120.62 Step up efforts to prevent killings and attacks on human rights defenders and ensure full investigation of these crimes (Czechia); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders D51 Administration of justice & fair trial B52 Impunity S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented
120.64 Protect, in collaboration with civil society, human rights defenders (France); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders A61 Cooperation with civil society S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented
120.69 Continue efforts to strengthen the institutional framework to protect and guarantee the work of defenders and social leaders (Dominican Republic); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders A42 Institutions & policies - General S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Partially implemented
120.70 Take all measures to protect human rights defenders and ensure that perpetrators of threats and attacks are brought to justice (Ireland); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders D51 Administration of justice & fair trial B52 Impunity S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented
120.72 Take further measures to prevent systematic violence against local leaders and human rights defenders, improve individual and collective protection of those at risk, and focus on investigating and prosecuting the intellectual authors of the threats and killings (Netherlands);	Supported	H1 Human rights defenders D51 Administration of justice & fair trial B52 Impunity S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Partially implemented

Source of position: A/HRC/39/6 - Para. 120			
120.74 Give greater consideration to human rights defenders, including female defenders and youth-led organizations engaged in the defence and promotion of human rights (Poland); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented
120.75 Effectively ensure the safety of human rights defenders, including by conducting detailed investigations into the attacks against them (Republic of Korea); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders D51 Administration of justice & fair trial B52 Impunity S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Not implemented
120.78 Advance in the recognition and protection of human rights defenders, avoiding their criminalization and fighting impunity (Spain); Source of position: A/HRC/39/6 - Para. 120	Supported	H1 Human rights defenders A41 Constitutional and legislative framework B52 Impunity S16 SDG 16 - peace, justice and strong institutions Affected persons: - human rights defenders	Partially implemented