

University of Zagreb

European Master's Degree in Human Rights and Democratisation  
2016 / 2017

## Who Killed Mario Andrés?

Aggressions against human rights defenders in  
Colombia: is the protection framework working?

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# WHO KILLED MARIO ANDRÉS?

**Violence against human rights defenders in Colombia: is the protection programme working?**

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## *Abstract*

*To what extent is Colombia's protection programme effective in protecting human rights defenders in the post-demobilisation scenario? This is the main question that guides the content of the thesis are focused on the extent and nature of human rights violations defenders face in Colombia. What is happening? Who is being killed? Who are killing them? Why are they being them? Chapter 2 will try to shed a light on these questions, and to explore the driving forces behind the widespread threats and aggressions against defenders. A second group of questions deals with the protection mechanisms in place. How are defenders being protected? Who protects them? How could the protection's institutional framework be improved? Through these questions, I try to offer an account of shortcomings and challenges the National Protection Unit should face in the years to come.*

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# INTRODUCTION

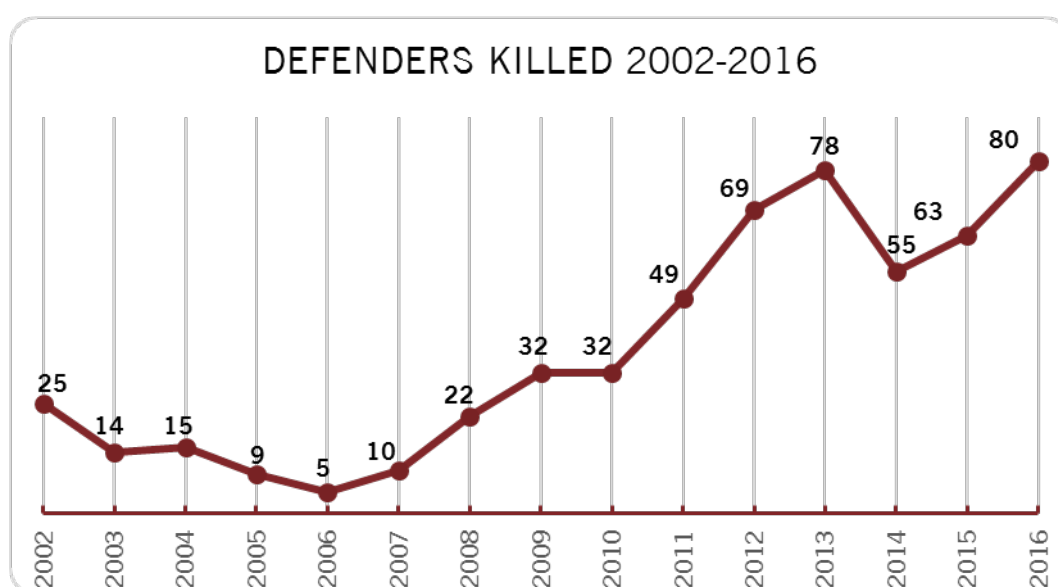
## *Sunday funeral*

**O**n Sunday the 14<sup>th</sup> of May 2017, while hundreds of pilgrims were celebrating Our Lady of Fatima feast at Buga's main square, a father buried his son in the town of Buga. The day before, at 9:30 am three bullets –two in the head, one in the lung– killed Mario Andrés Calle Correa. He was 40 years old. Mario Andrés was returning home on his horse in the village of Alto Pomares, Guacarí municipality (northern of



A day after the funeral, Colombian tabloid *Q'hubo* published the story on the frontpage. «*A peace leader was silenced*», it read. Two facts explain why the murder of Mario Andrés Calle was publicly relevant. First, the isolated, rural municipality of Guacarí was a FARC-EP stronghold until the demobilisation process started. After the guerrilla left, criminal groups have been taking advantage of the power vacuum and making presence in the territory. Second, Mario Andrés Calle was the president of Guacarí's main peasant farmer organisation (*Asociación de Trabajadores Campesinos del Valle del Cauca- ASTRACAVA*). ASTRACAVA has repeatedly denounced threats and aggressions against their members by armed actors (ASTRACAVA members, interview).

Yet, in absence of conclusive evidence, the actors and motivations behind the murder remain in the shadow. Who wanted Mr. Calle dead? Why was he killed? Was the murder the tragic conclusion of a private conflict, or was it linked to his political activity?



Source: Somos Defensores

The case of Mario Andrés Calle Correa, with its facts and unsolved questions, exemplifies a general trend observed by scholars, civil society organisations and public officials regarding

attacks against human rights defenders in Colombia: they are too common to be coincidental. Between 2002 and 2016, Colombian NGO Somos Defensores (2017) has documented 558 killings of human rights defenders. Analysing the data available, three features can be identified: *systematicity*, *diversity* and *impunity*.

Colombia faces a *systematic* phenomenon in terms of common modes of aggression and continuity throughout time. Only in the first semester in 2017 20 murders, 19 attacks and 136 threats have been reported. 88% of the assassinations occurred in rural areas like Guacarí, and 86% of them were perpetrated using a firearm. The most common perpetrators were paramilitary groups (67%). The second largest perpetrator is the “unknown offender” which applies to 22% of the total cases (Somos Defensores, 2017).

Nevertheless, as they are systematic in terms of repertoire and occurrence, aggressions are also manifestly *diverse* regarding both the victims and the perpetrators. For the victims, the National Protection Unit identifies no less than 18 different categories of targeted populations that must be protected (Decree 1066/2015). Regarding the perpetrators, in a report released in March 2017 the Ombudsman’s Office identified 20 active armed actors operating in the country, including three guerrillas and 17 ‘post-demobilisation armed groups’, a term that includes a variety of criminal and paramilitary groups (Defensoría del Pueblo, 2017).

The Office of the High Commissioner for Human Rights has ‘reiterated its concern about the high level of impunity for aggressions against human rights defenders’ (OHCHR, 2017). Conviction of perpetrators is uncommon, and the lack of judicial outcomes derived from adequate and effective investigations perpetuates the cycle of political violence.



Killings in Colombia: one phenomenon and a myriad of questions

*To what extent is Colombia's protection programme effective in protecting human rights defenders in the post-demobilisation scenario?* This is the main question that guides the content of the thesis. In the three chapters that conform this project, A first set of questions opens this thesis. Those are focused on the extent and nature of human rights violations defenders face in Colombia. What is happening? Who is being killed? Who are killing them? Why are they being them? Chapter 2 will try to shed a light on these questions, and to explore the driving forces behind the widespread threats and aggressions against defenders.

A second group of questions deals with the protection mechanisms in place. How are defenders being protected? Who protects them? How could the protection's institutional framework be improved? Through these questions, Chapters 3 and 4 will try to offer an account of shortcomings and challenges the National Protection Unit should face in the years to come.





# THEORETICAL FRAMEWORK

In 2015 Historical Commission of the Conflict and its Victims (CHCV) presented a collective report with the title *Contributions to the understanding of the armed conflict in Colombia*. The authors, some of the most relevant intellectuals of the country, were jointly selected by the FARC and the government in the framework of the peace talks. The report illustrates the conceptual challenges that must be faced when presenting a narrative on the nature of Colombia's violence.

The very first problem involves the search of a minimal definition of *what* is to be discussed. All along the several chapters that make up this report, the conflict is alternatively characterized as “social armed conflict”, “civil war”, “war”, “irregular conflict” and “internal armed conflict” depending on the author (CHCV, 2015, p. 43).

Secondly, there is no consensus regarding *when* the historical roots of the conflict are to be found. Some authors trace it back to the beginning of the 19<sup>th</sup> century, the rising of Colombia as a nation-state and the clashes between Liberal and Conservatives (Vega, 2015); others identify a sort of *critical juncture* in the 1920s and 1930s with an increase in political polarisation, agrarian conflicts and the eruption of sectarian violence (Pécaut, 2015); the assassination of Liberal leader Jorge Eliecer Gaitán in 1948 is commonly identified as turning point that marks the beginning of *La Violencia*, a period of political violence that lasted from 1948 to 1958. A set of discursive strategies looking for continuities focus on the impact of the

Cuban Revolution and the spread of guerrillas all over the region (Torrijo, 2015, Giraldo, 2015); others stress the emergence of paramilitary groups in the 1980s, while some others consider the cocaine market during the same period as the key element to understand the persistence of violence and the strength of armed actors (CHCV, 2015, p. 59).

Third, the number of actors involved, their interests and interrelations are also a contentious issue. Are paramilitary actors the result of a coherent policy of State terror or are they autonomous actors whose interests only collide at some point with part of the establishment? What is the role of illegal economies in the financial sustainability of the armed groups? Is 'paramilitary' an accurate notion to define some of the armed actors currently operating in Colombia?

In short, the Colombian case cannot be seen as a monocausal, bipolar conflict. On the contrary, it is a multipolar, fragmented phenomenon rooted in structural trends and fostered by actors with evolving, colliding and sometimes overlapping interests. This fact must be taken into account when considering the narrative offered in the following pages.

Therefore, any research project focused on Colombia has to make three fundamental choices: first, *how* to describe the nature of Colombia's violent dynamics; second, *where* to find the fundamental explanatory variables of the emergence and persistence of those dynamics; and third, *how* to describe and understand the actors involved.

### **Political violence: more questions than answers**

Violence has been a predilected topic for social scientists and historians. Yet, we are far from reaching an integrative explanation of why violence erupts, how it is reproduced and what are the driving forces behind the transition from war to peace. However, generally speaking, the field of violence and conflict studies has been nourished by two complementary levels of analysis: case studies and comparative pieces.

Quantitative political scientists usually cherish comparative studies. A good example of this research path can be found in the influential *Natural Resources and Violent Conflict* (Collier and Bannon, 2003). The authors stress the causal correlation between abundance of primary

commodities and a higher risk of an armed conflict to erupt, and focus on the incentives political actors have for using violence in order to control revenues, and how changing the incentives can break the mechanisms of armed conflict.

Scholars following this line of research use economic vocabulary and reasoning: supply, demand, incentives, and what I found suggestive, the notion of *oligopolies of violence*. In *Oligopolies of violence in post-conflict societies*, Lambach (2007) widely uses the concepts associated to Collier's disciples. He states the following:

Security markets in post-conflict societies can exhibit varying degrees of concentration. Frequently markets will be supplied by a small number of competitors without any single one of them being able to monopolize it completely. This situation has been described as an 'oligopoly of violence' (...). This concept is useful in that it illustrates the heterogeneity of violence actors as well as the unequal relationships between them. It forces the analyst to consider the strategic environment in which armed groups (inter-)act, and which they create through their interaction (Lambard, 2007 p. 7)

The formal clarity of the 'security market' approach is both intellectually convincing and easily generalizable for comparative purposes. For the purposes of this thesis, it captures key elements that can be found in the Colombian case to which this project is devoted.

The second approach, namely case studies, avoid wide generalizations and prefer to look closely at the 'black box': namely, to the complex dynamics that are not as easy to generalize but that present a solid internal validity. A collection of historical and anthropological streams chose to follow this path, as it allows to 'dissect' a topic in depth and find the nuances of irregularity.

As Kalyvas (2003) put it in its suggestive article "The Ontology of Political Violence", "civil wars are not binary conflicts but complex and ambiguous processes that foster and apparently massive, though variable, mix of identities and actions. (...) The widely observed ambiguity is fundamental rather than incidental." In this vein, the testimonials I link the current aggressions against defenders with a micro dynamic of political violence that crystallizes in the 1980s.

## **Defining an elusive target: human rights defenders, social leaders, activists**

In 1998, the notion of human rights defender finally crystalized in a United Nations' declaration. *The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, Declaration' states in its Article 1 that

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

While the so-called Defenders Declaration itself does not seem to add much to the International Covenant on Political and Civil Rights. However, at least for the Colombian case it *was* relevant. In a context of widespread human rights and humanitarian law violations, and against a public discourse that framed any expression of political opposition and activism to Cold-War-like “subversive agents”, the Declaration linked a wide range of activists to the United Nations project and gave political support to their actions. In that sense, Article 12 recognized the individual and collective right to “participate in peaceful activities against violations of human rights and fundamental freedoms”, as well as the State's responsibility to “ensure protection (...) against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”.

However, such a broad definition has been problematic when it comes to its operationalization, as there is no consensus on the scope of the concept. United Nations has pointed out that defenders are defined “for what they do”: by their actions and their contexts (United Nations, 2004, p.1). In the same vein, Amnesty International considers that anyone “regardless of their occupation” can be a human rights defender, comprising not only civil society activists but also “a local government official [and] a policeman” (Amnesty International, 2008, p.18). On the contrary, Colombian NGO Somos Defensores, which manages one of the most cited database on aggressions against human rights defenders, is also a social leader, “which means that it does not belong to any State institution” (Somos



Defensores, 2017, p. 44). Colombia's National Protection Unit does recognize human rights defenders as a separate category among other potential beneficiaries of protection schemes, but it does not define what the features and the scope of it are.

In an attempt to surpass the lack of consensus and move on, I chose to use the term 'social leader', 'human rights defender' and 'activist' as synonyms. This choice allows me to draw an argumentative line connecting the three pillars of the thesis, namely the roots of political violence, the empirical evidence of a current increase in aggressions, and the role of the National Protection Unit.

However, I acknowledge the potential consistency problems linked to the use of Somos Defensores' database as evidence to support my points. I am also aware of the conceptual simplification I am conducting in applying the term 'human rights defender' to a wide range of social activists that do not identify themselves as such. Such a simplification is not innocent; on the contrary, it serves a narrative that uses the authority attributed to numbers as a source of 'truth' to support a political discourse and influence the agenda-setting.

Being aware of this fact –the inherent oversimplification subsumed in the notion of 'human rights defender'– does not stop me from using the concept and the database. Considering human rights research a fundamentally political task, it is key to build instruments that contribute to the translation of the human rights normative discourse to descriptive instruments based on those normative premises.

Nevertheless, I still consider the findings accurate and supported by similar results found in other databases that do include individuals belonging to State institutions. In exchange, it gives me the opportunity to present the testimonial of Wilson Arias, trade unionist and former Congressman, which I consider relevant but, as State representative, would have been excluded using a narrow definition of 'defender'.

# Methodology

This research has been conducted under a mixed approach that combines legal primary sources (Colombian national legal framework on protection of social leaders and human rights defenders) with secondary literature that includes historical approaches focused on the roots of the armed conflict and social science reflections on the actors' dynamics.

A strong component of the research consists of analysing the current situation regarding aggressions against human rights defenders, for which a thorough desk research has been conducted on NGO, UN and State's reports, recommendations and observations on public policy developments.

In order to evaluate the effectiveness of the protection programme, I conducted a field-based research in Colombia. I conducted 28 in-depth, semi-structured interviews with key actors in Bogotá, Medellín, Cali and rural areas of Valle del Cauca. The interviewees can be divided in three groups: 1) human rights defenders under risk, with and without protection schemes; 2) Public officials, including civil servants from the Office of the Ombudsperson, UNDP officials and UNP personnel –a bodyguard, a risk analyst and the Director's advisor—; and 3) experts –comprising researchers, members of NGOs, lawyers and activists—.

The methodology of this project was greatly conditioned by the choice of photography and testimonials as narrative devices. It is relevant to note that the inclusion of an image-based discourse is not a mere complement, but an integral part of the project since its conception. Indeed, the search of visually compelling characters, stories and spaces very often determined the research process.

The centrality of first-hand experiences has had a key effect in the way the project was conceived and the argumentation developed: namely, the line of reasoning is radically deductive. In other words, even if I tried to find an equilibrium in the edition of the final product, the organisation of the information was determined by a fieldwork in which I

interacted within a continuous transit from the particular to the general; from the anecdote to the trend.

I am aware of the fact that I broke some rules. Specifically, I mixed conventional academic sections with passages devoted to anecdotal testimonials that are closer to journalistic and literary genres than to research-style narratives. These 'voices' should not be read as literal transcriptions; they are selected, rearranged, manipulated fragments of longer interviews dramatically disposed to serve the purposes of my own arguments.

Nevertheless, this does not mean that what those voices say is not real. For the most of it, I respected the integrity of sentences and the ideas' internal logic. The editing process only concerned the adaptation of an oral discourse, with its natural cadences and digressions, to an embellished, readable 'replica'. But as I manipulated the information to serve my purposes, relevant effects in terms of meaning are not beyond the bounds of possibility. In this sense, the ethical challenges I faced are similar to those faces in disciplines as documentary products.

In my defence, I would argue that I did nothing worse than what conventional researchers do when they quote an author: to extract an isolated, decontextualized fragment of authoritative knowledge in order to serve the production of new knowledge.



*Jorge Aponte, university professor and researcher at National Pedagogic University and militant of Marcha Patriótica.  
On the left, Dario Betancourt, director of the Social Sciences Department (killed in 1999). On the right, Miguel  
Ángel Quiroga, graduated in 1999 (killed in 1998).*

# CHAPTER 1

## *Scars of political violence*



Diego Daza

Valle del Cauca Farmer Peasant Association - ASTRACAVA

*I've been living in Líbano for eight years. I'm a member of the Transitional Justice Committee, and I represent the peasant victims. When I finished Psychology I moved the foothill of Palmira. I wasn't prepared for the armed conflict. I was badly informed, I didn't know this place would become a disputed area. I wouldn't have moved here if I had known about the situation. Then, in 2011, the biggest territorial dispute between the Armed Forces and the FARC erupted in Pradera. The foothill was sieged by regular troops. The FARC took advantage of their position and went downhill to knock them off. The foothill is a peasant-populated area. The Army placed the peasants in the middle as human shields. That motivated three mass displacements as well as persecution among the peasantry from both sides.*

*2011 was a dreadful year. The FARC planted mines everywhere and stroked severe blows. I found myself caught in the cross-fire in approximately 12 battles. Terror came from both sides. One Sunday morning, the Army threw a grenade into my town's school. I reported that incident.*

*One day, in the afternoon, a group of regular troops was at an open field when they were ambushed. FARC's snipers massacred them. Two soldiers were killed and others were wounded. I witnessed the whole thing. I was shocked. 8 days later humanitarian agencies arrived: UN, the Ombudsman's Office, the Peace Office... Operations were going on, and I reported the ambush and the two soldiers killed in the open field. The Army denied there were any military operations at all.*

*That's when I became a military target. I asked for a protection scheme, but it was rejected. I would sleep with my clothes on; whenever the dogs barked I was ready to run. I spent an entire year like that. Shoes at the bedside and the suitcase ready. We sold everything, our house...I mean everything. The Army kept a close eye on me. I was warned not to leave the area, because if I left I would become a 'false positive'. UN and ICRC officials were deployed in Pradera. I coordinated their mission. Assisting them saved me. Thanks to that I had a high level of protection, as they were constantly reporting to the Battalion's commander.*

*When the military command changed, things ran smoother. But obviously one had to be very careful. If there was a cross-fire, I couldn't go out. If the soldiers were near my home at night, I couldn't go out. I couldn't walk alone during the day. It was a difficult situation. Now there are risks, but very few. Two years before I had a considerable risk of attacks, but not anymore.*

*Now there is a dispute between guerrilleros in the town. I helped an insurgent to get out of prison. I didn't know he was an insurgent, and I testified. There is another insurgent in town who really hated him for a dispute over water management. They tried to expel me from the area. I received more than 30 threatening calls. They called me, and hung up, not a word. The Victims' Unit recommended me to contact the National Protection Unit, but I didn't do as told. Finally, I reported to the Prosecutor's Office. 'If they don't say anything, what can we do? We can do nothing'.*

*They are absolutely useless.*





Wilson Arias,  
Union leader and former congressman

*The first threat was a condolence note from a funeral establishment with my name on it. In 1992 I was a union leader at SENA, an educational institution for young workers and peasants. At that time privatization was on the table. We opposed it, and in 1994 we passed a popular initiative law, the first of its kind in the framework of the new 1991 Constitution, and SENA was saved from privatization.*

*As it tends to happen, there were some threats that escalated through time. Who were the perpetrators? Paramilitary groups, businessmen, company directors, political sectors. They used what we called oficinas de cobro [billing offices]: gunmen from popular neighbourhoods that anyone could hire to kill someone. Anyone could betray you. It was quite easy to find a hitman willing to offer his services in in the criminal underworld.*

*Around 1997 or 1998 the trade union of Cali's municipal enterprises (SINTRAEMCALI), which were in process of privatization, organized a rally and occupied a 10-storey building, interfering in the municipal administration. It had a great social repercussion, and was symbolically*

very powerful. At that time I was a SENA's representative and the spokesperson of the occupation. We suffered a second wave of threats. Several social leaders were killed. Several SINTRAEMCALI leaders were forced into exile. It was the peak of paramilitary groups.

I was armed back then, against my will, forced by the trade union. I don't think it helps much for a leader to carry a gun, but to be honest, the situation was so dangerous that I just had to. I felt terrible, it was very uncomfortable. Carrying a weapon creates a barrier amongst others. People look at you differently. (...)

The trade union provided me with a vehicle. No one wanted to be my chauffeur, my own colleagues were so terrified. A crazy guy finally did it. After a while SENA put a protection scheme at my disposal. I only went for a protection scheme when things got too dangerous, and out of hand.

I was so lucky! I had two excellent bodyguards. One of them, John Jairo Malla, who was a guy man of great this size. John Jairo was sweet with my two children; he had a connection with them. But still, to be with your family like that... The personal cost is terrible. Having a protection scheme is a familiar disgrace. Some days I didn't want to go out. But finally you get used to it.

My bodyguards empathized with our struggle. It was very funny, we were coming straight from a meeting and John Jairo said 'Wilson, you forgot about that issue! People should be aware of that!'. 'Fuck' I said, 'he's right!'. He was like a political secretary! (laughs)

One day information from jail came, that at that very moment there was a plan to kill me and I just stampeded to get away. I had to leave the country. I asked for an unpaid leave at the SENA, where I was still an employee. When I came back I assumed the trade union's national presidency, living in Cali due to the risk I faced in Cali. But after some months I just came back. In 2007 SENA students and I decided to run for Cali's Municipal Council. I was elected in 2008 and I got a protection scheme composed by two policemen.

Then, the sugar cane cutters' strike broke out in 2009. It had a great impact, since sugar industry is the economic power of Valle del Cauca. In that context, some labour leaders needed to identify the ownership of sugar factories in order to start the battle. I started my research with another councillor and we found an emerging phenomenon by that time: the concentration of land in foreign hands.



*After the 2008 mortgage crisis in the United States, capital was looking for new investments, and they were mainly found in food and land. There are 6 million hectares of owner-less uncultivated land in Colombia's Llanos Orientales, which then becomes the Nation's property. Those lands, by law, can only be transferred to poor peasants. Also, once transferred the peasant owner can only sell it to another peasant. That's the so-called 'peasant's circular market'. Corporations cannot participate in this market, but de facto they did it.*

*When I was elected for Congress in 2010, Congressmen Jorge Robledo, Iván Cepeda and I released a report denouncing 11 cases of illegal appropriation of uncultivated land and how it was managed. Former president Álvaro Uribe Velez, and ministers Aurelio Iragorri and Rubén Darío Lizarralde were involved, among others. Law says a peasant cannot own more than one Family Farming Unit. Those investors used several front companies, and each of them would buy an adjacent piece of land. Front companies were associated to networks of offshore companies located in tax havens, so any the traces could be erased. And finally, they would present the operation as Direct Foreign Investment to get fiscal exemptions!*

*After the report was released, threats were on the rise. I received text messages. I received calls too: they'd stay on the line for hours, not saying a word. They sent messages to my partner saying that I was cheating on her. They made us fight. It is psychologically very harsh. They ruin your life.*

*I had an assistant. She was in Bogotá when a motorbike did a hit her and run. It looked like an accident. The next day, I received a message: 'Is your little friend from Bogotá OK?'. Damn, I was terrified. I told her 'file a report. 'I'm not denouncing it' she answered, 'I don't want to get into troubles, I just want to stop'.*

*I was given a protection scheme with two policemen, two UNP bodyguards and a bulletproof vehicle. But after my mandate expired it was withdrawn, even when things have gone further: Uribe accused, Luis Carlos Sarmiento Angulo accused...*

*There was no reason to remove the protection scheme.*

## 1.1. Evaluating the past: the theatre of war

Despite the demobilisation of one of the main armed actor [FARC-EP], violence against social leaders has not decreased. On the contrary, attacks have increased: on average, since December 1<sup>st</sup> 2016, a leader is killed every 4 days since once the Peace Agreements came into force.

Mario Zanudo, Vice News journalist

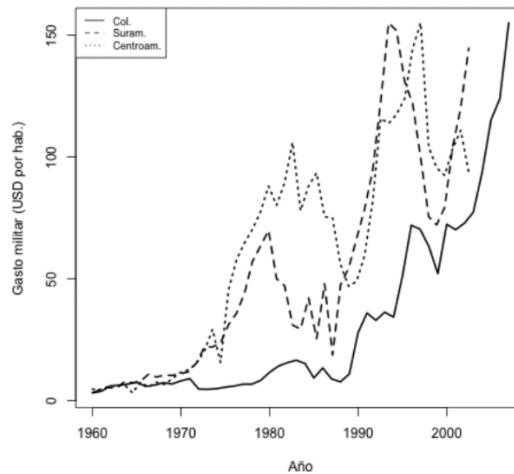
Colombia is a extremely diverse country, as its violence is. Nevertheless, from the analysis of the data available, three common features define the current scenario of violence against activists in Colombia after the FARC-EP demobilisation: the combination of a weak State, armed groups and illegal economies in the context of a post-conflict phase. This state of affairs has been described by Garzón-Vergara (2015) as Colombia's 'perfect storm'. The core concepts used in the following sections are in debt with his contribution.

This chapter proposes a comprehensive account of the relationships between these three elements. If it is correct, it could also help to develop strategies and instruments to break the structural mechanisms that reinforce violent dynamics.

### 1.1.1. Scenario: a weak State

The weakness of the Colombian state is rooted in three interrelated factors: 1) the reduced capacity of the State in obtaining resources and implementing public policies; 2) the consequent lack of territorial integration through investment, infrastructure and state presence in general; and 3) the size and quality of the security forces (Giraldo, 2015).

While the two first factors are common in weak states, the third element—size and quality of the security forces— deserves a closer look. The following table compares the per capita military expenditure of Colombia between 1960 and 2012 compared to South America's average. Although military investment has radically increased in the last 20 years, Colombia was below regional standards until the 2000s.



Source: Giraldo (2015)

In historical perspective, a line connects the weakness of Colombian security forces and the provision of private coercion by non-state actors. Not only the absence of the State in those areas reduce the probability of punishment and the costs of exerting violence against others; it also increases the demand of security by actors with enough coercive potential to impose some kind of social control.

The impact of Colombia's contemporary violence in terms of human suffering is overwhelming. In the last 50 years, it is estimated in 8,3 million victims –nearly 15% of the country's population –(Pizarro, 2015). The actors involved, as well as their configuration, agendas and alliances, have mutated all along half a century of violence. However, it is commonly accepted that the main agents in the 'theatre of war' have been members of the State apparatus, left-wing insurgent guerrillas, paramilitary groups and criminal groups (CHCV, 2015).

### 1.1.2. Actors: guerrillas, paramilitary groups and political elites

Guerrilla groups arose in the sixties in line with the guerrilla warfare doctrine followed by some left-wing organisations. The Revolutionary Armed Forces of Colombia (FARC-EP) emerged in 1964, and before the group demobilised in 2016, it was the most significant

insurgent group in the country. At their peak in the nineties, the group had approximately 20,000 combatants and an active presence in at least half of the municipalities in the country. Just before the peace agreements and the DDR process took place, they had between 6,000 and 7,000 combatants with operational fronts in less than 180 municipalities. The ELN was also established in 1964, and has approximately 1,300 combatants with a presence in less than 20 municipalities. Smaller guerrilla groups as Popular Liberation Army (EPL) and M-19, although less powerful in terms of size, operational capacity and territorial influence, conducted military actions in specific regions until the late 1990s (Llorente, 2016).

In response to the guerrilla, since the 1980s *autodefensas* proliferated in rural areas and rapidly evolved in what is commonly known as paramilitary groups. These groups consolidated their presence thanks to the support of four types of agents: 1) legal rural elites, who were vulnerable to extortion and kidnapping by guerrilla groups; 2) illegal elites linked to organized crime and drug trafficking; 3) sectors within the political establishment; and 4) members of the State's security apparatus (CHCV, 2015). In the long-term it resulted in the introduction of a new, increasingly autonomous armed actor into the conflict.

At first, fear of being kidnapped was the driving force behind the paramilitary phenomenon. Kidnappings of local elites were a lucrative source of revenues for the guerrillas. As guerrillas operated mainly in rural areas, agricultural elites, were the most affected. Also, *narcos* emerged as new and extremely rich elites, which made them a natural target. In 1984, 278 kidnappings were perpetrated by the various guerrillas; in 1991 they reached 1717). At this point, legal elites hired former members of the security forces and peasants from the surrounding areas to protect them against the threat of kidnapping. (Duncan, 2015)

While paramilitary groups did not emerge as a part of a coherent counterinsurgent plan, they were simultaneously functional to the counterinsurgent strategy, and part of the State security apparatus made use of them in order to conduct operations where legal institutions could not. This is how rural powers, private anti-guerrilla armed groups and State were found in a partnership of aligned interests.

### 1.1.3. Resources: The 'cocaine variable'

There is a strong causal connection between the waves of political violence and the persistence of the armed conflict, on the one hand, and large-scale drug trafficking in the 1980s, on the other hand. Lawrence (2015) found a robust and positive relationship between variations in cocaine production and the total number of guerrilla and paramilitary actions between 1988 and 2009.

In the same line of thought, Pécaut (2015) considers cocaine trafficking a fundamental variable that explains the mutation of the armed conflict. Cocaine-related revenues generated an ‘opportunity structure’ for the growth of armed actors. First, guerrillas increased their resources through taxation and extortion of drug trafficking, which generated formidable amounts of revenue, key to transform what was a rather weak insurgent, farmer-based armed movement into powerful military organisations capable of organizing and sustaining thousands of soldiers. The FARC went from 1000 soldiers in 1982 to 18,000 when they were concentrated in the framework of the peace talks in 1998. As for the paramilitary groups, 32,000 members took part in the demobilisation process of 2005 (CHCV, 2015). Drug revenue greatly increased the autonomy of peripheral elites, undermining State’s capacity to control them.

Also, correlation between state weakness, armed groups and illegal crops and its link with the increase in homicides has been empirically proved. Using the percentage of homicide cases for which a sentence was formulated as an indicator of justice efficacy at the municipal level, Colombian researchers García-Villegas and Espinosa (2015) found that the majority of municipalities with low and very low efficacy rates shared similar features including 1) the presence of armed groups; 2) areas of illegal crops; 3) areas of input transport for the production of cocaine; 4) the presence of illegal mining; and 5) low quality of institutions. While correlation does not imply causality –weak States do *not* face armed conflict—, it can be affirmed that the low capacity of the State to regulate social relations allows other actors to regulate them, as well as to carry out illegal activities at low criminal cost.

Third, coca crops and cocaine-related activities, controlled by non-State actors, economically sustained the population living in rural areas, which increased the influence of

illegal groups at all levels. Then, when the State acted in those areas to eradicate coca crops, the incentives for those economically destroyed farmers to join the armed groups also increased.

#### 1.1.4. Outcomes: Oligopolies of violence

Colombia's dynamics can be described as a political conflict rooted on structural inequalities in the access to both economic resources and power. Violence has been historically a tool used by agents to gain or impose social and territorial control and to promote diverse political agendas. A situation of *power oligopoly* has perpetuated due to the abundance of resources to sustain armed operations and the incapacity of a State apparatus to effectively control those resources, on the one hand, and stop other non-state armed actors from doing it, on the other hand.

Illegal economies had three effects on Colombian armed actors' dynamics. First, they provided incentives for the diverse armed actors to control the supply routes in which illegal economies develop, fostering territorial disputes. Secondly, the immense income illegal economies generated allows the actors to operate without the need of social support or consent. Third, the armed actors aim not only to maximize profits, but the economic control over the territories made them become *de facto* powers that substitute the State in fundamental roles such as coercion and justice-like mediations (Garzón Vergara, 2015).

When dealing with Colombia's recent history of violence, the massacre of Unión Patriótica is usually placed at the centre of the argumentation on the use of armed violence against political rivals in the 1980s. In 1984 a ceasefire was negotiated between the government and the FARC-EP. By that time, four guerrillas –FARC and ELN being the most important both in size and political influence– had effective control over a considerable part of Colombia's territory. In certain rural areas, the insurgency was the *de facto* administrative power: local disputes were managed by guerrilla-run institutions (tribunales populares, unidades de reparto de tierra, among others) and economic resources in those regions were directly or indirectly controlled by the insurgents.

A year later the ceasefire, a new political party was born. Unión Patriótica (UP) was a coalition of the FARC, the Communist Party, smaller left-wing organisations, labour associations, civil society organisations and a demobilised guerrilla. The party did fairly well numbers in electoral terms, at least for a while. The party won 5 seats in the Senate and 9 in the Congress. In the 1988 local elections, UP won 23 local councils. Since then, the killings did not stop: paramilitary groups, supported by members of the Public Force and political elites, killed 2500 members of Unión Patriótica. 2 presidential candidates, 7 congressmen, 8 mayors, 50 councillors, and at least 317 militants were assassinated. (Pécaut, 2015). The massacre of Union Patriótica cannot be understood without acknowledging the confluence of interests between local elites, paramilitary groups supported by them against the guerrilla, and the State, which used them in its counterinsurgent strategy (Giraldo, 2015).

However, it is also worth noting that UP was not the only nor the most affected organisation in terms of murder of their members in absolute numbers. Between 1986 and 2002, 1135 Liberals, 240 Conservatives, 1135 politicians and activists not affiliated were also murdered (Pizarro, 2015, p. 41).

After the demobilisation of the AUC, government officials changed the repertoire to describe the remaining armed groups associated to the former paramilitary group. They would rather refer to them as *bandas criminales* (criminal bands) or BACRIM to stress the success of the demobilisation process or *neoparamilitares* (for those stressing the continuity); and more recently, *grupos armados postdesmovilización* (post-demobilisation armed groups, GAP).

Today, 20 identified armed groups operate in Colombian soil. Their internal coalitions are fluid, and their logics are deeply rooted on parrochial dynamics. Criminal bands, paramilitary groups and guerrillas resist oversimplification. In the next chapter, I analyse the data available to assess the challenges Colombian civil society and policy-makers face in order to foster a post-conflict transition.



*It has been two months since I moved to Medellín. I was declared ‘military target’ by the paramilitaries. I was going to be executed. I left Apartadó escorted”*

Luis Fernando Ospina, Peasant association of San José de Apartadó,

Human Rights Committee

National Protection Unit’s protection scheme: bulletproof jacket and mobile phone

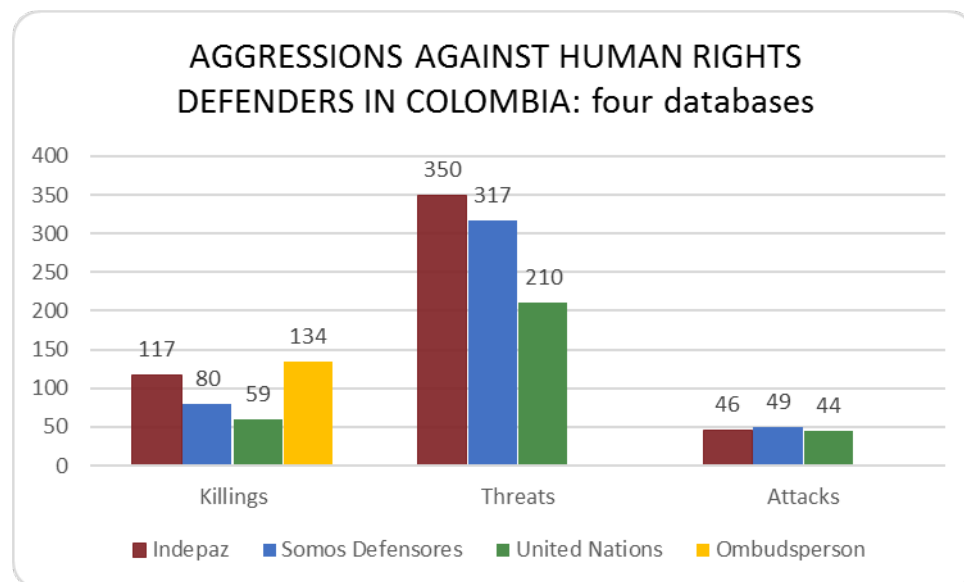
## CHAPTER 2

*Aggressions against human  
rights defenders in Colombia*



## 1.1. Preliminary remarks on the scope and limitations of the data available

For the Colombian case, it is in fact an issue when it comes to empirically sustain the assertion that there is a systematic phenomenon of aggressions against human rights defenders. It is reasonable to question the applicability and usefulness of the notion of ‘defender’ when it does not serve to answer the question of *how many human rights defenders have suffered an aggression in 2016*. The following table shows the divergences between the main databases on aggressions against human rights defenders illustrates the problem in practice:



There are two reasons that explain the differences in the data collected. The first one concerns the definition of a ‘human rights defender’ used by each organisation, as it has been already discussed in the introduction. However, the trends and findings of the three of them are extremely similar

None of the four organisations that manage systematic databases make them publicly available. Thus I choose to use the data collected by Somos Defensores and its Information System on Aggressions Against Human Rights Defenders in Colombia for two reasons. First, because their annual report is the most detailed, providing complete lists of criteria and not

only partial evidence. Second, because Somos Defensores collects data on the alleged perpetrators, which is relevant for an analysis of the actors involved. And fin

Two remarks have to be taken into consideration though. First, their definition of human rights defender is composed by two elements.

1) A defender is any person or group that is dedicated to the defence, promotion, respect and protection of human rights at national and international levels and for the effective elimination of human rights violations in the national, regional and local areas, as recognized by the UN Declaration on Human Rights Defenders.

2) In addition, a human rights defender is a leader in civil society in any of its geographical areas, which means that it does not belong to any State institution.

As it was discussed, such a definition introduces a problematic 'grey area' for human rights defenders that become representatives. Is Mr. Wilson Arias, a labour leader and former Congressman, interviewed for this thesis, still a human rights defender at the moment he is elected representative? Also, Somos Defensores' definition excludes a wide range of individuals considered at risk as targets of political violence by Colombia's protection programme implemented by the National Protection Unit.

Secondly, Somos Defensores only monitors individual aggressions, not collective ones, as the Ombudsperson and the UN do. While in terms of methodology it makes sense, as it homogenises the unit of analysis, however, a considerable amount of aggressions (United Nations recorded 69 collective threats in 2016) remain unaccounted.

And third, the problem of under-reporting cannot be neglected. In this sense, Somos Defensores' director Carlos Guevara acknowledged in an interview conducted by the author,

Under-reporting in 2002 or 2003 was estimated in 70%, for several reasons. First, the fear of reporting. Second, defenders didn't recognize themselves as such. And third, collective, massive violence was much more visible than focalized violence. Still now the under-reporting reaches 30%.

Thus, in the context of a de-escalation of war actions, the decrease of civilian casualties and massacres and the beginning of the peace negotiations between the FARC-EP and the government in 2013, individualized political violence becomes more visible, and the as well as the perpetrators are forced to be more selective.

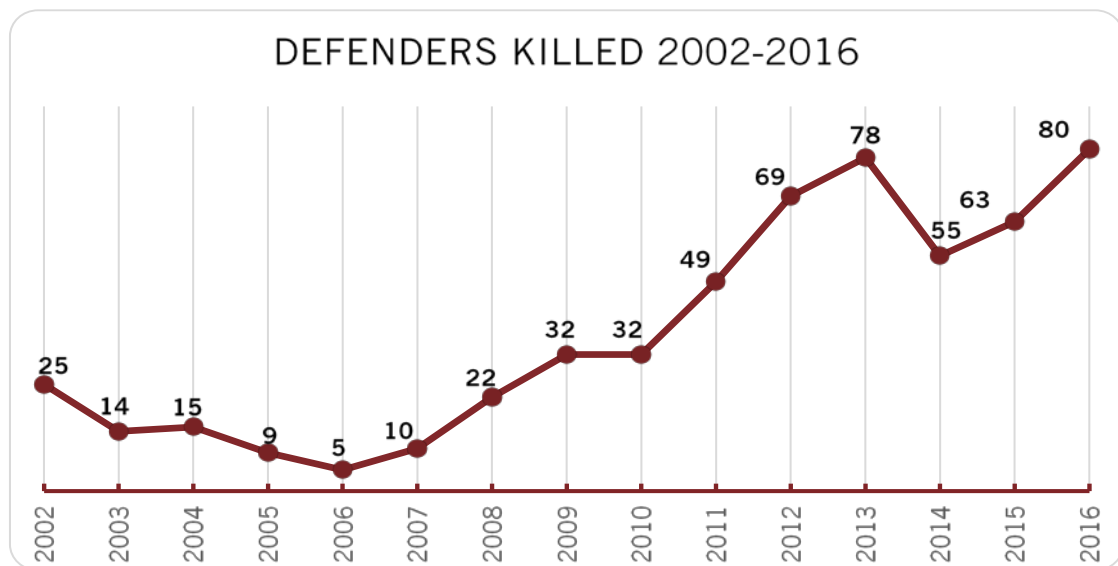
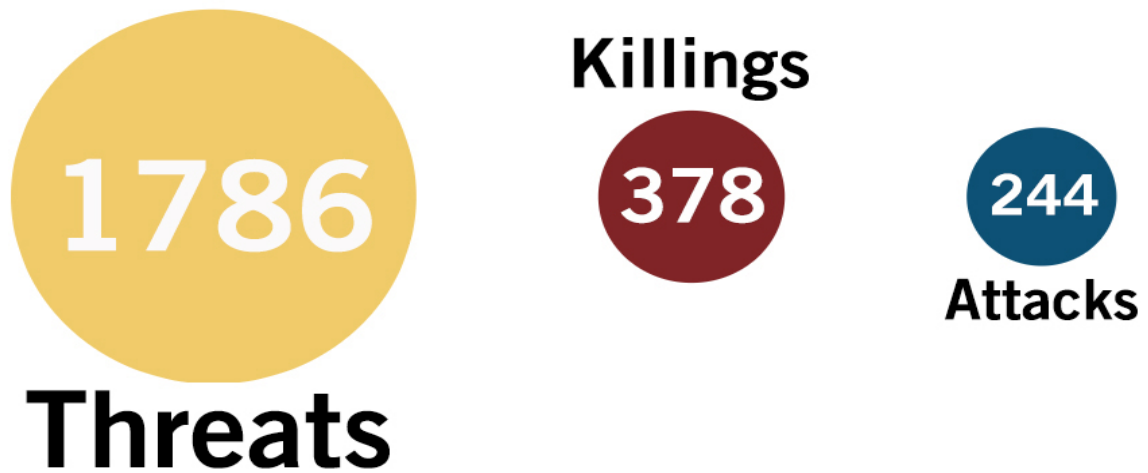
In the next two sections, when I refer to empirical evidence in the form of figures, charts, percentages, etc. I am using Somos Defensores' database as source, unless the contrary is indicated. The only reason for this choice is to facilitate reading and avoid unnecessary reiteration.



## 1.2. Descriptive data on aggressions

### AGGRESSIONS IN A NUTSHELL

2009-2016: NUMBER OF AGGRESSIONS AGAINST HUMAN RIGHTS DEFENDERS





**80 KILLINGS** +17

63 cases reported in 2015



**49 ATTACKS** +14

63 cases reported in 2015



**317 THREATS** -222

539 cases reported in 2015

**2016**



**481**

AGGRESSIONS

men **68%**



women **32%**



### Aggressions **INCREASED**

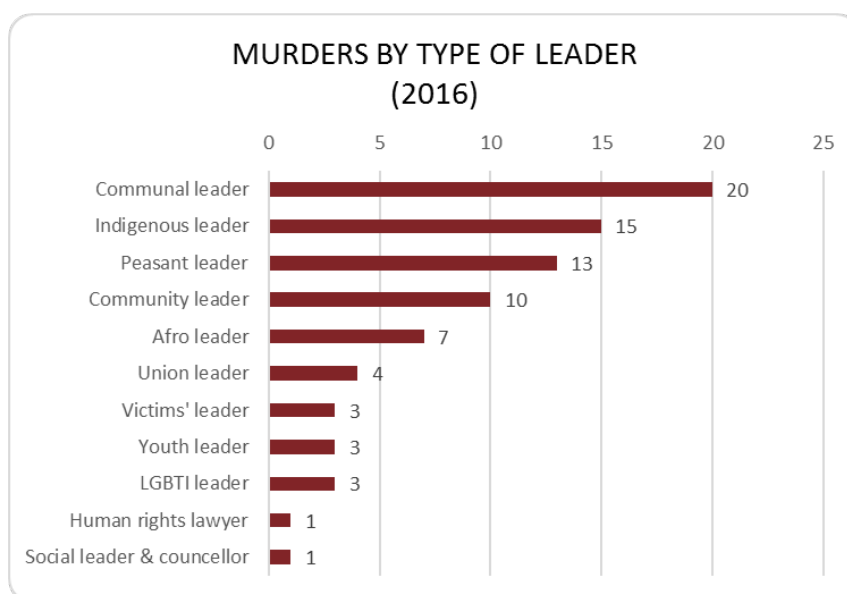
In 7 departments: Cauca, Santander, Antioquia, Córdoba, Norte de Santander, Nariño, Chocó and Boyacá



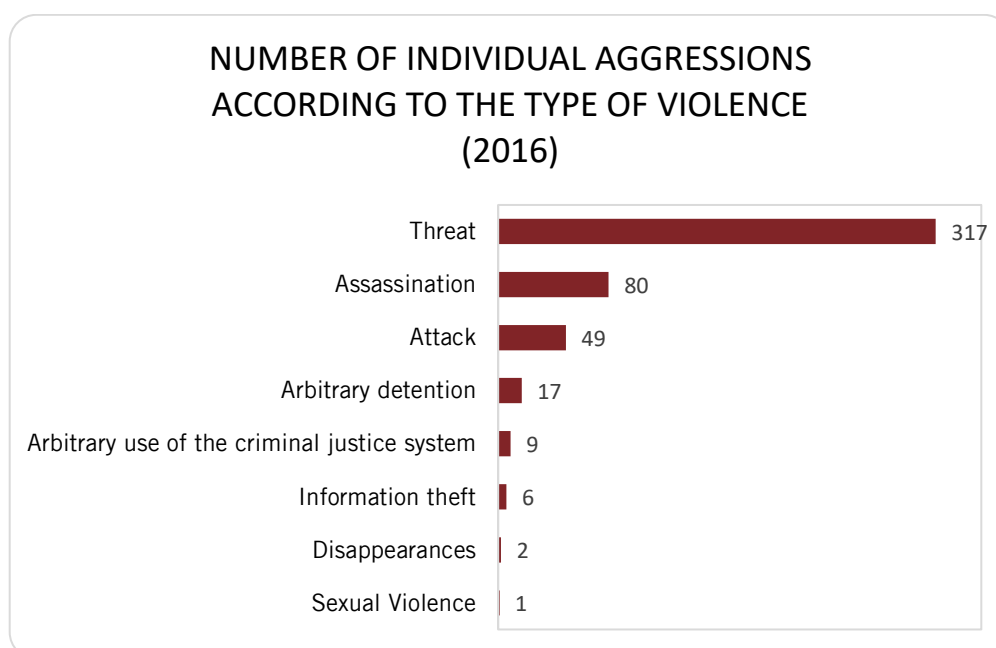
### Aggressions **DECREASED**

In 7 departments: Bogotá, Valle del Cauca, Atlántico, Meta, Bolívar, Caldas and Sucre

### 2.2.1. Victims and type of aggression



There is a significant gender gap: from a total of 481 aggressions, 326 victims were men, against 155 women. This fact most probably reflects the gender gap already present in social leadership in general. Homicides of members of *Juntas de Acción Comunal* (grassroots organizations) have increased from 6 cases (2015) to 20 cases (2016). Somos Defensores documented a 29% decrease in the total number of aggressions compared to 2015. However, physical aggressions increased, from 98 to 129.

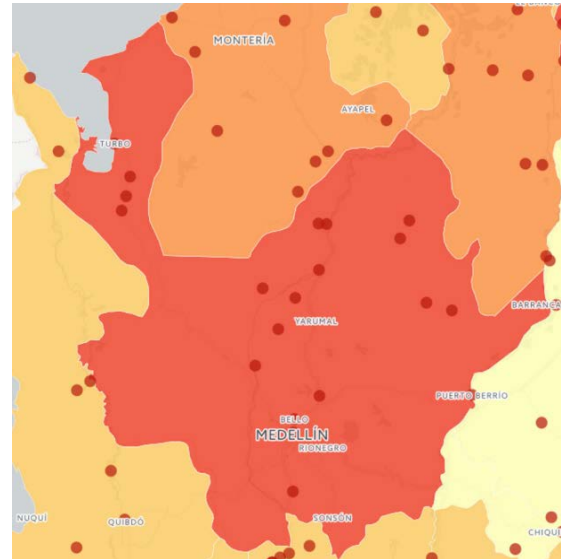


# ANTIOQUIA

10 defenders were killed in Antioquia between January and December 2016: 1 peasant and environmental leader, 4 community leaders, 2 indigenous leaders, 1 member of *Juntas de Acción Comunal*, 1 human rights lawyer and 1 victims' leader.

Antioquia is an extremely diverse region, organized in 9 subregions. In the 1980s and 1990s, Antioquia was one of the departments where paramilitary groups were most active. Today, Autodefensas Gaitanistas de Colombia (AGC), Oficina de Envigado and La Nueva Generación are the predominant paramilitary actors. In Antioquia's paramilitary groups and criminal organisations control a considerable number of local institutions and economic networks, and are particularly strong in Urabá. In the northeast, paramilitary groups have increased their presence and social control through personal threats and pamphlets. For instance, peasant organisation CAHUCOPANA has reported 9 cases of paramilitary actions (interview, May 9 2017).

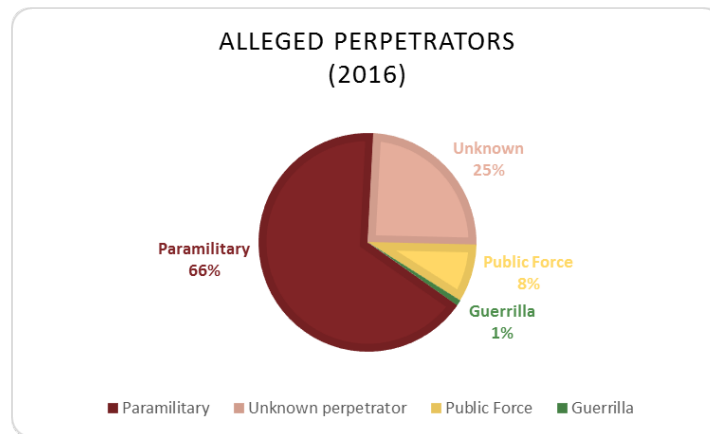
The *modus operandi* is exemplified by extracts of an application for protection measures addressed to the National Protection Unit by CAHUCOPANA. It reports that “armed men dressed in black looked for villagers on a list, CAHUCOPANA member Mr. Ricaurte García being one of them (...) and offered money for information about their whereabouts.” Also, in the indigenous community of Tagual-La Pó, “men in black armed with heavy weapons (...) informed the farmers of their obligation to pay certain amounts of money for their lands”. Before a *Junta de Acción Comunal* meeting, 15 armed individuals showed up and



Antioquia municipalities at risk (Source: Verdad Abierta based on Ombudsman's Office data)



### 2.2.2. Identity of the perpetrators



There is a persistent debate concerning the membership of the perpetrators. the Gordian knot is whether the current armed actors can be considered paramilitary groups or mere criminal bands, since the *paramilitares* officially demobilised in 2006. The distinction rests upon the level of organisation, ideological coherence and common purpose. For the supporters of the notion of criminal bands, after the success of the DDR (Demobilisation, Disarmament and Reintegration) Process by the *Autodefensas Unidas de Colombia* in 2006, the notion of *paramilitarismo* ceased to be useful to describe the heirs of the AUC.

For others, the failure of the DDR meant that, while the heads of the paramilitary forces did demobilise, dozens of middle cadres did not. The result was a transformation in terms of the internal structure of the paramilitary phenomenon, from a hierarchical organisation to a myriad of organically independent groups. However, following this course of reasoning, the new paramilitaries maintained a coherent ideology driven by the anti-leftist, anti-guerrilla discourse and a common set of practices.

The debate over denominations is extremely common and using one term or another denotes the political views of the user, but is conceptually sterile. Current armed groups are historical successors of the first paramilitary groups, and share repertoire (threats, social control through violence), sources of income (illegal economies) and strong ties to local elites. At the same time, they are different in the sense that they are less organised and the political support at the national level is much less significant.

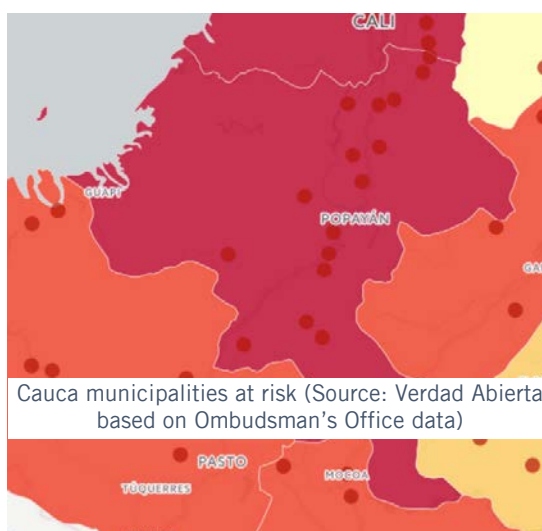
# CAUCA

Cauca accounts 27,5% of the total amount of homicides. 22 defenders were killed in Cauca in 2016: 6 indigenous leaders, 9 peasant leaders, 3 members of *Juntas de Acción Comunal*, 1 afro leader, 1 community leader and 1 youth leader,

The department is rich in natural resources and a corridor connecting hinterlands and the Pacific Ocean. State's presence is weak outside urban areas. Consequently, gaining the control of region became strategic for armed actors and illegal economies and it merged as a drug trafficking route for the cocaine produced in the coastal part and in neighbouring departments like Nariño.

Northern Cauca is a former FARC-EP stronghold where the 6<sup>th</sup> Front and the Jacobo Arenas Mobile Column operated in the past. The FARC-EP exercised considerable territorial and social control over indigenous, afro-descendent and peasant communities (Álvarez Vanegas et al., 2017). ELN and EPL, as well as Aguilas Negras are increasing their influence in the areas left by the FARC-EP Threats directed to members of the indigenous guards (*guardia indígena*), which oppose armed presence in indigenous territories, have increased in the last two years (see interview to Joiner Medina).

The Pacific coast is an area in dispute between ELN and Aguilas Negras. Municipalities such as Timbiquí and Guapi are strategic, as coca crops and illegal mining are mainly located in this region Colombian think-tank Fundación Ideas Para la Paz has reported that dissident FARC-EP militias and ELN are building alliances to control illegal economies (cocaine and gold) and repel other armed groups (Álvarez Vanegas et al., 2017).





## Joiner Medina

Nasa indigenous people, human rights officer at Tejido de Defensa de la Vida

*The EPL [Popular Liberation Army] arrived to Corinto around 15 or 20 days ago. EPL has never operated in Northern Cauca before. Now EPL as well as ELN [National Liberation Army] are conducting operations in Toribío, Corinto, Miranda, Caloto...*

*The situation is critical right now. An indigenous authority was assassinated 20 days ago. On Sunday the 7th, the Águilas Negras [Black Eagles, paramilitary] threatened my organisation. They also threatened Albeiro Camayo, who coordinates the guardia indígena [indigenous guard]. He has already suffered two attacks, although he has a protection scheme consisting on two bodyguards. We are quite worried at the human rights office. You never know what can happen.*

*The reason behind these threats is that the guardia established of permanent check-points to secure the area. The Águilas Negras said they have identified the people involved, they refer to us as 'castro-chavistas' and threaten to bomb ACIN's offices.*

*At this moment, the Indigenous Cabildos of Valle del Cauca enjoys precautionary measures granted by the Inter-American Court of Human Rights. We have a partnership agreement with the National Protection Unit recognizing the authority of the guardia indígena in providing collective protection to the communities. There are 11 protection schemes.*

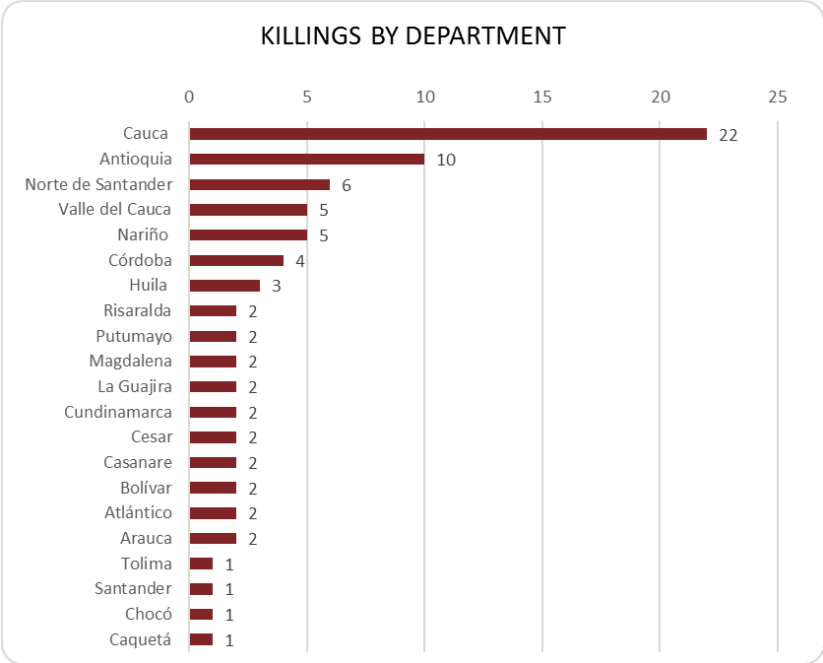
*We have had issues with the 11 schemes. First, the UNP has delayed the delivery of funds for months. Consequently, ACIN is also delayed in the payment of salaries. This delegitimizes indigenous authorities. In second place, while the Inter-American Court has established that we should enjoy a differentiate ethnic approach, the UNP doesn't know how to effectively implement it. We have struggled a lot for the recognition of the guardia indígena as an appropriate protection body. But they still consider that their members do not fulfil the needed criteria.*

*Last Tuesday the Minga [indigenous assembly] was reunited in Corinto in the framework of a protest and an occupation of land. There were people from all over Northern Valle del Cauca and some authorities. At around 11 am there was a confrontation with the riot police that was trying to disperse the demonstration.*

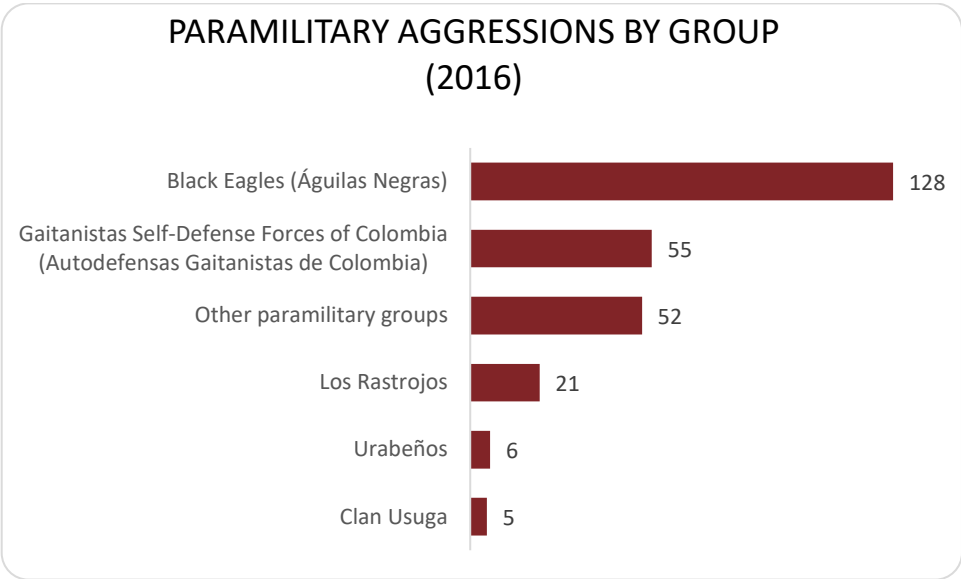
*The clashes lasted around 40 minutes. Then a burst of gunfire was heard in the proximity of the main road to Corinto. After a while three police vehicles approached and started shooting indiscriminately. Two people were shot: a university journalist from Bogotá and an indigenous villager from the village of San Pedro, in Corinto. He died while being transferred to Cali.*

*His name was Andrés Felipe Castro. He was 19 years old.*

### 2.2.3. Geographical distribution



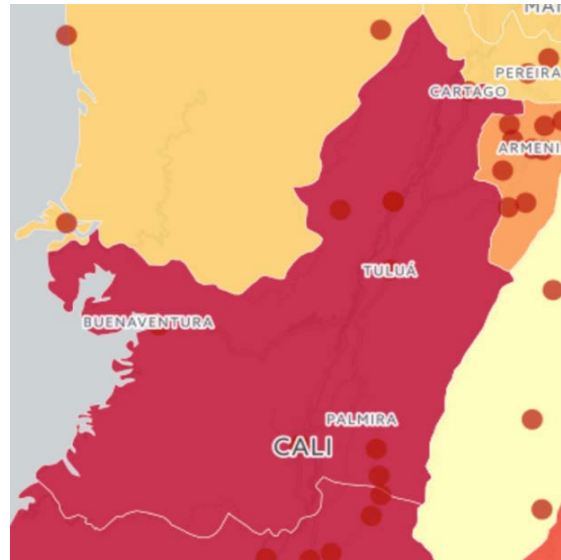
The data collected by SIADDHH indicates several trends. First, the majority of killings are located in Cauca, Antioquia, Norte de Santander, Valle del Cauca and Nariño. These are departments with high level of militarisation and presence of armed actors (Defensoría, 2017). 42% of the homicides are concentrated in the Suroccidente (*South-western*) region, which comprises Cauca, Valle del Cauca, Nariño and Putumayo. Secondly, Somos Defensores reports that 87.5% of the documented homicides took place in rural areas, and only 10 out of 80 cases were filed in departments’ capitals.



# VALLE DEL CAUCA

5 defenders have been killed in Valle del Cauca in 2016: 2 afro leaders, 1 youth leader, 1 community leader and 1 indigenous leader.

On the 2<sup>nd</sup> of May 2017 the Indigenous Cabildos of Valle del Cauca sent a letter to the authorities reporting 12 homicides of indigenous villagers; 12 threatening leaflets and messages signed by paramilitary groups identified as Águilas Negras and



Autodefensas Gaitanistas de Colombia (AGC) imposing curfews in the communities; and 4 attacks against 5 indigenous villagers, 2 of them being beneficiaries of UNP protection meas

Valle del Cauca municipalities at risk (Source: Verdad Abierta based on Ombudsman's Office data)

ures. It was also reported that two armed groups –ELN and EPL– and non-demobilised FARC units are entering the area, occupying former FARC-controlled zones and threatening, intimidating and recruiting civilians (ACIN, 2017).

In Valle del Cauca, drug-trafficking and the control of the supply routes has been a key factor in the persistence of armed violence in the territory. The Cali cartel was extremely influential in the region. After its leaders were killed or imprisoned, the illegal economy transformed into a multiplicity of smaller groups run by middle-ranking traffickers became autonomous actors.

In this sense the control of illegal economies such as cocaine, small-scale trafficking, gold and human trafficking is at the centre of the violence in Buenaventura. The control of these economies, combined with a weak State presence, has fostered continuous conflicts between

### 1.3. Potential trends in the post-conflict scenario

The question of why social leaders are being killed in Colombia is *the* question. The answer is extremely complex and multidimensional. Not even the authorities or me, as a journalist covering the conflict everyday, have a clear answer.

Mario Zanudo, Vice News journalist

From the figures on aggressions against human rights defenders in 2016 and the current situation of three regions with the highest murder rates, some assertions can be concluded: aggressions are concentrated in rural areas, and are linked to the presence of paramilitary groups and criminal organisations.

The post-demobilisation scenario for 2017 and 2018 is exceptionally complex. Based on comparative evidence from previous post-conflict scenarios showed that crime and violence tend to increase immediately after negotiation (Garzón-Vergara, 2015). The United Nations Office on Drugs and Crime's (UNODC) *Global Study on Homicide* warns: 'Addressing crime and homicide in all its forms is crucial for countries emerging from conflict, as crime-related violence can escalate to levels similar to those of violence in times of conflict' (UNODC 2013: 17).

Moreover a potential success in the implementation of the Peace Agreements signed by the FARC-EP and the government will introduce structural changes in at least four areas: 1)territorial control, 2)land ownership, 3)illegal crops and 4)political participation. In this context, focalised violence against local leaders and grassroots activist is most likely to happen, as they are the implementers and legitimizers of the Peace Agreements at the local level. Attacks against defenders

#### 1.3.1. Territorial control: power vacuum in former FARC-EP strongholds

A man approached Gilberto Niño and shot him twice. Gilberto hid behind his horse, pulled out his *machete* and hit back. The attacker was a local resident. He accused Gilberto Niño of being a *guerrillero*. It was the second assassination attempt this year.

Ernesto López, Association of Peasant Workers of Valle del Cauca

In February 2017, most of the 7000 FARC-EP insurgents were already concentrated in 27 demobilisation and disarmament camps. The relocation of the insurgents in 20 *Zonas Veredales de Transición y Normalización* and 7 *campamentos* located in rural areas of 14 Colombian departments. The demobilisation was not only a logistic challenge, but also a problematic issue in terms of territorial control.

The chronic weakness of State institutions has been addressed in Chapter 1, as well as the role of the hegemonic role of the FARC-EP in many rural areas of the country where the State was weak or absent. Ernesto López, member of the Peasant Workers Association of Valle del Cauca (*Asociación de Trabajadores Campesinos del Valle del Cauca*, ASTRACAVA) described in an interview conducted in May 2017 the role of the insurgency in the municipality of Palmira in the following terms:

Here, the insurgency was an authority (...), an institution. When a robbery occurred, the insurgency would deal with it. They mediated in marital problems, land boundaries, when a neighbour killed another one's cow... Everything.

The recent demobilisation of the guerrilla has thus created a situation of power vacuum in former FARC-EP's strongholds. State has not implemented effective measures to gain institutional presence in the peripheral areas, and those spaces risk to be filled (or have already been filled indeed) by other guerrillas, paramilitary groups, organized crime and common criminality.

On the 14<sup>th</sup> of May 2017, I conducted interviews during a coordination meeting of ASTRACAVA's local leaders taking place in Pradera (Valle del Cauca) on the 14<sup>th</sup> of May. Peasant farmers consistently reported the presence of new actors in the area:



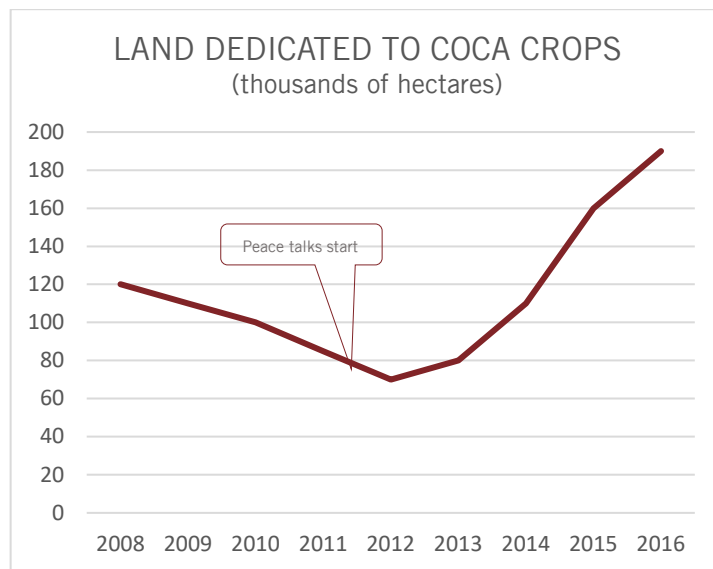
Common criminality has increased a lot here. 5 motorbikes have been stolen. They break into the houses, gag the owners...

Peasant farmer, Pradera (interview)

That same day, Mario Andrés de la Calle was murdered in Guacari, 50 kilometres from Pradera, by unknown perpetrators.

### 1.3.2. Crop-substitution

According to the US Office for National Drug Control Policy estimated Colombia's cocaine production in 710 tonnes in 2016. 188,000 hectares of land are dedicated to coca crops compared to 78,000 in 2012. The reason behind it is simple: The negotiations have lasted 4 years, and it was known that one of the provisions would be the payments for coca-farmers who shifted to legal crops. Thus, the peace talks created a perverse incentive to plant more. (The Economist, 2017).



Source: The Economist (2017)

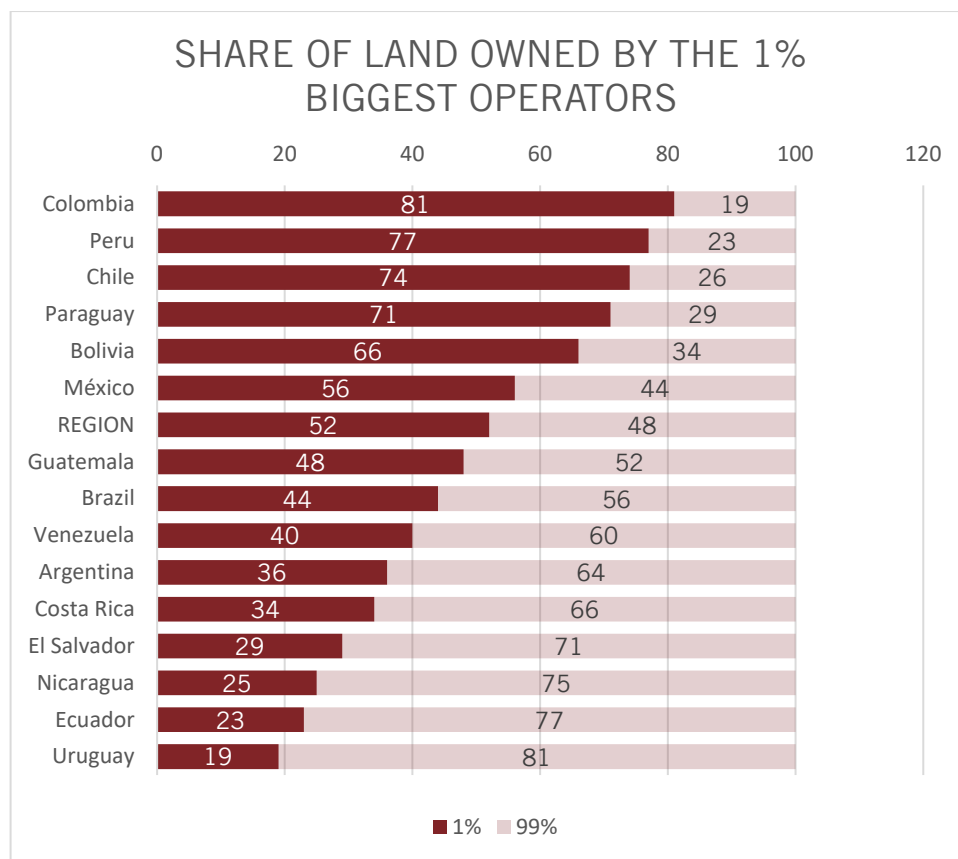
As Chapter 1 has already discussed, the control over drug-related economies is key to understand the persistence of armed groups in Colombia. Nevertheless, coca crops are also the most cost-effective use of land for thousands of farmers living in rural areas. Thus, finding a sustainable alternative is urgent to break the opportunity structure for armed groups to operate.

Section 4 of the Peace Agreement, entitled ‘Solution to the problem of illicit drugs’ prioritizes voluntary substitution of crops over eradication. However, maintaining coca crops is not an option, and point 4.1.2 explicitly states that “when an agreement with the communities cannot be reached, the government will proceed to eradicate illicit crops”.

Illegal economies linked to cocaine production and distribution are one of the main sources of income for many armed groups, criminal networks and local elites. A strong opposition to substitution will certainly occur in many areas. In fact, researchers from Colombian think-tank Fundación Ideas Para la Paz have already reported aggressions against social leaders supporting crop-substitution perpetrated by drug-dealers in Northern Cauca, and particularly in indigenous and afro-descendant communities (Álvarez Vanegas et al. 2017).

### 1.3.3. Land reform

Colombia is the most unequal Latin American country in terms of land distribution. The biggest 1% operators in the country own 81% of the total land (Oxfam, 2017). The historical problem of land distribution is not new in Colombia, but it has been exacerbated since 1984. 7 million people were displaced between 1985 and 2015 (CHCV, 2015). Thousands of hectares of land were irregularly occupied or re-sold in the middle of war operations, violations against civilians and dispossession (Wilson Arias, interview).



Source: Oxfam (2017)

Section 1 of the Peace Agreement is devoted to an “integral land reform” aiming to redistribute land property. It establishes four mechanisms: 1) a Land Fund composed by 3 million hectares of land coming from illegally occupied properties, unexploited land and donations; 2) massive formalisation of small and medium-scale rural properties; 3) a ‘special rural jurisdiction’ within the judicial system to implement justice in rural areas; and 4) a new Land Registry.

The threats faced by Wilson Arias (**testimonial** in page X), who documented and denounced the illegal acquisition of State’s land by companies and businessmen linked to political elites in Colombian *Altillanura*<sup>1</sup>, illustrate the violent dynamics associated to land ownership.

<sup>1</sup> Later confirmed and investigated by Office of the Comptroller General of Colombia. Contraloría General de la República, *Acumulación irregular de predios baldíos en la Altillanura Colombiana*, 2012.

However, it must be pointed out that the increase in the number of defenders' murders in 2016 should not be directly attributed to 'power vacuums' in FARC-controlled areas. It should be taken into account that, although the peace agreements were signed in January 2015, the armed group was present in the territory, retaining its influence and exercising its power, until November 2016.

Also, it must be taken into account that local leaders will be (they already are) the main actors supporting and implementing the Peace Accords in practice. In this sense, activists and community leaders are, key to build, sustain and legitimize State actions in the post-conflict scenario. Consequently, they are also a target, since deactivating their leadership through co-optation or aggression is the easiest way to avoid new institutions to emerge.

The central question arises: is the Colombian State, and more specifically the National Protection Unit, prepared to guarantee the safety of human rights defenders in the post-conflict scenario.



## CHAPTER 3

*Colombia's Protection framework:*

*The National Protection Unit*

Jhon Jairo Maya,

Bodyguard at the National Protection Unit

*I was studying at the SENA (National Educational Service) in Barrancabermeja, Santander, the first time a million signatures were collected against its privatization. In Barrancabermeja I studied the my specialty for 3 years. I helped collect the signatures needed to push back the bill that privatized the SENA. It was 1992. Harsh times.*

*and I was young at the time. I was 22 when I moved there.*

*We were advised not to go to certain places because of the risk. Paramilitarism was starting to get in the way. In spite of it, I went out to collect signatures.*

*I graduated in industrial chemical technology. I have six years of experience in chemical analysis in pharmaceutical laboratories as well as in the food industry. But I was forced to choose this work out of necessity. It was that or condemning my son to hunger. You have to prioritize, hermano. There are times when life does not give you a choice. It was a tough decision. And it is kind of frustrating, because I felt like I had the capability to continue studying. But it was not possible.*

*[My children, it's their time to study. I have two children, 19 and 9. I had to break up with their mom because of the job. She did not tolerate the schedules, She did not tolerate me not being there... It is complicated, it happened to a lot of my colleagues. This sort of job work destroys families.]*

*The government created the Administrative Security Department (DAS) Protection Programme in 1999, and I have been carrying out protection work with opposition leaders, human rights defenders, trade union leaders and government officials for 18 years. The DAS played a leading role in many fields: migration, judicial police, drug trafficking, guerrilla, provision of protection to the presidency and vice-presidency ... After the DAS' dismantlement, most of the personnel was transferred to the new National Protection Unit, others went to the Prosecutor's Office, some to the Migration Department... At that time I was part of the Protection Group Team. So, I was relocated at Cali's UNP office.*

*The work is strenuous, and sometimes very unpleasant. Some days the work is exhausting, and you have the feeling that your whole life revolves around it. You know what time your workday starts, but not when it ends. I pick up the judge I'm protecting now at his residence at 7am and I never finish before 9, 9:30 pm. I enjoy an hour-long lunchbreak. I earn \$ 1,800,000, approximately 600 euros.*

*I have worked with trade unionists a lot: Alexander Lopez, a senator nowadays; a trade unionist from the metallurgical industry, William Escobar, leader of SINTRAMETAL; and Wilson Arias, also a trade unionist.*

*Alexander Lopez was the first person I protected. He was president of the municipal companies' trade union in Cali, and from there he climbed to the political arena. Today he is a relevant opposition leader. We were involved in attacks against him. His life and ours were at risk on in several occasions*

*Wilson Arias ... A great man, one of the best men I've ever had. He fought for the SENA his entire life. That brave man deprived himself from his profession, his studies, even his family to defend the institution. If the SENA is public today it is thanks to the struggle he and others started. I was part of Wilson's protection scheme since its implementation until it was withdrawn. With Wilson we detected several tracking: cars, motorcycles, people...once they were detected, they would disappear. That's their job –to be seen. But one can never identify them. You make the reports, but it's up to the authorities to see what it is, where it comes from, what the possible threat is.*

*Wilson's security situation is worrying right now. Although he made some very serious accusations against very powerful people, the UNP withdrew his [security] scheme a year ago. Wilson is a target who is at high risk.*

*It was hard when Wilson's scheme was withdrawn –we couldn't do anything. The latest risk assessment was made by a UNP's police officer, because there are also police officers in the team. It doesn't make sense: Wilson reported phone-tapping and intelligence gathering by the police, and a police officer was in charge of the risk evaluation. What did he say? That there was no risk. They are judges and are judged! As long as people involved in the conflict are not detached from the protection programme, very serious things can happen here.*

*After I left Wilson, I was transferred to Special Support Team at the UNP's regional headquarters in Cali. The office provides protection in the departments of Caldas, Risaralda, Quindío, Valle del Cauca, Cauca, Nariño, Putumayo and Caquetá. Our role there was to provide security support for high-ranking state dignitaries visiting the South-Western region: ministers, president, vice president, ombudsman .... I would drive the armoured cars from Cali to where the protected person would be.*

*I had to travel many times around the coffee belt: Cauca, Nariño... A very complex area. During these trips through the rural areas one could perceive that the region was safer than before. There was no longer the uncertainty of military checkpoints, paramilitary checkpoints, guerrilla*

*checkpoints; their presence has greatly diminished. When I was at the DAS, we could not even carry our weapons. A guerrilla checkpoint could catch you armed or find your DAS identification. We had to hide the gun, hide the badges...*

*Now I am with a land restitution judge who is involved in the peace process with the [FARC]. He is now a target. The core of Colombia's violence is the land. Not for nothing is it the first point of the Peace Agreements. [Land restitution judges] are providing the legal framework to return land back to the people who were displaced during the conflict. But it is a very risky job. They face many enemies, very powerful people in this country whose lands are being expropriated. They won't be happy with that.*

*Wilson, the judge ... these people are taking risks on behalf of others, how can you not put yourself at risk for them? There are people who deserve to take the risk for. When you work for public figures like them this job makes sense. You see the struggle, the commitment, the effort, risking their own life for the common good. It's moving. In fact, I have always tried to look for such people to protect. Wilson was like that. When he was elected for Congress I was available and he called me. 'Of course I'm going with you, Wilson' I said.*

*I'm waiting to see whether he finally runs for Senate and I can work with him again. Let's hope so.*





## Héctor Enrique Martínez Pineda

Community leader against police brutality. UNP protection scheme since 2014

*A*bout three months ago I was coming back home through the Second Avenue with 39 when a motorbike got on my way. There were two guys with helmets. 'Are you going to keep fucking with that son of yours? Do you want the same thing to happen to you?'. I started shouting: 'Are you going to kill me? Kill me now, instead of threatening me!'. They started the motorbike and left. It has already happened to me several times. It's the police. Who else is going to be interested in my son's case not to be clarified?

*I moved to Cali with my wife and two children when I was 17 or 18 years old. We had to sleep the street because we had no acquaintance or anything like that. I started working as a taxi driver. Then I entered the Civil Defence. I would drive an ambulance and live at the Civil Defence's headquarters with my whole family.*

*In 2008, I accompanied the family of Professor Moncayo, who was kidnapped by the FARC, on a rally from Cali to Bogotá. There I met the wife of a sergeant from Buga's Army Brigade who had been allegedly kidnapped and killed by the guerrilla. We saw the videos that the kidnappers sent*

*and I told her: "insurgents never use handcuffs. The guerrilla always uses either chains or a cord tied to the kidnapped. " It was later confirmed that it had been people from the Brigade who had killed the sergeant.*

*One day, in late 2011, I was leaving Buga when I was threatened. The threat was very strict: 'either you leave Cali for good or we'll kill you'. In order not to put my life and that of my family at risk, I decided to move to Bogotá. Once in Bogotá, I found a job at Extra, a daily newspaper.*

*My son was killed when I was in Bogota. I had been living there for a year. I received the call on Friday, May 24, 2012. I was working on the newspaper press when they urged me to call to Cali. I was told that two policemen had killed my son in a gang fight. On Saturday, the 25th I travelled to Cali.*

*When I arrived, the wake was taking place. My daughter and my wife had already testified. Police said that there had been a clash between two armed gangs and that 80 police officers showed up at the scene. However, there were no detentions, no injured, nothing. There was only one dead: my son. They shot him at the ankle while he was running, and another at the neck when he was on the ground. Witnesses said that there was no gang confrontation that day. The officers said that my son was armed. But at the crime scene all that was found were two casings and a bullet shot by the guns of two policemen.*

*I called the media to the wake to make the case visible, because they couldn't get away with this. [My son] was not the only young man killed by police officers here in Cali. One of those two policemen, whom people call "El Vaquero" [The Cowboy], is currently convicted at Villanueva Prison for the death of another young man. But in general, the victims are afraid to go out to report or protest, because they are threatened by the same police who have committed the crime. I have spoken with many victims here in the neighbourhood and in other neighbourhoods where there have been murders of young people. But families are afraid of them. Sometimes lawyers tell you "why fighting with the police? We fight the administrative case, they pay you the money and that's it. " Also lawyers are threatened sometimes. That's why they don't usually start criminal cases.*

*So I started looking for justice for my son. Everything, the communications, letters, I have done all by myself. To reopen the case I made the right to petition myself, I drew the conclusions from the file and the point came that the prosecutor accepted the complaints. I received new threats.*

*I travelled to Spain in 2013 with a defenders' programme run by CEAR (Spanish Committee for Refugees). I spent 5 months in Bilbao. I came back to Colombia in 2014.*

*I have a protection scheme since 2014. A letter was sent to the UNP because I was going back to Cali and I was facing a lot of risk. It took about two months. I was declared "at extraordinary risk." They gave me a bulletproof vest and a cell phone to make calls. I live with the scheme since then. I wear the vest every day since I left home.*

*In 2014 the administrative case was resolved: the police and the State were condemned to pay for my son. On the contrary, in criminal terms, after four years and seven months, the prosecutor who carried the case closed it because he said that there was no one to be charged.*

*But in January the prosecutor filed a request to reopen the criminal case. Why? Because the statement was not taken to the fundamental witnesses, and because they did not call the police officers charge, when at the scene of the crime all that were found were police leads.*

*The next step is to denounce the former prosecutor for omission and prevarication; and also to charge the investigator for omission, as he did not called key witnesses to declare nor considered the evidence of two police cameras, in which it was verified that in no time there was any confrontation.*

*I'm asking [the UNP] to reevaluate my risk assessment, because after the prosecution is reported, when they realize the process has started again, it can get very dangerous. In the meantime, you must protect yourself. I charge a cockade of the Virgin, paralyzing gas, two tear gas cans ... Before, I also carried a taser with me. I change my route every day. You have to be very cautious. In any case, after all the noise that I have done they must think twice before attacking me.*

*You can't let your guard down. Human rights defenders here in Colombia have no guarantee. The only guarantee we have is the guarantee to be killed.*

### **3.1. What? The National Protection Unit: background and main features**

We carry the weight of stigmatization. If you tell anyone ‘I was part of the DAS [Administrative Security Department], first thing they’re going to think is: that guy is a thug, a human rights violator, a *chuzador* [‘wire tapper’].

Camilo Torres, UNP risk analyst

When I refused to have a physical protection scheme, UNP director asked my why. ‘How am I supposed to trust that?’ I answered. Half of UNP’s personnel are former DAS employees. I would feel unsafe having a DAS bodyguard. Everybody knows they were involved in human rights violations, illegal followings , hoaxes, tapping... It’s like a mouse looking after the cheese!”

Diego Herrera, IPC director

Colombia was one of the very first countries implementing a specific programme for the protection of human rights defenders. Law 418 of 1997 ordered the creation of a protection programme aiming to protect individuals at risk due to political violence and the armed

conflict. Colombia's current legal framework regarding protection of social leaders, political activists and human rights defenders was established in 2011 by Decree 4912<sup>2</sup>.

With Decree 4912 a new national body was created: the National Protection Unit (*Unidad Nacional de Protección*, UNP), which substituted the Administrative Security Department (*Departamento Administrativo de Seguridad*, DAS) as the main national institution devoted to the protection of activists.

### 3.1.1. From the Department of Administrative Security to the National Protection Unit

The reasons behind the DAS dismantlement in 2011 were linked to the documented record of abuses and illegal activities conducted by members of the institution in connexion with the counterinsurgency doctrine developed by Colombian intelligence since the 1960s (Giraldo, 2015). Between 2005 and 2011 a series of huge scandals made the institution's role in terms of protection no longer sustainable. First, in 2005 DAS' computer specialist Rafael García was arrested for supporting paramilitary groups and drug-trafficking networks. He accused Jorge Noguera Cotes, intelligence chief from 2002 to 2005, of collaborating with paramilitary death squads, sharing information to target and kill trade unionists. Mr. Noguera, who worked for President Álvaro Uribe during the 2002 electoral campaign and was appointed DAS director by him, was sentenced to 25 years in prison for aggravated murder and conspiracy for. In February 2007 for. Later in May 2007, 11 generals were dismissed for illegal interceptions carried out by the Police Intelligence Unit.

Finally, in February 2009, media revealed evidence proving the existence of informal covert teams organized by high-level officials from DAS. As the UN High Commissioner for Human Rights on the situation of human rights in Colombia documented in her Annual Report in 2010, the above-mentioned covert teams systematically carried out illegal followings, interception of communications, harassment, threats, unlawful intrusions and thefts. at least since 2003. The targets were, among others, human rights defenders, opposition leaders,

<sup>2</sup> Decree 4912 of 2011 has been integrated in Decree 1066 of 2015, which is a systematic compilation of pre-existing administrative norms regulating the Ministry of Interior.

journalists, the Vice-president, judges of the Supreme Court, members of the Inter-American Commission of Human Rights and a UN Special Rapporteur. In some cases, information was gathered through the individuals in charge of protecting activists under threat (HCHR, 2010).

Both institutional and contextual factors are key to understand how the main body in charge of protecting human rights defenders and social leaders under extreme risk became a perpetrator itself. On the one hand, the DAS had competencies over a wide range of areas: while its main task was to gather and produce intelligence and counterintelligence, it also had power to investigate and judicialize individuals, as well as to access judicial records; it managed border controls; it coordinated anti-drug operations; and finally, the protection of high-level officials –Presidency, Vicepresidency and Ministries–, political leaders and other politically active individuals under risk<sup>3</sup>.

On the other hand, in the polarised context of Colombia's internal conflict inherited from the Cold War narrative, insurgents, guerrilla supporters, left-wing organisations and human rights defenders were equally identified as 'subversives'. The counterinsurgent strategy being a priority for the State, DAS members used the material and legal resources of the institution to plan and implement a variety of covert war strategies (FIDH, 2009).

### 3.1.2. The main features of the National Protection Unit

The fact that the former institution in charge of protection was involved in widespread violations is key to understand UNP's configuration as a separate unit specifically focused on protection of defenders, activists and social leaders, as well as its development and challenges.

Thus, Decree 4912 was born with the challenge of rebuilding trust in State's good faith. declared goal is

[t]o organize the Prevention and Protection Programme [ in order to guarantee] the rights to life, liberty, integrity and security of individuals, groups and communities under

<sup>3</sup> Decreto 643 de 2004

extraordinary or extreme risk as a direct consequence of the exercise of their activities or political, public, social or humanitarian functions (...)

In this sense, Article 6 of Decree 4912 defines a target population composed by no less than 15 categories of individuals: leaders and activists from political organisations and specially opposition groups; leaders, representatives and activists from human rights organisations, social, civic, communal, peasant and victims' associations; leaders and activists of labour unions; other associative leaders, activists and representatives; representatives, leaders and activists from ethnic groups; medical missions' members; victims and witnesses of human rights and international humanitarian law violations, as well as individuals involved in judicial and disciplinary cases on violations of this kind; former and current civil servants responsible for human rights and peace policies; former members of demobilised armed groups and militias; leaders, members and survivors of Unión Patriótica and Colombia's Communist Party; and teachers.

Today more than 7500 individuals are beneficiaries of the protection programme. 52% of those beneficiaries are public officials (civil servants and elected representatives) and 48% are victims, journalists, trade unionists and defenders.

The most common protection measure provided by UNP is the so-called 'individual schemes' consisting on a vehicle (regular or bulletproof), a driver and up to 4 bodyguards. The institution also provides so-called 'collective schemes' shared by two or more individuals, which comprises a vehicle, a driver and two bodyguards. These schemes are often combined with other material support: bulletproof jackets, communication devices, relocation assistance, security cameras, etc.

Collective 'schemes' should not be confused with *collective protection*. Collective schemes refer merely to a type of material protection in which two or more beneficiaries from the same organisation share bodyguards and vehicles. On the contrary, collective protection is a complex notion mentioned in Colombian legislation since 1997, which was used by the Constitutional Court in 2007 to claim the responsibility of the State to implement effective measures in order

to reduce the vulnerability of displaced populations<sup>44</sup>. The concept has been extended in several decisions released by Colombia's Constitutional Court to include other vulnerable population such as indigenous peoples, afro-descendant communities, rom people and others. Collective protection and the 'collective route' will be specifically discussed in the next section.

I will not proceed to explain the details and nuances of the individual 'protection route'. For what is relevant to this research, I would like to focus in three moments in the process: 1) the petition of protection; 2) the risk assessment; and 3) the implementation of the protection schemes. Finally, I will mention the collective protection route, a new modality of protection.

### **3.2. Bottlenecks of the individual protection route: bureaucratisation, centralisation and lack of human resources**

Porfirio Jaramillo, a land claimant from Urabá, was killed here in Antioquia on February 28<sup>th</sup> 2017. He had been requesting protection measures for 4 months.

Luis Fernando Ospina, peasant farmer activist

The individual protection route is an administrative procedure comprising three steps: 1) the application by an individual or a group that perceives a potential risk of violation of their rights of liberty, security integrity and life directly connected to their political or social activities; 2) a risk evaluation conducted by the National Protection Unit in order to determine whether the applicant fulfil the requisites to be considered 'at extraordinary or extreme risk'; and 3) the implementation of diverse modalities of protection measures in order to reduce the vulnerability of the beneficiary to the identified risk situation.

#### **3.2.1. Core concepts**

There is no consensual definition of risk. For the purposes of offering an operational notion in relation to human rights defenders, I define risk as the probable occurrence of events with the potential to cause harm. A common risk assessment framework identifies three

<sup>44</sup> Constitutional Court, Decision 200/2007



interrelated dimensions to qualify and quantify risk: 1) the threats faced by an individual or group of individuals; 2) the vulnerability to those threats; and 3) the capacity to confront them.

$$Risk = \frac{Threats \times Vulnerability}{Capacity}$$

A **threat** represents the possibility to physically, materially or morally harm someone or their property by an intentional, and usually violent, action. A distinction is to be made between *incidental threats*, which emanate from contextual factors, for instance conducting activities in warzones or areas under control of organized crime; and *target threats*, aimed to directly stop, intimidate or influence the political activity of a defender or organisation.

The notion of **vulnerability** refers to the extent to which an individual is affected by the threats directed against him or her. Vulnerability is an elusive category, for it is necessary to differentiate between at least three dimensions of vulnerability. First, vulnerability can be considered in relation with spatial elements. In this sense, a defender's level of vulnerability increases when conducting fieldwork at a conflictive, isolated area with a minimal State presence. Second, the level of vulnerability is related to material elements such as access to secure transportation, installation of security cameras and communications. Third and most problematic, vulnerability is associated to the subjective perception of risk by the individual concerned; the way in which a person manages fear, and how threats psychologically affect the activist in their work. Finally, **capacity** can be defined as the resources available for a person or a group to reduce the vulnerability towards potential threats and to make risk manageable.

### 3.2.2. First step: Application

The application can be sent personally by the individual concerned or through a State body such as the Attorney General's Office the Ombudsman Office. Associations of any kind and lawyers can also start the process.

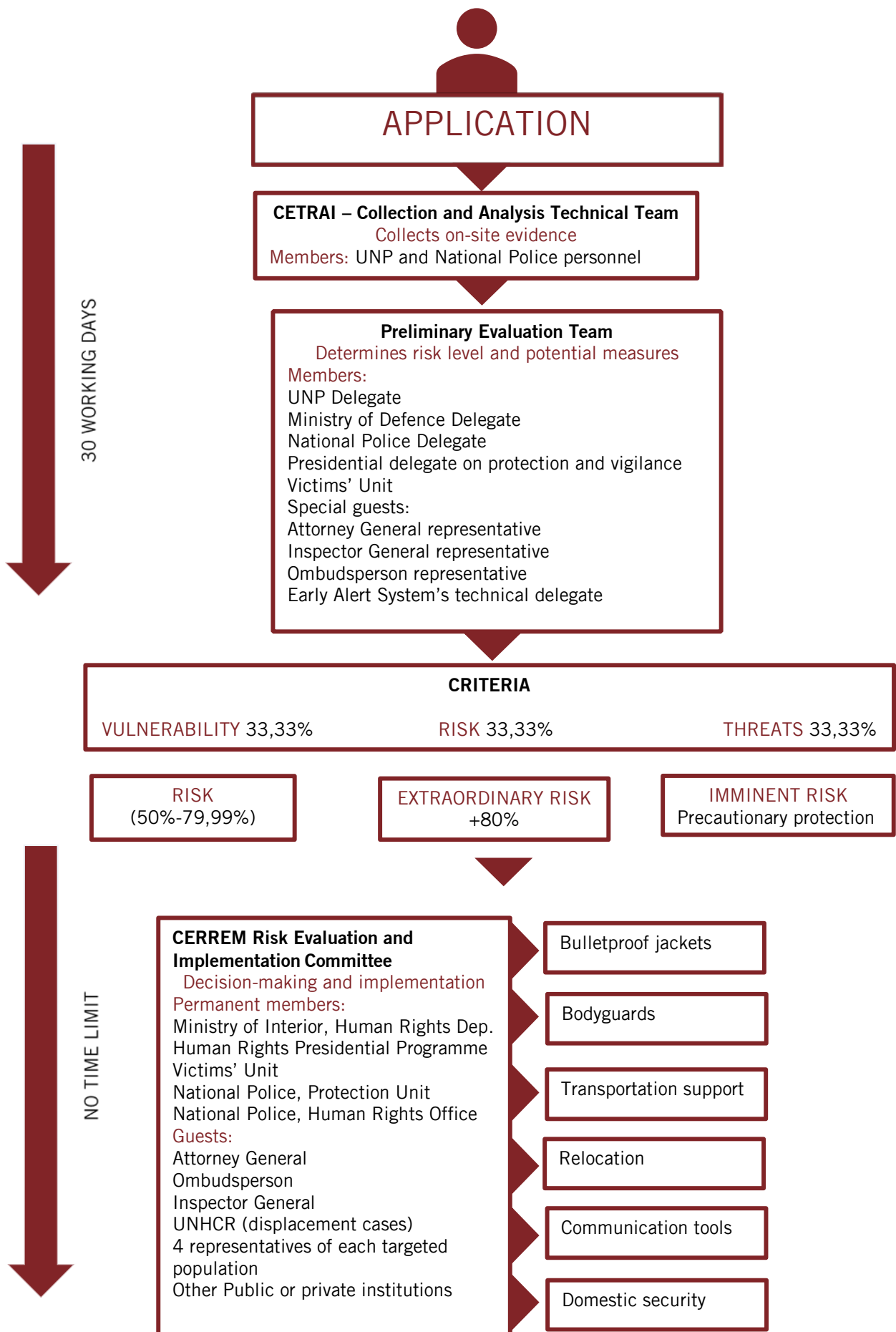
Documentation required includes a standard application form in which potential beneficiaries must specify the targeted population they are part of; the type of threat or attack suffered; whether he or she is located in a rural or a urban area and whether a ‘differential approach’ must be applied. Differentiated groups include ‘elder’, ‘indigenous’, ‘black’, ‘afro-colombian’, ‘*raizal*<sup>5</sup>, ‘*palenquero*<sup>6</sup>, and rom; and a statement of the facts (attacks, threats, etc.) supporting the claim. Also, applicants must present a document accrediting its inclusion in one of the targeted population. In case of judicial complaints having been filed, they should be attached to the petition.

Sebastián Castaño, UNP Director’s advisor, identified the first potential delay:

Many people think sending a police report or a judicial complaint amount to a protection application. (...) But we are not an investigative body. We always answer back asking for the rest of the documents (Sebastián Castaño, interview).

<sup>5</sup> *Raizal*: mulatto ethnic group of mixed Afro-Caribbean and British descent, speaking the San Andrés-Providencia Creole, an English Creole, living in the Archipelago of San Andrés, Providencia and Santa Catalina, at the Colombian San Andrés y Providencia Department, off the Colombian Caribbean Coast.

<sup>6</sup> *Palenquero*: afro-colombian minority located in San Basilio de Palenque, Mahates municipality at Bolivar Department.



### 3.2.3. Second step: Evaluation

After the application is received, a risk analyst from the **Collection and Analysis Technical Team (CETRAI)** collects *in situ* information on the claims made by the applicant to produce a report that will be later evaluated by the Preliminary Evaluation Team. The risk analysis

forms are based on a matrix composed by three percentages: 33,33% for threats; 33,33% for vulnerability; and 33,33% risk. Those with a percentage between 50 and 79,99 are considered to be 'at risk'. Only those between 80 and 100 are considered to be 'at extraordinary risk' and thus become object of protection measures (Camilo Torres, interview).

At this point, two other factors contribute to delay the process. First, the Analysis Team works in a context where the number of applications is extremely high, and the personnel is extremely limited, even with the assistance of extra personnel composed by 33 policemen and several private contractors to assist the unit (Camilo Torres, interview).

In addition, for a risk report to be valid and evidence-based, the analyst must verify information with several authorities, including local governments and judicial bodies. However, in many cases those authorities are not easy to reach or do not cooperate as fast as they should (Sebastián Castaño, interview). It seems clear that there is a clear problem regarding inter-institutional cooperation between the UNP and other bodies.

The risk report then arrives to the **Preliminary Evaluation Team (GVP)**. The GVP is an interinstitutional group composed by members of the main State bodies and a UNP representative, which determines the risk level and makes a recommendation of potential protection measures to be implemented by the **Risk Evaluation and Implementation Team (CERREM)**.

At this point of the process, let us consider the timeframe. The Decree establishes that since the moment an application is received, the Preliminary Evaluation Team has **30 working days** to produce a risk evaluation report and send it to the CERREM. In calendar days, it results in nearly two months, which are extended due to the lack of coordination with local bodies.

Then, CERREM meets once a month to evaluate the risk assessments received. and makes the final decision on implementation, upon the Director's approval. It is worth noting that while UNP personnel is present in CERREM's meetings, their role is merely technical and do not hold decision-making capacity. In doing so, it theoretically preserves the operational, non-political nature of the Unit.

#### 3.2.4. Third Step: Implementation

Finally, UNP, National Police and any other State institution considered competent by the CERREM are in charge of executing the protection measures. CERREM re-evaluates the schemes every six months and assess whether the risk situation is still present or not.

Bureaucratisation, centralisation and lack of human resources are at the core of UNP's shortcomings. Applications must go through no less than 5 different levels: judicial report, CTRAI, GVP, CERREM and implementation.

Additionally, as Jairo Malla, UNP bodyguard acknowledged, 'due to the limited staff, services can't be provided sometimes. We have to prioritize according to the risk level, the area...' (interview).

While the successive levels are meant to filter, organise and rationalize the process, in combination with a small number of analysts to process and evaluate the applications, it has produced systematic bottlenecks that slow down an administrative process that should be as fast as possible, as it regards the protection of fundamental rights to life and security.

Additionally, resources are concentrated in the capital Bogotá and the information and evaluations are processed there. Although the UNP receives more than 20.000 applications every year (Somos Defensores, 2014), Regional Protection Units are in practice mere offices without relevant competences in terms of evaluation and first response.

Regional Units don't play the key role they should. Regional offices should be given the means and mechanisms to solve situations. Any issue at the regional level must be submitted to Bogotá, and in the process the rights of the individual concerned are not guaranteed. In the meanwhile, an incident can result in tragedy.

### **3.3. Three critiques to the National Protection Unit**

#### **3.3.1. Private contractors and corruption networks**

I don't get it. Why are you asking that question?

Sebastián Castaño, UNP Director's advisor

I'll give you an example. A person was evaluated as being at 'exceptional risk' and needed of a protection scheme. Six months later, I was in charge of doing the revaluation to assess whether the risk situation was still there. When I conducted the fieldwork, I discovered the protection scheme was never implemented. What revaluation am I supposed to do to a person the State never protected?

Camilo Torres, UNP risk analyst

The protection schemes provided by the National Protection Unit are managed by a combination of public and private actors. Today, UNP personnel is composed by approximately 600 public employees and around 4500 private contractors including bodyguards and providers of material resources. Most of the public employees are former DAS members who were relocated after its dismantlement.

Two are the main arguments to support the partial externalization of the protection programme. First, it is argued that the State does not count with the capacity in terms of human and material resources to effectively protect over 7500 individuals who are receiving protection. As UNP advisor Sebastián Castaño stated. At the moment, the government does not count with the economic and human resources to fulfil its protection role alone. The use of private contractors is meant to cover the needs in terms of material and human resources (Sebastián Castaño, interview)

The critiques to the private participation are both theoretical and practical. First, it is argued that delegating –or at least sharing– the State’s responsibility to guarantee the rights to life, liberty, integrity and security is a concession that undermines the very notion of basic State’s responsibilities. Second, detractors of the private approach defend that the economic efficiency argument conceals a system of public contracts characterized by the lack of control and accountability that fosters corruption and inefficiency.

In August 2014 high-level officials (including UNP secretary general Julián Marulanda Calero) and private contractors were involved in a corruption network which diverted public funds through false contracts (El Tiempo, 2014)

. Diego Herrera, director of the *Instituto de Capacitación Popular* was affected by the scandal:

When the corruption scandal went public, a person called me. He was conducting an audit and wanted to know how was my protection scheme going. Me, that I had publicly renounced to have an individual protection scheme, I was officially registered as a beneficiary with a vehicle and bodyguards. How many false schemes they have? How much money did the private contractors steal?

Diego Herrera, director of Instituto Popular de Capacitación, Medellín

Later in 2015, media revealed that 7 security companies acted as a cartel manipulating prices in 100 public calls for tenders (El Espectador, 2015). Among them were some of the private contractors that provided services for the National Protection Unit (Somos Defensores, 2014). While UNP Director had to renounce after the scandal, private security contractors continued operating under new names, ‘just like chameleons’ (Camilo Torres, interview)<sup>7</sup>.

These cases show a recurrent lack of internal control at the UNP that questions the adequacy of the private-public model. Partial privatisation of the protection schemes is not only questionable in political terms; it has also become a great source of corruption.

<sup>7</sup> In 2016, the UNP opened a new call for tenders to contract security personnel. Three security companies involved in the corruption network– Guardianes Ltda., Cobasec Ltda. y Centinel de Seguridad Ltda– participated under the newly created consortium: UT Protección Colombia 14-16. As complex as it sounds, this is the modus operandi of the security cartel (WRadio, 2016).

### 3.3.2. Lack of implementation of collective protection

For this Special Chamber it is not clear how the delivery of fishing kits and nets, flashlights or hammocks (...) can be considered as “implementation of collective measures”. Thus, it requests the National Protection Unit and the Ministry of Interior to answer the following questions:

What is the National Protection Unit’s definition of “collective” to consider the delivery of boots, *machetes*, fishing kits, lanterns and boats as “collective protection measures”? To what extent the individual provision of goods to some community members can be considered a “collective measure”? What is the added value of those items in terms of *protection* beyond the benefits on daily activities? What is the reason that justifies the National Protection Unit being the institution in charge of deliver those items?

Constitutional Court of Colombia, Decision 321/15

On the 3<sup>rd</sup> of August 2015, the Constitutional Court released a request of information to several institutions involved in the protection programme (Constitutional Court, 2015). The tone of the document can be described as ‘sceptical’ –to say the least– regarding the supposedly collective nature of protection measures targeting several communities and organisations<sup>8</sup>. It was not the first time the Constitutional Court insisted in the necessity of designing specific protection policies of collective nature. In 2009, the Court urged the government to design an instrument capable of evaluating the risk of groups and communities (Decision 266/2009).

Eighteen days later, on the 21<sup>st</sup> of August 2015, Resolution 1085 (Ministry of Interior, 2015) set up a protocol to guide the implementation of the ‘Collective Protection Route’ (*Ruta*

<sup>8</sup> Decision 321/15 explicitly mentions indigenous peoples (Nasa, Jiwi, Totoró, Nukak, Awá, Siona, Camentsa, Yanacona, Inga, Emberá, Murui, Cofán, Quichua, Pijao, Pastos and Coreguaje; as well as afro-descendent communities and organisations (El Guamo community, Curvaradó; Community of Nueva Esperanza, Jiguamiandó; Camelias Humanitarian Zone, Curvaradó; Displaced Community of Curvaradó, in Turbo, Antioquia department; Zona Humanitaria El Limón, Jiguamiandó; communities of Rio Cacarica, Riosucio Chocó; Consejo Comunitario in La Toma, Cauca).



*de Protección Colectiva*). Groups, communities and social or political organisations could apply to receive protection against collective threats.

The collective protection route involves different State levels. UNP's task is to evaluate risk and design the protection measures to be implemented. Evaluations of this kind are completely different compared to the individual route.

Evaluation in the collective route is radically different to the individual one. Assessments are conducted by 3 analysts who conduct workshops with the communities, and the proposal of protection measures are negotiated directly with them. Regarding implementation, prevention plays a fundamental role. Measures include infrastructure plans, educational projects and working equipment.

However, the implementation of the collective protection route is far from being satisfactory. First of all, from a normative point of view the resolution is a non-binding source. Therefore, institutions asked to implement measures can claim 'lack of resources' and ignore the request, as it has happened several times (Sebastián Castaño, interview). UNP advisor Sebastián Castaño reported on the Minister of Interior's steps to turn the provisions of the Resolution into a binding Decree.

In addition, to date only 4 protection schemes have been implemented since 2015, against 300 applications (Carlos Guevara, interview). To a great extent, the difficulties the UNP faces regarding effective implementations are linked to the fact that the Unit's practices are deeply rooted in a notion of risk determined by its *individual* and *specific* nature of the threats. Subsequently, UNP personnel does not seem to have a clear idea of how to deal with structural vulnerabilities.

#### 3.3.4. Weaknesses of a physical, individualized and reactive approach

The National Protection unit inherited the main features of a protection approach originally conceived to protect State authorities. Thus, Colombia's institutional framework on protection is based on a physical and individualized approach. First, it is an essentially *physical approach* –also referred to as 'material approach' in some reports (Somos Defensores, 2014) –

in the sense that the main protection strategy it provides is based on material security under the form of bulletproof jackets, vehicles, bodyguards, etc.

It is *individualized*, as in 95% of the beneficiaries are individuals and only 5% of them are organisations and communities. Nevertheless, actually threats, attacks and murders serve as a message for organisations and movements to stop carrying out political activities.

Finally, it is *reactive*: a protection scheme is implemented only after a concrete threat has been made. The risk evaluation system is designed to reject protection applications when a threat has not been documented or identified.

In consequence, the current institutional design on protection is extremely rooted on a limited, top-down approach, in which the defender asks for help when he or she is at risk, and the State evaluates the case and provides. Instead, the preventive dimension of protection has been systematically neglected. Decree 6088 established *mesas departamentales* [departmental working groups] as spaces of coordination and dialogue between departmental authorities and civil society organisations. As an example, while Antioquia is one of the departments with the highest rate of aggressions, Antioquia's *Mesa Departamental de Defensores de Derechos Humanos, Líderes Sociales y Lideresas* only started operating in March 2017 after being inactive for at least two years (Laura Medina, UNDP, interview).

A critical approach to individual measures does not imply a neglect of individualized, physical protection. It means that, while individual schemes are useful in specific cases, they fail to effectively reduce the drivers of aggressions which are relevant to subvert the phenomenon in the long term.

But steps to diversify the mechanisms to protect defenders are being taken. In this sense, following point 3.4.4 of the Peace Agreement, On 29 May 2017 Decree 898 created a new unit within the Attorney General's Office: the *'Special Investigative Unit for the dismantlement of organizations and criminal behaviours responsible for homicides and massacres, that attack human rights defenders, social movements and political movements, or those who threaten and attack individuals participating in the implementation of the Agreement and in the peacebuilding*

*process, including criminal organisations known as successors of paramilitary groups and their support networks<sup>9</sup>, or ‘Special Investigative Unit’.*

The Special Investigative Unit will prioritize the following areas:

- 1) Municipalities with higher rates of aggressions against human rights defenders, members of social and political movements, including the new political party resulting from the FARC-EP’s transition to legality, and implementers of the Peace Agreement.
- 2) Vulnerable rural areas, including Transition Zones (ZVTN) and municipalities where FARC-EP militants will reintegrate into society.
- 3) Municipalities with higher risk of corruption and co-optation.
- 4) Municipalities with sufficient institutional capacity to conduct operations.

The goal of the unit is sufficiently clear after such a synthetic title. Regarding the details, it will have the judicial power to conduct and support investigations regarding any case related to aggressions against defenders (Article 5). Their personnel will comprise 16 attorneys, 50 judicial police officers, a National Team for Analysis and Investigation, and regional teams.

Also, in June 14 2017, the Office of the Inspector General (*Procuraduría General de Colombia*)<sup>10</sup> released Directive 002 ‘guidelines for the effective protection of the rights of human rights defenders (...) and social leaders [...]’. In Articles 16.1 and 27 the Office announces the creation of an ‘analysis team’ devoted to the design and implementation of a comprehensive information system on violations against human rights defenders.

<sup>9</sup> Decreto 898 de 2017, article 1: El presente Decreto tiene como objeto crear u conformar la Unidad Especial de Investigación para el desmantelamiento de organizaciones y conductas criminales responsables de homicidios y masacres, que atentan contra defensores/as de derechos humanos, movimientos sociales o movimientos políticos o que amenacen o atenten contra las personas que participen en la implementación de los acuerdos y a la construcción de la paz, incluyendo las organizaciones criminales que hayan sido denominadas como sucesoras del paramilitarismo y sus redes de apoyo (...).

<sup>10</sup> Non-judicial, independent, public institution overseeing the public conduct of State officials and the correct functioning of government institutions and agencies. Not to be confused with the judicial General Attorney’s Office.

# CONCLUSION

*Who killed Mario Andrés?*, was not a rhetoric question as it might seem. On the contrary, I am still unable to give a clear answer. Yet, I do not consider it a failure: it perfectly illustrates the general scenario of incertitude that surrounds officials, activists and researchers devoted to find answers to the phenomenon of violence.

Unfortunately, violence is an exceptionally ambiguous topic. While it is tempting to model conflict dynamics in clear-cut terms, the reality on the ground is far more complex. Top-down narratives stressing the interests of bipolar competitors (paramilitary groups against guerrillas, State versus insurgency, demobilised versus *spoilers*, legality versus criminality) are crossed by atomized parochial logics in which the frontiers between macro and micro dynamics and between political and private conflicts are extremely fluid and difficult to organize in a single explanatory framework.

During the fieldwork, I had the chance to experience the contradictions myself: peasant farmers and indigenous people cooperating to improve State's presence and simultaneously competing for territorial control; former FARC strongholds where the *guerrilleros* are also neighbours fighting for a cow or access to irrigation; activists defending human rights and supporting armed struggle at the same time; a social leader missing his bodyguard; an official committed to protect human rights working for an intelligence apparatus committed to threaten and murder political opposition members.

Some of those first-hand experiences have been overtly transcribed in the thesis; most of them have not. But every single one of them has shaped the way I depicted political violence in Colombia: a minefield full of complex questions and few simple answers. The process of organizing the information, the arguments and the style has been a permanent struggle to find a balance between distance and proximity, top-down and bottom-up explanations, facts and perceptions, complexity and concision.

The findings are modest. First, three explanatory variables that explain the persistence of armed actors have been identified. First, considerable areas with a limited or inexistent presence of the State have allowed armed actors to freely operate and build social networks to sustain in different degrees their influence over the population and the economic activities of those areas. Also, it has consequently reduced the potential costs of conducting criminal activities to a minimum, and has fostered impunity for abuses of all kinds.

Secondly, those 'stateless' areas were the centre of structural inequalities in the access to both economic resources and political influence. The social legitimacy of armed actors as representative of the interests of the poor farmers should not be neglected. Regardless of the motivations, the FARC-EP gained support among many peasant communities in three ways: it became an active authority, mediating in local conflicts; it developed a territorial project based on the distribution of land; and...

Third, armed actors have managed to obtain massive amounts of revenues through the control or taxation of illegal economies including, but not limited to, drug-trafficking, arm sells and logging.

Physical presence, economic control and institutional legitimacy are also key to identify the challenges of the post-conflict transition. It shows how the ‘post-conflict narrative’ that conceptualizes armed actors as mere ‘criminal organisations’ will not be effective if it is not accompanied by an ambitious long-term strategy aiming to build State institutions where they have never been. ‘Post-demobilisation armed groups’ as they are now euphemistically called in official documents, will continue to be the *de facto* state –in its most basic definition of coercive power with the ability to punish–, and Colombia an *oligopoly of violence*, until democratic institutions are able to provide not only security, but also justice, policies and services in the most vulnerable areas of the country.

I examined the weaknesses of the National Protection Unit regarding the institutional bottlenecks, and the potential improvements in the areas of collective protection and corruption. An effective protection policy should address structural factors that make political violence an efficient tool to disarticulate opposition.

Finally, I offered voices, infinitely more experienced, with a deep, personal and sometimes tragic knowledge of what it means to be an activist in Colombia. Every virtue this project has should be attributed to them, who gave me the opportunity to learn and never stopped answering my questions. All the mistakes are mine.

# INTERVIEWS

In chronological order:

Camilo Jiménez, Journalist -Vice Colombia Director, Bogotá, 2 May 2017

Jorge Aponte, university professor, Marcha Patriótica activist, Bogotá, 3 May 2017

Betty Pedraza, NGO Pensamiento y Acción Social (PAS), Bogotá, 4 May 2017

Carlos Guevara, Programa Somos Defensores, Bogotá, 5 May 2017

Luis Fernando Ospina, human rights defender, Medellín, 8 May 2017

Laura Medina, UNDP Colombia, Medellín, 8 May 2017

Diego Herrera, Instituto de Capacitación Popular, Medellín, 9 May 2017

Ernesto Pinzón and Andrea Granda, CAHUCOPANA, Medellín, 9 May 2017

Joiner Medina, Asociación de Cabildos del Valle del Cali, 11 May 2017

Héctor Enrique Martínez Pineda, Colombia Soberana, Cali, 11, 12 May 2017

Office of the Ombudsman, official, Cali, 12 May 2017

Ernesto López, ASTRACAVA, Palmira, 13 May 2017

ASTRACAVA leaders, Pradera, 13 May 2017

Diego Daza , ASTRACAVA, Pradera, 13 May 2017

Wilson Arias, Polo Democrático, labour leader, Cali, 15 May 2017

Camilo Torres, UNP risk analyst, Cali, 16 May 2017

Jhon Jairo Maya, UNP bodyguard, Cali, 16 May

Sebastián Castaño, UNP advisor, Bogotá, 19 May 2017

Mario Zanudo, ¡Pacifista!-Vice Colombia, Bogotá 19 May 2017

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