

Foreign Affairs Committee

Oral evidence: Global Britain and South America, HC 1617

Tuesday 30 April 2019

Ordered by the House of Commons to be published on 30 April 2019.

[Watch the meeting](#)

Members present: Tom Tugendhat (Chair); Chris Bryant; Ann Clwyd; Stephen Gethins; Ian Murray; Mr Bob Seely; Royston Smith; Catherine West.

Questions 142-170

Witnesses

I: Dr Marina Brilman, International Human Rights Policy Adviser, Law Society, Dr Par Engstrom, Senior Lecturer in Human Rights, Institute of the Americas, University College London, and Andrei Gomez-Suarez, co-founder, Rodeemos el Dialogo (Embrace Dialogue).

Examination of witnesses

Witnesses: Dr Marina Brilman, Dr Par Engstrom, and Andrei Gomez-Suarez.

Q142 **Chair:** Good afternoon, and welcome to this afternoon's session of the Foreign Affairs Committee. Thank you very much for joining us. As we start off the session, I was wondering whether you wouldn't mind very briefly introducing yourselves.

Dr Brilman: I am Marina Brilman. I am the international human rights policy adviser of the Law Society of England and Wales. I am also a visiting fellow at the London School of Economics and Political Science, in its Latin America and Caribbean Centre, but I am here to give evidence for the Law Society.

Dr Engstrom: My name is Par Engstrom, and I am associate professor of human rights at the Institute of the Americas at UCL.

Andrei Gomez-Suarez: Hi, my name is Andrei Gomez. I am a UCL associate researcher at the Institute of the Americas. I am also an associate researcher at the University of Bristol and part of Embrace Dialogue, a civil society organisation in Colombia. I have worked previously with the Office of the High Commissioner for Peace in Colombia and the Ombudsman's Office of Colombia.

Q143 **Chair:** Thank you very much. Forgive me, but I am slightly hard of hearing, so I would be hugely grateful if you spoke up as loudly and clearly as you feel you can. We will touch on many questions that I am sure any of the three of you could answer. If you feel that something has already been covered, please do not feel the need to repeat it, but if you would like to add something, please do.

I will start with a question on the respect for human rights and the rule of law. Particularly today, perhaps, it is quite an important question. Is it increasing or decreasing in the region, and why would you say that was?

Dr Brilman: I think there is a difference sometimes between what is said in public in defence of the rule of law and human rights, and the actions taken in practice. At the Law Society, we have three main concerns regarding the rule of law in the region. The first is around threats to judicial independence, especially in Venezuela, Colombia to a certain extent, and Guatemala. The second is around the rise in attacks against human rights defenders, including lawyers, especially in Colombia after the signing of the peace agreement.

The third is around regional dynamics. More specifically, recently, as I am sure you are aware, Prosur member states—Argentina, Brazil, Colombia, Paraguay and Chile—challenged the inter-American system of human rights. That happened before in 2012, led by Ecuador and Venezuela—more left-wing Governments. Now it is happening again, but by southern



cone states and more right-leaning Governments. That is especially worrying when we take into account the continuous under-financing of the inter-American system of human rights at a time when there are serious challenges to the rule of law. I am happy to elaborate on any of those three points in the rest of the session.

Andrei Gomez-Suarez: I agree with what Marina has said. I guess I would like to focus more on the case of Colombia. There has been a threat to the transitional justice mechanism and the independence of the mechanism that was agreed in the Colombian peace process in 2016. Also, a very serious human rights crisis has unfolded after the signing of the peace agreement. 2018 was the year with the largest number of human rights violations in Colombia in the last 10 years, and that needs to be taken into account.

Dr Engstrom: The overall picture is quite varied, depending on where you look in the region, but if you would like to focus on the Andean region, and Colombia and Venezuela in particular, the broad picture is that the narrative surrounding Colombia since the adoption of the peace deal has been positive, in terms of the supposed end of the armed conflict following that deal. That is contrasted with the steady deterioration in Venezuela.

That is the broad picture in the Andean region, although, as Andrei and I are happy to elaborate on—I am sure we will in a few moments—the situation in Colombia is really quite urgent. The trend is effectively the dismantling of the peace deal, and an increase in violence in Colombia in particular.

If you look across the region, however, it is very varied. There is a broader right-wing trend, politically speaking, as Marina highlighted, across Latin America, and we see a certain resurgence of an illiberal populist form of government; let's call it that. That is perhaps most clearly expressed in the case of Brazil and Bolsonaro, where we see prominent and outspoken attacks on the very idea of human rights, not to mention the actual practice of human rights, and extensive human rights violations.

Q144 **Stephen Gethins:** That leads us on quite nicely. I wanted to talk a bit more about the Colombian peace process, but can I ask a more general question first? Do you think the peace accords in Colombia have delivered change for the better for the rights of citizens? It will then be interesting to go into more detail about some of the points that you have raised.

Andrei Gomez-Suarez: I think there were really high hopes that the peace deal was going to bring radical transformation to Colombian society, in particular in the areas most affected by the armed conflict and the poor territories of the country. Unfortunately, after the peace deal was put to a referendum, and the referendum was lost, the hopes of Colombian people have somehow been falling apart.

Unfortunately, even though there has been some implementation of some of the dispositions—at least 23% of them have been implemented, according to the Kroc Institute—there is still a long way to go to bring



HOUSE OF COMMONS

about the transformations that were promised by the peace deal. In regions such as Putumayo, which I visited three weeks ago, Colombians feel that there is a sense that the Colombian state is betraying them again. During the Santos Administration, there was a hope that things were going to change, and that the Government was going to start delivering a transformation in terms of economics, politics and in the regions, but now, under the Duque Administration, all those things are not happening.

In Putumayo, for example, there is a very serious concern with point four of the agenda, which had to do with the national coca crop substitution programme. That was meant to be a comprehensive approach to solving the issue of illicit crops. Now it has turned into a military approach to try to solve that conflict, and it is not bringing about the economic transformations that people were expecting in the territories. It has not delivered what was promised, thanks to the lack of political will of the new Administration in Colombia.

Dr Brilman: I would say only that maybe it has improved for people who live in the areas where there were direct hostilities between the state's armed forces and the FARC; they obviously now live in regions that are more peaceful in that regard. However, the absence of the FARC has left a vacuum, as you know, and as I think has been addressed in previous sessions, that has now been filled by different paramilitary groups, FARC dissidents and the ELN, so they are still not free from hostilities; they are just between different actors.

There is also insecurity about land restitutions to victims of the armed conflict. That is a region where we see the biggest amount of threats, in a way, against lawyers who are involved in these land restitution claims and their clients.

In most of the regions that Andrei just referred to, there is an almost complete absence of the state. If the state has any presence at all, it is a military presence—it is the armed forces—but there are no other state institutions to provide healthcare, education or anything else, so the people who live there are basically left to their own devices.

Dr Engstrom: As Andrei mentioned, there were great hopes. Many of us had great hopes about the adoption of the peace deal, not least because, despite the many compromises that any peace deal obviously entails, we could say that the peace agreement was as comprehensive and as progressive as one could have hoped for, given the complex armed conflict that Colombia has undergone for many decades. There were quite a few indicators that showed an improvement on certain measures on human rights. For example, levels of violence decreased in certain areas. The demobilisation of FARC led to a decrease in the hostilities of the armed conflict and the violence that that entailed. We have seen deterioration, particularly in the past couple of years.

We have also recently seen what many people would say is a dismantling of key components of the peace deal. One that has been in the news



HOUSE OF COMMONS

recently is the Special Jurisdiction for Peace, and the Colombian Government's attempt to revise its core components. I am sure you have questions on that, which I would be happy to elaborate on. This general political context has led to a spike in violence, and the number of massacres of civilians has increased. As Marina mentioned, we have also seen various armed actors moving into former target territories. Violence in these regions has led to extensive killings, and many observers are really concerned about the situation.

Q145 Stephen Gethins: You have hinted at that, Dr Engstrom. Is there perceived to be adequate access to justice for citizens? If I could just broaden it out, are President Duque's actions undermining efforts to strengthen the rule of law?

Dr Engstrom: It is important to recognise the work that the comprehensive system of transitional justice has conducted in the past year or so. There have been quite important advances in a number of cases in the Special Jurisdiction, involving both military personnel and FARC ex-combatants.

The second point I want to highlight is that when we talk about access to justice in the Colombian context, it is important to understand that generally there are very high levels of impunity, which has been the case historically. There are some estimates of near-perfect impunity for violent crime: at least 90% of crimes do not get resolved and are left in impunity. The general context is not conducive to access to justice, which particularly affects marginalised communities. There are great obstacles to access to justice for indigenous and Afro-Colombian communities—particularly in rural areas, as Marina mentioned. These population groups overlap in important ways.

In my view, the comprehensive system of transitional justice has great potential if it is allowed to operate as it has been designed. There will be plenty of problems—that is the nature of transitional justice—but at the moment we see a lack of political support for the proper functioning of the transitional justice system, as Andrei mentioned.

Dr Brilman: With regard to access to justice, I agree with Par's point on the lack of access to justice, especially in the regions and for indigenous communities. Relatively few lawyers take on human-rights related cases due to the risks that they face in performing that kind of work, as well as the risks to their families. That means that access to justice for human rights-related cases is severely reduced, because it is hard to get a lawyer who is willing to put their life on the line to get justice.

On your second point, which was on actions taken by the current Government, endorsing the rule of law and human rights is again a point of public discourse, especially at the beginning of the presidency, and the signing of the pact for life for the protection of social leaders, human rights defenders and journalists. Subsequently, there have been actions that go against that kind of discourse—for example, his objections to the

Special Jurisdiction for Peace, which we can go into further if you would like.

Budget cuts have been announced, and the national development plan has been discussed in Congress. I have heard about proposed budget cuts of about 20% for the Special Jurisdiction for Peace, 40% for the truth commission and 60% for the unit that was set up to look for missing persons and human remains. That does not indicate a political will to allocate resources to the implementation of the peace accords. There was also an effort last year to introduce military jurisdiction within the Special Jurisdiction for Peace. That was not approved by Congress, so it is out now, but that also shows an intent to tinker with the agreement.

Specifically on human rights defenders, the public prosecutor has publicly said that attacks against certain human rights defenders are isolated crimes, maybe linked to drug trafficking, thereby not recognising that there is a systematic element to attacks on human rights defenders because of the work that they do. Obviously, that recognition is a precondition of changing the situation for human rights defenders and lawyers in the country.

Andrei Gomez-Suarez: Embrace Dialogue carried out two very short pieces of research in Arauca and Catatumbo, and in Valledupar and Tuluá, to try to understand whether the mechanisms of alternative conflict resolution on the ground were in tune with the ordinary justice system, in particular because the peace deal with FARC meant that it was very important to find a way to understand the links between community justice and ordinary justice. The whole idea was that one way of strengthening the rule of law is to strengthen the link between both of them. We discovered in our research that that link has not been strengthened at all. The ordinary justice system doesn't really rely on the community justice mechanisms in those regions. In regions like Catatumbo and Arauca, the only justice practice that you have is the one carried out by communities.

It is important that, as we have seen—we were in discussions with the Ministry of Justice in November last year—there is a will to try to start thinking about how you synchronise those two systems. Unfortunately, the problem that we have at the moment is the level of polarisation in Colombia. President Duque keeps claiming that he wants to build peace with legality, but he constantly stigmatises members of FARC. There is still a constant battle between the ones who supported the peace agreement and the ones who did not support it. He has not been able to focus on those developments. At the moment, we have a very serious obstacle, which is that the polarisation is getting in the way of letting these institutions do the work and strengthen the rule of law in those territories.

Q146 **Stephen Gethins:** As a final question, may I ask—after all, we are the Foreign Affairs Committee—whether in your opinion the UK is doing enough to support the peace process? Should the Foreign Office be taking a stronger line with the Duque Administration, in terms of underlining the UK's support for the peace accords?



HOUSE OF COMMONS

Dr Brilman: I think that the UK Government and the embassy in Bogotá have supported the peace agreement. They have also supported the statutory law, which Duque has objected to. Of course, it is always possible to take a harder line, but that has been expressed. That is quite clear. Both the peace process and the statutory law received a lot of international support from the Security Council at the beginning of this year and the end of last year, from the Office of the High Commissioner for Human Rights in Bogotá, and from the prosecutor of the International Criminal Court.

Duque published his objections to the statutory law, and one or two days later, a letter was sent to the Secretary-General of the United Nations, signed by all of the FARC negotiators and the state negotiators for the peace agreement, expressing concern about those objections and emphasising the autonomy of the Special Jurisdiction for Peace.

There has been a lot of international support, including from the UK, and I think the position is clear.

Dr Engstrom: If I may, I want to just add something quickly to emphasise the point. I think the Foreign Office and the UK Government more generally have several channels through which they can express support and act in support of the peace agreement and its implementation. Again, it is really important that we understand that the peace deal is in the balance. The UN Security Council has a mandate to follow the implementation of the peace deal, and the UK of course has a pivotal role to play in the UN Security Council. Marina mentioned how the embassy and the Foreign Office have done important work locally through a series of high-profile and skilled ambassadors and staff at the embassy in Colombia. There are of course other multilateral channels through which the UK could play potentially an important role in Colombia. The EU would have been—is, actually—one, if I may say so.

Andrei Gomez-Suarez: I know that the UK played a very important role in the peace process. You have invested time, energy and resources. The role you played in the UN Security Council was fundamental to getting the UN mission to Colombia. The embassy has been vocal in trying to tell President Duque that he needs to honour the peace deal, but you could also do more.

What Par is saying is that according to the UN Security Council, Colombia was the only hope for the world only three years ago. Today, the President of Colombia has objected to statutory law that will allow the most comprehensive transitional justice system in the world to work, so I do not think it is enough to just express concern. I think you need to explore harder measures in the UN Security Council and the UK needs to take this issue more seriously.

That justice system may not happen, and we already know what happened in Rwanda in 1994, where a failed peace process ended up in horrible genocide. We have seen Colombia going through cycles of violence since 1958. That has never been stopped because the political elites betray the



HOUSE OF COMMONS

agreements that they make, and that is important. People in Colombia are waiting for the international community to put further pressure on President Duque. That would be a commitment to the world, not only to Colombian society.

Q147 **Catherine West:** What particular issues are facing women human rights defenders in Colombia?

Dr Engstrom: If I may, I will start and then defer to my colleagues. One of the characteristics of the armed conflict in Colombia was the very high levels of sexual violence, which particularly targeted women. Many of us who followed the negotiations around the peace agreement and the eventual adoption of the peace deal saw an important part of the comprehensive deal as being—this is not an elegant way to put it—a gender component. It cut across various dimensions of the peace deal.

Again, a lot of hope was invested in those areas of the peace agreement. There was the involvement of women in the negotiations. There was the explicit addressing of sexual crimes that have been committed as part of the conflict and efforts to adopt specific reparation policies that took the gender component into account. Again, the broader point I want to connect your question to is that the mechanisms and tools are there to address the decades of violence and human rights violations that have taken place in Colombia. The hope is that they are allowed to work as best they can.

Dr Brilman: I agree with what Par just said, especially on the sexual violence, which is a trait, as are threats directed at women. Human rights offenders often include that component, and that is also something that should obviously be looked at in the investigation of those threats and of crimes committed against women human rights defenders. There needs to be more sensitivity and a gender-differentiated approach in investigations by the police and the prosecution services.

The other point to mention is that there are a lot of single mothers—the Colombian term is “*madres cabezas de familia*”—who have been left caring for their families because their husbands or partners have been killed in the conflict. A lot of them are also community leaders. Unfortunately, last year, we saw a significant increase in aggression, killings and threats against women human rights defenders. A report was published just last week by a national NGO platform that also works with the Office of the United Nations High Commissioner in Colombia, and it showed that increase in threats against women human rights defenders specifically. I can send that report to the Committee in writing if that helps.

Andrei Gomez-Suarez: To give some numbers on the killings, between the signing of the peace agreement in November 2016 and 31 March 2019, 15% of the killings were against women human rights defenders. In the presidency of Iván Duque, between August last year and March of this year, 16% of women human rights defenders in Colombia have been killed. The other figure is 83%. In 2018, there has also been a 500%



HOUSE OF COMMONS

increase in sexual violence. We went from two cases to six cases, which is dramatic in terms of what is happening there.

Dr Brilman: Can I just add one point? With all those statistics, I think that it should be taken into account that there is very big underreporting because people in the regions are afraid to denounce to the police any crimes that have committed against them. In many regions, the same people who are the police forces by day sometimes form part of other groups by night. That is not to say that that is the case across the whole country, but it is certainly the case in some other rural areas. So there is a great fear and an underreporting.

Q148 **Catherine West:** And that would be the same for indigenous women groups as well?

Dr Brilman: Very much so.

Andrei Gomez-Suarez: I add that the numbers vary according to the different reports. I was just talking about the number of killings of human rights defenders according to the Comisión Colombiana de Juristas in a report that was handed to me just before I came here. Somos Defensores—a coalition of NGOs—says that in 2018, of 805 human rights violations, 235 were carried out against women, so the percentage, in terms of other human rights violations, is rather large too.

Q149 **Chris Bryant:** Colombia has the largest number of people who are displaced within their own country, of any country in the world—it is certainly a very large number. From what you are saying, Mr Gomez-Suarez, it sounds as if there is a danger of civil war or of significantly enhanced violence if the peace process completely stalls. Is that what you are saying, because you compared it to Rwanda?

Andrei Gomez-Suarez: The main problem in Colombia is that, if we think about the previous peace processes, when we had negotiations, the levels of violence usually went down for a while. That happened in 1984 and 1985, in 1989 and 1990, and between 1998 and 2000. But once the peace process ends, you have a rather serious increase in violence in Colombia. According to the main national newspaper, *El Espectador*, in last weekend's edition, there are 26 illegal armed groups operating in the different territories of Colombia. According to Fundación Paz y Reconciliación, 10% of members of the FARC who had disarmed have gone back to take up arms, there are 2,500 members in the ELN and there are more than 3,000 paramilitary members in the Clan del Golfo.

When you start thinking about the fact that there are 26 illegal armed groups in the territories, when you have a Government that is not delivering to the people and people start feeling trapped in between that, and when you have a further militarisation of the solution to the security issues—instead of having a human security approach, as was agreed in the peace deal in Colombia—the most likely scenario is that this trend of escalation of violence, which we have seen since 2016, will go even further. There is a risk, of course.



HOUSE OF COMMONS

Q150 Chris Bryant: Sorry, I should have declared my interest as well, which is that I went to Colombia last year, payed for by ABColombia.

To play devil's advocate, some people in the Duque Administration, and perhaps Mr Uribe, might say that these are all terrible people, they were always going to go back to the FARC, it was preposterous that we ever came to a deal with them in the first place, and this is all inevitable. Whereas, I think you are saying that part of the peace process was meant to be the reintegration of former fighters for the FARC into other professions, with retraining and all the rest of it, and because that has not happened, they have had next to no choice. Is that what you are saying?

Andrei Gomez-Suarez: Not only that, 136 members of the FARC have been killed since 2016, so there are no security guarantees for some of them. Just last week, one member of the FARC was killed by an army unit, he was castrated and his body was going to be disappeared. You have a Government that is not delivering in terms of the reincorporation of the FARC, and this is creating a very serious issue.

As the Government are not delivering in the reincorporation of the FARC and they are not delivering in terms of the national crop substitution plan, the rural agrarian reform or the comprehensive transitional justice system, we are creating the perfect conditions for the emergence of violence, not because all the evil guys of the FARC went back to take up arms, but because we did not solve the structural conditions that have created the conflict in Colombia and have maintained the conflict for the last 53 years.

Dr Engstrom: May I just reinforce a point here, which I think is important. In very broad terms, I think it is fair to say that FARC, as a military and political organisation, delivered its part of the deal, in terms of demobilisation, broadly speaking. Of course, you will be able to find plenty of cases of dissident factions of FARC that have decided not to demobilise for a number of reasons, but the broader point here is that the FARC delivered demobilisation.

The FARC held up their part of the bargain of demobilising in these designated zones, and they were promised reintegration and a quite comprehensive package, which, broadly speaking, has not been delivered to them. That has led to a situation in which quite a significant number of FARC ex-combatants have left these zones. Not all of them have taken up arms again, but it is fair to say that a fair number have. It is important to keep in mind that FARC delivered its part of the deal.

Q151 Royston Smith: Can I talk to you about land rights and farmers being driven off their properties? Is there enough support and protection for citizens, and is a rise in armed group activity a factor in people being driven from their properties?

Dr Brilman: The short answer is no, there is not enough protection and yes, they are being driven off their lands because of the activities that take place in those regions. As I mentioned, the restitution of land to victims of the armed conflict is very difficult, and has been since the



HOUSE OF COMMONS

victims law came into force. People representing those victims also have huge difficulties and face severe threats. A problem is also the formalisation of the title to the land. It is very difficult to get a title that is then recognised, and once they do get a title they are immediately pressured to give their title to someone else, usually paramilitary groups or other interested groups. So it is a huge issue.

Andrei Gomez-Suarez: According to the Colombian Commission of Jurists, what we have is a very worrying trend. In the peace deal, it was agreed that 16 special development zones for land rights would be created across the country, and we have seen a pattern of violence in which most of the people who get killed in Colombia are indigenous leaders, community leaders and peasant leaders. Around 100 of them were killed in 2018. They were killed because they were in those territories, and those territories intersect with another 16 zones for the substitution of illicit crops. What you can see is a really worrying pattern.

In the regions into which the state was meant to go and build infrastructure, to talk to the communities and discuss development projects with them—all those sorts of things in order for them to leave aside their illegal crops—and in the regions where land titles were going to be given to the campesinos who did not have land titles, you have the largest number of killings in the country since the signing of the peace agreement. So to answer your question, there is no protection for land rights in the framework of the implementation of the peace agreement, unfortunately.

Dr Brillman: I have one thing to add to that, and that is not so much the development projects for people to leave aside the cultivation of illicit crops but also development projects carried out by multinational companies in some of those areas, often in indigenous lands or lands of Afro-Colombian communities, for example big mining projects and big infrastructure projects. Those projects usually give rise to a load of threats against human rights defenders and lawyers in those areas, and to indigenous communities. So that is an added factor of complication. It all coincides in the same territories, usually.

Q152 **Chair:** Can I come very quickly back to you, Mr Gomez-Suarez? What you are saying is that there is a direct connection between land rights and the level of killing in areas.

Andrei Gomez-Suarez: I think that most human rights organisations would say that there is that pattern of violence. Important research was carried out by the Colombian Commission of Jurists, and now some research carried out by the National University of Colombia shows that they are linked, that those regions where there was meant to be new land titles are those where most of the leaders have been killed. And most of the leaders who have been killed were leaders who were asking for those land titles or were participating in the mechanisms that were created by the peace agreement to build the development plans in those regions.



HOUSE OF COMMONS

What I should also probably emphasise is that in the regions that FARC left and there was a vacuum—as Par rightly said, the FARC honoured the agreement—the paramilitaries are taking over. Where there is a paramilitary presence, usually what is happening is that the social leaders are being killed because they are the ones saying, “We want the peace agreement to be implemented. We don’t want anything else. You, Government, signed this; we want the implementation of it”. And they are getting killed.

In some cases, those regions also intersect with the special transitory reincorporation zones of the FARC. So, if you do a zoom-in on the map of Colombia, you could see that the killings are taking place mainly in 16 regions of the country where you have demobilisation of FARC members, where you used to have illicit coca crops, where you needed to do land reform and where you need to do some legal titling there. In those regions, you have a new illegal armed group coming in—or many; we do not know how many—fighting for that territory and killing the leaders who actually were the ones who were going to help the state to build the rule of law in a post-conflict society.

Q153 Chris Bryant: To clarify, there are different elements of this land right, aren’t there? There is the restitution of stolen lands, which was promised under the peace accord, where sometimes it was difficult to prove a title and so on. That was one part and that has not happened, as I understand you to be saying. Secondly, there was the promise of terreno baldío, or Government land as it were, that was to be parcelled out to people so they could have land to work on, either as campesino or as indigenous peoples. Also, there were to be new protections for indigenous lands. None of those three things have happened, and on top of that you are saying that land is being stolen anew from people.

Is that right? Are those the kind of four elements of what we have now?

Andrei Gomez-Suarez: If you allow me to clarify, yes, of course, there is new land-grabbing taking place, because the number of IDPs in Colombia has increased in the last two years, according to CODHES, one of the NGOs doing—

Q154 Chris Bryant: The number of IDPs—?

Andrei Gomez-Suarez: Internally displaced people. So, campesinos in some of the regions have been expelled out of those territories; that is the first thing.

However, the other thing is that the Government also promised that they were going to help the FARC members to reincorporate into society and to have economic projects—to have land to work on. And that land has not been given to them.

So today a very serious issue that we have with former members of the FARC is that they do not know what is going to happen with them after August 2019, which is the end of the special transitory reincorporation zones. And they do not have land to work on.



HOUSE OF COMMONS

That is another issue that should probably be added to this, but the other two elements that you mentioned—they were, as you rightly said so.

Q155 **Chris Bryant:** Marina, you mentioned mining interests, but would it be fair to say that palm oil is a bigger issue and therefore something that directly affects British companies?

Dr Brilman: I don't know if it is a bigger issue, but it is definitely as big an issue. I would say mining, palm oil and infrastructure projects—all of those—but palm oil, especially in a certain region of Colombia, which is the western parts closer to the coast, is definitely an issue, yes.

Q156 **Chris Bryant:** And that leads to land grabs?

Dr Brilman: It does, yes.

Q157 **Chris Bryant:** So when we use all these palm oil products in the UK, we are not innocent of that?

Dr Brilman: No.

Q158 **Chris Bryant:** You can say more about that, if you want.

Dr Brilman: I do not have much more to say, just because it is not the main focus of the Law Society's work, unless it affects human rights defenders or lawyers that are threatened because of that. But the short answer is yes.

Dr Engstrom: The broader point here, I guess, is that we have an economic development model in Colombia that is very much based on natural resources and extractive industries. This is part of the development project, including under previous Governments; this is not in any sense exclusive to the current Government.

Also, for any student of Colombia the first point to note is that the armed conflict is intimately linked with land, and under the armed conflict, of course, there has been a reverse land reform—increasing concentration of land.

So, any land restitution, or any advocacy on behalf of land rights or any communities that seek to act on the rights that they have, puts them up against very robust, strong economic national—yes—and international economic interests.

Dr Brilman: Just to add to that, for example there are cases of lawyers who act for those communities that live in those palm oil areas, as it were, and they are seriously under threat. About two years ago, one of them had two attempts made on his life. The only reason why he is still alive is that he has protection measures. He has a car with blacked-out windows and he has armed bodyguards who can prevent him from being shot. That is a practical example of the effect of victims trying to defend their rights in areas where there is a palm oil industry, for example.

Q159 **Ann Clwyd:** I was going to ask you whether the National Protection Unit is worthwhile. What does it do?



HOUSE OF COMMONS

Dr Brilman: The National Protection Unit was set up by President Santos in 2011 and continues to this day. The current Government have said that they want to restructure the National Protection Unit. We will have to see what that means in practice. There have been reports by civil society and human rights defenders of problems with the protection measures afforded by the UNP. For example, a level of risk analysis is done; when your risk is assessed as extraordinary or imminent, you are afforded protection measures, which can range from bulletproof vests to the cars that I have just mentioned. Armed bodyguards are at the highest level of risk, but measures also include a mobile phone or panic button, which I have heard in practice often do not work—and, if you are in a serious situation, having a mobile phone will not do you much good, so that is a problem.

Another problem is that the UNP is severely under-resourced, which would be one of the first things that needs to be changed in any kind of restructuring. Another thing that I have heard is that there have been cases of unilateral revoking of protection measures by the UNP, and delays in affording such measures. There are definitely a number of issues that need to be addressed.

Andrei Gomez-Suarez: That is very important. It is very important to ask about the National Protection Unit because one of the reasons so many human rights defenders are concerned that the state cannot deliver protection and preventive measures is that this institution is not working properly.

I would add two further things to what Marina said. First, only 240 members of the National Protection Unit are permanent staff. The others are outsourced. That is a serious issue, because in some cases in some regions it has been proven that some of the people working within the National Protection Unit have links to criminal organisations. They are the ones meant to protect people, but they actually have those dirty ties, so it is very important to see how reform of the National Protection Unit can take place.

Secondly, the unit not only is a special taskforce but should be doing some investigations in order to identify the intellectual actors of the killings and to design preventive mechanisms. At this moment, the National Protection Unit does not have the capacity to do that. The international community and the UK could probably think about how to make the unit play a more comprehensive role, following a human security approach rather than a national security and military approach.

Dr Brilman: In the aftermath of the peace agreement, other mechanisms were set up alongside the UNP to protect human rights defenders, probably the most important one being the National Security Guarantees Commission, but I understand that under the current Government the commission has not really been active—not because it has been formally abolished, but because no meetings have been called. Recently, they have started meeting again in the regions, but so far that mechanism has not been used.



HOUSE OF COMMONS

Another thing that the current Government published was a plan called the PAO. It is an action plan to protect social leaders, human rights defenders and journalists. First, President Duque wanted to appoint as the head of this plan—for its implementation—someone from the military. Of course, if you know the context of the conflict in Colombia, it is not a very good idea to have someone high-ranking in the military as the head of this programme to protect human rights defenders. That was revoked in the end, because of the opposition against it. The PAO also seems to have a public order and national security focus rather than a civil protection focus, and the emphasis seems to be very much on physical protection measures, such as the ones I just mentioned—the bulletproof vests, for example. What human rights defenders there say is that that is saving lives, but it is not addressing the root causes of why those risks exist.

There is also the early warning mechanism via the ombudsman. That seems to work in the sense that early warnings are sent out, but then the idea is that different state institutions give a follow-up to those warnings, and that does not happen in practice. There are a number of different mechanisms for protection, but a lot of them just do not function in practice, apart from the UNP, with the challenges that I have just referred to.

Q160 Ann Clwyd: Who criticises it publicly? What sort of discussion goes on about its activity?

Andrei Gomez-Suarez: I guess the main problem we have with this is that, as Marina said, the national commission on security guarantees has been convened only once under the Duque Administration. Why is that a problem? Because that is the high-level institution that should be co-ordinating and articulating all the other mechanisms. What he has now tried to do is to convene it only once and have regional sub-commissions to deal with these issues. But the President and his Ministers, who should be leading this, are not meeting on a regular monthly basis, as should be done according to the peace deal.

That is having a very serious impact. Members of civil society who participated in that commission are very concerned that, despite the idea of this being a participatory mechanism in which civil society and NGOs working in human rights have a say in co-ordinating a plan for protection and prevention on human rights, they are not being invited to do that.

That is also the main criticism of the PAO, the plan Marina mentioned, because it was produced without the participation of civil society. It was only released the day before. They sent it around, but human rights organisations, which had hoped that the whole human rights policy programme of the Colombian state was going to change after the peace deal, feel they are going back to the same way of doing politics as before, where protecting human rights is seen from a national security perspective. That is the main issue. It is probably not being discussed enough in the Colombian media.



HOUSE OF COMMONS

Dr Brilman: To address your question on the discussions taking place, in the media there is maybe not enough of that. Criticism is being exercised by NGOs and by human rights defenders themselves. Internationally, the UN special rapporteur on human rights defenders visited Colombia at the end of last year. There is a section in his report on that, and I am happy to send that report to the Committee after this session. The UN's verification mission in Colombia has reported on this—I can send that as well—and the Inter-American Commission on Human Rights has also reported on it, which I can also send. I do not want to inundate you, but if it is helpful I will send them.

Q161 **Ann Clwyd:** Do you feel that the Foreign Office does enough to protect human rights defenders in Colombia?

Dr Brilman: There are contacts with human rights defenders in Colombia, and some of them are very well known to embassy staff. They meet them quite regularly. For human rights defenders in the regions it is much harder to have that contact, so one of my recommendations would be for regular visits to the regions. That does happen to a certain extent, I think, but it could be more intensive. Funding for projects by local human rights defenders would also be very helpful. The FCO has its human rights defender guidelines for posts, of course. The Law Society was happy to form part of a group for consultation, and gave input on those human rights guidelines. Lord Ahmad announced the publication of those guidelines, so we are awaiting that.

Also, we would hope that it is not just about guidelines on posts, but that there will be more of a strategic policy around human rights defenders that would be shared not only with staff who work on human rights, but also, for example, with staff who work on trade-related issues. We hope that it will be a cross-Departmental policy, so that people dealing in trade or business—as we just referred to—could also take note of it.

I think there is also a recommendation to the FCO and on posts that there is sensitivity around these matters. There has been at least one example in a Latin American country where embassy personnel tweeted about a particular decision of a Supreme Court, saying that it was not very helpful for business in that country, and at that time that Supreme Court had serious threats to its independence. There were threats to human rights defenders and indigenous communities at that time, so I think some sensitivity around this issue and the use of social media would be helpful. I think that is exactly what the human rights guidelines intend to do, and we are very hopeful for their publication and implementation.

Dr Engstrom: What the FCO are doing, which I think is important, is to give the discursive support to human rights defenders that is often lacking. That is in a context where often, human rights defenders in Colombia are stigmatised, and where threat levels are—as we have all mentioned—very high.

It is quite important, particularly in Colombia, to go beyond identifying individual cases where threats are real, or where violence had been



HOUSE OF COMMONS

experienced by individual human rights defenders, and really recognise, acknowledge, and try to translate into some form of policy that this is systematised. These are not individual cases; there is a systematic nature to the violence that human rights defenders experience in Colombia, and that has certain implications in terms of how to think about the particular human rights issue we are dealing with. Of course, there are international criminal justice dimensions to thinking about the systematicity of violence that human rights defenders are subject to, and also to see that the trend is one in which violence is increasing.

Chair: Chris, did you want to come on to Venezuela?

Q162 **Chris Bryant:** Yes, let us move on to Venezuela. If you had to score Venezuela under Maduro from one star to five stars on human rights, how many stars would you give it?

Dr Brilman: One is the least?

Chris Bryant: One is the least; five is top of the class.

Dr Brilman: One. Should I—

Q163 **Chris Bryant:** And say why, obviously.

Dr Brilman: Rule of law. First of all, for the rule of law, judicial independence is key. There is no judicial independence in Venezuela whatsoever; I think that is fair to say. Since the Chávez Government and what was then called the judicial emergency, a lot of judges have been replaced. We saw, for example around 2003, a lot of judges having temporary positions, so there is no security of tenure, which obviously leaves them open to political influence; lots of cases of suspension of judges, removal from office of judges—and the Inter-American Court of Human Rights has ruled on many of those cases of removed judges.

In 2009, a judge—Judge Afiuni, whom you may have heard of—was arrested because of a decision she took to conditionally release a person in a particular case. That person had financed opposition groups to Chávez, and Chávez basically instructed the president of the Supreme Court to give 30 years' imprisonment to this judge, or to have her executed by a firing squad. She was then immediately arrested and put in prison. She stayed in prison for four years. She was allegedly raped and tortured. She is under house arrest now. Just a few weeks ago, they finally sentenced her to five years' imprisonment. That case has been held up as an example to all other judges: "This is what can happen to you if you don't do what the Executive wants."

The level of threats has increased under Maduro. In 2014, the judge that signed the arrest warrant for Leopoldo López, the opposition leader, and the prosecutor who drew up that arrest warrant were escorted by the police and the SEBIN—the national intelligence services—and ordered to draw up this arrest warrant and sign it respectively. The female judge was threatened with, "Do you want to have happen to you what happened to



Afiuni?"—that was used. Both of them left the country and have since publicly declared that they were physically ordered to take those decisions.

We have heard about other cases. Recently, a judge said that she had been ordered to detain adolescents, so children. She has also left the country. There are lots of reports coming out from judges who have left the country and who now feel free to speak and who have opened up about this.

The other thing to mention is, of course, as you know, the Supreme Court has been completely co-opted by the Executive and has interfered to a high degree with the National Assembly, including stripping parliamentarians of their immunity. The judges who were appointed to the Supreme Court now live in exile. Maduro has tried to arrest all 33 of them. He managed to arrest at least one. He was arrested, tortured and detained. The rest of them left the country. There is now a Supreme Court in exile, as they call themselves. That is just an indication of the lack of rule of law in Venezuela.

Q164 **Chris Bryant:** Dr Engstrom—one to five? You do not have to give it one.

Dr Engstrom: It all depends on the standard you use in terms of a ranking, but there is no dispute that there is a human rights crisis. There are disputes about many things regarding Venezuela to this day, but there should be no dispute that there is a multi-dimensional crisis in Venezuela. When I say multi-dimensional, there is a political crisis that Marina alluded to and there is a humanitarian crisis of a very complex nature, which is truly dramatic. We see that in terms of the steady refugee flows from Venezuela to neighbouring countries, across Latin America and to Europe and the US as well of course. We see it in the more classical human rights crisis, in terms of the type of repression and the dismantling of independent institutions. That process has been under way for quite some time. I like to refer to it as a kind of complex humanitarian emergency. I really cannot find another way to describe it at the moment. The level of human suffering is very high. The explanations for that are also complex.

Andrei Gomez-Suarez: I really do not feel comfortable getting deep into this, because Venezuela is not my expertise. However, I have to say that, since we have been doing research in the north of Colombia on the border with Venezuela, we have seen a large number of Venezuelans coming through our border—more than 1.5 million people have crossed the border. The situation in Colombia is really difficult for the people who have left Venezuela.

But again, when you talk to Colombians who have relatives in Venezuela who left the country 10 years ago under the violence of paramilitary groups and who settled in Venezuela, they still think that the conditions in Venezuela are far better than in Colombia. I guess, as Par mentions, the picture inside Venezuela is very complex.

I believe that one of the reasons why Maduro is still in power is because he holds some support of a large constituency of Venezuelan society. Of

course, that cannot hide the weakening of the rule of law and the impact that the decisions that Maduro has taken have on the democratic institutions in Venezuela.

Q165 Chris Bryant: There has been the arrest of Juan Guaidó's chief of staff and, as you said, the suspension of his immunity. Does this feel like a nation that is in control of its own destiny, or is it collapsing into a civil war?

Dr Brilman: I think collapse is imminent. Just yesterday evening Guaidó appeared in front of the cameras announcing that there will be a coup. The great unclarity is about how the military is divided—who will back him and who won't? There is certainly a risk of escalation but, to a certain extent, that escalation has happened already over the last few years, from the protest in 2017, with multiple human rights violations being committed—from torture to arbitrary detention, enforced disappearances, and over 757 civilians being tried by military jurisdiction. It is certainly at breaking point, or already past it, and who knows what will happen.

Q166 Chris Bryant: What about Russia and America's involvement?

Dr Engstrom: For quite some time now there have been a series of predictions about what will happen in Venezuela. We need to be very careful in terms of predictions, because it is very uncertain. Just now, as Marina mentioned, we have an ongoing situation in a military airport in Caracas. I do not have access to what has actually happened; that is the nature of the Venezuelan conflict that is ongoing. There is a high degree of uncertainty and unpredictability. That includes—this is really important—that things can very well get worse. However bad the situation is now, it can get worse. One should be very careful in terms of predictions.

On the role of Russia and the US, and we could perhaps also mention China, which is another relevant player and actor in Venezuela, common wisdom has it that China has quite significant economic interests in Venezuela and an interest in maintaining and protecting its economic interests there, and that it will settle for the political situation that will ensure that its economic interests are protected, including any post-Maduro scenario. On the Russians, again the common wisdom is that they have broader geo-strategic concerns. They provide significant support both internationally and in practical military terms to the Maduro Government.

On the US, it is hard to tell exactly what the policy is, beyond that all options are on the table, as various representatives of the US Government tend to say. That includes, of course, recurrent discussions around the possibility of military intervention. It is hard to exaggerate how devastating any form of military intervention would be. However much there might be some degree of support among certain parts of the Venezuelan population for that type of intervention, the risks are very considerable, in terms of the type of human suffering and the consequences that it might entail.



HOUSE OF COMMONS

The Venezuelan Maduro Government has quite significant support internationally, from Russia and China, but also from Iran and Turkey. That provides quite important material support. Most readings of the Venezuelan political situation are that the Venezuelan military will see how the day evolves, but is very likely to retain practical support for Maduro. Again, the reasons for that are quite complex. There are different factions in the Venezuelan military that have different interests at stake. There are definitely economic interests in part of the Venezuelan military. There is also ideological support for Chavismo more broadly—not necessarily for Maduro personally, but the Chavismo project, if you like, is still associated with Maduro. Then there is effectively repression within the military forces, which means that any defection will be met with harsh consequences for individual soldiers and their family members.

The number of factions makes it hard to predict how that will play out, but I think the common wisdom is that any future scenario will depend on what the Venezuelan military decides and how the different factions play out. Again, I re-emphasise that however bad the situation may look from here—and it is bad by most standards—it has the potential to get worse.

Chris Bryant: Oh, good.

Chair: That is not enthusiasm.

Chris Bryant: No.

Andrei Gomez-Suarez: The US has played quite a negative role. When you think about the incident that took place towards the end of February, and how the idea of bringing humanitarian aid to Venezuela was manipulated by the US Administration and the Duque Administration to try to support Guaidó and undermine another sector of Venezuelan society, you really start thinking about that.

This is important to bear in mind, because one thing that you hear from people in Venezuela is that when the threat of a US-led intervention there is put on the table, paradoxically it actually strengthens the political power of Maduro in some sectors of Venezuelan society because no one wants an intervention on their own soil. Patriotism is quite important in Latin America and has played a really important role in nation-building projects, so that is something to bear in mind.

The second thing is that Venezuela shares a really important border of more than 2,000 km with Colombia. That is one of the regions where the ELN is—one of the insurgent groups in Colombia. Not only could a complex humanitarian emergency unfold inside the Venezuelan border, but it could have a really rather complex transnational dimension. Surely some ELN members, who according to some security think-tanks have links with the military in Venezuela, could react to this sort of hard-line military action. That could spill out beyond the Venezuelan border.

As Par has been saying, it is really important for the international community to be very cautious in order to try to prioritise dialogue inside



HOUSE OF COMMONS

Venezuelan society and avoid the use of force, which could create a real international crisis that puts at risk even the gains made in the peace process between the Colombian Government and the FARC.

Q167 Catherine West: How open is the system to human rights organisations gaining hard facts, for example about the torture situation? There is a lot of CNN news coverage, but for our Committee's purposes it is helpful to know whether there are people monitoring the situation. With the conflict in Syria, we had the same issue with knowing the facts about chemical weapons and so on. In this case, what are the facts about how many human rights observers can get in? Is it possible to keep evidence so that eventually people can be brought to book, if necessary in an international court, and so that all the documentation does not get lost in this very tumultuous period?

Dr Brilman: There are still a few organisations in Venezuela that monitor different things. There is Transparencia Venezuela, which mostly monitors corruption in Venezuela. The director of that organisation is under threat and has been for a long time, but I believe she is still there. It put out a comprehensive report on the Odebrecht/Lava Jato scandal and its repercussions in Venezuela. It is incredible how it has been able to access even some contracts in that scandal. There is activity there. There is the National Observatory for Prisons, which is in Venezuela as far as I am aware. Just a week ago, it put out its 2018 annual report, which is comprehensive.

Apart from that, there are a lot of people in exile—a lot of them in Florida, in Miami, but also in other places. They still have contacts in the country. The office of the UN High Commissioner for Human Rights in Geneva went to investigate human rights violations in April to July 2017. It drew up its report on the basis of lots of interviews with people in exile, because it did not have access to the country. There is some documentation, apparently with organisations there but also with a lot of people in exile. As you suggest, it is more limited than we would want it to be, but there are channels—let's put it that way. There are also some lawyers still in the country and who are able to travel, who have a lot of information, so there are ways.

Q168 Ian Murray: I am slightly unclear on your responses. Although you have ranked Venezuela very low for human rights, democracy and the rule of law, do you think the international community's response to the crisis in Venezuela has been positive and has helped?

Dr Engstrom: There have been several types of responses to the Venezuelan situation over the years from various constellations of international organisations and countries. In the regional context, the Lima Group and the Organisation of American States have monitored the situation and have put forward a number of reports. Venezuela has been a standing item on the general assembly of the Organisation of American States for many years. The OAS secretary general, Luis Almagro, has been very active in diplomatically addressing the situation in Venezuela and has been very critical of the Maduro Government.



HOUSE OF COMMONS

There is also Mexico, Uruguay and various other constellations. The EU has taken an active role in monitoring the situation, evolving policies to address human rights issues and the crisis in Venezuela and most recently, evolving the sanctions regime that has been adopted. We have the International Criminal Court's ongoing preliminary investigation of the situation in Venezuela.

There has been a lot of attention and coverage. The concern of many is the often limited co-ordination among the various constellations, and possibly quite contradictory messages. Often, the Maduro Government have been quite skilful in exploiting that. I would like to highlight the sanctions regime in particular; it has been used to split decisions internationally on how to respond to the situation. I have my own personal take on sanctions being of very limited policy utility. If you are concerned about human rights change or political change, sanctions, including targeted sanctions, have limited utility, in my view.

It is unclear whether the sanctions regime, as it has evolved, has brought about any political change or willingness to negotiate. There is plenty of evidence to suggest that sanctions, particularly over time, tend to hurt the most vulnerable sections of society. Sanctions might also have the counter-productive effect of disincentivising any form of giving up political power.

In short, there has been a lot of attention in the international response, but there is a real risk of contradictory positions. As I suggested in my previous answer to the question here, there is a geopolitical struggle playing out over Venezuela. The US-China and US-Russia geopolitics of Latin America can be seen manifested in Venezuela, where the concern may not be so much with the suffering of the Venezuelan population, but with the broad geopolitical concerns at stake.

I think the only solution, if there is one, in which international actors can play a role is trying to foster as much as possible a space for some negotiation, and trying to channel political opposition to the Maduro regime towards some degree of unity of purpose and message. As I have said in other settings, I think it would also be important for the international community to be clear that the use of force is not a legitimate or effective response to the complex political situation of Venezuela, however much we can criticise the Government, and identify their responsibility for crimes that are being committed.

Dr Brilman: With regards to international support, something that has been overlooked and perhaps could be a recommendation is financing the inter-American human rights system. I know that some states finance the Organisation of American States. Part of its budget is allocated for the Inter-American Commission on Human Rights, but it is very low. Part of that budget of the commission is then allocated to the courts.

A lot of states think that if they finance the Organisation of American States, it will trickle down to support the inter-American human rights system, but it doesn't. If we are talking about—as the question was here—



HOUSE OF COMMONS

how we document human rights violations in Venezuela, so that we can do something with that afterwards, the Inter-American Commission on Human Rights is the main body where that kind of information can be compiled. It holds sessions where people can testify, and where all this work should be—and, to a large extent, is—taking place. But there are huge pressures, as I mentioned at the beginning of the session, on resources.

Financing the commission directly and the courts is definitely a possible avenue. However, Venezuela denounced the American convention on human rights in 2012, so the court no longer has jurisdiction. But that would be another recommendation.

Dr Engstrom: May I quickly add a point that was suggested earlier? On international criminal responsibility and international criminal justice, which leads the discussion to the role of the ICC with regards to Venezuela, there is an open preliminary examination. There have been concerted efforts, including by certain Latin American states and heads of Government, to get the office of the prosecutor of the ICC to pursue cases more actively.

However supportive the UK officially is of the ICC—I think it should remain supportive of the ICC—we should be modest in our belief and hope that the ICC can be used as some form of conflict resolution mechanism. In my view, it cannot. What we are talking about here also needs to involve thinking about transitional justice more broadly: what different transition scenarios might look like in Venezuela, and how justice would fit into those scenarios. Of course, accountability and anti-impunity efforts are very important, but one needs to think very carefully about the design of various amnesty provisions to incentivise individual leaders and military officers and officials to effectively give up some of their influence, or perhaps leave their positions of power in the country.

There is a very delicate balance here, for sure, between, on the one hand, incentivised political change and, on the other, ensuring that there is a degree of accountability for the very serious crimes that have been committed. However, putting belief and hope in approaching the Venezuelan situation solely through the prism of international criminal justice is deeply problematic.

Q169 **Catherine West:** It is about keeping a body of evidence that could meet a certain threshold, so that at some point in the future, there can be a sense of reconciliation nationally. We know from other peace scenarios, such as in South Africa, that where that is nationally led and done well, it can have a big, positive knock-on effect for the country. It is less about the word punishment; it is about doing something nationally and not just forgetting. Trying to forget, and having a lack of accountability and justice, leads to other problems.

Andrei Gomez-Suarez: If you will allow me to add a footnote to what has been said, I would make a stronger point. I think the international community is a bit co-responsible in the production of the crisis. The



HOUSE OF COMMONS

economic sanctions—freezing some of the assets in 2013—really have contributed to creating a very particular landscape in Venezuela. Some research has been done on that. Given what is happening in Venezuela, the changes in the geopolitical landscape with the arrival of Donald Trump in 2016, and the shift to a neo-conservative geopolitical moment in Latin America, we need also to be conscious of the roles that the different actors play, and how that radicalises these sorts of regimes and helps to co-create the crisis. They are somehow related to the decisions of the international community.

Q170 **Catherine West:** But it does not give permission for Governments to repress their own people.

Andrei Gomez-Suarez: Absolutely not.

Chair: Thank you very much indeed for your time this afternoon. We are extremely grateful for your insights, particularly on a day when things have been moving so quickly in Venezuela.