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Colombia: Women, Conflict-Related Sexual Violence and the Peace Process



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Executive Summary

The magnitude of conflict-related sexual violence against women in Colombia is yet to be fully understood. It is a crime that is massively underreported. Where it is reported women encounter major obstacles to accessing the justice system including extremely high levels of impunity. Yet despite these obstacles and at considerable personal cost, Colombian women are speaking out and demanding rights to truth, justice and reparation and guarantees of non-repetition. In speaking out they encounter threats and risks to their physical security and that of their families. These risks extend to the women defenders who support survivors. Yet without the support and dedicated work of women defenders and the organisations they represent none of these cases would ever be prosecuted.

To comprehend the full impact of conflict-related sexual violence it is important to understand the social and cultural context of this crime. In addition to patriarchal systems based on domination and gender discrimination, other factors such as social, political and economic marginalisation need to be taken into account. For indigenous and afro-Colombian women these factors combine with historical attitudes linked to slavery and racial discrimination. Impunity acts to reinforce, rather than challenge these pre-existing norms and patterns of discrimination against women, both inside and outside of the conflict.

Women's groups collating and analysing data on conflict-related sexual violence agree with the conclusions of the Colombian Constitutional Court that this is a crime perpetrated by all armed actors and that it is 'an habitual, extensive, systematic and invisible practice'. A survey undertaken by women's organisations spanning a nine year period (2000-2009) estimated that 12,809 women were victims of conflict rape, 1,575 women had been forced into prostitution, 4,415 had forced pregnancies and 1,810 had forced abortions.¹

Whilst this report focuses primarily on conflict-related sexual violence, it recognises the pervasive nature of all forms of violence against women in Colombia including femicide (Colombia has the tenth highest femicide rate in the world).² It also recognises that the same attitudes and cultural beliefs driving sexual violence against women in conflict are present in domestic life. This is one of the major reasons why these crimes cannot be amnestied in a peace process. If this occurs, it would give a message of acceptance of these crimes, and of the social, economic and cultural systems that sustain violence against women and girls. Whilst this report does not cover sexual violence against men and boys, it does recognise that conflict and domestic sexual violence are also perpetrated against them, although to a lesser extent.

Sexual violence by state and non-state armed actors

All armed actors engage in sexual violence against women but there are some distinctive uses between the actors which are

explored in this report. Women's bodies have been used in this conflict to achieve military objectives and as spoils of war. However, in Colombia, a distinctive use for sexual violence against women is also prevalent, that of exercising social and territorial control.³ Use of sexual violence to impose social and territorial control over the everyday activities of women is not generally a strategy used by guerrilla groups,⁴ but it is extensively used by paramilitary groups, including BACRIM (paramilitary groups that continued after the demobilisation process).⁵

Conflict-related sexual violence is also seen in forced prostitution of women in businesses controlled by paramilitaries, which in turn has links into a complex network of organised crime. This complexity was recognised in a 2013 UN report identifying correlations between illegal extraction of natural resources, incidents of sexual violence and military activity.⁶

Meanwhile the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia-FARC) have a policy of insistence on the use of contraception and forced abortion for their rank and file troops. According to the Ministry of Defence's Humanitarian Care Group for the Demobilised, between 2012 and 2013, 43 of 244 demobilised female fighters reported they had been forced to have abortions.⁷ The guerrilla also uses sexual violence in the forced recruitment of girls as combatants, in order to render sexual services, and as 'payment' to protect other members of their family.⁸

Although sexual violence is perpetrated by all armed actors, state and non-state, the impact of the State Security Forces' involvement in sexual violence has a particularly devastating effect, since they are mandated to protect the civilian population.⁹ **When sexual violence is committed by the Security Forces, the civilian population are left with no authority to whom they can turn for justice.** The absence of the Rule of Law leaves individuals and communities exposed, generating both fear and terror, as those responsible for enforcing justice are the very authorities that are violating their rights. Colombia's Human Rights Ombudsman reported that in Cartagena 'even if cases of sexual violence against women perpetrated by

¹ Campaign 'Rape and Other Violence: Leave my Body out of the War', First Survey of Prevalence, Sexual violence against women in the context of the Colombian armed conflict, Colombia 2001-2009, page 16

² According to the Academic Council on the United Nations System Vienna Liaison Office, Femicide: A Global Issue that Demands Action, 2013.

³ Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013.

⁴ Ibid.

⁵ BACRIM is the Spanish acronym for criminal gangs. The name given by the Colombian Government to paramilitaries that failed to demobilise under the Justice and Peace Process.

⁶ UN Security Council, Sexual violence in conflict Report of the Secretary-General, 14 March 2013, paragraph 9.

⁷ Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013.



I spent nine years in silence. I felt ashamed. The damage done to your soul never goes away... Now I can speak about what happened to me. I realised I could be a voice for all the thousands of women who have been victims of sexual violence, which gives me strength”
Jineth Bedoya Lima, Colombian journalist and survivor of conflict-related sexual violence.

the Security Forces do not correspond to a war strategy (...), they constitute a generalised practice that takes advantage of the conditions of subordination of women, their precarious economic conditions resulting from lack of protection by the State, and the acceptance of existing ideas in the local culture, such as a woman's body is an object that belongs to men.¹⁰

According to the Office of the Prosecutor in the International Criminal Court (ICC), ‘there is a reasonable basis’ to believe that acts of sexual violence constituting war crimes and crimes against humanity have been committed in Colombia by all armed actors, state and non-state. The report also raises concerns in relation to the Legal Framework for Peace (Marco para la Paz) and the proposed reforms to the Military Justice System,¹¹ both of which could result in impunity for crimes of conflict-related sexual violence.

The Ministry of Defence and the Attorney General's Office have issued Directives of zero tolerance for sexual violence crimes by the armed forces. The Ministry of Defence maintains that sexual violence by the Security Forces is not a widespread practice.¹² However, analysis of sexual violence committed by all armed actors from the Cartagena Ombudsman's Office, the Constitutional Court and the ICC lead to the conclusion that conflict-related sexual violence is a systematic and generalised practice. As such, it is important not to treat these crimes as isolated violations, or – in the case of the State – as committed by ‘rogue’ agents of the State. It is essential to recognise the generalised and systematic nature of the crime and to analyse patterns and trends in order to identify perpetrators and establish chain-of-command responsibility.

The report emphasises that alongside a clear implementation strategy, political will and commitment are needed at every level, without which even strong laws and policies will not be effective.¹³ Obstacles which obstruct access to justice include: patriarchal and racist attitudes which to varying degrees influence the conduct of those responsible for the administration of justice, intimidation and violence against judges, lawyers and witnesses, as well as inefficient and ineffective systems in the administration of justice. There is also an absence of articulated strategies, tangible criteria and coordination across departments.

The near total impunity for these crimes is striking, particularly in cases prioritised by the Constitutional Court, which have resources dedicated specifically to processing these crimes. This context of impunity generates a lack of confidence in the justice system which – combined with the security risks and emotional costs to the survivor – act as a strong deterrent for women wishing to

report such crimes. It is notable that at best **only 18 per cent of women in Colombia report sexual violence crimes.**¹⁴ Other reasons for underreporting are related to the struggle for women to have their case taken seriously, documented and investigated by the police. They are usually not given the required support nor are they directed to the appropriate medical and health services. Even when they are directed to these services they are not coordinated and women report having to repeat their story time and again; all of which implies re-victimisation.

Women's role in the construction of peace

Women play a crucial role in Colombia in defending human rights, despite Colombia's designation as one of the most dangerous countries in the world for human rights defenders. In 2012, 69 defenders (male and female) were killed; more than double the number killed in the year when President Santos took office (32 defenders were killed in 2010). Women have also been working to bring about peace in Colombia. Whilst globally the role of women is recognised as being essential in peacemaking and peace-building, it is notable that **in the Colombian peace talks being held in Havana there is not a single woman present at the negotiating table.**¹⁵ The last negotiation process between the Government and the paramilitaries gave the message to women that perpetrators would not be held to account for sexual violence. Of the 39,546 confessions received only 0.24 per cent relate to sexual violence.¹⁶ Since investigation of cases relies on confessions, the full extent of this crime has not been revealed, nor is it being investigated or the truth made known. Internationally, a gender perspective is recognised as essential to peace negotiations and reconstruction processes.¹⁷

Women not only offer expertise on gender-related priorities, but they also contribute to the sustainability and broad social buy-in to the peace agreement. Whilst it may simply be too late now to secure a seat at the table for women representatives in Havana, it is time to think critically about how women's organisations must participate in the reconstruction process and participate in shaping reformed laws and public institutions.¹⁸ The exclusion of women from the construction of peace, ‘limits access to opportunities to recover [and] to gain justice for human rights abuses...’¹⁹

Alongside the obligation to prosecute is the acknowledgement that without civil society organisations and the full range of medical, legal, psycho-social and livelihood services to women, cases of conflict-related sexual violence will never reach the justice system and women will never be able to move on from the experience.

⁸ Amnesty International, Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict, 2004, pages 18-19; Inter-American Commission on Human Rights, Violence and Discrimination against women in the armed conflict in Colombia, OEA/Ser.L/V/II, Doc. 67, 18 October 2006, pages 5-6; Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013.

⁹ UN Security Council, Conflict-related sexual violence, Report of the Secretary-General, January 2012.

¹⁰ UN Security Council, Report of the Secretary General, Conflict-related sexual violence, 13 January 2012, paragraph 19.

¹¹ In October 2013 the Colombian Constitutional Court declared the law to expand military jurisdiction (fuero penal militar) unconstitutional. The ruling of the Court was based on procedural faults in passing the legislation rather than on the content of the law in question. There has already been discussion about re-presenting the military jurisdiction reforms in the next legislative session. Whilst the original reforms said that sexual violence crimes would not be tried under military jurisdiction, the wording of the reforms leave the door open to human rights crimes being heard by the military, including conflict-related sexual violence. Eleven UN Special Rapporteurs have already voiced serious concerns that the military justice reform ‘could have serious implications for the rule of law and the respect for human rights in Colombia’.

¹² Ibid.

¹³ Binaifer Nowrojee, We Can Do Better Investigating and Prosecuting International Crimes of Sexual Violence, Harvard University, Working paper.

Recommendations

Recommend to the UK, US, Irish Governments and other European governments to:

- Include in the post-2015 Millennium Development Goals (MDGs) framework a dedicated goal on violence against women, with specific targets to reduce sexual and gender-based violence, and include indicators on reduction of sexual violence against women under other goals.
- Ensure that the specific targets to reduce sexual and gender-based violence in the post-2015 MDG framework include data disaggregated by age in order to identify particular indicators for reducing sexual and gender-based violence against children.

Recommend the UK Government to:

- Fulfil its G8 commitments and deploy support from its team of experts on conflict-related sexual violence to work with UN Women and Women's NGOs in Colombia to organise a workshop/seminar with the Colombian Government to assist Colombia in creating (a) effective strategies and mechanisms for coordination which will address the high level of impunity for this crime within the judicial system; (b) effective monitoring and accountability mechanisms.
- Fulfil its G8 commitment to improve access to justice for victims of sexual violence in Colombia by increasing the bilateral funding available for support given to Colombian women's organisations that accompany women survivors of conflict-related sexual violence with legal and psycho-social support, as well as those working on a gender perspective in the peace negotiations and the construction of peace.
- As part of the implementation of the UN guidelines on business and human rights, the UK Government should provide guidance to companies listed or headquartered in the UK with operations in Colombia, to ensure that contracts with public or private Security Forces include an explicit zero-tolerance policy with regard to sexual violence or exploitation.
- Ensure that mandatory reporting by companies on the impact of their operations on human rights – as recommended in ABColombia's 2012 report on mining – includes information on any alleged or documented sexual violence or exploitation incidents in relation to extractive company personnel.

Recommend the Irish Government to:

- Prioritise diplomatic relations with the Colombian Government, emphasising the importance of ending impunity for all human rights violations in Colombia, particularly in relation to crimes of sexual violence.
- Urge the Colombian Government to ensure that survivors of sexual violence are adequately represented at the current peace negotiations.

- Urge the Colombian Government to prioritise developing a monitoring framework for the implementation of its 1325 Action Plan, in line with the Irish Government's recommendation to Colombia in its most recent UPR examination.
- Continue its work to protect human rights defenders, prioritising addressing the use of sexual violence as a tool against defenders; and in the light of a high level of impunity for human rights violations, including sexual violence, refrain from signing the EU Association Agreement with Colombia and Peru.

Recommend the US Government to:

- To USAID: within the budget for human rights assistance to Colombia, increase the amount of aid to national and regional-level women's organisations that accompany victims of sexual violence and provide legal and psycho-social support.
- To the State Department:
 - Continue to highlight concerns about the level of impunity for sexual violence crimes and lack of access to justice for women victims in the annual human rights report.
 - Utilise the coming High Level Policy Dialogue with the Colombian Government to underline concerns about impunity for sexual violence and lack of access to truth, justice, reparations and guarantees of no-repetition for women victims of this crime.
 - Urge Colombian officials not to present new legislation aiming to expand military jurisdiction which could further solidify impunity for crimes of conflict-related sexual violence.

Recommend the EU and its Member States to:

- Fully implement EU policy instruments to prevent, bring protection and tackle impunity for sexual violence crimes. Through its instruments on: EU Strategic Framework on Human Rights and Democracy and its Action Plan, the EU guidelines on violence against women and International Human Rights Law.

Recommend the Colombian Government to:

In the peace process and reconstruction

- Ensure the participation of women's civil society organisations in the peace negotiations and reconstruction, in accordance with the provisions of UN Security Council Resolutions 1325, 1888 and 1820; and include access to truth, justice, integral reparation and guarantee of no-repetition for women survivors of conflict-related sexual violence in the agenda and refrain from granting any type of amnesty or pardon for conflict-related sexual violence crimes.
- Advance a national investigation, with the participation of women's organisations, via the National Unit for Attention and Reparation for Victims and/or the Centre for Historical Memory into the different forms of sexual violence against women carried out in the armed conflict by the different armed actors.

- Adjust the current regulations and procedures applied to members of paramilitary groups under the Justice and Peace Process, to ensure access to justice for women survivors of sexual violence by demobilised paramilitaries who have not yet confessed their crimes or who justify it as a practice of war.
- Improve mechanisms for investigation and prosecution of sexual violence crimes committed by all armed actors in the conflict; and investigate chain-of-command responsibility for crimes of conflict-related sexual violence by analysing patterns and trends of the violence.
- Adjust the current regulations and procedures applied to members of paramilitary groups under the Justice and Peace Process, to ensure access to justice for women survivors of sexual violence by demobilised paramilitaries who have not yet confessed their crimes or who justify it as a practice of war; and clarify the Government's position regarding the nature of the BACRIM groups in relation to the conflict with the objective of guaranteeing the rights of victims to truth, justice, reparation and guarantee of no-repetition.

Health and care services

- Move to a model of comprehensive healthcare for survivors of sexual violence which emphasises physical health, reproductive health and emotional recovery.
- Implement in a coordinated and articulated manner the measures for differential and specialised attention for survivors of sexual violence in the area of physical health, with special emphasis on sexual and reproductive health and psycho-social health.

Security Forces

- Initiate an effective and independent review of the systems and protocols for dealing with complaints of sexual violence against the Security Forces (army and police).
- Establish an adequate and independent system for receiving and compiling complaints regarding sexual violence against the armed forces which feeds into an early warning system that monitors information on patterns and trends of conflict-related sexual violence for prevention and prosecution and identifying any problems in relation to specific brigades or areas of the country.
- Comply with the legal mandates which order the effective investigation of members of the Security Forces who have perpetrated sexual violence in the armed conflict and other acts of violence against women and girls as detailed in article 9 no. 8 of Law 1257 of 2008. Dismissing any member of the Security Forces who has been involved in sexual violence crimes committed both inside and outside of the conflict.
- Ensure that military and police training programmes are gender sensitive and consider the use of an all female police reporting point/unit that is well trained and experienced in support and care for survivors.

- Recognise the autonomous nature of the crime of sexual slavery and forced prostitution through their distinction as 'criminal acts' within the Colombian Criminal Code.
- Guarantee that all (past, current and future) cases of conflict-related sexual violence involving Security Forces are immediately transferred to the ordinary justice system and that no part of the gathering of evidence, investigation, or prosecution is carried out by the military justice system.

Administration of Justice

- Review and adjust the model of state intervention in order to ensure comprehensive and coordinated cross-departmental care and one unified process to access the justice system for women survivors of conflict-related sexual violence. This should ensure clear roles in relation to coordination, responsibility and referral.
- Ensure women's access to justice, including by taking measures to combat impunity:
 - Strengthen the investigation units for sexual crimes and ensure their interdisciplinary nature so that they can adequately attend to women survivors of conflict-related sexual violence.
 - Adopt a national strategy to implement laws and policies to strengthen the legal mechanisms, investigation and sanction of sexual violence against women through the investment of greater resources in interdisciplinary investigation units and comprehensive care with personnel trained in sexual violence, gender and human rights issues.
 - Implement mechanisms that will ensure access to justice for indigenous and afro-Colombian women survivors of conflict-related sexual violence with a differentiated approach that takes into account the additional discriminations experienced by these women; in accordance with Constitutional Court Autos 092 of 2008, 04 and 05 of 2009 and follow-up decisions.
- Adopt a unified policy on care and protection for women leaders and human rights defenders which avoids multiple procedures and ensures the effective application of gender sensitive protection measures.
- Make public statements and engage in a campaign with local authorities to condemn the exercise of social control over the lives and bodies of women. In order to make this practice socially unacceptable as well as illegal.

Children

- Adopt measures to prevent conflict-related sexual violence committed against minors and ensure perpetrators of this crime receive strong legal sanctions.
- Review and adjust mechanisms for attention towards children who are survivors of conflict-related sexual violence in line with international procedures that will guarantee dignified conditions for emotional and physical recovery, access to justice in a manner that takes account of the vulnerabilities as minors, and using differential criteria for attention according to gender and age.

1.0 Background to the Conflict

1.1 The Prospect of Peace

In August 2012, after five decades of conflict, the welcome news of the peace talks between the Colombian Government and the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo-FARC) was officially announced, following eighteen months of secret conversations between President Juan Manuel Santos and the FARC. The Government and the FARC agreed a six point agenda, dealing with agrarian development policy, political participation, drug-trafficking, justice and the rights of victims, an end to the conflict, implementation and verification. The smaller guerrilla group, the National Liberation Army (Ejército de Liberación Nacional-ELN), had been left outside of these talks but in August 2013 the intention to include them in parallel talks was announced.²⁰ Colombian civil society organisations are more hopeful than during past peace processes that a peace agreement will be signed.

Despite a demobilisation process (2003-2006) of the United Self-Defence Forces of Colombia (AUC), paramilitary groups continue to exist, albeit under new names and in a more fragmented state.²¹ In 2005 there were 40 groups in existence. Conflict between and within these groups reduced the number of groups operating and

their strength was consolidated, so that by 2012 there were six major groups with regional structures. These six groups more than doubled in numbers from approximately 2,000 in 2008 to 4,170 in 2012,²² and they now operate in 409 municipalities of the country (see Table 1).²³ Many national and international organisations recognise these groups as a continuation of the AUC; however, the Colombian Government refers to them as Criminal Gangs (BACRIM, Spanish acronym). This classification creates an obstacle for victims of BACRIM to truth, justice and reparation, as they are recognised as victims of Criminal Gangs (i.e. organised crime) rather than victims of the internal conflict.

The continuity of paramilitarism, and the fact that no bilateral ceasefire has been achieved with the guerrilla groups means the civilian population continue to bear the brunt of an extremely violent conflict. The initiation of peace talks with the FARC (and the prospects of doing so with the ELN), have increased violence in rural areas as armed groups seek to demonstrate their military strength during the negotiations. Open combat between non-state actors and the Security Forces continues to cause displacement, restrict mobility and obstruct access to humanitarian assistance.²⁴ Furthermore, Colombia continues to have the highest number of land mine

Table 1: The presence of paramilitary groups

GROUP	2010		2011		2012	
	DEPARTMENT	MUNICIPALITY	DEPARTMENT	MUNICIPALITY	DEPARTMENT	MUNICIPALITY
Rastrojos	22	185	23	247	24	236
Urabeños	17	160	18	211	23	218
Águilas Negras	20	99	23	112	21	81
Paisas	9	63	14	103	11	43
Erpac*/Bloque Meta	14	36	14	45	4	25
Erpac*/Libertadores de Vichada	14	36	14	45	5	15

* Erpac demobilised in 2011 and another two groups emerged, Bloque Meta and Libertadores de Vichada.

Source: Indepaz, VIII Informe Sobre Grupos Narcoparamilitares, August 2013, page 3.

¹⁴ Access to Justice for Women Victims of sexual violence: Working Group monitoring compliance with Auto 092 of 2008 of the Colombian Constitutional Court, Fourth Follow-up Report to Auto 092 of the Colombian Constitutional Court confidential annex, May 2011 page 31; and Campaign 'Rape and other Violence: Leave my Body Out of War', Oxfam International, 2010, page 26.

¹⁵ Although the FARC and the government have one woman each in the team there are none in key positions at the negotiating table.

¹⁶ Fiscalía General de la Nación, La Unidad Nacional de Fiscalías para la Justicia y la Paz.

¹⁷ UN Security Council Resolutions 1325, 1820, 1888, 1889, 1960, 2106 and 2122.

¹⁸ UN Security Council Resolution 1820, 2008, page 4. www.womenpeaceandsecurity.org/media/pdf-scr1820.pdf

¹⁹ UN Women, Peace and Security. <http://www.unwomen.org/en/what-we-do/peace-and-security>

²⁰ BBC News, Colombia 'ready to talk' to rebel group ELN, 29 August 2013.

²¹ IACHR, Annual Report 2011, Chapter IV Colombia, paragraph 21: 'the so-called "emerging structures" or "criminal bands," which operate in a manner similar to the old paramilitary organizations'.

²² Indepaz, VIII Informe Sobre Grupos Narcoparamilitares, August 2013, pages 2 - 3. <http://www.indepaz.org.co/wp-content/uploads/2013/08/Informe-VIII-Indepaz-final.pdf>

²³ Ibid, page 2.

²⁴ During the first quarter of 2013 more than 30,000 people were confined.

victims in the world with 479 in 2012.²⁵ Additionally, approximately 6.6 million hectares of land has been abandoned or usurped during this time,²⁶ excluding collectively owned territories of Indigenous and Afro-Colombian Peoples. As of September 2012, 75,345 persons were registered on the National Registry of Disappeared Persons, with an estimate of 25,007 enforced disappearances, although this is a crime that is massively under-reported.²⁷ There have also been 27,000 kidnappings, of which 24,482 were by the guerrillas. Estimates regarding the total number of people killed range from 220,000²⁸ to 600,000.²⁹

1.2 Land and displacement

In June 2011 the Government introduced the Victims and Land Restitution Law 1448. This law attempts to provide reparation to victims and land restitution. Under Law 1448, approximately 2.2 million hectares of land is intended to be returned to victims of displacement. In spite of this, forced displacement continues, with 256,590 newly displaced in 2012.³⁰ The first quarter of 2013 saw an increase by 59 per cent of mass displacements compared to the same period in 2012.³¹ Human rights defenders and community leaders working on land and victims' rights are being particularly targeted with the number of attacks and killings increasing year-on-year, culminating in 69 leaders/ defenders killed in 2012 (compared to 32 in 2010).³²

1.3 Poverty and inequality

Despite being a middle-income country, 34.2 per cent of people nationally live in poverty. Rural poverty is even more extreme at 46.2 per cent.³³ In 2012 Colombia was ranked the seventh most unequal country in the world.³⁴ This inequality is compounded by a regressive taxation system which lacks a redistributive capacity, thus exacerbating poverty and inequality.³⁵

Gross inequalities, poverty and competition for the control of natural resources, particularly land, are widely seen as the root causes of the conflict. Colombia has the highest number of internally displaced peoples in the world at 5.7 million (2012).³⁶ Even before the displacement crisis, land ownership was highly concentrated and Colombia was in need of an agrarian reform.



Paul Smith/CAFOD

Over the course of Colombia's fifty year conflict thousands of individuals have been forcibly disappeared. Despite the peace talks currently underway, enforced disappearance continues to be used in Colombia's armed conflict as a method for intimidating and removing civilians, human rights defenders and community leaders. At least 50,000 Colombian families are searching for the whereabouts of family members.³⁷

²⁵ UN OCHA Colombia, Monthly Humanitarian Bulletin Colombia, Issue 15, 1 – 30 April 2013.

²⁶ See report by the Commission to Monitor Public Policies on Forced Displacement (Comisión de Seguimiento a la Política Pública sobre Desplazamiento Forzado), Cuantificación y valoración de las tierras y los bienes abandonados o despojados a la población desplazada en Colombia, Bogotá, 5 January 2011. The Commission monitors the displacement crisis following Colombian Constitutional Court rulings in 2004 ordering the government to protect the rights of displaced persons.

²⁷ United Nations High Commissioner for Human Rights, Annual report Addendum: Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, 7 January 2013, paragraph 66.

²⁸ Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013.

²⁹ UN News Service, International community must help Colombia recover from decades of conflict – UN official, 23 August 2013.

³⁰ CODHES, La crisis humanitaria en Colombia persiste. Informe de Desplazamiento Forzado, Documentos CODHES No. 26., 2012, page 12.

³¹ UN OCHA Colombia, Context Analysis.

³² Somos Defensores, Informe Anual de 2012, April 2013.

³³ CEPAL, Anuario Estadístico de América Latina y el Caribe, 2012, 2. Capítulo 1: Estadísticas Sociales, page 45.

³⁴ World Bank Online, Breaking with history: Why Colombia needs a more progressive tax system, 17 December 2012.

³⁵ For example, the national budget for Familias en Acción, a conditional cash transfer programme, is 0.3 per cent of GDP with 78 million beneficiaries. By comparison, the 'pay as you go' pension system costs 3.3 per cent of GDP with 1.4 million (almost exclusively rich) beneficiaries. World Bank Online, Breaking with history: Why Colombia needs a more progressive tax system, 17 December 2012.

³⁶ UN OCHA, Monthly Humanitarian Bulletin, Colombia Issue 16: 1–31 May 2013.

³⁷ El Tiempo, Los 20 Mil Muertos que Nadie Reclama, 12 December 2012.

2.0 Conflict Related Sexual Violence

There is no official registry that collates specific data on the number of women and children who have been victims of sexual violence in the context of Colombia's conflict. The Institute for Legal Medicine and Forensic Sciences (Instituto Nacional de Medicina Legal y Ciencias Forenses - INML, Spanish acronym) recently added this category to their data collection. However, their coverage of the country is limited. Efforts have been made by women's NGOs to document this crime; the most comprehensive study to date is that of the Campaign 'Rape and Other Violence: Leave my Body out of the War'.³⁹ Their study spans a nine year period (2001-2009) and finds that on average 54,410 women per year, 149 per day, or six women per hour, suffered from sexual violence in Colombia. These figures support the findings of the Constitutional Court that sexual violence constitutes a 'systematic, habitual and generalised practice' in the Colombian conflict.⁴⁰

Conflict-related sexual violence needs to be understood in its social and cultural context. In addition to patriarchal systems based on domination and gender discrimination, are other risk factors, such as social, political and economic marginalisation. These structural roots create a permissive context for the use of violence against women. Impunity for these crimes acts to reinforce, rather than challenge, these pre-existing norms and patterns of discrimination against women, both inside and outside of the conflict. Violence against women has been exacerbated by the conflict. Conflict-related sexual violence in Colombia is committed in many forms and includes characteristics such as: torture and mutilation, the killing of unborn children, rape in the presence of family members, and gang-rape.

2.1 Afro-Colombian and Indigenous Women

On 7 August 2011, in the municipality of Carmen de Atrato, Chocó, María Cecilia Balarín Domicó, from the indigenous group the Embera was disappeared, she was pregnant at the time. The Indigenous Guard found her dead; she had also been a victim of sexual violence.⁴¹

In addition to factors impacting on all women, indigenous and afro-Colombian women have to deal with a history of slavery and years of condoned violence against them. This is coupled with racist

perceptions that include a series of stereotypes about women's bodies. This has resulted in even higher rates of violence against afro-Colombian and indigenous women.⁴²

Multi-faceted oppression combined with the conflict further complicates this precarious situation. Along with unprecedented levels of sexual violence is a lack of state presence and forced displacement, which not only lead to high indices of poverty, but also threaten cultural survival.⁴³ In 2011 the Constitutional Court declared 34 Indigenous Communities at risk of physical or cultural extinction.⁴⁴ According to the National Indigenous Organisation (ONIC), the multiple forms of violence used against indigenous women have produced, 'spiritual and cultural suffering both for the individual and the community'.⁴⁵

Afro-Colombian women also describe experiences of forced labour, violence and rape committed by illegal armed groups and forced displacement. For many afro-Colombian women forced displacement has a spiritual and cultural impact similar to that of Indigenous Peoples: 'Why is there this terrible strategy to steal our land and dispossess us of our source of physical and spiritual life ... (why) do (they) ... commit the most atrocious crimes against us ... especially sexual violence?'.⁴⁶

³⁸ UN Women, Addressing Conflict-Related Sexual Violence: An Analytical Inventory of Peacekeeping Practice, October 2012, page 10.

³⁹ The Campaign 'Rape and Other Violence: Leave my Body out of the War' began in 2009 and was jointly agreed upon by Intermón Oxfam and nine Colombian women's and human rights organisations. The main aim was to make visible, at national and international level, the widespread use of sexual violence as a tactic by all sides in the armed conflict.

⁴⁰ Campaign 'Rape and Other Violence: Leave my Body out of the War', First Survey of Prevalence, Sexual violence against women in the context of the Colombian armed conflict, Colombia 2001-2009. <http://www.usofficeoncolombia.org/uploads/application-pdf/2011-03-23-ExecutiveSummary.pdf>

⁴¹ Organización Indígena de Colombia (ONIC), Mujeres Indígenas, Víctimas Invisibles Del Conflicto Armado En Colombia: La violencia sexual, una estrategia de guerra, Report presented to Margot Wallström, Special Representative of the Secretary-General on Sexual Violence in Conflict during her visit to Colombia, 16 May 2012, page 4. <http://cms.onic.org.co/wp-content/uploads/downloads/2012/05/informe-violencia-sexual-mujeres-indigenas-Colombia.pdf>

⁴² Global Rights and AFRODES, The human rights situation of internally displaced afro-Colombian women: Life in the Face of Adversity, November 2008, page 26.

⁴³ Ibid, page 7.

⁴⁴ United Nations, Report of the independent expert on minority issues, Gay McDougall, Addendum, Mission to Colombia, 25 January 2011, paragraph 44.

⁴⁵ Organización Indígena de Colombia (ONIC) Mujeres Indígenas, Víctimas Invisibles Del Conflicto Armado En Colombia: La violencia sexual, una estrategia de guerra, Report presented to Margot Wallström, Special Representative of the Secretary-General on Sexual Violence in Conflict during her visit to Colombia, 16 May 2012, page 6.

⁴⁶ Global Rights and AFRODES, The human rights situation of internally displaced afro-Colombian women: Life in the Face of Adversity, November 2008, page 6.

⁴⁷ Convention of Belém do Pará, Article 9.

⁴⁸ Defensoría del Pueblo, Defensoría Delegada para la Evaluación del Riesgo de la Población Civil como consecuencia del Conflicto Armado, Sistema de Alertas Tempranas (SAT), Informe temático 2011, Violencia contra las Mujeres en el Distrito de Buenaventura, page 77, citing El País, 17 August 2011.



Sexual violence challenges conventional notions of what constitutes a security threat... (it is) cheaper than bullets, it requires no weapons system other than physical intimidation, making it low cost, yet high impact.” **UN Women**³⁸



Girls from Chocó de-scale fish outside their home. The conflict between all armed actors is particularly intense in Chocó and continues to affect all civilians in this region.

2.2 Children, sexual violence and the conflict

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, known as the Convention of Belém do Pará (where it was adopted in 1994) requires the State to act with due diligence in relation to acts of violence, and to take special account of the vulnerability of girls to violence and discrimination by virtue of their age and other risk factors.⁴⁷

“That day I lost my virginity, my happiness and my desire to live”. It happened on the road between Cali and Buenaventura. Four men, who were paramilitaries, gang-raped her. She was only 14 years old. When they had finished they stabbed her five times in the breasts and twice in the genitals. They also beat her unconscious and left her for dead, but she survived.”⁴⁸

In the first nine months of 2012, there were 11,333 reported cases of sexual violence against children both inside and outside of the conflict, 83 per cent were girls and 17 per cent boys. In other words,

two girls were sexually attacked every hour in Colombia.⁴⁹ Children are particularly vulnerable to conflict-related sexual violence.

Many children subjected to conflict-related sexual violence have suffered this violation following their recruitment into illegal armed groups. The full scale of that recruitment is unknown. However, in 2012 the UN reported that it continued to be widespread and systematic.⁵⁰ Recruitment of children below the age of 15 is a war crime. The Instituto Colombiano de Bienestar Familiar (ICBF) registered 5,092 children rescued from these groups between 1999 and 2012, mostly under the Justice and Peace Process.⁵¹ However, not a single sentence has been passed related to sexual violence against children through the Justice and Peace Process.⁵² If this form of violence against children is to be addressed it is essential that the Colombian State effectively investigates and prosecutes those responsible.

All armed actors in the conflict are involved in sexual violence against children. The following examples illustrate this point:

August 2010: a 14 year-old girl in Meta was tortured, sexually abused, mutilated by perpetrators cutting her breasts, and killed by members of ERPAC (a post-demobilised paramilitary group).⁵³

March 2011: seven members of the National Police Force were condemned for sexual abuse against a 13 year-old girl who had previously been forcibly displaced.

March 2012: a 16 year-old girl in Nariño was gang-raped by hooded members of an unidentified illegal armed group.⁵⁴

July 2012: an 11 year-old girl was raped by a FARC-EP member in Valle del Cauca.⁵⁵

October 2012: members of the army reportedly sexually abused at least 11 girls in Nariño, most of whom were of afro-Colombian descent and one was only eight years old.⁵⁶

Civil society groups have also indicated that pregnancies and children resulting from rape are significant concerns for which there has been limited state response in the areas of policy and services.⁵⁷

⁴⁹ Instituto Nacional de Medicina Legal, Violencia sexual en contra de niños, niñas y adolescentes, 2012.

⁵⁰ UN Office of the Special Representative of the General Secretary for Children and Armed Conflict.

⁵¹ The Justice and Peace process allows former paramilitaries to benefit from reduced sentences in return for confessions about human rights violations.

⁵² Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia (COALICO), Comunicado Público: Niñas y niños deben ser prioridad en la agenda para la paz de Colombia, 12 February 2013.

⁵³ United Nations Security Council, Report of the Secretary General on children and armed conflict in Colombia, 6 March 2012, page 9.

⁵⁴ UN Office of the Special Representative of the General Secretary for Children and Armed Conflict.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia (COALICO), Comunicado Público: Niñas y niños deben ser prioridad en la agenda para la paz de Colombia, 12 February 2013.

⁵⁸ For more information see ABColombia, Returning Land to Colombia's Victims, May 2011. http://www.abcolombia.org.uk/downloads/8ZC_ReturningLandReportforweb.pdf

⁵⁹ Mesa de Trabajo Mujer y Conflicto Armado, Informe sobre violencia sociopolítica contra mujeres, jóvenes y niñas en Colombia, March 2012, page 8.

⁶⁰ UN Security Council, Sexual violence in conflict Report of the Secretary-General, 14 March 2013, paragraph 9.

⁶¹ Organización Indígena de Colombia (ONIC), Mujeres Indígenas, Víctimas Invisibles Del Conflicto Armado En Colombia La violencia sexual, una estrategia de guerra, Report presented to Margot Wallström, Special Representative of the Secretary-General on Sexual Violence in Conflict during her visit to Colombia, 16 May 2012, pages 3-4.

⁶² Mesa de Trabajo Mujer y Conflicto Armado, Informe sobre violencia sociopolítica contra mujeres, jóvenes y niñas en Colombia, March 2012, page 8.

2.3 Sexual violence and economic interests

There are strong correlating factors in Colombia's conflict between economic interests and forced displacement of populations,⁵⁸ these include: large scale-mining, agribusiness, and areas of strategic importance for drug trafficking.⁵⁹ A 2013 UN report draws a correlation between illegal extraction of natural resources, incidents of sexual violence and military activity.⁶⁰ Meanwhile state protection for mega-projects has brought with it abuses in indigenous territories.⁶¹ Many of these mega-projects are in 'consolidation zones' (highly militarised regions).⁶² The ONIC report that when soldiers are brought in to protect mega-projects in or near their territories there is a notable increase in violence and conflict. They explain that increased military presence does not necessarily translate into security. They observe that, in many areas, an increased military presence comes with an increase in violations especially those involving women, such as prostitution of indigenous girls and women, unwanted pregnancies, sexually transmitted diseases and sexual violence.⁶³ The report goes on to state that the military, police, paramilitary and guerrilla groups operating in the area have all perpetrated sexual violence against indigenous women.⁶⁴

In many rural areas, the establishment of mining has been accompanied by the prostitution business.⁶⁵ In Bosconia, Cesar department, 30 to 40 cases of child prostitution have been linked

to nearby mines.⁶⁶ Many of the businesses that prostitute children are run by paramilitaries with strong links to organised crime.⁶⁷ The paramilitary groups go to the cities to buy young women and girls, which are then taken to the rural areas and used as slaves in the prostitution businesses around the mines. One case recently uncovered was that of the Urabeños (paramilitary group) who bought girls directly from criminal networks controlling prostitution in the urban streets of Cartagena and Medellin for their businesses in the rural mining areas.⁶⁸

The lack of response from Security Forces, despite knowledge of this practice, is a factor that allows sexual violence against girls and women to go unpunished. When questioned by an investigative journalist regarding the forced prostitution of girls in a mining area, the police replied that as the mines were in rural areas – where the conflict was more acute and access was more difficult – the crime therefore fell within the army's jurisdiction.⁶⁹ However, the military maintained that crimes against minors fell within the jurisdiction of the police.⁷⁰ As a result, each see jurisdictional responsibility as belonging to the other, and children are left exposed to prostitution with no state intervention to protect their rights. As a direct consequence of the culture of violence and poverty resulting from the armed conflict, it is estimated that between 20,000 and 35,000 children have been forced into commercial sex work.⁷¹



The everyday life of women in remote rural communities

⁵⁸ Organización Indígena de Colombia (ONIC), *Mujeres Indígenas, Víctimas Invisibles Del Conflicto Armado En Colombia La violencia sexual, una estrategia de guerra*, Report presented to Margot Wallström, Special Representative of the Secretary-General on Sexual Violence in Conflict during her visit to Colombia, 16 May 2012

⁵⁹ *Ibid.*, page 4.

⁶⁰ ABColombia interviews conducted in 2012 in Tolima near Anglo Gold Ashanti mine; Jineith Bedoya Lima, *El Tiempo*, Campamentos de explotación de niñas en zonas mineras, May 2013.

⁶¹ RCN Radio, *Minería y desempleo, causarían prostitución infantil en Bosconí, Cesar*, 5 August 2013.

⁶² Jineith Bedoya Lima, *El Tiempo*, Campamentos de explotación de niñas en zonas mineras, May 2013.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Watch List on Children and the Armed Conflict, *Colombia's War on Children*, February 2004.

3.0 Modus Operandi of Sexual Violence in Conflict

According to the Inter-American Court of Human Rights (IACHR), violence against women is employed as a strategy of war by all armed actors in the Colombian conflict. The Court highlights how women suffer from physical, psychological and sexual violence which has been designed to wound the enemy, dehumanise the victim, and/or spread terror in the community.

This terror is epitomised by the act sometimes being carried out in full view of the community: *On 5 May 2003, in the indigenous territory of Betoyes, soldiers allegedly posing as paramilitaries executed four Indigenous People, wounded two others and raped four girls aged 11, 12, 15 and 16. The 16 year old was Omaira Fernández. She was six months pregnant at the time that they raped her. Having raped her, the indigenous community were forced to watch — in horror — as they cut her open and extracted the foetus, cut it into pieces and then threw the baby and its mother into the river.*⁷²

The dehumanisation of victims and the establishing of domination over both men and women is seen in the following testimony: *'women were forced to strip naked (by the paramilitaries) and to dance in front of their husbands, many of the women were then raped (by paramilitaries in front of their husbands) and their screams were heard as far away as the next ranch.'*⁷³

3.1 Sexual and gender violence used for social control

Whilst all armed actors engage in the use of sexual violence against women, both state and non-state actors, there are some distinctive uses of sexual violence between these. For example, sexual violence to impose social control over the everyday activities of women is not generally a strategy used by guerrilla groups,⁷⁴ but is used extensively by paramilitary groups. Women have particular codes of conduct imposed upon them; if they transgress these they are punished.

A fight between two young women in a discotheque would have been just that if Los Rastrojos (Paramilitary Group) had not been present. The following day as a punishment Natalie⁷⁵ was ordered by the Rastrojos to sweep the streets. When she had finished the commander who came to check her work arrived on horseback. The animal defecated, and Natalia was order to clear it up — she refused. The commander then ripped off her clothes and forced her to eat the dung. Later the

*commander found out that someone had informed the Red Cross. He ordered the townspeople to the sports hall, grabbed Natalie by the hair and shot her in the head. Then announced that 'they were not to inform anyone from outside and that all of their phones were tapped.'*⁷⁶

Punishment includes public stigmatisation: *In Rincon del Mar, Sucre, paramilitaries shouted at a women 'you 'son of a bitch'; you are to care for the children not to go to parties'. They then grabbed her and publicly shaved her head along with two other women in the town. She states how she felt ashamed to go out covering her head with a scarf.'*⁷⁷

3.2 Sexual violence and sexual slavery

In August 2011, in Norte de Santander, legal proceedings were started against a paramilitary group member for the torture and sexual slavery of more than 25 women and girls.⁷⁸

Many girls and young women have stated that paramilitaries took them from their families either by enticement or force.⁷⁹ Once tired of them, they were forced into prostitution businesses controlled by the paramilitaries: *'(Girls) barely into their teens were enticed with gifts, then forced to have sex and led into prostitution... Parents try to keep their girls indoors... They even sleep with daughters in between them to protect them from the paramilitaries.'*⁸⁰

Other reports indicate that some girls and young women suffered a different fate after having been recruited as sexual slaves. Instead of being forced into prostitution, they were assassinated, in some cases decapitated, and their remains disposed of in remote locations or rivers.⁸¹

The guerrilla also uses sexual violence in the forced recruitment of girls and women as combatants, and in order to render sexual services.⁸² According to testimonies from women and girls demobilising from guerrilla groups, they were forced to use contraception, engage

⁷² Op. cit. Organización Indígena de Colombia (ONIC), Mujeres Indígenas, Víctimas Invisibles Del Conflicto Armado En Colombia La violencia sexual, una estrategia de guerra, pages 5-6.

⁷³ Op. Cit. Sisma Mujer, Mujeres en Conflicto: Violencia sexual y Paramilitarismo, 2009, page 55. www.sismamujer.org/Descarga/investigacion/mujeres.en.conflicto_violencia.sexual.y.paramilitarismo.pdf

⁷⁴ Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013.

⁷⁵ Not her real name.

⁷⁶ El Espectador, La hicieron barrer el pueblo y luego comer estiércol, 5 May 2012.

⁷⁷ Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013, page 81.

⁷⁸ UN Security Council, Report of the Secretary General on children and armed conflict in Colombia, 6 March 2012, paragraph 63.

⁷⁹ Fourth Report of the Mesa de Mujeres y Conflicto, March 2012.

⁸⁰ The Washington Post, Rape in Colombia's war unearthed, June 2013.

⁸¹ Fourth Report of the Mesa de Mujeres y Conflicto, March 2012.

⁸² Amnesty International, Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict, 2004, pages 18-19; Inter-American Commission on Human Rights, Violence and Discrimination against women in the armed conflict in Colombia, OEA/Ser.L/V/II, Doc. 67, 18 October 2006, pages 5-6; Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013.

in sexual relations and if pregnant to abort the foetus. Planned forced abortion is the policy of the FARC; the guerrilla commanders' partners were the only exceptions to this policy.⁸³ Some testimonies reveal how women combatants fled the guerrillas in order to protect their unborn children.⁸⁴ Others talk about having been forced to have more than one abortion. These abortions are not without health complications for the women. A demobilised FARC commander from the Frente 47, Elda Neyis Mosquera, alias Karina, confessed she had participated in three operations to terminate a pregnancy of a subordinate.⁸⁵ According to the Ministry of Defence's Humanitarian Care Group for the Demobilised, between 2012 and 2013, of 244 demobilised female fighters 43 reported they had been forced to have abortions.⁸⁶

3.3 Sexual violence within armed operations

There are reports of collusion between the army and AUC paramilitaries in massacres that have resulted in the mass rape of women and girls.

'The paramilitaries wearing ski-masks came to the town they gathered everyone together, put on some music and started to drink. They killed some chickens, they killed ... people, they raped ... women and they danced ... (They) just raped the very young ones ... (this) went on for four days. The bodies began to rot in the streets. They burned some of them ... We heard a helicopter fly over but nothing happened until the fourth day. The paramilitaries took off their ski masks and said the army had arrived ... We believe that the army was preventing anyone from getting to the town while the massacre was taking place.' Testimony of a woman from Pueblo Nuevo.⁸⁷

The Attorney General's National Unit of the Justice and Peace Office and a German Government committee have started to collate cases of 'extreme cruelty' by illegal groups against women which occurred following incursions into the community and massacres, so far they have collated 81 cases.⁸⁸ These abuses against women were rarely reported because, according to the victims, there were no guarantees for them within the justice system. Frequently this was because they were not believed, or because the police took no action, refused to document their case, or because they feared for their safety.⁸⁹ The lack of a guarantee of justice is contributed to by the Security Forces in many instances being the perpetrators of sexual violence against women.

3.4 Sexual violence and the Security Forces

*'In July 2005, 11 year-old Yolanda⁹⁰ was returning home from school ... when she was stopped by a soldier. This soldier had been pestering Yolanda for some time to have sex with him. When she again refused, the soldier grabbed her and took her to where his army unit was camped, where he raped her and held her captive until morning.'*⁹¹



The Nueva Unión Community in Chocó ask for Peace, Love and Freedom

Although sexual violence is perpetrated by all armed actors, both state and non-state, the impact of the State Security Forces' involvement in sexual violence has a particularly devastating effect, since they are mandated to protect the civilian population: 'their uniforms should symbolise security, discipline and public service, rather than rape.'⁹² When sexual violence is committed by the Security Forces (Army and Police) the civilian population are left with no authority to whom they can turn for justice; as those responsible for enforcing justice are the very authorities that are violating their rights. Any amnesty for Security Forces would leave perpetrators of sexual violence crimes in positions of authority, thereby reducing prospects of intervention and redress for women.

Colombia's Human Rights Ombudsman reported that in Cartagena 'even if cases of sexual violence against women perpetrated by the Security Forces do not correspond to a war strategy (...), they constitute a generalised practice that takes advantage of the conditions of subordination of women, their precarious economic conditions resulting from lack of protection by the State, and the acceptance of existing ideas in the local culture, such as a woman's body is an object that belongs to men.'⁹³

In its Directive 11 of July 2010 the Ministry of Defence states there will be zero tolerance of sexual violence in the armed forces. The Directive makes it obligatory for the armed forces to prevent, in the exercise of its functions, all forms of violence against women and children, especially acts of sexual violence.⁹⁴ However, the UN Special Representative on Sexual Violence in Conflict considers the

⁸³ El Espectador, Así obligan a las mujeres a abortar en las Farc, 29 January 2013.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Op. Cit: Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013.

⁸⁷ Oxfam Briefing Paper, Sexual Violence in Colombia: Instrument of War, September 2009. <http://www.oxfam.org/sites/www.oxfam.org/files/bp-sexual-violence-colombia.pdf>

⁸⁸ El Tiempo, El expediente de los crímenes sexuales de las Farc, 6 June 2013.

⁸⁹ Ibid.

⁹⁰ Not her real name.

⁹¹ IACHR, Access to Justice for Women Victims of Sexual Violence in Mesoamerica, 9 December 2011, paragraph 15.

⁹² UN Security Council, Conflict-related sexual violence, Report of the Secretary-General, January 2012.

⁹³ UN Security Council, Report of the Secretary General, Conflict-related sexual violence, 13 January 2012, paragraph 19.

Ministry of Defence's policy under Directive 11 to be inadequate and in need of revision, something the UN OHCHR had recommended on a previous occasion.⁹⁵ One concern is that the zero tolerance policy is not accompanied by measures to effectively sanction behaviour.⁹⁶ In a climate of near total impunity for human rights crimes, a policy without a guarantee of prosecution and sanction will not give a dissuasive or preventative message.

On 18 May 2012 an Indigenous woman was raped by an army soldier at the side of a road in Putumayo Department. The army unit to which the soldier belonged was reportedly only 100 metres away at the time.⁹⁷

The fact that this rape happened so close to the barracks suggests that the soldier was unconcerned about being discovered.

The Special Representative also highlighted how a lack of 'military discipline' can result in higher levels of sexual violence, particularly noticeable as the army expands into rural areas to consolidate and recapture territory with limited supervision.⁹⁸

Case Study 1: Rape of two girls and murder of four children by Sub-Lieutenant Raúl Muñoz Linares

Whilst very few cases of sexual violence are brought to justice this case is a notable exception. In August 2012, Sub-Lieutenant Raúl Muñoz Linares was sentenced to 60 years in prison for the rape and murder in October 2010 of two girls, one of whom was Yenni Torres.

Yenni was 14 years old when she was raped and murdered. Her two brothers Jimmy and Jeferson, who had been abducted with her, were also murdered. One was six and the other nine years of age. The father of the three children was a peasant farmer in a rural area of the department of Arauca. Thanks to the immediate support and mobilisation of the community who looked for days in ever widening circles from the farm for the children, their bodies were finally found in a shallow grave and Medicina Legal (forensic services) were able to identify what had happened.

Two weeks earlier another girl was raped, she was 13 years-old. Despite local commanders having a description of the attacker, and being aware that Muñoz had taken unauthorised leave of absence at the time of the rape, they had taken no action.⁹⁹

Despite repeated complaints by the local community that soldiers were regularly sexually abusing and raping women and girls in the area, the army tried to blame local residents, criminal gangs and the guerrilla for the rape and killings.¹⁰⁰

The lawyers appointed to defend Muñoz were from DEMIL (legal defence agency funded by the military). The judge in charge of the case, Gloria Constanza Gaona, ordered an investigation into the delaying tactics that Muñoz's defence lawyers were using. On 22 March 2011, not long after this order, Judge Gaona was murdered. This illustrates the lack of guarantees for judges in the administration of the law. Following the shooting of Judge Gaona the family's lawyers and members of the human rights organisation Human Vigente, who were supporting the family, were also threatened.¹⁰¹

If there is to be a dissuasive message to the Security Forces, the full extent of the crime of conflict-related sexual violence will need to be acknowledged and mechanisms put into place to identify, investigate and prosecute those responsible. These mechanisms should include early warning systems, stronger disciplinary measures and criminal sanctions. As a starting point, the Ministry of Defence should initiate an effective review of the systems and protocols for dealing with complaints. This includes establishing an adequate system for receiving and compiling complaints

regarding sexual violence against the armed forces, which could act as an early warning mechanism to identify problems in relation to specific brigades or areas of the country. There is a need for stronger disciplinary and criminal sanctions for army personnel, and to ensure that these are enforced. UN Resolution 1960 highlights the importance of improved information on patterns, trends and early-warning indicators of sexual violence, for both prevention and prosecution purposes, within the accountability measures aimed at ending impunity for perpetrators of rape as a tactic of war.¹⁰²

⁹⁴ Fokus, *Violencia sexual relacionada con los conflictos*, 2012, page 6.

⁹⁵ Annual report of the United Nations High Commissioner for Human Rights, Addendum Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, 7 January 2013.

⁹⁶ Campaign Rape and other Violence: Leave my Body Out of War, *Revisión de las acciones del Gobierno del Presidente Juan Manuel Santos en su primer año: Prevención y eliminación de la violencia sexual en el marco del conflicto armado y la atención de las mujeres víctimas*, page 5. <http://saquenmicuerpodelaguerra.files.wordpress.com/2013/03/info-violencia-sexual-1-ac3b1o-de-gobierno.pdf>

⁹⁷ Amnesty International Annual Report 2013, Colombia.

⁹⁸ *Ibid*, paragraph 21.

⁹⁹ Amnesty International Annual Report 2013, Colombia.

¹⁰⁰ Amnesty International, Press release Colombia: Conviction for conflict-related rape and murders 'a rare victory', 28 August 2012.

¹⁰¹ Amnesty International Annual Report 2013, Colombia.

¹⁰² Stop Rape Now, UN action against sexual violence in conflict, progress report 2010-2011. <http://stoprapenow.org/uploads/files/63711.pdf>

4.0 Access to Justice and Reparation

The Inter American Commission on Human Rights (IACHR) highlights the duty and responsibility of States to act with due diligence and demonstrate political commitment to adopt measures aimed at preventing, investigating, punishing and redressing sexual violence.¹⁰⁴ The UN states that additional efforts are required by the Colombian judicial system to tackle impunity in cases of conflict-related sexual crimes.¹⁰⁵ Whilst there are some laws and policy changes that have been positive, there are also others, namely the military justice reform and the Legal Framework for Peace (Marco Para la Paz), that could offer impunity for war crimes including conflict-related sexual violence.

4.1 Social stigmatisation

Compounding the devastating impacts for women is the social stigma attached to sexual violence. These attitudes have been ingrained through a patriarchal system and often result in the survivor remaining silent about the crime. Survivors of rape can be accused of 'asking for it', or of being 'willing victims' by both society and the judicial system.¹⁰⁶ This is one reason why many survivors do not tell their own families. This leaves them in an isolated and vulnerable situation to deal with the fear and the psychological trauma. Those who have experienced this discuss the feelings of depression and self-loathing this can generate.

Paula Andrea Caicedo was 15 years old when she was raped in the paramilitary headquarters. When she told her family, they refused to believe her. Later, she was shunned. "They used to blame all the women, saying we asked for it, that we wanted it." Now 25 and raising two children alone, Caicedo said her life has been marked by depression. "Sometimes I feel like I want to kill myself, I feel like I'm worthless".¹⁰⁷

Many women like Aura (see Case Study 2) flee their neighbourhoods trying to avoid sexual assault. However, despite escaping the sexual violence, displaced women frequently find themselves more vulnerable as they try to survive on the outskirts of cities. The high vulnerability of displaced women to sexual violence attacks was recognised by the Constitutional Court in Auto 092. Having recognised this connection the Court went on to order the Government to design a programme for the prevention of sexual violence and integrated attention for survivors.¹⁰⁸

"I registered as displaced in Antioquia, but they did nothing to provide a solution for me so I was forced to return to Chocó. In the first place I had been displaced because of repeated instances of rape. I became pregnant and even today I don't know whether my daughter belongs to the person I was living with or was the result of rape; even worse I was unable to talk to anyone about this because of fear of being rejected by everyone. This is something that has marked my life forever." Testimony of a displaced woman (AFRODES).¹⁰⁹

4.2 Patriarchal attitudes and re-victimisation in the administration of justice

Deep-rooted systematic and historic discrimination influences to varying degrees the conduct of those responsible for the administration of justice and presents additional obstacles to reporting the crime of sexual violence, leading to a re-victimisation of women subjected to sexual violence. Despite state policies established by the Attorney General's Office¹¹⁰ incorporating a differential gender perspective for the support of survivors there are concerns regarding the implementation of these.

Raquel reported to the Attorney General's Office that she had been raped by three FARC guerrillas. She was then referred to the Institute of Legal Medicine. At the Institute she was examined by two doctors and eight students, which she found distressing, especially having to repeat the examination twice. She experienced being passed from one organisation to another and having to repeat her story many times: the International Committee of the Red Cross; Profamilia; the hospital; the Attorney General's Office; the Human Rights Ombudsman's office etc ... the whole experience of reporting was extremely painful for her.¹¹¹

The lack of a coordinated strategy across departments raises serious questions in relation to re-victimisation of survivors and the impact of this on the effectiveness of the judicial system, for survivors of both conflict and non-conflict-related sexual violence.¹¹²

'...after the (survivor's) ...detailed declaration of the sexual violence she suffered at the hands of paramilitaries ... the Attorney General's Office ordered that a psychiatric evaluation be practiced in order to establish, "(...) whether her story contains signs which fall within the criteria for tendencies towards mythomania, fantasy, delusion, confabulation, or personality disorder..."'¹¹³

¹⁰³ Stop Rape Now, UN action against sexual violence in conflict, progress report 2010-2011, page 4.

¹⁰⁴ IACHR, Access to Justice for Women Victims of Sexual Violence in Mesoamerica, 9 December 2011, paragraph 10.

¹⁰⁵ Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General 2012, paragraph 65.

¹⁰⁶ Amnesty International, 'This is what we demand, justice!': Impunity for sexual violence against women in Colombia's armed conflict, September 2011.

¹⁰⁷ The Washington Post, Rape in Colombia's war unearthed, June 2013.

¹⁰⁸ Constitutional Court of Colombia, Programa de la Prevención de la Violencia Sexual contra la Mujer Desplazada y la Atención Integral a sus víctimas, Auto 092, 2008.

¹⁰⁹ Global Rights and AFRODES, The human rights situation of internally displaced afro-Colombian women: Life in the Face of Adversity, November 2008, page 26.



(Rape) is one of the only crimes for which a community's response is more often to stigmatise the victim rather than prosecute the perpetrator."

UN Action against Sexual Violence in Conflict.¹⁰³

Case Study 2: Aura

Aura¹¹⁴ was a local leader in a community school and restaurant and worked as an itinerant seller in a barrio (neighbourhood) of Medellin. Present in this barrio were paramilitaries from the Cacique Nutibara Unit (a paramilitary unit), who controlled the area. One aspect of this control was a requirement that businesses pay protection money – Aura had to pay this on various occasions and so was known to them. The paramilitaries wanted Aura's three sons to join them but they resisted. The group started to intimidate the family following them wherever they went. The paramilitaries told her they would be killed unless her sons joined them; Aura knew they had to escape.

A few days later, in desperation and concerned for their safety, she hid her boys in a furniture removal van in order for them to escape unnoticed by the paramilitaries. Not long afterwards, four paramilitaries forced entry into her house and gang-raped her. They repeatedly told her this was her punishment for tricking them and getting her sons out of the barrio. They warned her not to tell anyone or they would kill her. A month later three of the four aggressors returned to her house, one remained outside whilst the other two entered her house and at gun point both raped her. They arrived at 7pm and did not leave until 7am the following morning. "They spent the whole night drinking, taking drugs and raping me." During the days that followed the attack they watched her house, exerting pressure over her not to report what had happened.

Several days later, however, she did try to report the crime at the local police station. **The police officers refused to attend to her case** and told her that she was 'asking for it' because she was in the street. In response to this accusation she told them that it had happened in her house, but that didn't convince the police officers. The refusal by the police to attend her case caused Aura to stop trying to report the crime. She was finally forced to flee the barrio. As a displaced person she made declarations to Acción Social, a government body, explaining why she was displaced in order to receive the help she was entitled to. However, **she did not tell Acción Social about the gang-rape, she was too**



'Aura'

ashamed and afraid following the treatment she had received from the local police.

Aura was forced to displace again when the paramilitary gangs found where they were living. Despite two displacements they still found and killed her eldest. He had been due to start a new job in northern Colombia. She assumed he had gone, but when she bumped into two of his friends and found out that he had not taken up the job she knew instantly what had happened: the paramilitaries had found and killed her son, "(a)t that moment I felt as though the world was falling down on me, I thought I was going to die. I thought of everything I had been through – the two displacements, the rape – and I thought to myself, they have killed my son... I have suffered a lot of violence. But what hurts the most is the death of my son."¹¹⁵

Source: Represión de La Violencia Sexual en Colombia y Justicia Internacional and Trócaire.¹¹⁶

¹⁰³ National Attorney General's Office, Memorandum 0117 (2008b, Section 8.2.iii) on sexual violence in the context of the armed conflict.

¹¹¹ Amnesty International Report, Survivors Speak Out: Sexual Violence In Colombia, September 2011, page 45.

¹¹² Casa de la Mujer, Primera encuesta de prevalencia: Violencia sexual en contra de las mujeres en el contexto del conflicto armado colombiano 2001-2009, page 8.

¹¹³ Access to justice for women victims of sexual violence, Fourth Follow-up Report to Auto 092 of the Colombian Constitutional Court, May 2011, page 44.

¹¹⁴ Not her real name.

¹¹⁵ Trócaire

¹¹⁶ Abogados sin fronteras Canadá and Corporación Humanas Bogotá, Represión de La Violencia Sexual en Colombia y Justicia Internacional, April 2013.



It is very difficult to carry out this work when you know that the perpetrators of these crimes are free.

Jineth Bedoya Lima

This systematic predisposition to blame the victim permeates all levels of the judicial process, including the reporting of crimes, as seen in the case of Aura (see Case Study 2), where the police would not even document the crime and blamed her for it happening in the first place.

Impunity is reinforced when agencies set up specifically to support citizens to obtain justice fail to act. This was the case for an indigenous woman from Cauca who approached the Ombudsman's Office: *she filed a complaint of sexual abuse by a member of the Colombian National Army with the local Ombudsman in the Jambaló municipality. Despite its seriousness, the Ombudsman did not inform the Attorney General's Office, nor did he send the woman to the Institute for Legal Medicine or to a health centre to carry out the necessary examinations. The survivor went back to check on the progress of the case and found that no action had been taken. She was therefore forced to take the complaint herself, with the support of ONIC, directly to the Attorney General's Office.*¹¹⁷

Indigenous and afro-Colombian women face not only patriarchal attitudes but also racial discrimination, which creates additional obstacles to accessing the judicial system. These include things like a lack of translators for indigenous women during legal proceedings (many do not speak Spanish), and no specific protocols for the treatment of indigenous and afro-Colombian women.¹¹⁸

4.3 Impunity and the Rule of Law

Within the Colombian justice system there are major factors contributing to impunity for crimes of sexual violence, including an overburdened and inefficient judicial system, patriarchal attitudes, high levels of corruption, and intimidation and violence against judges, lawyers and witnesses.

All of these generate mistrust of the judicial system and diminish the possibility of effective judicial remedy or protection, which in turn weakens the Rule of Law. The US State Department¹¹⁹ highlights impunity as the most serious human rights problem faced by Colombia, and the UK Foreign & Commonwealth Office outlines how Colombia has a structural problem of impunity.¹²⁰ The structural obstacles to Rule of Law can be clearly seen, and include the historic ties that exist between state Security Forces and paramilitary groups in the execution of war crimes.¹²¹ Paramilitaries also infiltrate the

political system at local, regional and national level,¹²² and the then State Intelligence Service (DAS).

This context of impunity generates a lack of faith in the justice system, resulting in massive underreporting of sexual violence, with about 18 per cent of women reporting sexual violence crimes. According to the Ombudsman's Office at least 81.7 per cent of survivors of sexual assault, both domestic and conflict related, do not report the attack.¹²³ A study by the Campaign 'Leave My Body Out of the War'¹²⁴ produced a slightly higher figure of 82.1 per cent.

Sexual-related crimes in Colombia have an impunity rate of more than 98 per cent. If only one in five sexual violence cases are reported, and of those cases only two in 100 are likely to result in a sentence, the chances of being sanctioned after committing an act of sexual violence are almost nil. As a result, a high percentage of women victims of sexual violence harbour a sense of fear, powerlessness, frustration and insecurity.¹²⁵

The testimony of Jineth Bedoya Lima underscores the continued vulnerability of victims resulting from the widespread impunity for cases of sexual violence: *"... on 25 May (2000) I was kidnapped when carrying out my work as a journalist, I was tortured, raped by three men... however I decided to stay in Colombia and didn't want to go, to choose the path of exile, but to continue with my work in Colombia because I believed that this was my responsibility. But I have to say that there are no guarantees, there are some security guarantees, but there is no guarantee of justice for me to carry out this work and it is very difficult to carry out this work when you know that the perpetrators of these crimes are free."*¹²⁶

As Jineth infers, systematic impunity for sexual violence crimes constitutes an important element in contributing to the repetition of these violations.¹²⁷ UN Resolution 2106 on conflict-related sexual violence emphasises a consistent and rigorous investigation and prosecution of sexual violence crimes as a central aspect of deterrence and ultimately prevention.

Recent actions by the anti-riot police unit (ESMAD) and the Army demonstrate the cultural and structural problems of an internal conflict that sees the civilian population as the enemy. Protests which took place in 2013 resulted in at least 10 people killed and many seriously injured.¹²⁸ The excessive use of force against the

¹¹⁷ Op. cit. Organización Indígena de Colombia (ONIC), *Mujeres Indígenas, Víctimas Invisibles Del Conflicto Armado En Colombia: La violencia sexual, una estrategia de guerra*, page 5.

¹¹⁸ Ibid.

¹¹⁹ US State Department Human Rights Report, 2012.

¹²⁰ UK Foreign & Commonwealth Office 2012 Annual Human Rights and Democracy Report.

¹²¹ Amnesty International Annual Report 2013, Colombia.

¹²² The 'parapolitical' crisis was a scandal that broke revealing that members of the Colombian national legislature were linked to paramilitary groups. A quarter of Colombia's bicameral parliament, mostly members of the pro-government coalition were under formal investigation for ties to the paramilitaries.

¹²³ This includes domestic and conflict related victims/survivors, Access to justice for Women Victims of sexual violence: Working Group monitoring compliance with Auto 092 of 2008 of the Colombian Constitutional Court, Fourth Follow-up Report to Auto 092 of the Colombian Constitutional Court confidential annex, May 2011 page 31.

¹²⁴ Campaign 'Rape and Other Violence: Leave my Body out of the War', First Survey of Prevalence, Sexual violence against women in the context of the Colombian armed conflict, Colombia 2001-2009, page 27.

¹²⁵ IACHR, Access to Justice for Women Victims of sexual violence in Mesoamerica, December 2011, paragraph 13.

¹²⁶ Extract from Jineth Bedoya's oral evidence to the Conservative Human Rights Commission, 2 February 2010 quoted in Supporting Women Human Rights Defenders. A Conservative Human Rights Commission Report, March 2010, page 17.

¹²⁷ Ombudsman, Early Alerts System (SAT), Thematic Report 2011, *Violencia contra las Mujeres en el Distrito de Buenaventura*, Bogotá, page 77.

¹²⁸ Amnesty International, *Colombia: Further violence in Catatumbo must be avoided*, 28 June 2013; and *Colombia: Paramilitary group threatens indigenous protesters with 'social cleansing'*, 21 October 2013.

protest marches in Catatumbo (June), across the country in a National Strike (August) and against an indigenous protest march (October) indicate the need for reform and re-training. There have also been cases documented alleging the involvement of members of ESMAD in sexual violence attacks, including against a young man who was forced to strip and was sexually violated (21 August), and women and girls on these marches who reported intimidation and sexual attacks.¹²⁹

For Colombia's justice system to generate greater confidence there will first need to be reforms to the police system. The initial response that a woman receives when reporting the crime can open or shut a door to her. This is why police reform has usually been on the agenda of countries emerging from armed conflict, in an effort to increase reporting of and prosecutions for crimes of sexual violence.

Increasing the proportion of women in the police has been an essential part of that reform for countries like Afghanistan, Kosovo, Liberia and Nicaragua.¹³⁰ One approach used in Nicaragua has been to set up female only police stations.¹³¹ Other countries have appointed specialised prosecutors and created specialised police units and/or police focal points in an effort to encourage women survivors to report these crimes and increase access to justice.¹³² Women's civil society organisations have been involved in training the police on gender issues in a number of conflict-affected countries; civil society organisations bring specific expertise to gender training and civilian oversight mechanisms, which help ensure accountability and transparency of police services, and their adherence to human rights.¹³³

4.4 Policies and laws

The Colombian Government has taken some positive steps to address sexual violence and gender equality, including the appointment of a Women's Equality Adviser in July 2011. Key laws and rulings that address gender equality and sexual violence include: the Gender Equality Law (Law 1257 of 2008), the Victims and Land Restitution Law (Law 1448 of 2011) and the 092 ruling of the Constitutional Court in 2008. Although some of these laws provide a robust legal and policy framework in relation to sexual violence against women perpetrated both inside and outside of the conflict, they are failing when it comes to effective implementation. In general, implementation lacks well articulated strategies, clear criteria and coordination across departments. Additionally, there are no effective monitoring and evaluation systems and benchmarking to measure performance, or identify obstacles and difficulties. Combined with these elements is the apparent lack of political will at various stages of implementation.

Women's organisations in Colombia have stated that there continue to be a variety of obstacles to obtaining justice for women survivors of sexual violence. These include: the discriminatory patterns and gender stereotyping by those involved in the administration of



CAFOD

justice (officials, judges lawyers etc.), the lack of protection and safeguards for those reporting the crime, high levels of impunity, the absence of an efficient and reliable register of cases of sexual violence in conflict, excessive importance attached to testimonial and physical evidence by officials responsible for conducting investigations, and a lack of health care and psycho-social support.¹³⁴

According to women's groups, the former Attorney General Viviane Morales demonstrated greater commitment than her predecessors to fighting impunity in cases of conflict-related sexual violence. In January 2012 her Office published its policy on equality and non-discrimination,¹³⁵ which included an outline of how to implement a differentiated approach on gender in the investigation of this crime. This policy aims to improve access to justice for groups and communities at risk.¹³⁶ There is now a new Attorney General who is responsible for implementing this policy, and women's groups in Colombia report a reduction in the momentum to implement the policy.

¹²⁹ MOVICE, Primer informe de agresiones de la fuerza pública contra la población civil en Boyacá, en el marco del Paro Nacional, 28 August 2013.

¹³⁰ Geneva Centre for the Democratic Control of Armed Forces, Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector, page 147.

¹³¹ Commission on the Status of Women, Follow-up Report, High-level roundtable on the elimination and prevention of all forms of violence against women and girls, March 2013, paragraph 8; and Geneva Centre for the Democratic Control of Armed Forces, Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector, pages 147-152.

¹³² 13 countries have set up specialised police stations for women, according to Andrew Morrison of the Inter-American Development Bank.

¹³³ Geneva Centre for the Democratic Control of Armed Forces, Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector, page 147.

¹³⁴ Access to justice for Women victims of sexual violence: fourth follow-up report to Auto 092 of the Colombian Constitutional Court, Working Group to monitor compliance with Auto 092 of 2008 of the Colombian Constitutional Court - Confidential Annex, May 2011. <http://www.dejusticia.org/index.php?x=0&modo=interna&tema=antidiscriminacion&publicacion=985&lang=en>

¹³⁵ Adopted on 12 March 2012, Resolution No. 00450.

¹³⁶ Amnesty International, Colombia: Hidden From Justice: Impunity for Conflict-Related Sexual Violence, a Follow-up Report, 2012, page 9.

4.5 Gender Equality Law 1257

Law 1257, passed in 2008 (also known as the Gender Equality Law), outlines the rights of women and established some essential entitlements for women victims of sexual violence to free and immediate specialised state counselling, legal advice, and technical assistance. The constructive framework that this law offers is as a result of collaboration with women's groups who have worked on the different elements and the design of this law. The implementation of the legal entitlements of this law start with the Attorney General's Office; it is responsible for referring the case to the Ombudsman's Office (Defensoría del Pueblo), which then leads on providing guidance to victims regarding legal advice and technical assistance. However, according to NGOs monitoring the situation, the initial referral is not happening. If the implementation falls at the first hurdle then women will quickly be re-victimised and dissuaded from pursuing their case through the justice system. This is concerning for any country wishing to strengthen the Rule of Law.

4.6 Constitutional Court Auto 092 of 2008

In 2008, the Colombian Constitutional Court passed what has, and continues to be, an important Order, known as Auto 092. This order aims to help protect the fundamental rights of displaced women, recognising their extreme vulnerability to sexual violence. Auto 092 provides some analysis of the extent and causes of sexual violence and seeks to address the near total impunity for this crime.

Auto 092 ordered the Attorney General's Office to accelerate legal procedures and open investigations into 183 conflict-related sexual violence cases (subsequently rising to 191) and requested strict oversight of their investigation and prosecution by the Inspector General's Office (Procuraduría).¹³⁷ The 183 prioritised cases are contained in a confidential annex. The cases are divided between known and unknown perpetrators. Of those that are known: 58 per cent are attributed to paramilitaries, 23 per cent to Security Forces and 8 per cent to guerrillas.

According to the Attorney General's Office, as of October 2013, five years after the order to prioritise these 183 cases, only eleven sentences had been passed and 14 cases had been closed with no judgement.

It is striking that the level of impunity is so high even in cases prioritised by the highest judicial authority in the country and despite resources being allocated to try these cases. This leads one to assume that the impunity levels would be even higher for those cases that are not prioritised by the Constitutional Court. Impunity can convert into a damaging message of State tolerance.

According to a report by the Working Group monitoring the implementation of Auto 092 for the Constitutional Court,¹³⁸ in October 2013, 'the government's efforts to overcome impunity and factors that deny women justice have been insufficient'. The regulatory changes lack a strategy that addresses prevention of the crime, protection of the victims and punishment of the guilty parties.¹³⁹

International experience also demonstrates the importance of political commitment in ensuring prosecutions: 'Where there is greater political will on the part of a prosecutor and senior staff to continually emphasise responsibility for crimes of sexual violence at the highest levels of authority and to make this issue a policy priority within the office, there is a corresponding rise in the number of sexual violence charges in indictments. Conversely, when the Prosecutor and senior staff do not consistently and continually ensure that this issue is included and integrated into the work plan, there is demonstrable evidence that sexual violence investigations and prosecutions falter.'¹⁴⁰

The lack of an overarching strategy means that coordination between government departments is failing resulting in fragmented and individual actions.¹⁴¹ Without tangible criteria or effective coordination, women will continue to be denied access to justice, care and attention.

Table 2: Status of cases in Auto 092

	HUMAN RIGHTS UNIT
Inactive	76
Preliminary Phase	69
Under Investigation with identified author or trial	21
With condemnatory sentence	11
Closed without judgement -preliminarily or definitively	14
TOTAL	191

Source: Access to Justice for Women victims of Sexual Violence: fifth follow-up report to Auto 092 of the Colombian Constitutional Court, Working Group to monitor compliance with Auto 092 of 2008 of the Colombian Constitutional Court - Confidential Annex, October 2013.

¹³⁷ Procuraduría is not a judicial institution it is one of the Control Institutions. It is charged with safeguarding the rights of the people, guaranteeing human rights protection and intervening in the name of the people in the defence of public interest (definition from Wikipedia).

¹³⁸ The Working Group on Auto 092 is formed of NGOs and networks that provide regular progress reports on the implementation of Auto 092 to the Constitutional Court.

¹³⁹ Access to Justice for Women victims of Sexual Violence: fifth follow-up report to Auto 092 of the Colombian Constitutional Court, Working Group to monitor compliance with Auto 092 of 2008 of the Colombian Constitutional Court - Confidential Annex, October 2013.

¹⁴⁰ Binaifer Nowrojee, We Can Do Better Investigating and Prosecuting International Crimes of Sexual Violence, Harvard University, Working paper, page 3.

¹⁴¹ Access to Justice for Women victims of Sexual Violence: fifth follow-up report to Auto 092 of the Colombian Constitutional Court, Working Group to monitor compliance with Auto 092 of 2008 of the Colombian Constitutional Court - Confidential Annex, October 2013.

There are some elements under Auto 092 that have begun to be addressed, such as the database specifically on conflict-related sexual violence that the Attorney General's Office was ordered to develop. However, the database is not functioning well, some of the problems encountered include: inaccurate information, inconsistencies in the status of cases, and sexual violence crimes being recorded under other offences (such as homicide, forced displacement, threats, etc) without recording the sexual violence characteristics of the case.¹⁴² Failure to register sexual violence characteristics means cases can be dropped for lack of evidence or worse still, they are never recognised as sexual violence crimes.¹⁴³ Without a consistent and detailed approach to ensuring accurate documentation of cases many women will continue to be denied access to justice. The database should also serve a variety of purposes, including the possibility of qualitative oversight of relevant cases; however, it appears only to function on the level of responding to requests for information (under *derecho de petición* - freedom of information requests).¹⁴⁴

In order to effectively implement Auto 092 a monitoring system with benchmarks against which performance can be measured would help to reveal when and where compliance is faltering.¹⁴⁵

4.7 Investigation and prosecution

Researchers examining data from International Tribunals in Rwanda and Yugoslavia highlighted how circumstantial evidence involving the examination of pattern evidence and analysis 'from expert testimony to statistics and crime mapping' could be used in the prosecution of sexual violence cases. These methods have had widespread use in cases of war crimes related to killings, mass destruction, and displacement. Given the success of these methods in investigating war crimes, it is remarkable how under-used they have been for sexual violence charges in other contexts.¹⁴⁶ Amnesty International pointed out that pattern evidence and analysis¹⁴⁷ can help to identify cases of sexual abuse as conflict-related and lead to identification of chain-of-command responsibility.¹⁴⁸ Chain-of-command responsibility allows for the prosecution of superiors for crimes committed by subordinates, or other persons under their control, if they knew, or had reasons to know, that they were committing or were going to commit a crime under international law and they did not take all feasible measures within their power to prevent such a crime.¹⁴⁹

The low number of confessions to sexual violence crimes by paramilitaries during the Justice and Peace Process has led women's organisations to conclude that victims of sexual violence were denied

access to justice in this process. As of 1 December 2012, according to information from the Justice and Peace National Unit, of the 39,546 confessions received only 0.24 per cent relate to sexual violence.¹⁵⁰ The records of human rights organisations and the Constitutional Court (183 cases) show that paramilitaries were one of the groups most responsible for these crimes. Given that the Constitutional Court identified sexual violence as a generalised practice, investigating only the individuals who confessed to sexual violence crimes is an insufficient process to effectively address this crime.

In addition, the majority of investigations resulting from confessions obtained from paramilitaries are taking place in isolation. Regional prosecutors, rather than specialised units in Bogotá, are investigating the cases, including most of the 183 cases listed in Auto 092.¹⁵¹ The dispersed nature of the investigations means that patterns of abuses carried out by the actors in the conflict are not being examined, making it difficult to attribute chain-of-command responsibility. Furthermore, if conflict-related sexual violence crimes are not contextualised they may not be recognised as such. It is also rare to find regional prosecutors with the expertise and resources to carry out these specialised investigations.¹⁵²

The Working Group to monitor compliance with Auto 092 of the Colombian Constitutional Court highlights the overemphasis placed on testimonial or physical evidence in order to decide whether there is sufficient evidence for prosecution, rather than looking for circumstantial evidence to corroborative testimonies. This could be due to a lack of knowledge regarding normative standards, or because of cultural stereotyping, but ultimately the result of this approach has led to premature closure of cases without looking for any available circumstantial evidence.¹⁵³ The IACHR also emphasised the need to compile circumstantial evidence and consider the context in which a rape occurred.¹⁵⁴ A strategy is therefore needed to identify behavioural patterns and address the systematic nature of conflict-related sexual violence as a specific crime.¹⁵⁵

Bureaucratic inefficiencies, underfunding, and infiltration by illegal armed groups and organised crime, impede Colombia's judicial system and its ability to function effectively. These obstacles have a disproportionate impact on survivors of sexual violence.¹⁵⁶ **Without the support of women's organisations very few cases would reach the courts.** In conflict situations, where state agents are the perpetrators of sexual violence, access to justice is made considerably more difficult.¹⁵⁷ Many of these areas are geographically remote and lack government offices and appropriate judicial systems,¹⁵⁸ creating even greater obstacles to access justice.

¹⁴² Access to justice for Women victims of sexual violence: fourth follow-up report to Auto 092 of the Colombian Constitutional Court, Working Group to monitor compliance with Auto 092 of 2008 of the Colombian Constitutional Court - Confidential Annex, May 2011.

¹⁴³ Ibid.

¹⁴⁴ Access to Justice for Women victims of Sexual Violence: fifth follow-up report to Auto 092 of the Colombian Constitutional Court, Working Group to monitor compliance with Auto 092 of 2008 of the Colombian Constitutional Court - Confidential Annex, October 2013, page 21.

¹⁴⁵ Ibid.

¹⁴⁶ Xabier Agirre Aranburu, Sexual Violence beyond Reasonable Doubt: Using Pattern Evidence and Analysis for International Cases, *Leiden Journal of International Law*, 23, 2010, pages 609–627.

¹⁴⁷ This is where a pattern emerges from a series of individual reports this may relate to a specific area identifying a problem with a particular brigade, or if it is a mobile unit it can identify patterns of abuse when that particular unit moves into an area.

¹⁴⁸ Amnesty International, Colombia: Hidden From Justice: Impunity for Conflict-Related Sexual Violence, a Follow-up Report, 2012, page 21.

¹⁴⁹ Ibid, page 21.

¹⁵⁰ Fiscalía General de la Nación, La Unidad Nacional de Fiscalías para la Justicia y la Paz.

¹⁵¹ Ibid, page 21.

¹⁵² Ibid, page 21.

¹⁵³ Access to justice for Women victims of sexual violence: fourth follow-up report to Auto 092 of the Colombian Constitutional Court, Working Group to monitor compliance with Auto 092 of 2008 of the Colombian Constitutional Court - Confidential Annex, May 2011, page 42.

¹⁵⁴ IACHR, Access to Justice for Women Victims of Sexual Violence in Mesoamerica, 9 December 2011, paragraph 15.

¹⁵⁵ Access to Justice for Women victims of Sexual Violence: fifth follow-up report to Auto 092 of the Colombian Constitutional Court, Working Group to monitor compliance with Auto 092 of 2008 of the Colombian Constitutional Court - Confidential Annex, October 2013, page 20.

¹⁵⁶ Amnesty International, Colombia: Hidden From Justice: Impunity for Conflict-Related Sexual Violence, a Follow-up Report, 2012, page 16.

¹⁵⁷ Organización Indígena de Colombia (ONIC), Mujeres Indígenas, Víctimas Invisibles Del Conflicto Armado En Colombia: La violencia sexual, una estrategia de guerra, Report presented to Margot Wallström, Special Representative of the Secretary-General on Sexual Violence in Conflict during her visit to Colombia, 16 May 2012, page 6.

¹⁵⁸ Oxfam Briefing Paper, Sexual Violence in Colombia: Instrument of War, September 2009. Other sources to identify this include the UN Human Rights Commission's Special Rapporteur for Violence Against Women, the CEDAW, the World Council Against Racism and the UN Committee for the Elimination of Racism and the Inter-American Human Rights Committee.

UN Security Council Resolution 2122 (2013) 'stresses the need for continued efforts to address obstacles in women's access to justice in conflict and post-conflict settings, including through gender-responsive legal, judicial and security sector reform and other mechanisms'.¹⁵⁹

Prosecution of these crimes could be helped by amendments to Colombia's legal framework to include conflict-related sexual violence as a war crime or crime against humanity.

4.8 The Victims and Land Restitution Law 1448

The Law on Victims and Land Restitution (Law 1448, 2011) addresses some issues of gender justice for displaced populations, namely assistance, reparation and land restitution for victims of violent land seizures or forced abandonment of land. Whilst it discusses equal opportunities and the elimination of all forms of discrimination, it stops short of addressing historical gender inequalities in a transformative way.¹⁶⁰ The measures for women include prioritisation of women heads-of-households in the judicial processes of land restitution, administrative reparation, protection and the creation of adequate security conditions. Women are also prioritised under development provisions for restored land, with benefits such as productive credit and technical assistance.

Law 1448 addresses redress for crimes of sexual violence and creates some mechanisms to grant assistance and services to victims of sexual violence and to their families, such as the Centre for Integral Attention to Victims of Sexual Violence.¹⁶¹ The law also mandates the Attorney General's Office to design and implement a protocol to investigate sexual violence cases.

4.9 Health and psycho-social support

The burden of the rape or sexual attack frequently ends up falling onto the survivor; this along with the trauma of the violation, the medical problems and suffering that it can generate, is why psycho-social support is so essential for wellbeing.

Rape can also cause other health and / or psycho-social issues, such as infertility, miscarriages or result in self-induced abortions.¹⁶² The psychological impacts of this crime are also extensive and many survivors talk of experiencing depression, loneliness and self-hatred.

*"I am alone and I don't think there's anyone that can help me get over this. I'd like to form a women's group for people who have suffered in this way... I want to get well, to feel free, to live peacefully and without fear. I also want to find someone who can help me overcome this loneliness. I want someone to talk to when I need to, when this pain wells up inside me, someone I can call and hear a word of encouragement from, a shoulder to cry on, someone who says 'don't give up'."*¹⁶³

It is not only the survivor but often their families that suffer. Indigenous communities talk of the spiritual suffering of the community as well as the individual.

Many families do not survive the violation intact. One woman described how the sexual violence destroyed her marriage: *"an armed group (...) entered shooting. They tied-up my children, my husband and me. In front of my family I was raped and because of this my husband left me"*.¹⁶⁴

In recent resolutions, the UN Security Council has emphasised the importance of psycho-social support in the fight against sexual violence in armed conflict, especially in relation to women and children.

In March 2012 the Ministry of Health issued Resolution 459 which adopted Protocols and Models of Comprehensive Health Care for Victims of Sexual Violence. However, the protocols lack guidelines for comprehensive care and health differentials for women victims of conflict-related sexual violence. There is also a failing in the coordination and attention provided to survivors between the INML, which collects forensic data for prosecution of cases, and the health services. Consequently, women can suffer from either a lack of attention to health issues, or insufficient forensic evidence for a judicial case. There is also a lack of differential attention and care for afro-Colombian and indigenous women, and obstacles in accessing suitable services, as many of the survivors are located in conflict-affected rural areas. In addition, there is limited awareness in rural areas of the full rights afforded to victims of conflict-related sexual violence.

Women's groups raise concerns about the lack of knowledge of survivors regarding access to services, for example knowing the choices they have and services that are available to them, including the right to be seen by a woman doctor (Law 1257 of 2008).¹⁶⁵ Psycho-social assistance is vital for the wellbeing of survivors; however, its application is weak. Many women have only taken the decision to report the crime after years of intense psycho-social therapy from women's organisations.

Access to psycho-social support is essential for women to enable them to move forward: *Aura (see Case Study 2) started to go to a NGO project funded by Trócaire, "I started to go to the workshops and see the psychologist," she said. "At the beginning I wouldn't talk to anyone but the psychologist built my confidence back ... Despite all the violence that I have suffered, I have learned to resist. I have learned to stand up again ..."*

¹⁵⁹ UN Security Council Resolution 2122, October 2013, paragraph 10.

¹⁶⁰ International Centre for Transitional Justice (ICTJ) and Brookings-LSE, Access to Justice for Women Victims of Sexual Violence in Mesoamerica, Inter-American Commission on Human Rights, 9 December 2011, paragraph 15.

¹⁶¹ Fokus, Violencia sexual relacionada con los conflictos, 2012, page 6.

¹⁶² Jeanne Ward and Mendy Marsh, Sexual violence against women and girls in war and its aftermath: Realities, Responses, and Required Resources, Briefing Paper prepared for the Symposium on Sexual Violence in Conflict and Beyond, Brussels, 2006, page 10.

¹⁶³ Amnesty International, 'This is what we demand, justice!': Impunity for sexual violence against women in Colombia's armed conflict, September 2011.

¹⁶⁴ Centro Nacional de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad, 2013, page 311. Original in Spanish: 'Un grupo armado [...] Entraron disparando. Nos amarraron a mis hijos, a mi esposo y a mí. Frente a ellos fui violada y a raíz de eso mi esposo me abandonó.'

4.10 Marco Para La Paz (Legal Framework for Peace)

When the Havana peace negotiators reach the theme of ending the conflict, a central issue will be transitional justice: what kind of arrangement will allow guerrillas to demobilise whilst at the same time holding them accountable for human rights violations committed. On 19 June 2012, the 'Legal Framework for Peace' was passed by Congress. This is a constitutional amendment setting the parameters for transitional justice. This includes the prioritisation and selection of cases against those bearing the greatest responsibility for crimes against humanity and war crimes. The bill also allows for the reduction or suspension of sentences even for the worst human rights violations, and the conditioned dropping of all other non-selected cases, including sexual violence cases.

In the peace negotiations taking place in Havana, under the theme 'ending the conflict', an implementation law to enact this constitutional reform will be agreed. How Colombia enacts transitional justice will be carefully watched by the International Criminal Court (ICC). However, in its 2012 report the ICC considered that those who are party to the conflict have committed crimes that fall within their jurisdiction, one of which is 'rape and other forms of sexual violence.' Conflict-related sexual violence is one of the areas that the ICC will continue to monitor in Colombia under the preliminary examination.¹⁶⁶

The difficulty will be how to convince FARC and ELN commanders to sign a peace agreement if they are likely to be imprisoned. This may also affect their political future, as under the Colombian Constitution anyone convicted of a crime against humanity is barred from holding public office.

The Justice and Peace Process with the demobilised paramilitaries still needs to address crimes of conflict-related sexual violence. The Colombian Government will have to consult extensively and incorporate the recommendations of women's NGOs on this theme if the process is to be sustainable. The proposal of the High Commissioner for Peace that a group of victims participate at Havana on the theme of victims is a positive step in increasing civil society participation. It is essential that women's organisations participate on the theme of victims and in the transitional justice section of the negotiations.¹⁶⁷

Reinserting ex-combatants who have militarised notions of masculinity and learned patterns of aggression into civilian life is likely to perpetuate violent behaviour towards women.¹⁶⁸ This is one of the reasons why amnesties for conflict-related sexual violence crimes are detrimental. Sexual violence is not a crime that can be incorporated in a 'disarmament process', nor is it something that can be easily monitored in civilian life, given it usually takes place in the personal arena.¹⁶⁹



Isabel Ortigosa/Christian Aid

María Ligia Chaverra is 73 years old and a leader from Curvaradó, a community who have been struggling to get the titles of their ancestral territories. Afro-Colombian communities in Chocó have been waiting for years to receive collective titles for their ancestral lands, despite the Colombian Constitutional Court formally recognising their land rights.

¹⁶⁵ UN Security Council, Report of the Secretary General, March 2013, paragraph 30.

¹⁶⁶ International Criminal Court, Situation in Colombia Interim Report, November 2012, paragraphs 20 and 22.

¹⁶⁷ El Universal, Colombia asegura que víctimas están en el centro del proceso de paz, 7 November 2013.

¹⁶⁸ Ibid, page 10.

¹⁶⁹ UN Women, Addressing Conflict-Related Sexual Violence: An Analytical Inventory of Peacekeeping Practice, October 2012, page 10.

5.0 Women and the Construction of Peace

'Evidence from around the world and across cultures shows that integrating women and gender considerations into peace-building processes helps promote democratic governance and long-term stability. In order to achieve these goals, women need to be able to play a role in building and participating in the full range of decision-making institutions in their countries.'¹⁷⁰

Similar findings were discussed at the roundtable held by the UN Commission on the Status of Women: 'working in partnership with civil society and all other stakeholders is essential to ensuring coordinated and sustained action and to promoting greater accountability at all levels in order to prevent and address violence against women.'¹⁷¹

As the former UN Special Representative on Sexual Violence in Conflict, Margot Wallström, said in her May 2012 visit to Colombia, 'I understand that the country as a whole wants to look to the future, instead of dwelling on the past, but there can be no lasting peace without security and peace for women.'¹⁷²



Women participate in a workshop run by Sisma Mujer

5.1 Women defenders and community leaders

The Special Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights, Susana Villarán, explains that: 'Colombia stands out for the organisational experiences of groups of women who want to participate and influence the public agenda, both in areas traditionally linked to the specific needs of women, as in issues related to the resolution of the armed conflict. However, in the case of Colombia, this type of participation has

become an extremely dangerous activity in which women's rights defenders and their loved ones are exposed to violence and displacement. In fact, armed actors find that the leadership exercised by women's rights organizations challenges the extent of their social and territorial control, which—the IACHR believes—has resulted in the systematic intimidation, persecution, kidnapping, torture and sexual abuse, among other crimes.'¹⁷³

Women are not only victims and survivors of sexual violence but also defenders of human rights and peace builders. Women defenders who provide support to victims of conflict-related sexual violence can find themselves on the receiving end of threats and attacks. When sexual and gender-based violence is committed against them it sends a chilling message to other women defenders, community leaders and women's organisations that they too could suffer the same fate.¹⁷⁴

The visibility of women defenders makes them easier to target than other women. Sexual and gender-based violence can be used as a form of punishment against women engaged in human rights work; aimed at putting an end to their work and their objectives of strengthening good governance and tackling impunity. Such activities are perceived by armed groups as a threat to their power, status and dominance in the conflict.¹⁷⁵

Angelica's case (see Case Study 3) also demonstrates some of the current failings in implementation of psycho-social support and attention. Despite Colombian legislation requiring the National Protection Unit to provide this to defenders as a security measure, Angelica did not receive such care.

In 2010 Colombia was the worst country in the Americas for killings, or attempted killings, of women defenders working on women's rights or gender issues, and the Americas was the worst region in the world in relation to the numbers of killings of women defenders.¹⁷⁶ In fact Colombia scored the highest in the world in relation to the number of women defenders at risk who are working on labour rights, indigenous rights, environmental and land rights.¹⁷⁷ This trend continues in 2013 with defenders working on land and environmental issues relating to Indigenous Peoples and minority

¹⁷⁰ USA National Action Plan on Women, Peace and Security, December 2011.

¹⁷¹ Commission on the Status of Women, Follow-up Report, High-level roundtable on the elimination and prevention of all forms of violence against women and girls, March 2013, paragraph 8.

¹⁷² UN News Service, Colombia must fight impunity for sexual violence crimes – UN official, 21 May 2012.

¹⁷³ IACHR, Violence and Discrimination against women in the armed conflict in Colombia, Doc. 67, 18 October 2006, page 7. <http://www.cidh.org/pdf%20files/InformeColombiaMujeres2006eng.pdf>

¹⁷⁴ ABColombia, Oidhaco and USOC, Report on Women human rights defenders: the struggle for justice in Colombia. November 2011. http://www.abccolombia.org.uk/downloads/1202Amended_WHRD_report2011_ENGLISH.pdf

¹⁷⁵ United Nations Human Rights Committee (UNHRC): Report on Violations of Women's Human Rights, 2010, page 5.

¹⁷⁶ Report of the UN Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 20 December 2010, page 65.

¹⁷⁷ Ibid, paragraph 65.

¹⁷⁸ Amnesty International, Colombia: Human rights activist's controversial death amid wave of threats, 26 February 2013.

¹⁷⁹ Programa Somos Defensores, Heroes Anónimos – Informe Enero – Junio 2013, August 2013.

Case Study 3: Ana Angélica Bello Agudelo, human rights defender¹⁷⁸

Angélica founded the National Foundation for the Defence of Women's Human Rights (Fundación Nacional Defensora de los Derechos Humanos de la Mujer). She worked to protect some of the thousands of women survivors of sexual violence in the context of Colombia's armed conflict.

In 2000, two of her daughters were kidnapped and kept as sexual slaves by paramilitaries, and were only released after Angélica personally intervened. In November 2009, Angélica herself became the victim of sexual abuse, allegedly committed by paramilitaries in retaliation for her human rights work. Recalling the sexual abuse she suffered in 2009, she said: 'I was very scared. When the men abused me, beat me, the first thing they warned me was not to report it. They said that I should look at them very well, in the face, because I could see them again at any moment.' Angélica had the courage to report the threats and sexual abuse to the authorities but little was done to investigate the case and bring those responsible to justice.

communities as the most at risk. The UN recognised participation in negotiations with local authorities to resolve land disputes as work particularly dangerous for women defenders in Colombia.¹⁸⁰

Women's organisations in Colombia have been working with the Government over a considerable period of time to construct new public policies in favour of women and which challenge accepted socio-cultural norms, traditions, perceptions and stereotypes about femininity, sexual orientation, and the role and status of women in society. These include the Public Policy on Gender Equality, adopted in September 2012, and policies on differential protection measures for women.

5.2 Women as peace builders

In the past few decades, the international community has made great strides forward in recognising the essential role women can and do play in peacemaking, peace-building and conflict prevention. The UN Fourth World Conference on Women resulted in an Action Plan that enumerated six strategic objectives aimed at increasing 'the participation of women in conflict resolution at decision-making levels' and urged governments, as well as international and regional international institutions, 'to integrate gender perspectives in the resolution of armed or other conflicts....'¹⁸¹

In 2011, as a result of increasing death threats, Angelica was given two body guards and a bullet proof car. She was also forced to continually move house and area as a result of the threats. This resulted in her being separated from family support structures.

In January 2013, Angélica participated as a spokesperson for survivors of conflict-related sexual violence in a meeting with President Santos to push for women's voices to be heard in the debate about implementation of the Victims and Land Restitution Law. Among other things, she asked the President to implement urgently measures to provide psycho-social support to victims, including survivors of sexual violence.

Just a few days before her death Angélica was threatened and told once again to leave the area where she lived. On 16 February 2013 she was found dead in her home. According to the police she had committed suicide with the revolver of her body guard. However, the circumstances around her death remain controversial and there is the possibility that instead of suicide it was murder.¹⁷⁹

In 2000, the UN Security Council issued Resolution 1325 on Women, Peace and Security, which acknowledges the disproportionate impact of violent conflict on women and the critical role women can and should play in the processes of peace-building and conflict prevention, including peace talks and all aspects of post-conflict reconstruction. Resolution 1325 calls on Member States to increase the participation of women in the 'prevention and resolution of conflicts' and in the 'maintenance and promotion of peace and security.'¹⁸²

A 2002 UN Women report 'demonstrates that peace agreements and reconstruction work better when women are involved in the building process'.¹⁸³ Despite abundant evidence of the ways in which women can significantly contribute to peace-building, they have been noticeably absent at the negotiating table for in Havana.¹⁸⁴ Although there has been public recognition of the disproportionate effect of violence on women by President Santos, his assurance that they would 'have a prominent and permanent place in the (peace) process we have initiated'¹⁸⁵ has yet to be fulfilled.

It may be too late now to secure a seat at the table for women representatives; however, the peace dialogues are only the first step of a longer process of post-conflict reconstruction. It is therefore time to think critically about how women's organisations can take a prominent role in the process of constructing peace. There is a

¹⁷⁸ Report of the UN Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 2013, paragraph 73.

¹⁸¹ UN Fourth World Conference on Women Beijing, September 1995, Action for Equality, Development and Peace.

¹⁸² Security Council Resolution 1325, adopted in October 2000.

¹⁸³ UNIFEM, E. Rehn and E.J. Sirleaf, Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peacebuilding, 2002.

¹⁸⁴ The FARC had one woman present for the exploratory talks and subsequently in their support team, and the Colombia government team includes two women witnesses, however the negotiators for both sides of the formal talks are all men.

¹⁸⁵ Presidente Santos, Las mujeres tendrán un lugar muy destacado y permanente en este proceso' de paz, 12 September 2012. Original in Spanish: 'Quiero darles hoy la seguridad de que tendrán un lugar muy destacado y permanente en este proceso que iniciamos.'

need to build consensus and commitment to improve democratic processes. The establishment of a National Action Plan, as mandated by UN Resolution 1325, would be a good place to start. Women's organisations have sought to work with the Government on this for many years but progress is very slow.

Women are known to contribute to the long-term view of peace and stability by focusing on a 'positive peace' approach.¹⁸⁶ A 2012 report by Action Aid, the Institute of Development Studies and Womankind Worldwide, 'found that women are more likely than men to adopt a broad definition of peace which includes the household level and focuses on the attainment of individual rights and freedoms such as education, health care and freedom from violence. In contrast, men have a greater tendency to associate peace with the absence of formal conflict and the stability of formal structures such as governance and infrastructure.'¹⁸⁷

Women in Northern Ireland also saw the importance of women securing a seat at the peace table. In order to avoid being excluded they decided in 1997 to form a women's cross-party political grouping. They went on to win some seats in the election. As a result the Northern Ireland Women's Coalition was able to work on building bridges between Catholics and Protestants and promoted reconciliation and reintegration of political prisoners.¹⁸⁸

Peace negotiations in Colombia were initiated in November 2012 and are taking place in Havana between the Government and the FARC. As of November 2013 negotiators had made preliminary agreements on the first two agenda items – agrarian development policy and political participation. Both parties have agreed that the proposals under each theme would not be final until agreements had been reached on all of the themes, at which point the peace accords would be ratified as one complete document and signed by both parties.

At the time of publication of this report, the theme of justice and the rights of victims had yet to be discussed. However, essential to this peace process is for women and women's organisations to have the opportunity of raising the topic - noticeable by its absence to date at the table – of conflict-related sexual violence.¹⁸⁹ The 2011 Monitoring Report on Colombia's compliance with Resolution 1325 highlighted that Colombian women had been completely absent from the negotiating tables of any formal peace talks which have taken place over the last twenty years between the government and armed groups. Whilst Colombia is not alone in its unequal treatment of women at the negotiating table, it is an issue that needs addressing. There are key areas where it is important to see women civil society groups in prominence, namely their contribution to the thematic issues including conflict-related sexual violence by all armed actors, and in the longer process of the construction of peace. If this does not happen it will be profoundly damaging for the legitimacy and implementation of the outcomes of the peace talks, as well as gender equality and inclusion.

There have been many international laws, resolutions and declarations in relation to the participation of women in peace

processes and on protection from sexual and gender-based violence in conflict and post-conflict situations.

5.3 International instruments

The international community recognises the importance of including women in peace-building work. Most significant have been the UN Security Council Resolutions, such as 1325 (2000), which emphasises the need for women's participation and outlines the mechanisms by which member states can do this. Resolution 1820 (2008) outlines obligations for prosecuting persons responsible for sexual violence, to ensure all victims have equal protection and access to justice. It also highlights the importance of equal representation of women in all aspects of formal peace-building and post-conflict reconstruction.¹⁹⁰ Resolution 1960 (2000) suggests mechanisms to ensure reporting and punishment of conflict-related sexual violence, with the aim of preventing crimes by making sexual violence a liability for armed groups.¹⁹¹

The G8 declaration on preventing sexual violence in conflict, promoted by the UK during its presidency of the G8 in 2013,¹⁹² draws on UN Resolutions 1325, as well as international law instruments in Resolutions 1820, 1261 on women, peace and security, and 1612 on children in armed conflict. The declaration reiterates that no amnesties should be given for crimes of sexual violence in conflict. It stresses the importance of ending impunity for perpetrators of rape and other forms of sexual violence in armed conflict.

The EU, in its Action Plan on Human Rights and Democracy, sets out its intentions of encouraging third party countries through political dialogue and demarche campaigns to implement UN Security Council Resolutions 1325 and 1820 on Women, Peace and Security in **consultation with women's rights networks and organisations**.¹⁹³ Other EU documents stress there should be no amnesties for conflict-related sexual violence, 'the EU... will fight vigorously against impunity for serious crimes of concern... including sexual violence committed in connection with armed conflict...'¹⁹⁴ recognising that 'in conflict and post-conflict situations it is crucial... to raise the issue of gender-based violence, including sexual violence, impunity and the enforcement of judicial measures against perpetrators of such atrocities'.¹⁹⁵ So concerned were countries generally regarding sexual violence in Colombia that during Colombia's 2013 UN Universal Periodic Review Process there were 19 recommendations made on sexual violence.

There is agreement across the various international instruments, as well as documents agreed nationally, that sexual violence in conflict is not a crime that should be granted amnesty. This crime has no justification in any conflict or domestic situation. If left unpunished, conflict-related sexual violence has repercussions for truth, justice and reparation, as well as for gender equality in the reconstruction process. If subject to amnesties sexual violence will become further entrenched in a post-conflict society.

¹⁸⁶ A concept attributed to the principle founder of Peace Studies as a discipline, Johan Galtung. Positive peace is more than an absence of armed conflict ("negative peace"), but a set of social, political, economic and cultural systems that serve the needs of society so that armed conflict becomes less likely/ necessary.

¹⁸⁷ Action Aid, Institute of Development Studies and Womankind Worldwide, *From the Ground Up: Women's roles in local peacebuilding in Afghanistan, Liberia, Nepal, Pakistan and Sierra Leone*, 2012, page 2.

¹⁸⁸ UN Women, *Women's Role in Peace Negotiations: Connections Between Presence and Influence*, October 2012, page 2.

¹⁸⁹ The Havana negotiators are all men, although the FARC have in their support team one woman.

¹⁹⁰ UN Security Council Resolution 1820, 2008, page 4.

¹⁹¹ Stop Rape Now, *UN action against sexual violence in conflict, progress report 2010-2011*.

¹⁹² Foreign and Commonwealth Office, *G8 UK, Declaration on Preventing Sexual Violence in Conflict*, 11 April 2013.

¹⁹³ EU Action Plan on Human Rights and Democracy, June 2012 - 31 December 2014.

¹⁹⁴ Council of the European Union, *EU Strategic Framework and Action Plan on Human Rights and Democracy*, Luxembourg, June 2012, page 3.

¹⁹⁵ EU Action Plan, *gender equality and women's empowerment in development 2010-15*, 8 March 2010, page 7.

ABColumbia is a group of leading UK and Irish organisations with programmes in Colombia. We work on questions of human rights, development and forced displacement. ABColumbia's members are CAFOD, Christian Aid (UK and Ireland), Oxfam GB, SCIAF, and Trócaire. Amnesty International and Peace Brigades International are observer members. ABColumbia develops the collective advocacy work of members. Our members work with around 100 partner organisations in Colombia, most of them with little access to decision-making forums nationally or internationally.

www.abcolombia.org.uk

Corporación Sisma Mujer is a Colombian women's organisation with a Spanish delegation. Sisma Mujer has been working since 1998 for the consolidation of women's movements and female victims of violence and discrimination in both private and public spheres. They strive for the expansion of women's citizenship and the full enjoyment of human rights in the context of the armed conflict, and for the transformation of their position in society into valid political actors.

www.sismamujer.org

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www.usofficeoncolombia.org

ABColumbia
Romero House, 55 Westminster Bridge Road, London SE1 7JB
Tel: +44 (0) 207 870 2216/7
Email: abcolombia@abcolombia.org.uk

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