

# Sexual violence in Colombia

## Instrument of war

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**Sexual violence has been employed as a weapon of war by all of the armed groups involved in the half-century-long Colombian conflict. State military forces, paramilitaries and guerrilla groups have used sexual violence with the goal of terrorizing communities, using women as instruments to achieve their military objectives. But this type of violence also is used as a form of torture and punishment, to exert control over the population, to enforce strict rules of conduct, as a means of revenge and intimidation, or as a weapon to wound and terrorize the enemy.**

**The use of sexual violence is far from sporadic. It has become a generalized and systematic practice; a normal aspect of the armed conflict. In spite of this situation, the impunity that envelops these types of crimes has converted Colombian women into the hidden victims of this conflict. The European Union, and particularly the United Kingdom, should pressure the Colombian government to fulfil its responsibility of protecting the civilian population by putting an end to this tragic situation and punishing those responsible.**

# Summary

Over the course of almost 50 years of Colombia's armed conflict sexual violence has been employed as a weapon of war by all of the armed groups – State military forces, paramilitaries and guerrillas – both against civilian women and their own female combatants.

Women become targets of the armed groups for a wide range of reasons: for defying prohibitions imposed by the group; for transgressing gender roles; for being considered a useful target for humiliating the enemy, or for sympathising with the enemy. The goal can be torture, punishment or social and political persecution. At times sexual violence is used to control the most intimate aspects of women's lives, imposing strict codes of conduct to control their sex lives, what they can wear, when they should go out or who they should be paired with. Practices like mutilation and slavery are employed to these ends.

Far from being sporadic, the use of this violence has become routine practice, forming a normal part of the armed conflict. However, the persistent hiding and denial of this crime by the Colombian State has allowed the perpetuation of a system of impunity in which these types of crimes are not investigated, those responsible are not brought to trial and are not punished. On the other hand women refuse to report violations for fear of reprisals, due to feelings of shame, of fear and because of the danger that filing a report could bring them and their families. Even women who want to report sexual violence face obstacles such as a lack of legal guarantees and lack of confidence in the pertinent State institutions. To all that must be added the sense of guilt that often accompanies these crimes and can prompt women to keep such matters private.

All of these factors have conspired to make this type of violence accepted as "normal" within Colombian society, and many women do not consider themselves victims because they do not know that sexual violence is a crime. The strategy of making sexual violence invisible has silenced women and condemned them to try to forget.

Given the situation outlined above there is no way to say, even as an approximation, how many women have suffered some form of sexual violence during the almost 5 decades of armed conflict, or the impact that these crimes have had on the survivors' lives. Nevertheless, testimony that has been collected and the stories told by women who live in areas occupied by armed actors and by the victims of forced displacement indicate that sexual violence is much more frequent than generally believed, than reported by the media or than suggested by official statistics and registries. In fact, the Inter-American Commission on Human Rights, the United Nations Special Rapporteur on Violence Against Women, Colombia's Constitutional Court and numerous national and international organisations coincide in one conclusion; sexual violence targeting women (and

girls) is employed in a systematic and generalised manner in Colombia's armed conflict.

Sexual violence is one of the main causes of the forced displacement of women in Colombia, with 2 of 10 displaced women forced to flee because of these types of crimes. But threats and fear do not end with displacement. According to figures reported by the High Commission on Human Rights in 2005, sexual violence continues during displacement: 52% of displaced women have suffered some form of physical abuse and 36% have been forced to have sexual relations with strangers. This does not only affect adult women. Displaced girls are forced to have sexual relations or to marry prematurely in order to obtain food and shelter. This lack of security and the constant threats cause many women to decide to return to their place of displacement or displace yet again in search of safe haven. But unfortunately there is no place in Colombia where a woman's security is guaranteed.

Within sectors of the population, Afro-Colombian and indigenous women are most vulnerable to sexual violence given the triple discrimination that they suffer due to their gender, their ethnicity and the poverty in which they live.

In spite of the existence of an appropriate legal framework for the protection of a woman's right to live without violence or discrimination, the law still falls short of international standards and its practical application still is deficient. This is due in large measure to the lack of an integrated, inter-institutional programme that guarantees the rights of women, especially in the area of sexual violence perpetrated within the framework of the armed conflict. The public plans that do exist are inadequate and do not respond to the needs of women.

## Conclusions and Recommendations

The generalised and systematic existence of sexual violence against women as a military tactic of all armed groups involved in the conflict and as part of a broader strategy of terror against the civilian population could meet one of the conditions for characterising this practice as a crime against humanity.

The reality contrasts with the impunity and lack of public knowledge that have simultaneously kept sexual violence hidden and helped perpetuate it. This situation is in large part a result of negligence on the part of the Colombian State, which has failed to take the measures necessary to achieve zero tolerance for these crimes. The Colombian government has kept a low profile in the face of the generalised vulnerability of women, showing little political will and lack of engagement with a problem it does not consider to be a high priority.

The European Union and specifically the United Kingdom should act to stop this crime and pressure the Colombian government to institute

an integrated policy that deals with the causes that have allowed this systematic violation of women's rights within the framework of the armed conflict, thus achieving their protection and autonomy. The government should also adopt measures aimed at guaranteeing the fair and effective administration of justice in Colombia.

In order to address this situation and begin to guarantee the right to integral protection for women affected by the conflict, the following measures should be taken with urgency.

## The European Union and its Member States should:

- Apply to its bilateral relations, and encourage within the EU system, policies that insist on the guarantee of a State of Law and zero tolerance for human rights violations, and especially policies to combat sexual violence against women that is related to the armed conflict. This zero tolerance should include a demand to investigate these types of crimes, bring the cases to trial, sanction those found responsible and compensate the victims.
- Contribute to the fight against impunity and to the protection of women from sexual crime via the inclusion of clauses and conditions that deal specifically with this issue in documents governing relations between the EU and Colombia and between the United Kingdom and Colombia.
- Substantially strengthen its collaboration with civil society organisations, especially with those that work on issues related to the defence of human rights and those that work on issues related to sexual violence.
- Urge the Colombian State and especially the current administration to:
  - Update its legal framework and national policies to bring them in line with international norms aimed at guaranteeing the rights of women to the prevention of violence and attention from and access to the justice system without regard to age or ethnicity, especially with relation to UN Security Council Resolution 1325. Special attention should be afforded the design and adoption of policies that guarantee these rights for indigenous and Afro-Colombian women who have been forcibly displaced from their areas of origin.
  - Improve the judicial system by incorporating protections and privacy rules that will allow women to report sexual abuse in general and particularly sexual crimes related to the armed conflict. Additionally, a public policy should be instituted to give women victims of armed actors access to their rights to the truth, justice and integrated reparation and to ensure that their victimizers are investigated, judged and punished.

- Implement an integrated public policy for dealing with sexual violence related to the armed conflict that includes aspects such as health, education, justice and employment. This policy should be backed by sufficient financial resources and qualified personnel to respond to the needs at the national and local levels and in urban and rural areas.
- Establish and improve statistical registries of information on sexual crimes committed by armed actors.
- Appropriate the necessary funding to ensure implementation of new legal initiatives for the protection of women affected by the armed conflict. Specifically, the State should display a clear political will to comply with Ruling 092 of the Constitutional Court. The Government also should revive the original draft of the Law for Victims and ensure there is no discrimination and that victims receive equal treatment.

# Context

## The Colombian conflict: a permanent violation of human rights

Colombia has for the past five decades suffered the grave consequences of an armed conflict, despite the Uribe government's refusal to accept the conflict's existence. The government characterises the conflict as a "war against terrorism." This brings serious consequences for the civilian population, and especially for women, given that State policy and that of the other armed actors has immersed society in the internal conflict and militarized all aspects of Colombian life.<sup>1</sup> In spite of the government's declarations, its assertion that there is no armed conflict is difficult to accept in a country that continues to destroy wealth, to divert resources to feed the war economy, and in which the population continues to live in poverty. Millions of people continue to be forced into displacement and the country has suffered the consolidation of conflict-related patterns of violence.

The conflict also has given rise to serious human rights violations perpetrated by all of the armed groups (guerrillas, government forces and paramilitaries). These violations include displacement, torture, extra-judicial executions, forced disappearances, and the harassment of human rights activists, and the number of violations has increased over the past two years.<sup>2</sup>

The statistics speak for themselves despite consistently being under reported due to the failure to record or investigate cases. During the past 20 years of conflict at least 70,000 people have been killed, the great majority civilians who died outside of combat.<sup>3</sup> Since 1985, between 3 million and 4 million people have been forced to abandon their homes, according to unofficial sources, and the government puts the figure at 2.8 million displaced. Either figure places Colombia's displaced population as the world's second largest, following only Sudan.<sup>4</sup> To that we must add more than 10,000 people who have been kidnapped since the beginning of the millennium.<sup>5</sup>

**Table 1. Colombia in figures**

- 70,000 dead in the last 20 years;
- Between 3- and 4 million people have been forcibly displaced since 1985;
- One out of every three people cannot cover their most basic needs for food;
- 2,227 people were illegally deprived of their liberty between 2004 and 2007;
- 4,000 people have been the victims of selective assassinations since 2002;
- 7 people are killed or disappear outside of combat every day;
- The country lost 10 positions in the HDI between 2006 and 2008, going from number 70 to number 80 in a list of 177 countries;
- There are between 8,000 and 13,000 child soldiers; and

- Colombia has the highest rate of land mine victims in the world.

Sources: Amnesty International 2008; UNDP Human Development Index (HDI), 2008; Colombia Universal Periodic Review Report, 2008; UNDP Human Development Report 2004.

Every day in Colombia seven people are killed or disappear outside of combat, with 70% of those cases attributable to the Army and paramilitaries and 30% of cases blamed on the guerrillas.<sup>6</sup> Massacres have become less frequent since the beginning of the Uribe administration, but selective killings have risen to more than 4,000 deaths since negotiations for the demobilisation of paramilitary forces began in 2002.<sup>7</sup>

*“A 13 year old girl, daughter of ANMUCIC<sup>8</sup> member and union leader Martha Olaya, was raped and murdered in the village of Monteloro, apparently by member of the army. Security forces displayed her lifeless body dressed in military garb, in order to give the impression that she was a guerrilla killed in combat. The coroner who performed the autopsy was murdered a week later. On July 31, 2000, Martha Olaya’s house was burned down, presumably by paramilitaries.”*

Woman from Tuluá, Valle del Cauca

Since 2002, there has been an increase of 67% in reported cases of extra-judicial executions attributed to government forces, (a period that coincides with the application of the government’s “Democratic Security” policy). During the same period, at least 932 people have been victims of torture. According to the Colombian Jurists Commission, since 2002 arbitrary detentions have increased, and 2,227 people were illegally deprived of their freedom in the 2004-2007 period.<sup>9</sup> Colombia is a particularly dangerous country for human rights defenders and labour unionists. Exercising one of these callings is reason enough to receive threats or be targeted for arbitrary detention, information theft and searches. During the past five years 75 cases of violations of the right to life of human rights defenders have been reported. And the situation is even worse for unions. More union activists are murdered in Colombia than in any other country in the world.

The conflict also has had a very serious impact on human development, with grave and direct consequences for fundamental social and economic rights. On average, the armed conflict has cost Colombia’s GDP approximately two percentage points each year, largely due to a defence budget that accounts for about 3.5% of GDP. That percentage puts Colombia among the world’s top 20 countries in terms of military expenditure and refutes the thesis that Colombia is not at war.<sup>10</sup> Additionally, the conflict has impacted Colombia’s place on the UNDP’s Human Development Index (HDI) given that the country dropped between 2006 and 2008 from 70th place to No. 80 out of a total of 177 nations. The implication is that today almost one in two Colombians lives in conditions of poverty.<sup>11</sup> In summation, this conflict not only has undermined the population’s development, but also has accentuated national levels of inequality, giving Colombia Latin America’s second worst rating in terms of unequal distribution of wealth.

### **The situation of women in Colombia<sup>12</sup>**

Women represent a little over 50% of Colombia’s total population, which would put their numbers at about 22.3 million. Of that amount, 54% live below the poverty line, compared to a national average of 46% of the total population below the poverty line.<sup>13</sup> Additionally, women account for 45% of the indigent population.<sup>14</sup>

In spite of progress in the recognition of women's rights in recent decades and a narrowing of the gap in several social and economic spheres, Colombia still is a long way from being an equitable society. The figures on violence, lack of access to resources and autonomy for women are a faithful reflection of the gender inequality that is historically rooted in Colombian society.

In the current social context, women continue to suffer from a lack of equality with men. In the area of education, while women have made important advances via higher rates of study (the 92 percent of women who have attended school is just tenths of a percentage point below the current rate for men) these figures mask important differences between the sexes. Specifically: women in the poorest 10 percent of the population have an illiteracy rate of 18.4% and women in rural areas have an illiteracy rate four times greater than that of their urban counterparts.<sup>15</sup> Health indicators also display great disparities. Although the life expectancy at birth of a woman is 75.3 years, and has improved notably in recent decades, women continue to confront specific health problems linked to their reproductive role; unwanted pregnancies account for 52% of the total<sup>16</sup> and the maternal mortality rate continues to be very high in relation to the country's level of development.<sup>17</sup> Both indicators can be explained by the marginalisation of women and could be drastically reduced if women had more autonomy to make their own decisions about family planning. This lack of freedom is especially prevalent among the youngest women and those who live in rural areas, and it can be explained by lower levels of education and a lack of personal resources.

In the area of economics, women have gradually joined the labour market over the past two decades, currently accounting for 43% of the economically active population. But economically active women continue to bear a disproportionate burden of unemployment, and that is especially true for younger women. Their rate of unemployment is up to 8 percentage points above that of men. A majority of the jobs that women can access are of lower quality and discriminatory, obliging them to stay in the worst paid and most precarious forms of employment. As a consequence, a majority of women are forced to look for alternative sources of income in the informal economy, where they also average half of what men make. On the other hand, women have not been able to achieve a de facto guarantee of access to land, largely due to outdated cultural patterns that benefit males when it comes to inheritance, the buying and selling of land and in access to credit and technical assistance.<sup>18</sup>

In the field of politics, women's lack of representation in decision-making positions is the norm. The Law of Quotas of 2000, which establishes that a minimum of 30% of the highest level public administration positions should be occupied by women, has not been carried out in full, in great measure because the law does not apply to elected office. The same cultural, personal, social and economic factors mentioned above have undermined the political development of women.



Women who live in conflict zones suffer not only the combined effects of all of the forms of discrimination described above. Their lives are tragically cut short by the patterns of violence that set the rules of war and affect all aspects of these women's lives. Their social and economic development is severely limited by their lack of mobility and of access to economic resources and basic social services. Women are demanding of the State restitution of their rights as landholders, given that in a majority of cases when a man dies his wife loses their land due to the lack of documents recognizing her right to it. The armed conflict also puts the lives of women who get involved in politics at serious risk, as well as the lives of their families.

## Sexual violence as a weapon of war

*"It was nighttimes. Two men with guns and wearing camouflage military uniforms came.... They took my husband outside, pointing the gun at him the whole time. ... I was able to calm our little girl, and I sang to her until she fell asleep. Then one of the men took me from the room to the hallway to interrogate me. He threatened to kill me if I resisted. He took off my clothes, he covered my mouth and he forced himself on me. He raped me. Afterward he told me to get dressed and then he said: "Nothing happened here. That, after all, is what women are for."*

Woman from Bogotá

### From domestic violence to sexual violence in conflict

Beyond the clear inequity in any of the previously described sectors, the aspect of Colombian women's situation that gives most cause for concern is the high rate of domestic violence. The National Survey of Demography and Health of 2005 reflects the crudeness with which this crime is committed in the country: 66% of women have been the victims of verbal violence; 39% have suffered physical violence; 12% have been raped by their partner and 6% by some other member of the community.<sup>19</sup> In Colombia, women are victims of 95% of all cases of spousal violence, indicating that their most intimate environment is also their most dangerous rather than being a factor of protection. Half of women who suffer aggression fall into the age range of 15 to 24 years. These women, particularly those who have yet to become adults and those with the lowest levels of education and wealth, are most vulnerable because the violence comes atop other forms of discrimination, like labour and economic exploitation.

In general terms, between 60% and 70% of Colombian women are estimated to have suffered some form of violence (physical, psychological, sexual or political).<sup>20</sup> That translates to three cases every two hours. In terms of sexual violence, it is impossible to quantify with any certainty the prevalence of this crime, although different sources say it affects between 35% and 17% of Colombian women.<sup>21</sup> These figures offer only a partial reflection of the magnitude of this problem, given that a majority of the sources agree that sexual violence is grossly underreported at the national level, with up to 90% of all cases going unreported.<sup>22</sup> This lack of reporting is one of the biggest obstacles to uncovering the reality of sexual violence. It is also troubling that women have little confidence in public institutions, as demonstrated by figures that show that less than half seek out the assistance of these entities and only about 9% have filed a report.<sup>23</sup> And when women do approach public institutions in search of help they confront multiple barriers and find that existing services are insufficient and inadequate for offering integral attention.<sup>24</sup> The implication is that a majority of victims do not receive the support and follow-up that is needed to overcome their trauma, with serious consequences for themselves and their families.

The magnitude of these alarming figures lends itself to two interpretations. On the one hand, it makes obvious the vulnerability of Colombian women and on the other hand it reinforces the patriarchal and macho attitudes that deny women's autonomy and rights. If we

add the decades-long armed conflict to this general context, the results are tragic. This armed conflict has only intensified the patterns gender violence, aggravating discrimination and the marginalisation of women. As a result, women are forced to survive within a particularly dangerous context in which they find safety neither in time of peace nor in time of war.<sup>25</sup>

### Sexual violence as a weapon of war

The Inter-American Commission on Human Rights,<sup>26</sup> the UN Special Rapporteur on Violence Against Women,<sup>27</sup> Colombia's Constitutional Court<sup>28</sup> and numerous national<sup>29</sup> and international<sup>30</sup> organisations coincide in one conclusion; sexual violence against women and girls is a systematic and generalised occurrence in Colombia's armed conflict. In the context of the armed conflict, the objective of sexual violence is not the sexual act itself, but rather it is used as a tool to attack and demonstrate power before one's enemy by causing them pain.

**Table 2. Sexual Violence and the Rome Statute**

The **Rome Statute of the International Criminal Court** lists in its Articles 7 and 8 the acts that constitute crimes of sexual violence: "Committing rape, sexual slavery, enforced prostitution, forced pregnancy ... enforced sterilization, and any other form of sexual violence also constituting a grave breach of the Geneva Conventions." The Statute is important because it is the first international legal instrument that considers acts of sexual violence to be crimes against humanity (when they are committed in a systematic or generalised manner against a civilian population, with knowledge of the attack) or as war crimes (when committed as part of a plan or policy or as part of a large-scale commission of such crimes.) It also is the instrument that has made the most complete list of crimes of sexual violence.

In Colombia's case, the International Criminal Court (ICC) will not have jurisdiction to consider war crimes until November 2009, a condition established by the government when it ratified the Statute. Because of this it is not possible to try any crime (including sexual violence) occurring in the Colombian conflict as a war crime. The ICC does, however, have jurisdiction over crimes against humanity in Colombia.

Additionally, Colombia's Constitutional Court, via its ruling C-578 of 2002, made an important observation about war crimes and crimes against humanity within the Colombian context. The Court said that when the authors of said crimes are, or are presumed to be, members of the armed forces they cannot be considered acts related to service nor tried in military criminal court, but must be tried in a civilian court.

During the half century of Colombian conflict all armed groups – State military forces, paramilitaries and guerrilla groups – have sexually abused or exploited women, both civilians and women within their own ranks. Women can be direct or collateral victims of different forms of violence as a result of their caring relationships as daughters, mothers, spouses, sisters or friends.

*“With indignation we denounce the rape in 2004 of an 11-year-old girl by a police officer who, in an abuse of his power, intimidated her with the argument that if she wasn’t with him she must be sleeping with the guerrillas.”*

Woman from Norte del Cauca

Women are targeted by armed groups for a wide range of reasons: for defying prohibitions imposed by the group; for transgressing gender roles; for being considered a useful target with which to humiliate the enemy, or for sympathising with the enemy. The goal can be torture, punishment or social and political persecution. At times sexual violence is used to control the most intimate aspects of women’s lives, imposing strict codes of conduct to control their sexual relations, what they can wear, when they should go out or who they should be pared with. Practices like mutilation and slavery are employed to these ends.

The goal of all this is to terrorize communities by using women to secure military objectives. Women become tools to be used to harm, terrorize and weaken the enemy in order to advance ones own control over territory and economic resources.

Far from being a sporadic occurrence, the use of sexual violence is normal practice that has become an integral part of the armed conflict. Nevertheless, the impunity that reigns in Colombia in relation to these crimes converts women and girls into hidden victims of the conflict and, in the face of all logic, brings shame on the survivor rather than the perpetrator.<sup>31</sup>

### **Table 3. Types of sexual violence occurring in the armed conflict**

There are numerous sources that have been recording the modalities of sexual violence in Colombia. In 2001, the UN Special Rapporteur identified during a visit to the country the existence of sexual slavery, domestic slavery, rape, sexual mutilation, sexual abuse and violation of reproductive rights of women combatants, such as forced contraception and sterilization. The Rapporteur also noted that armed groups place territorial limitations on women’s freedom of movement and establish curfews for them, impose rigorous codes of social conduct that include restrictions on women’s clothing and establish punishments for failure to comply or for “bad conduct.”

In 2004, Amnesty International broadened that list to include genital mutilation, sexual exploitation, kidnappings aimed at forcing women to provide sexual services to members of armed groups and enforced abortion or use of contraceptives. Other sources have shed light on other forms of sexual violence perpetrated by armed actors, such as forced prostitution or human trafficking. To that list we must add the rape of women who lead organisations that defend human rights, murders and rape of women who are heads of their households in the absence of a man, imposition of homophobic norms via the rape of lesbians and the execution of women with HIV/AIDS, among other forms of sexual violence.

### **Putting a figure on the incalculable**

The Inter-American Commission on Human Rights reported that sexual violence derived from the conflict and targeting Colombian women “is alarming and tending to increase.”<sup>32</sup> It is impossible, however, to quantify, even as an approximation, the actual number of women who are or have been victims of some form of sexual violence in the 50 years of the armed conflict.

Nevertheless, testimony that has been collected and the stories told by women who live in areas occupied by armed actors and by the victims of forced displacement indicate that sexual violence is much more frequent than generally believed, than reported by the media or than suggested by official statistics and registries.

There are other reasons to believe that these cases occur with greater frequency than is reported. For example, in spite of the signs that often are found on the bodies of women who are victims of sexual violence, this crime rarely is mentioned in autopsy reports. Traditionally, those crimes have not been considered as serious as murder, forced disappearance or torture. The logic behind this omission is that sexual violence has been relegated to the private domain and treated like a lesser crime and therefore is not a subject for analysis in autopsies.

*“From their high school four girls left with the guerrillas four months ago. Eight days ago they ran away. One of them told me that the guerrillas used them when they wanted to have sex. They made them do it in front of everyone. They gave them injections, which they said were for birth control. They whipped them when they failed to complete their chores.”*

Youth from Putumayo

**Table 4. Why don't women file reports?**

The motives for only about 9% of women deciding to report crimes of sexual violence that they have suffered are numerous and interrelated. The roots of those causes are found in social factors as well as personal and cultural reasons. The absence of offices of public administration, the lack of qualified attorneys and other authorities with knowledge about the handling of these cases, the lack of human and financial resources, the institutional weakness of prosecutors' offices and of the police who investigate these cases, and the profound mistrust of authorities responsible for receiving reports and investigating the facts of cases are some of the reasons why women do not report these crimes. But even those who do decide to report cases of sexual violence are submitted to re-victimisation at the hands of the judicial system because authorities tend to bring their prejudices about sexual crimes to their jobs. To these factors we must add others that derive from the private sphere, such as women's fear of reprisal from their aggressors, economic dependence or feelings they might have for their aggressor, social acceptance of this type of violence and the victims' lack of knowledge about their rights.

Statistics supplied by the responsible State agencies are very deficient because the entities charged with generating, updating and analysing data on the situation of women in the country are not fulfilling their mission.

Colombian nongovernmental human rights organisations, in recognition of this lack of data, began at the end of the 1980s to gather and systematise information about social-political violence in the country. These reports are scarce in comparison to the prevalence of sexual violence, which can also be explained by the lack of women coming forward to report crimes. Nevertheless, NGOs have been able to access victims via their own efforts at documentation and collecting testimony. Thanks to that effort we have a better qualitative understanding of this issue. This methodology has opened important avenues for providing information to international organisations and to the International Criminal Court, which is crucial to the task of

making the case that sexual violence in Colombia constitutes a crime against humanity.

*“The paramilitaries came to the town, they gathered everyone together, they put on some music and started to drink. They killed some chickens, they raped some women, they killed a few people, and they danced. The paramilitaries wore ski masks. They made the women cook for them; they just raped the very young ones. The party went on for four days. The bodies began to rot in the streets. They burned some of them so that you could not identify 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. Then cars came, State attorneys and people from the Red Cross. We believe that the army was preventing anyone from getting to the town while the massacre was taking place.”*

Woman from Pueblo Nuevo

## How to identify the perpetrators of sexual violence

The lack of information about the number of victims of sexual violence derived from the armed conflict also applies to those who commit these crimes. There is no adequate or consistent system for tracking the perpetrators. While there is proof that all of Colombia’s armed groups (guerrillas, government forces and paramilitaries) are involved, it is not possible to say what percentage of cases belongs to each one.

If we take as a sample the data presented by the Constitutional Court in its ruling 092, directed at the nation’s Attorney General at the beginning of 2009 (one of the few sources that does gather information on those who commit crimes of sexual violence), we can extrapolate the frequency with which each armed group is implicated in this type of aggression.<sup>33</sup> The Court was able to gather, thanks to the support of national women’s organisations, testimony about 183 sexual assaults on women carried out in the context of the armed conflict since 1993. The cases range from rape to forced prostitution. Of those 183 cases, 58% are attributed to paramilitaries, 23% to government forces and 8% to guerrillas, with responsibility for the remainder unknown.

This initiative of the Attorney General’s Office represents a milestone and is an important step toward putting the generalised and systematic practice of sexual violence in Colombia on the national and international agenda. Nevertheless, we should remember that although this data gives us important information it represents just a sample, is not conclusive and therefore should be used with caution.

# 3

## Impact on the lives of women

### General impact

As has been stated, Colombian women are not just confronted by the inequality and discrimination that are deeply rooted in society, but also by exploitation and abuse at the hands of actors in the armed conflict as well as violence that is a direct result of the conflict. All of this combined implies incalculable physical, psychological and social consequences for many of Colombia's women and girls.

*“Once they came to this house. They tied up the man and they grabbed the woman and a daughter and they raped them in front of him and the other children. She says that, ‘filing a report and saying that the Army did this to me would be like saying I’m going looking for my death, because if I do that, I will never be able to step outside my village again.’”*

Woman from Catatumbo, Norte de Santander

**Table 5. Stigmatized for life**

The authoritarian patterns of the patriarchal social system define how women are viewed by society. Associated with this model are certain beliefs that shift blame to the women who suffer sexual violence: because she must have provoked her aggressor; did not put up enough resistance or; offered up something in an attempt to save her life. Sexual violence thus becomes a stigma for the victim, which keeps many women from reporting the abuse while condemning them to ostracism. In these circumstances, surviving sexual violence brings the victim shame and dishonour in addition to the risk that it implies for these women and their families. Feelings of guilt lead to fear of being singled out, judged and distanced from one's social group. Women keep quiet due to fear of rejection, of suffering further attacks, of being abandoned by their families or of being abused by their husbands. Unfortunately, in many cases silence becomes the victim's best ally despite being a self-protection mechanism with serious long-term consequences. In other cases women are forced to continue living in the same space or area as the person who attacked them. Fear, threats and the possibility that the crime will be repeated become constants in these women's lives. This is the case with women who flee their place of origin due to sexual violence only to be confronted by it again at the place where they sought shelter.

The psychological impact endured by women who are victims of sexual violence varies from woman to woman and depends on a large number of factors, including context, virulence of the attack, the woman's situation, etc. However there are a series of common consequences, including: depression, psychosomatic illnesses, low self esteem, alterations in ones sexuality, and the reinforcement of gender inequities. All of this becomes an impediment to filing a report and requesting that one's case be investigated.

This type of abuse also has serious social repercussions due to its direct effect on interpersonal relationships. The victim's social relations can suffer changes, tremendous disruption and the inability to maintain relationships.

Physically, sexual violence has a drastic impact on the bodies of women. Unwanted pregnancies, sexually transmitted diseases, increased risk of maternal mortality, chronic pain, and physical disability are some of the most frequent and serious consequences.

## Flight; The plight of displaced women

### *A deeper understanding of the problem*

As indicated, there is a lack of consensus on the total number of displaced people in Colombia with large discrepancies between the different sources that report on this phenomenon, in part due to the government's policy of refusing to acknowledge the existence of an armed conflict. In spite of this disparity in available data, it is clear that women and girls make up a majority of the country's displaced population. This is no coincidence. Women take charge of families when their husbands are not around, and they are the ones who are forced to flee when they fear for their lives and those of their children.

**Table 6. Women as heads of the household**

Every modern conflict produces a great number of civilian deaths, and especially of men. This has an impact on the lives of women and the composition of the family unit as widows become heads of the household, assuming new responsibilities and functions they are not accustomed to fulfilling. From one day to the next, a whole family (children and immediate relatives) become dependent on what she can provide and on her capacity to negotiate a hostile and totally new environment. While figures vary, it is estimated that at least one in three displaced families is headed by a woman, a rate above that of the country's general population. The percentages of displaced families headed by women are highest for indigenous families (49%) and Afro-Colombian families (47%). These households face a much more precarious situation than the rest of the displaced population because they have to endure the same discrimination faced by women in general, with the implied difficulties in finding employment and earning a dignified wage. These women often arrive in their new places of residence without their spouse, but in other instances they are abandoned by the husband after arriving at their resettlement location, usually in a big city. On top of the trauma and fear suffered before and during forced displacement, this new situation further impacts the woman's security and self esteem. Joining this macho culture can cause women to experience an identity crisis, feelings of inadequacy caused by not knowing how to proceed and a sense of guilt for not being able to adequately attend to her children.

Sexual violence is one of the lead causes of forced displacement in the country. Specifically, 2 in 10 displaced women report having to flee because of these types of crimes.<sup>34</sup> Of course, this is not the only cause of displacement; broader violence resulting from the armed conflict, the advance of paramilitary forces, drug trafficking, and political and economic factors present in the expulsion zone all are factors that lead to displacement and impact the lives of women.



*“Two years ago the Army took us off a bus leaving Neiva. They killed the boy that was with me. I was raped by eight or nine soldiers. They left me on the side of the road, until I was able to flag down a car. When I got to Dabeiba, the paramilitaries were there. They said I was a guerrilla. The paramilitary commander raped me. ... You have to keep your mouth shut. ... If you talk about what happened people say you were asking for it. ... I came to Medellin .... When the Army comes around it all comes back to me and I am afraid that it will happen again. It is like a nightmare that never ends.”*

Woman displaced from Neiva

The number of displaced women also varies depending on the source, ranging from 50% to 58% of the total displaced population.<sup>35</sup> If in addition to women we add children, this group accounts for more than 75% of the displaced population.<sup>36</sup> The figure is inexact because available data does not adequately break down the displaced population by age and gender. On top of that, women and their children often are forced by security concerns to change location several times, making it even more difficult to keep track of the displaced population.<sup>37</sup>

Delving deeper into the data we find that women who are indigenous, Afro-Colombian or heads of their household are the demographics most affected by displacement.<sup>38</sup> To a large degree, the geographic zones most affected by the conflict are regions of origin for these ethnic groups, such as the northern corridor of the Cauca and the southern portion of Valle. However, as the number of displaced increased in the 1980s, the areas from which they were forced to flee also spread at an alarming rate. In terms of relocation, between 30% and 50% of the displaced take refuge in and around large cities, while most of the rest flee their rural areas to smaller municipalities. Families and particularly women tend to believe that cities offer them greater protection.<sup>39</sup>

### *The vicious cycle of displacement and vulnerability*

The preceding contextual analysis demonstrates that women, be they heads of household or not, face a series of needs and social and economic, cultural and political difficulties (such as lack of employment, discrimination, being singled out and stigmatised) that present obstacles to getting their lives back on track. This precarious condition is made worse because women rarely possess a title to their land or property and, especially in the case of indigenous and Afro-Colombians, many do not have identity papers. They also tend to lose all their belongings in the process of displacement (house, furniture and household goods, crops and animals) and suffer the emotional and social disconnect that comes with moving from a remote rural area to a strange urban centre.

Sexual and reproductive health is another area where displacement has a disproportionate impact on women. It has been shown that women in this situation have higher fertility rates, more early pregnancies (estimated at 37%), more sexually transmitted diseases, and a higher rate of abortion than the national averages.<sup>40</sup>

The mere fact of having fled exposes displaced women to greater suspicion of having ties one of the armed groups, thus increasing their risk of suffering reprisals. Stigmatized and fearing for their lives, many displaced women try to find security in anonymity or attempt to blend into the impoverished urban communities they generally flee to. Having left behind their homes, possessions and livelihoods, these women constitute one of society's most vulnerable demographics.

That vulnerability is compounded by the lack of means to escape dangerous situations, which makes these women easy targets of sexual violence.

For that reason, tragically, the threats to women's security and lack of protection do not end with displacement. Despite being uprooted and having to flee her home, the woman must continue to deal with coercion, intimidation and sexual assaults at the hands of all of the armed groups. In surveys 34% of women interviewed in the department of Bolivar and its capital, Cartagena, said they continued to be the victims of some form of threat or intimidation from armed actors even after displacement.<sup>41</sup> The High Commissioner for Human Rights reported in 2005 that 52% of displaced women had suffered some form of physical abuse and 36% had been forced by strangers to have sexual relations.<sup>42</sup> This does not only affect adult women; displaced girls are forced to have sexual relations and to enter into relationships prematurely in order to survive, have a roof over their heads and have some measure of security. Evidence of this is found in the statistics: 32% of pregnancies in the displaced community involve girls between the ages of 12 and 17.<sup>43</sup>

This lack of security also prompts many displaced women to once again flee with their families in search of a new refuge where they can feel safe. Returning to their place of origin is not always the solution. The lack of a secure and appropriate environment to return to means that women who want to go home must do so under conditions of minimal security. In summary, we can say that there is no place in Colombia that guarantees a woman's safety.

*"We Afro-Colombian women have been pushed around on our own lands and wherever we go by the different groups and by both legal and illegal armed actors. They kidnap us, they kill us, they rape us, they humiliate us... eroding our people's social fabric in the process. Because of all that, there can be no doubt that the armed conflict has damaged the sensibilities of black women; our ancestral legitimacy, our instructive creativity, our reproductive lives and our love for our land."*

Afro-Colombian woman from Chocó

## **The most vulnerable women: Afro-Colombians and the indigenous**

Among the different population groups, Afro-Colombians and indigenous women and girls face the greatest vulnerability to sexual violence given the triple discrimination they endure due to their gender, ethnicity and the poverty in which they generally live.<sup>44</sup>

The conflict has only exacerbated the exclusion of these women, making them even more vulnerable to rights violations and to abuse. But there are no official figures that illustrate the magnitude of the violence to which Afro-Colombian and indigenous women are exposed. In addition to the obstacles that women in general face, these particular women also confront difficulties stemming from their geographic isolation and the lack of government offices where they can report abuses. It stands to reason, then, that under reporting of cases affecting these women is even greater than for women in general.

### **Afro-Colombian women**

The vast majority of this ethnic group lives principally in coastal areas of the Pacific and Caribbean regions. They make up approximately 26% of the Colombian population and 72% of them are in the two lowest socioeconomic strata, as defined by the government.<sup>45</sup> They live in particularly precarious and worrisome conditions due to a long history of marginalisation, a very low public profile and social and economic disadvantage. The racism with which Afro-Colombian women have lived has affected their development and limited their

access to resources, public services and to participation in decision making at the local and national level.

Throughout the five decades of conflict the already fragile situation of Afro-Colombian women has only gotten worse. They have been disproportionately affected by displacement and sexual violence. They have had to flee their lands and seek refuge in distant places, bringing an abrupt change in family roles and structure. The impact of this displacement has been more intense when they have had to flee to urban areas, due to the implicit loss of community life and the uprooting of their social model, with its cultural, territorial and family implications. Displaced Afro-Colombian women are subjected to racism by the communities they relocate to, making their transition to this new society even more difficult. Additionally, the conflict has robbed them of their traditional role of transmitting beliefs and traditions to the community. Currently more than 30% of the displaced population are Afro-Colombian, and half of the displaced Afro-Colombians are women. Almost half of those women are heads of their household.<sup>46</sup>

*“In Delicias they killed a 10-year-old girl. They slit her throat and mutilated her. It was around the time that they killed my daughter. About that time they cut off the breasts of another indigenous girl who was 16 years old. They wanted to make their presence know. These were all indigenous girls. For indigenous people, in any war women and children and elders must be respected. They are horrified.”*

Woman from Valledupar, Cesar

### *Indigenous women*

Colombia has 84 distinct indigenous groups whose members account for 2% of the country's total population and are distributed across 31 of the nation's 32 departments. Although the Colombian State has been a pioneer in recognising the rights of indigenous peoples, it has not been able to guarantee their rights as set down in the Constitution and in other law. Additionally, indigenous peoples continue to be societies marked by a tradition of discrimination and marginalisation, especially where women are concerned.

The importance of indigenous lands is undeniable and its value within the war economy is immense: it has high strategic military and economic value; it makes an important contribution to national infrastructure; it is rich in natural resources and is used to cultivate and traffic illegal drugs. All of these land uses have had dramatic impacts on indigenous women, who are forced to abandon the land they are historically and cultural tied to. Further, they believe that their survival as a people is intrinsically dependent on maintaining those lands because that is the only place they can be free. Despite those deeply seated beliefs, it is estimated that indigenous people account for 12% of the displaced population. Forced sexual relations are taboo in indigenous cultures, which gives rise to suspicion that the few testimonies about these types of crimes that have been collected from indigenous women represent a very small proportion of the actual cases of sexual violence.

# How to protect women

## **Self-protection mechanisms for women: how they organise and how they protect themselves**

In the face of this context of rights violations Colombian women have mobilised, they have organised and they have protected themselves. Far from playing the victim, women have taken a proactive role in demanding the restitution of their rights.

The principal force for combating this situation of violence has been a women's movement that now has three decades of systematic work under its belt. The greatest growth of this movement came in the 1980s and 1990s, when women's organisations spread throughout the country despite the ongoing conflict. There are now local, informal groups as well as women's organisations with national presence. There are groups formed by poor urban women, by women from farm communities, indigenous women and Afro-Colombians. This has allowed for the consolidation of a broad network of organisations representing diverse experience and knowledge but with one common denominator: the defence of women's rights.

This movement has been vocally confrontational but non-violent. That attitude has characterised their struggle protesting and rebelling against the norms and life styles imposed by a patriarchal culture and the conflict. Their efforts have produced historic advances by putting the issue of women's rights on the table and formulating policies and protection laws for women who have been victims of sexual violence resulting from the armed conflict. One example of this struggle is the huge effort women's organisations devoted to pushing the Constitutional Court to issue Ruling 092.

These organisations also have succeeded in bringing the issue of violence against women into the light via mobilisation campaigns and public demands aimed at influencing the media and institutions. Their campaigns have contributed to raising awareness within Colombian society and they have gone beyond their borders to educate the world about the situation of Colombian women who suffer the effects of the conflict.

The women's organisations also work directly with women who have suffered sexual violence, providing accompaniment throughout the post-attack process, from getting medical and psychological attention to filing a report and taking their cases to court. Thanks to this accompaniment victims have access to continual professional support which has led to more women daring to file reports with the pertinent authorities. That, in turn, has helped shed light on the hidden reality of sexual violence in Colombia.

The labour that these groups carry out is even more impressive given the fact that many defenders of human rights and of the rights of women are subject to attack, intimidation, threats and at times even

murder. There are high-level officials that accuse rights defenders of being guerrillas or terrorists, or of being allied with these groups. As a result, rights workers in general are stigmatized and their labour made much more difficult.<sup>47</sup>

### **Table 7. Oxfam International and its Women's Rights Programme**

The Women's Rights in Colombia Programme has as its objective to promote all women's right to a life free of violence and the strengthening of women's organisations and their political participation. Additionally, the Programme is working to: confront and counter social acceptance of violence against women in all of its forms and to guarantee that these crimes do not go unpunished; guarantee that women can exercise their sexual and reproductive rights; promote transformative leadership and; promote a gender focus. To achieve these goals, Oxfam is implementing strategies in the areas of training, research, political participation, mobilisation and advocacy in support of a woman's right to demand her rights. Programme coverage extends to approximately 30,000 direct beneficiaries and although most of them are women, we also work with men and specific sectors of the population, such as indigenous peoples and Afro-Colombians. Oxfam International mainly works through national, regional and local organisations, called partners, considering them important agents of change for the country's political and social transformation and the means of achieving meaningful and sustainable progress in Colombian society. Oxfam's International's partners are: The Opening Roads Women and Mothers Association/Asociación de Mujeres y Madres Abriendo Caminos; the House of Women Corporation/Corporación Casa de la Mujer; The Santa Rita Association for Education and Promotion/Asociación Santa Rita para Educación y Promoción (FUNSAREP); Corporation 'Let's Go Woman'/Corporación 'Vamos Mujer'; Amazonia House/Casa Amazonia; the Pacific Route Women's Consortium/Consortio Ruta Pacifica de las Mujeres; Corporation Centre for Promotion and Culture/Corporación Centro de Promoción y Cultura; the Etnollano Foundation/Fundación Etnollano; The Chocó Women's Network/Red de Mujeres del Chocó and; the Sisma Women's Corporation/Corporación Sisma Mujer. Most of these organisations work with women who are victims of sexual violence stemming from the conflict. They have extensive experience in the protection of these women's rights thanks to decades of activity in awareness raising, mobilisation, denunciation and advocacy. Oxfam International is working to strengthen, support and promote its partners' work in both the national and international arenas.

### **The role of the Colombian government: far from complying with its responsibility to protect**

Colombia has signed and ratified regional and UN treaties, declarations and resolutions dealing with the protection of women.<sup>48</sup> At the national level, the point of departure for the legal protection of women did not come until the Constitution of 1991, which consecrates the right to equality and prohibits discrimination against women. Throughout the 1990s and the beginning of the second millennium Colombia approved successive legislation aimed at guaranteeing all women a life free of violence in the private and public spheres.<sup>49</sup> With respect to sexual violence in the context of the armed conflict,

approval of Law 599 of the Penal Code in 2000 brought national legislation into line with international humanitarian law, resulting in a significant advance for the protection of women. In spite of that, women's protection still is not completely guaranteed because not all types of violations (sterilisation and forced pregnancy, for example) stipulated in national legislation are treated in accordance with international standards. However, the big obstacle to true compliance stems from the practical application of these laws, which still leaves much to be desired.

In large measure, this is due to the lack of an integral and inter-institutional programme that guarantees women's rights, especially in the area of sexual violence stemming from the armed conflict. There are no specific plans or programmes for handling these cases and existing mechanisms are inadequate and do not meet the needs of women affected by the conflict. According to national women's organisations, there is no inter-sector coordination for implementation of measures aimed at prevention, counselling and rehabilitation. To that panorama we must add the fact that many women who are victims of sexual violence have very limited or no access to the government's meagre health, housing, labour, education and land programmes, among others.

State policies for attending to women who are victims of sexual violence within (and outside of) the conflict continue to be characterised by patterns of subordination, discrimination and exclusion that victimise the survivor a second time. These programmes also are plagued by an approach to protection that fails to give the people a voice in their processes, know here as 'assistentialism', and by a paternalistic attitude toward women. To a large extent this is because not even the women's organisations have been able to participate in the design and formulation of these policies.

The problem goes beyond the lack of adequate programmes and policies to the even more critical issue of the government's attitude about sexual violence. It has become apparent in recent years that this issue has never been a part of the government's national or international agenda, but rather is relegated to a second order of importance. An example of this attitude is found in a speech made by the Vice President of the Republic before the Working Group for Colombia's Universal Periodic Review (UPR) at the beginning of 2009.<sup>50</sup> The UPR is an internationally recognised UN mechanism for evaluating a country's progress on respect for human rights. In its presentation, the government failed to even mention sexual violence stemming from the conflict, showing how little relevance it gives to this crime.

Colombia still is far from complying with its obligations under UN Security Council Resolution 1325 of October 31, 2000, which addresses the issues of women in armed conflict. The State has failed to work for greater representation of women in national institutions involved in resolving the conflict. It has failed to implement the public policies

needed to protect women and girls from conflict related violence or to end the impunity with which this crime is perpetrated.

*“A group of armed men broke down the door of our house while we were sleeping; they knocked over the furniture and broke everything. They tied my father to a chair. They spread my legs and tied one to a dresser and the other to the bed. They insulted, and threatened us. They raped my sister and me. Later we learned that the same thing had happened to the neighbours and one girl from the village had to be taken to the hospital to treat her wounds.”*

Young woman from Pueblo Nuevo Mejía

Nevertheless, there are initiatives such as Constitutional Court **Ruling 092** of 2008 that offer some hope of progress with regard to the protection of women. The ruling contains an unprecedented official affirmation: sexual violence is a normal, widespread and systematic practice of the armed conflict, and the issue receives little public attention.<sup>51</sup> This ruling orders the Government of Colombia to adopt integral, or comprehensive, measures for protecting the fundamental rights of women displaced by the armed conflict. It also calls for measures to prevent the disproportionate impact of the conflict and related displacement on the lives and bodies of women. Women’s and human rights organisations coincide in characterising this ruling as a milestone in Colombia’s recent history because it defines women as political subjects of rights, or rights holders, recognises sexual violence as a systematic practice, validates the importance of democracy, control mechanisms and the division of power, and emphasises the need to study and analyse the phenomenon of sexual violence. Despite the ground breaking nature of Ruling 092, the Colombian government has not demonstrated the necessary political will to comply with it, or with conditions imposed by the related Constitutional Court decision T025 of 2004. Even after the ruling was handed down, serious institutional obstacles to its compliance continue to be identified.<sup>52</sup> Among other shortcomings, the government has failed to appropriate funding for the 13 programmes for the protection of displaced women that were set forth by the court. Nor has the government coordinated with the diverse public entities implicated in the ruling’s implementation. The Court’s efforts have been made even more difficult by a government campaign that seeks to discredit its members.

After close to two years of intense debate in decision-making bodies on the legislative project called **Law of Victims** (or Law 157) of 2007, the initiative was shelved at the government’s request on June 18, 2009. As a result the whole process must start from scratch, with a new legislative project and the implied delay in reparations for victims of the conflict.

The first draft of this legislative project offered protection, reparation and assistance to all victims of the armed conflict, including women and especially the victims of sexual violence. But the Uribe administration’s insistence on maintaining a discriminatory hierarchy among victims became a sticking point in the discussions. While the Senate insisted that all victims should receive the same reparation, the lower house, or Chamber of Representatives, and the Uribe administration argued that approval of the law as initially written constituted “a serious threat to Democratic Security” because it put victims of State actors on a par with victims of illegal groups.<sup>53</sup> Democratic Security is State policy; President Uribe’s blueprint for dealing with the armed conflict.

The Chamber's version gave victims of State forces less opportunity of receiving compensation than victims of other groups by relegating their cases, and therefore reparations, to being handled by the criminal justice system. That process can take up to a decade. Victims of guerrillas and paramilitaries, on the other hand, would have received reparations via an accelerated administrative process if the Uribe-supported version had been voted into law. The government also cited fiscal reasons for opposing the Senate version, but its assertion that treating all victims equally would break the nation has never been substantiated.

The lower house's version of the draft legislation had many other shortcomings that would have violated the rights of victims of State agents. In introducing a discriminatory reparations system the government attempts to deny its responsibility for human rights abuses and for the violation of International Humanitarian Law. The text excluded the restitution of land usurped in the conflict and deformed the concept of reparations by giving it a paternalistic, or assistentialist, character. The project created doubt about reparations for victims of paramilitary groups, given that the government's insistence that those groups are no longer active. This aspect of the debate has direct implications for women who have suffered sexual violence at the hands of paramilitary or State agents, potentially marginalising them from the system of reparations and relegating them to the lowest priority among victims.

For all these reasons national and international organisations, opposition political parties and the UN High Commissioner for Human Rights have roundly rejected the government's position and its persistent denial of the rights to truth, justice and integral reparations.<sup>54</sup>

**Table 8. Impunity and invisibility: a vicious circle**

The fact that those responsible for crimes of sexual violence are not investigated, tried or punished has contributed to an environment of impunity and invisibility with regard to violence against women, perpetuating the silence that traditionally has enveloped this issue. The denigrating treatment of women under the Justice and Peace Law and in the Colombian criminal justice system in general is cause for serious concern. Compared with other population groups, violations of women's rights are subject to much greater impunity. Thus viewed, the Colombian State is responsible for these violations as long as it fails to adopt measures that guarantee the equitable and effective administration of justice. The news media and society as a whole, encouraged by the government's attitude, consider sexual violence stemming from Colombia's armed conflict to be an infrequent crime of secondary importance. The effort to raise awareness about this issue must be permanently sustained and extended to the entire country. That effort should range from raising societal awareness about this issue to implementing specific strategies aimed at dismantling the current hierarchy which relegates sexual violence to consideration as a lesser crime. Overcoming the impunity surrounding sexual crimes is crucial to the re-establishment of women as rights holders within society. It also is a means of creating a precedent that will help prevent new cases of sexual violence.



Punishing the perpetrators of these crimes will end the veil of invisibility and impunity that has condemned women to suffer in silence.

Since its adoption, **the Justice and Peace Law** of 2005, also known as Law 975, has given rise to a chorus of criticism within Colombia and outside the country. The law's goal is to facilitate the peace process, regulate the demobilisation of paramilitary forces, guarantee the rights of victims and facilitate humanitarian agreements. But far from accomplishing all of these objectives with regard to the victims of conflict-related sexual violence, the law has contributed to the impunity surrounding these crimes. Demobilised paramilitaries are failing to admit or acknowledge these crimes in the confessions they must render as a condition of demobilisation under Law 975, and thus are avoiding punishment for them.<sup>55</sup> According to the High Commission on Human Rights' Annual Report on Colombia, dated February 19, 2009, 15 cases of sexual violence had been mentioned in the declarations, called "free versions," and only 4 of those mentions have been in the form of a confession of personal responsibility. That is out of a total of 18,431 crimes mentioned and 4,678 crimes confessed by former paramilitaries and during their free version testimony, up to the time of the Commission's report was published.

*"500 paramilitaries came to our village because it is in guerrilla territory. They threatened us and they took women to be their servants. They killed girls, boys, men and women. They would not let us gather the bodies, and the dogs fed on them. They hanged several children and they mutilated the genitals of the cadavers. They raped many women. I falsified a letter that said I had to go to the city because my aunt was very sick. The paramilitaries said they would only let me go if I left them my daughter. I escaped with my three children during the night. Today I live outside of Cartagena; the conditions are very bad given that it is almost always flooded there. I have to tie the children to the bed at night so that they don't fall into the water."*

Woman from Pueblo Nuevo Mejía

There are several reasons for this omission. On one hand, the Attorney General's Office does not consider that sexual violence should be the subject of investigation in the paramilitary demobilisation process, despite the stated goal of affording victims their right to the truth. This official position makes it impossible to officially investigate the systematic and generalised nature of these crimes, thus avoiding their characterisation as crimes against humanity. On the other hand, the Attorney General's Office narrowly defines sexual violence as rape, and so fails to question paramilitaries about other universally acknowledged forms of sexual violence. Lastly, the Attorney General's Office has failed to carry out proactive investigations of all paramilitary crimes, as mandated in Article 16 of Law 975, but confines its queries to crimes freely admitted by the demobilised paramilitaries. As a result, crimes of sexual violence are virtually absent from paramilitary confessions.

The deficiencies of this process are cause for concern, but they are even more worrisome given that the demobilisation of paramilitaries is not really happening. On the contrary, the paramilitary groups are changing their names while maintaining reduced structures and consolidating their power.<sup>56</sup> Given this reality it is difficult to accept at face value official statements that Colombia is undergoing a transition to peace. Women, and especially those who have been victims of sexual violence, feel just the opposite. They are suffering the return to their communities of some 30,000 demobilised paramilitary fighters, their crimes washed away by Law 975 but their sexist attitudes intact. For women, this return has become a source of insecurity and threats. These demobilised men continue to believe that women are fair game, to be had and used by force. The situation is made worse by economic disparity. The demobilised fighters receive public monetary support for 18 months while the women who were victims of forced displacement receive support for only six months. The women are left

in greater vulnerability and often at the mercy of these men and their State-supplied economic resources.

Thanks to Law 975, the Attorney General's Office has been able to register the complaints of 14,576 women. Only 64 of those complaints (0.4%) correspond to sexual crimes. This lack of complaints before institutions of the justice system is another example of the women's fear of their attackers, and the meagre guarantee of protection afforded them by the government. In spite of that, the declarations made via this process can be a mechanism for making the argument that these crimes are generalised and systematic in nature.<sup>57</sup>

Intrinsic to the task of constructing a foundation for peace is the Right to Justice, Truth and Reparation, including for women. As indicated by the Inter-American Commission on Human Rights, Colombian women should be afforded these rights given the role they have had to fulfil in the conflict. But laws such as Justice and Peace seem to be putting even more distance between women and those fundamental rights.<sup>58</sup>

**Table 9. The European Union and Colombia's Universal Periodic Review**

In December 2008, Colombia faced its Universal Periodic Review. This is the United Nations' primary mechanism for conducting a systematic study of the human rights compliance of its member nations. The Review presented a unique opportunity for countries to demand of Colombia a clear accounting of its progress on these issues and to formulate concrete recommendations for improving the country's compliance with its obligations with regards to human rights. Unfortunately though, sexual violence has been almost ignored by the Review. Of the 16 EU member nations that took part in the Working Group that evaluated Colombia, only three (Ireland, Germany and Sweden) made explicit reference to the women who have suffered sexual violence. This omission indicates that just as the Colombia government relegates sexual violence to a secondary role, so do the rest of the countries when it comes time to examine Colombia's human rights record. From this we can deduce a clear need for raising awareness about these crimes so that the international community, and especially the EU and the United Kingdom, realise the magnitude of this issue and assume the role of advocate for the victims.

# Conclusions and Recommendations

The generalised and systematic existence of sexual violence against women, employed by all of the armed groups as a weapon of war and as a component of their broader strategy of terror against the civilian population, can be a crucial element in characterising this practice as a crime against humanity.

That reality contrasts with the veil of impunity and silence that has kept these crimes in the dark and perpetuated them. This situation is in large part a result of the Government of Colombia's negligence in taking the measures needed to achieve zero tolerance of these crimes. The Colombian government has maintained a very low profile with respect to the situation of generalised vulnerability of women, accentuated by a lack of political will and by failure to take on an issue the government considers of secondary importance.

The European Union and especially the United Kingdom should take action on this issue and pressure the Colombian government to implement an integral policy to address the causes of this systematic violation of the women's rights in the context of armed conflict, achieving their protection and autonomy. The government also should adopt measures to guarantee the equitable and effective administration of justice in Colombia.

In order to address this situation and begin to guarantee comprehensive protection of women affected by the armed conflict the following measures are urgently needed:

## **The European Union its Member States should;**

- Apply to its bilateral relations, and encourage within the EU system, policies that insist on the guarantee of a State of Law and zero tolerance for human rights violations, and especially policies to combat sexual violence against women in the context of the armed conflict. This zero tolerance should include a demand to investigate these types of crimes, bring the cases to trial, sanction those found responsible and compensate the victims.
- Contribute to the struggle against impunity and to the protection of women from sexual crimes via the inclusion of clauses and conditions that deal specifically with this issue in documents governing relations between the EU and Colombia and between the United Kingdom and Colombia.
- Substantially strengthen its collaboration with civil society organisations, especially with those that work on issues related to the defence of human rights and those that work on issues related to sexual violence.
- Urge the Colombian State and especially the current administration to:

- Update its legal framework and national policies to bring them in line with international norms aimed at guaranteeing the rights of women to the prevention of violence and attention from and access to the justice system without regard to age or ethnicity, especially with relation to UN Security Council Resolution 1325. Special attention should be afforded the design and adoption of policies that guarantee these rights for indigenous and Afro-Colombian women who have been forcibly displaced from their areas of origin.
- Improve the judicial system by incorporating protections and privacy rules that will allow women to report sexual abuse in general and particularly sexual crimes related to the armed conflict. Additionally, a public policy should be instituted to give women victims of armed actors access to their rights to truth, justice and integral reparation and to ensure that their victimizers are investigated, judged and punished
- Implement an integrated public policy for dealing with sexual violence related to the armed conflict that includes aspects such as health, education, justice and employment. This policy should be backed by sufficient financial resources and qualified personnel to respond to the needs at the national and local levels and in urban and rural areas.
- Establish and improve statistical registries of information on sexual crimes committed by armed actors.
- Appropriate the necessary funding to ensure implementation of new legal initiatives for the protection of women affected by the armed conflict. Specifically, the State should display a clear political will to comply with Ruling 092 of the Constitutional Court. The Government also should revive the original draft of the Law for Victims and ensure there is no discrimination and that victims receive equal treatment.

# Notes

- 1 Colombia Universal Periodic Review Report. July 2008. Bogotá.
- 2 idem
- 3 Amnesty International, (2006) "Colombia: Fear and Intimidation: The dangers of human rights work"
- 4 The data quantifying displacement in Colombia vary with the source. For example, Amnesty International, The Consultancy for Human Rights and Displacement (CODHES) and the UN High Commission for Refugees put the figure at more than 3 million, while official Colombian sources put the figure at more than 2 million. Specifically, CODHES has raised its 2008 figure to more than 4.5 million. That year saw the biggest increase in forced displacement since 1999. Throughout 2008 an average of 1,250 people were displaced every day. To see a ranking of countries with the most displacement visit: <http://www.internal-displacement.org>
- 5 Amnesty International (2004) "Scarred bodies, hidden crimes": Sexual Violence against women in the armed conflict.
- 6 According to the report presented jointly by Colombia, Europe and the United States to the Colombia Universal Periodic Review of the UN Human Rights Council, 2008.
- 7 Colombian Jurists Commission. "Report for the Colombia Universal Periodic Review," 2008.
- 8 National Association of Campesino, Afro-Colombian and Indigenous Women of Colombia.
- 9 idem
- 10 Human Development Report 2007/2008.
- 11 National Planning Department (2007) "*Pobreza y desigualdad en Colombia: diagnóstico y estrategias*" (Poverty and inequality in Colombia: diagnosis and strategies).
- 12 This report will analyse women's role as non-combatant victims of the conflict although there are women actively participating in the conflict either because they were forced to do so or incorporated willingly.
- 13 UNIFEM (2007) "Situation of Women in Colombia." <http://www.acnur.org/biblioteca/pdf/3809.pdf>
- 14 idem
- 15 According to the Quality of Life Survey, 2003, the illiteracy rate of the poorest 10 percent of Colombians is comparable to that of the Congo.
- 16 Ministry for Social Protection. General Department of Public Health. National Sexual and Reproductive Health Policy. Bogotá, Republic of Colombia. (2003)
- 17 According to the Ministry for Social Protection (2005) the maternal mortality rate is 104.9 per 100,000 live births. That figure masks huge disparities between regions and social economic classes. Compared with other countries, Colombia is on a level with nations such as Belize, Ecuador or Cape Verde.
- 18 Thanks to the Law 160 on Agrarian Reform, Colombia in 1994 recognised a woman's right to land for the first time via joint property titles for couples without regard to marital status and the recognition of female heads of household as potential beneficiaries of land reform, with priority given to displaced women. See <http://www.incora.gov.co/ley160.htm>
- 19 The Survey was carried out by PROFAMILIA in 1995, 2000 and 2005.
- 20 UNDP (2000) National Human Development Report for Colombia, 2003.
- 21 The surveys carried out by Doctors Without Borders (MSF) in 2008 found that 35.6% of the women who visited mobile clinics reported having been the victim of sexual violence at least once in their lives. For women going to regular clinics the figure was 22%. The National Demographic and Health Census of 2005 reported a figure of 17.5%. The census has not been conducted since 2005.
- 22 The National Institute for Legal Medicine and Forensic Sciences (INML) is the public entity responsible for issuing forensic medical opinions for the criminal courts.
- 23 UNDP (2000). National Human Development Report for Colombia. For more information on why women do not file reports see Table 3.
- 24 Doctors Without Borders (2008) "*Violencia Sexual en Colombia: Una mirada integral desde los proyectos de ayuda humanitaria en salud de Médicos Sin Fronteras*" (Sexual Violence in Colombia: A comprehensive view from the humanitarian health assistance projects of Doctors Without Borders.)
- 25 Experts and national women's organisations characterise the transition from this type of violence to sexual violence stemming from the conflict as a continuum.
- 26 Report "Violence and Discrimination Against Women in the Armed Conflict in Colombia," elaborated with information gathered in a 2005 visit by the CIDH Rapporteur for Women's Rights, who found that women affected by the Colombian conflict are vulnerable to military strategies that include physical, psychological and sexual aggression specifically targeting females.

- 27 Report of the United Nations Special Rapporteur for Violence Against Women on the causes and consequences of violence against women (2001) "Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women." UN Economic and Social Council.
- 28 Opinion No. 092 of April 14, 2008, monitoring compliance with Ruling T-025 of 2004 on the protection of the rights of women victims of forced displacement, affirmed that "sexual violence is a habitual, widespread, systematic and hidden practice in Colombia's armed conflict, as are sexual exploitation and abuse, carried out by all of the illegal armed groups in contention and, in isolated cases, by individual agents of the Public Forces."
- 29 Mesa, SISMA; etc.
- 30 Amnesty International
- 31 For more information on the hidden nature of sexual violence see Table 6.
- 32 See the CIDH Report "Violence and Discrimination Against Women in the Armed Conflict in Colombia," paragraph 64.
- 33 See [http://mx.news.yahoo.com/s/ap/090302/latinoamerica/ams\\_gen\\_colombia\\_fiscalia](http://mx.news.yahoo.com/s/ap/090302/latinoamerica/ams_gen_colombia_fiscalia)
- 34 According to the People's Defence Office, or Defensoría del Pueblo, report "*Promoción y monitoreo de los derechos sexuales y reproductivos de mujeres víctimas de desplazamiento forzado con énfasis en violencia intrafamiliar y sexual*," (Promotion and Monitoring of the Sexual and Reproductive Rights of Women Victims of Forced Displacement with emphasis on Sexual and Domestic Violence), 2008.
- 35 Report of the Special Rapporteur for Violence Against Women on the causes and consequences of violence against women (2001);
- "Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women." UN Economic and Social Council.
- 36 Observatory on the Human Rights of Women in Colombia (2006). '*Las Invisibles. Mujeres, desplazamiento y política pública 2002-2005*.' (The Hidden. Women, Displacement and Public Policy 2002-2005) Sisma, National Women's Network and Atelier.
- 37 See, for example, Profamilia (2001) '*Salud Sexual y Reproductiva en Zonas Marginales, Situación de las Mujeres Desplazadas*' (Sexual and Reproductive Health in Marginalised Areas; the Situation of Displaced Women). Bogotá.
- 38 For more information about this sector see the following section.
- 39 Report of the Special Rapporteur for Violence Against Women on the causes and consequences of violence against women (2001);
- "Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women." UN Economic and Social Council.
- 40 UNHCR, press release for Women's Day 2009.
- 41 See the League of Displaced Women and the Observatory on Gender, Democracy, and Human Rights (2007). "*Encuesta de prevalencia de violencia sexual basada en género en mujeres desplazadas por el conflicto armado en Cartagena y Bolívar*" (Survey on the Prevalence of Gender-based Sexual Violence against Women Displaced by the Armed Conflict in Cartagena and Bolívar). Bogotá.
- 42 See National Policy on Sexual and Reproductive Health (2005) "*Documento del Ministerio de la Protección Social*" (Document of the Ministry of Social Protection.)
- 43 Figures taken from the study "Sexual and Reproductive Health and Domestic Violence," International Organisation for Migration, for the USAID-funded programme Attention for Displaced and Vulnerable Groups, 2008.
- 44 This discrimination has been identified by varied sources including 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.
- 45 National Council for Economic and Social Policy, National Planning Department, CONPES Document 3310, "*Política de Acción Afirmativa para la Población Negra o Afrocolombiana*" (Affirmative Action Policy for the Black or Afro-Colombian Population), Bogotá, September 2004.
- 46 See CIDH report "Violence and Discrimination Against Women in the Armed Conflict in Colombia," paragraph 115.
- 47 See the statement of the UN Rapporteur for extra-judicial, arbitrary and summary executions at: <http://www.reliefweb.int/rw/rwb.nsf/db900sid/MUMA-7T67FA?OpenDocument>
- 48 The main regional conventions dealing with women's rights include the Belém Convention of Belém do Pará, The American Convention on Human Rights, San Salvador Protocol. At the world level Colombia has signed or ratified the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW), Declaration on the Elimination of Violence Against Women, Resolution 1325, Resolution 1820, and the Rome Statute.
- 49 Some of the most significant laws protecting women's rights are; Articles 13 and 43 of the Constitution of 1991,

Law 360 of 1997, Law 599 of 2000 and Law 1257 of 2008.

50 The Review is the United Nations primary instrument for systematically assessing the human rights records of its 192 member nations. To see the Colombia Review visit: <http://www.ddhhcolombia.org.co/node/214>

51 the Constitutional Court in its Opinion 092 literally says "Sexual violence against women is a habitual, widespread, systematic and hidden practice in Colombia's armed conflict, as are sexual exploitation and abuse, carried out by all of the illegal armed groups in contention and, in isolated cases, by individual agents of the Public Forces."

52 See: <http://colombia.unfpa.org/documents/Boletin%203%20procuraduria%20final%20dic%2016-08.pdf>

53 See: [http://www.infolatam.com/entrada/colombia\\_uribe\\_pide\\_a\\_los\\_legisladores\\_n-14513.html](http://www.infolatam.com/entrada/colombia_uribe_pide_a_los_legisladores_n-14513.html)

54 See: <http://www.amnesty.org/es/news-and-updates/news/ley-victimas-colombia-discriminatoria-20081125> and <http://www.reliefweb.int/rw/rwb.nsf/db900sid/MUMA-7T67FA?OpenDocument>

55 According to this law, the demobilised can receive the benefit of alternative sentencing, limiting prison time to between 5 and 8 years regardless of number or seriousness of their crimes.

56 See People's Defence Office (Defensoría del Pueblo) (2005), Colombian Jurists Commission (2007), Indepaz (2007) among others.

57 See FRIDE (2008) "*Acceso de las mujeres a la justicia en el marco de la Ley 975 de 2005*" (Women's Access to Justice under Law 975 of 2005), Luz Piedad Caicedo.

58 See CIDH (2006) "Violence and Discrimination Against Women in the Armed Conflict in Colombia." Washington. p. 84.

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