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Colombia:

Scarred bodies, hidden crimes

Sexual Violence against women in the armed conflict

STOP
VIOLENCE
AGAINST
WOMEN

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INTRODUCTION

“A stick was pushed into the private parts of an 18-year-old pregnant girl and it appeared through [the abdomen]. She was torn apart. (...) They [army-backed paramilitaries] stripped the women and made them dance in front of their husbands. Several were raped. You could hear the screams coming from a ranch near El Salado [Department of Bolívar]...”¹

“The girls spend their lives being intimidated and threatened by guerrillas and paramilitaries. They are accused of having relationships with men from the other side. Between February and March [2004] the bodies of three girls who had been raped were found in the area. They mark their territory by leaving scars on the bodies of the women. It is a terror without sound. Sometimes they punish women for wearing low-slung jeans but other times they make them wear low-cut tops and miniskirts so that they can accompany them to their parties”.²

All the armed groups – the security forces, paramilitaries and the guerrilla – have sexually abused or exploited women, both civilians or their own

combatants, in the course of Colombia’s 40-year-old conflict, and sought to control the most intimate parts of their lives. By sowing terror and exploiting and manipulating women for military gain, bodies have been turned into a battleground. The serious abuses and violations committed by all the parties to the armed conflict remain hidden behind a wall of silence fuelled by discrimination and impunity. This in turn exacerbates the violence that has been the hallmark of Colombia’s internal armed conflict. It is women and girls who are the hidden victims of that conflict.

Men have also been the victims of sexual violence in the context of the armed conflict. But the sexual abuse and exploitation of women and girls have long been ignored, not only because violence against them has been perceived as belonging to the private sphere, but because fear and shame about sexual abuse have prevented many women from speaking out. Women and girls in Colombia are the victims of domestic violence and community-based violence. But the conflict exacerbates these forms of violence and the gender stereotyping which underpins them.

With their bodies viewed and treated as territory to be fought over by the warring parties, women are targeted for a number of reasons – to sow terror within communities making it easier for military control to be imposed, to force people to flee their homes to assist acquisition of territory, to wreak revenge on adversaries, to accumulate “trophies of war”, and to exploit them as sexual slaves. Sexual

¹ Testimony from a displaced person interviewed by Amnesty International on 21 November 2003.

² Testimony from a psychologist in Medellín given to Amnesty International on 10 March 2004.

violence has thus indelibly marked Colombian women's lives. Men and women have also been targeted for attack because of their sexual orientation or gender identity.

In Colombia, as elsewhere, official figures do not reflect the scale of the problem of sexual violence. Rape is thought to be significantly under-reported. Despite the often unequivocal evidence left on victims' bodies, sexual violence is, for example, rarely recorded in autopsy reports. Few perpetrators are ever brought to justice for any human rights violation – and even fewer for crimes of sexual violence. The terrible fate suffered by the individuals concerned is therefore exacerbated by this double invisibility. As this report shows, violence against women in the context of the armed conflict is widespread.

Last year, over 220 women were killed for socio-political reasons outside combat – in the street, home or workplace – and 20 “disappeared”. The security forces were reportedly directly responsible for around 5% of these killings, army-backed paramilitaries for 26% and the guerrilla for 16%. In the rest of cases, those responsible were not identified. According to figures from the 2003 UNDP Human Development Report on Colombia, *El Conflicto, Callejón con Salida* (Solutions to Escape the Conflict's Impasse), the number of women killed for conflict-related reasons outside of combat increased by 20% between 2000-2001 and 2001-2002. During this period, women accounted for 6% of all deaths in and out of combat and forced “disappearances, 10% of tortures, 11% of all land mine-related deaths and 18% of kidnappings. Moreover, 17% of the human rights defenders killed were women, as were 16% of all trade unionists and 16% of people from indigenous communities.

The response of the authorities and state institutions, which should be implementing measures to end such abuses, can be as abusive as the violence itself. In Colombia, survivors can find it very difficult to obtain medical assistance, emergency treatment and support measures. The survivors also face serious obstacles in their search for justice. When a state fails in its responsibility to exercise due diligence to prevent, punish and eradicate sexual and gender violence it sends out a message that such behaviour is tolerated or even condoned. By remaining silent and failing to act, the state is tolerating such abuses and encouraging the commission of further offences.

The visit to Colombia of the UN Special Rapporteur on violence against women, its causes and consequences

In November 2001, the UN Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, conducted an official mission to Colombia to investigate, assess and report on the impact of the conflict on the human rights of women. In the summary of the mission report submitted to the UN Commission on Human Rights at its 58th session³, the Special Rapporteur highlighted “the widespread and systematic nature of gender-based violence and the various forms of it that are suffered [in Colombia]”: “Rarely is there direct confrontation between the different armed groups, rather these armed groups attempt to settle their scores by attacking civilians suspected of supporting the other side. (...), violence against women, particularly sexual violence by armed groups, has become a common practice within the context of a slowly degrading conflict and a lack of respect for international humanitarian law. (...) Women have been abducted by armed men, detained for a time in conditions of sexual slavery, raped and made to perform domestic chores. Women have been targeted for being the female relatives of the “other” side. After being raped some women have been sexually mutilated before being killed. Furthermore, survivors explain how paramilitaries arrive in a village, completely control and terrorize the population, and commit human rights abuses with total impunity. The Special Rapporteur also highlights the particular experience of female combatants in the warring factions who suffer sexual abuse and infringements of their reproductive rights and finally the appalling situation faced by female internally displaced persons”.

Survivors of sexual violence also face a further, debilitating battle – with their families and communities, which often ostracize and stigmatize them. Survivors can be subjected to harsh social and cultural norms which blame the victim for the attack. For many women, surviving sexual violence means keeping silent. Cast out by friends and family and under threat from their aggressors, survivors are

³ United Nations, E/CN.4/2002/83/Add.3.

often forced to move away from their communities but are still unable to escape the fear of further abuse. The case of “Ana María”, a survivor of gang rape who lives in Medellín, reflects the experience of those women forced to fend for themselves:

“Two years ago as we were leaving Neiva [department of Huila] the army made us get out [of the bus]. They killed the young man I was with. I was raped by eight or nine soldiers. They left me on the road and I eventually got a ride. When I got to Dabeiba [department of Antioquia], the paramilitaries were there. They said I was a guerrilla. The commander of the paramilitaries raped me. (...) You have to keep quiet... If you talk, people say you were asking for it... I came to Medellín... . When the army comes, I start thinking that it's going to happen to me all over again. Like a nightmare that never ends...”⁴

The injuries and medical and psychological consequences of such violence, such as becoming infected with sexually-transmitted diseases (STDs), such as HIV/AIDS, or pregnant as the result of rape, are generally ignored by the authorities. Civil society organizations, in particular women's groups, have tried to fill the gap. However, many women's organizations have themselves been the target of threats and attacks because of their work in defence of human rights or economic and social alternatives, as well because of their work to expose sexual violence and treat the survivors of sexual violence.

There are considerable difficulties for research in the field of violence against women, particularly in making direct contact with survivors of abuse, many of whom fear retaliation attacks or being shamed by their family and community. Many areas of Colombia are also inaccessible to human rights activists. In other areas of the country, human rights activists are not available to help individual victims because they have been threatened, intimidated, killed or driven out of their communities. Although the cases highlighted in this report cannot be independently verified – because of the lack of judicial investigations – the fact that Amnesty International has received so many similar and consistent reports of sexual violence from around the country leads the organization to believe that these testimonies are accurate and reliable.

⁴ Testimony obtained by Amnesty International on 16 November 2003.

With this report Amnesty International hopes to contribute to greater awareness of the extent and seriousness of violence against women in Colombia. However, without the presence of strong local human rights communities to report and channel cases, it is unlikely that the Colombian public or international opinion will ever know the full extent of such abuses.

Gender-Based Violence

The UN Declaration on the Elimination of Violence against Women states in Article 1:

“the term ‘violence against women’ means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”

It states in Article 2:

“Violence against women shall be understood to encompass, but not be limited to, the following:

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;*
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;*
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”*

General Recommendation 19 of the Committee on the Elimination of All Forms of Discrimination against Women states that:

“Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.”

In Article 7, it goes on to state:

“Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human

rights conventions, is discrimination within the meaning of article 1 of the Convention.”

In addition, women disproportionately suffer from the consequences of fleeing conflicts because they form the majority of the refugee and IDP population.(23)

The definition of discrimination includes gender-based violence. Violence against women is a form of gender-based violence. It is violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

Acts are not necessarily identifiable as gender-based in isolation, but require an assessment of how particular acts affect women in comparison with men. There are also specific acts which are commonly gender-based.

According to the UN Declaration on the Elimination of Violence against Women, violence that is gender-based results in, or is likely to result in, physical, sexual or psychological harm or suffering to women. It includes threats, coercion, arbitrary deprivation of liberty wherever it takes place. It can occur in public or in private life equally.

Some of the elements that may be examined to determine whether an act of violence is gender-based include:

- **cause or motive:** for example, distinctly expressed gender insults during violence
- **circumstances or context:** for example, abuse of women of a certain group within an armed conflict
- **the act itself, the form a violation takes:** for example, overtly sexual acts, forced nudity, mutilation of sexual parts of the body
- **the consequences of a violation:** pregnancy; shame and secondary victimization by the survivor's community because "honour" has been transgressed
- **the availability and accessibility of remedies, and difficulties in securing a remedy,** for example, difficulties for women in accessing legal remedies because of lack of legal aid, need of

male family member support, need to concentrate on care of dependants and lack of appropriate healthcare.

In the course of the research carried out for this report, Amnesty International liaised with and received information from women's organizations, human rights groups, social organizations, lesbian, gay, bisexual and transgender (LGBT) groups, representatives of indigenous and Afro-descendant communities, and government authorities and state institutions with responsibility for issues around violence against women and girls. Amnesty International visited Colombia in 2003 and 2004 to carry out research on sexual violence in several areas of the country, and the report forms part of the organization's International Campaign to Stop Violence against Women, launched in March 2004. During the visits, Amnesty International conducted interviews with government authorities, survivors, witnesses, activists and organizations working on cases of sexual violence and those which provide assistance to victims. This report is based on first-hand accounts by survivors.



Activist demonstrating in Medellín in March 2002 on International Women's Day protesting about violence against women by armed groups in Colombia. Her banner reads: "Armed actors rape women to humiliate men". © Jesús Abad Colorado

The fear of witnesses and survivors who agreed to speak to Amnesty International is tangible. And the trauma which affects these women and girls is clearly all too real. Many have only now felt strong enough to tell their stories, sometimes years after the violence has taken place. The organization would like to thank these women and girls for their courage in speaking out. The names of some of the informants have been changed in order to protect their identities.

BACKGROUND: 40 YEARS OF ARMED CONFLICT

Civilians have been the main victims of Colombia's 40-year-old internal armed conflict. This violence, including sexual violence against women, has been perpetrated by all the warring parties. The statistics are chilling: in 2003, more than 3,000 civilians were killed for political reasons outside combat, over 2,200 were kidnapped, around half for political motives, hundreds of thousands were internally displaced, and hundreds were "disappeared". In the last 20 years, the conflict has cost the lives of at least 70,000 people, the vast majority of them civilians killed out of combat, while more than 3 million people have been internally-displaced. Since 2000, more than 10,000 people have been kidnapped, more than half of these by guerrillas or paramilitaries, while at least 1,500 have "disappeared", mostly at the hands of paramilitary groups often acting in collusion with the security forces.

Sexual and gender-based violence is not a new phenomenon in Colombia; it has been a constant in the country's history, and a defining part of the conflict. The conflict has pitted the security forces and army-backed paramilitaries against several guerrilla groups, with each group vying for control of territory and economic resources. Rape, used as a method of torture or a means of injuring the "enemy's honour", has been a common feature of the conflict.

The armed opposition groups – the guerrillas – began to emerge in the 1950s, during *La Violencia*, a virtual civil war which pitted Conservatives against Liberals. During this period, armed groups linked to the Liberal and Communist Parties were driven into remote parts of the country. These armed groups were the nucleus of the largest armed opposition movement of the past 50 years which was consolidated in 1966 as the *Fuerzas Armadas Revolucionarias de Colombia* (FARC), Revolutionary Armed Forces of Colombia. The FARC has some 20,000 combatants. The other main guerrilla group still in existence is the *Ejército de Liberación Nacional* (ELN), National Liberation Army, with some 4,000 combatants.

The guerrillas created extensive strongholds in many rural areas of the country where they effectively determined local government policies and exercised significant control over the local population. In addition to military targets, the guerrilla frequently attacked the rural estates of wealthy landowners; extortion and kidnapping became common practices. Since the 1990s, the FARC has sought to significantly increase attacks in urban areas, and civilians have increasingly borne the brunt of guerrilla attacks in these areas.

Paramilitaries – who are believed to have 10,000-20,000 fighters – have their origin in legally constituted civilian "self-defence" groups which the army created in the 1970s and 1980s to act as auxiliaries during counter-insurgency operations. Although their legal basis was removed in 1989 no effort was made to disband them, and in the last 10 years the paramilitaries have grown in size and extended their presence throughout the country. Their historic and continued links with the security forces have been well documented by Amnesty International and the United Nations. Criminal and disciplinary investigations continue to implicate high-ranking security force officers in human rights violations committed by paramilitaries. Over the last few decades, paramilitaries have been held responsible for most killings and "disappearances" of civilians.

Following the breakdown of peace negotiations between the government and the FARC on 20 February 2002 clashes between the Colombian state security forces – acting with the collaboration of paramilitary groups – and the guerrilla groups intensified. The armed conflict entered a new critical phase with serious consequences for human rights.

President Álvaro Uribe Vélez took office on 7 August 2002 following his victory in the 26 May 2002 elections. On assuming office, President Uribe introduced a series of hardline security measures encapsulated in the so-called Democratic Security doctrine. This sought to "consolidate" and "recover" territory from guerrilla control. But rather than boost the security of the civilian population the Democratic Security strategy has made it more vulnerable than ever to abuses from illegal armed groups and the security forces. Far from dissuading the guerrillas from committing abuses against civilians, the

government's strategy has exposed them to greater pressure and retaliation. As the distinction between civilians and combatants becomes increasingly blurred – through mechanisms such as the network of informants and the army of peasant soldiers, as well as the increasing use of mass and arbitrary detentions – the armed groups have placed even greater pressure on civilians to participate in some way in the conflict.

Dragging civilians into the conflict

The civilian population has increasingly become a victim in the internal armed conflict, not simply caught in the crossfire but purposefully targeted. This has above all affected those communities most at risk, whose voices are rarely heard: Afro-descendent and indigenous women, peasants, and shantytown dwellers on the outskirts of cities, many of whom are already displaced. Women's bodies have become marked as military targets, whether because they have not conformed to their "gender role", because they have challenged prohibitions imposed on them by the armed groups, or because they are perceived as the "depositories" of the honour of a particular community and therefore a useful target on which to inflict humiliation on the enemy.

On 1 December 2002 the paramilitary umbrella organization, *Autodefensas Unidas de Colombia* (AUC), United Self-Defence Forces of Colombia – set up in 1997 by many of the various disparate paramilitary groups in the country to better coordinate their activities – declared a "unilateral ceasefire". That same month, the government announced its intention to enter into "peace negotiations" with the AUC.⁵ However, sexual violence in the context of general attacks on civilian communities, massacres and selective killings have continued. A significant component of their strategy for exercising control over the population is the imposition of rules of conduct in even the most private of spheres: intervention in disputes between family members or neighbours and the use of corporal punishment to punish transgressors. These activities have been

⁵ At the end of 2002, Congress adopted Law N° 782 which authorized the government to open a dialogue and negotiations and sign accords with spokespeople and representatives of armed groups operating outside the law, without first having to give them political recognition as had been required under previous legislation.

carried out with the knowledge, acquiescence and participation of the security forces. This type of control is often preceded or accompanied by what the paramilitary groups call "social cleansing" – the killing of petty criminals, prostitutes, and others perceived as "socially undesirable" – designed to show how efficient they are at establishing "public order". Amnesty International has received testimonies which point to the persecution, disappearance and killing of persons from stigmatized groups, including sex workers, people targeted on account of their sexual orientation and alleged carriers of STDs, such as HIV/AIDS.

The guerrilla have also kept up the pressure on the civilian population. As well as attacks and threats directed at people accused of collaborating with their enemies,⁶ they have shown disregard for the rights of children. Amnesty International has received reports that the FARC and the ELN continue to recruit children, including girls, as young as 12. Amnesty International has also received testimonies that show that some female FARC and ELN combatants have been subjected to enforced contraception and abortions by their commanders. Members of the FARC have also carried out sexual assaults on women and girls living in areas where the group has a presence. Breaches of the ban on civilians fraternizing with members of the security forces or paramilitaries has sometimes resulted in rape and killings. In some areas, the FARC have declared women and girls who associate with soldiers and police to be "military targets". Sexual abuse is sometimes the punishment meted out to women and girls who "transgress" in this way.

The problem of impunity

Impunity is the cornerstone of the human rights crisis. Although successive governments have acknowledged the extent of the problem, they have shown themselves unable or unwilling to introduce measures to ensure that those responsible are held accountable before the law, whether they be security force personnel, paramilitaries or guerrillas. Because those responsible for human rights violations are seldom punished public confidence in the administration of justice and the rule of law has been

⁶ Those affected by such attacks and threats include people from the same family or with an emotional link, which means that women and juveniles have increasingly been targeted.

undermined. The knowledge that crimes will go unpunished – and may even be rewarded – has not only contributed to the escalation of human rights violations; it is also a factor behind the spiral of violence in society at large.

The government argues that the rule of law has broken down because of severe deficiencies in the judicial system, citing insufficient resources, lack of training, lack of specialist personnel and pervasive corruption. It has introduced radical judicial reforms to remedy these shortcomings with the help of major international aid programs. Impunity in Colombia, however, goes beyond deficiencies in the judicial system, real though these are. Attempts to redress these deficiencies are unlikely to have any significant impact on the scale of human rights violations unless the government finds the political will to ensure that all human rights violators are held to account.

Even when members of the security forces, their paramilitary allies and the guerrilla are known to be responsible for committing serious sexual abuses against women and girls, virtually all cases are covered up or go unpunished.

Political crimes and crimes of sexual violence are often not even recorded in official statistics. These crimes are often dismissed as “crimes of passion”:

*“They want to pass off murders as crimes of passion, for example, if people are shot in the buttocks or testicles or in cases where people have been mutilated”.*⁷

*“When women are killed, they usually say they are crimes of passion and even disregard the fact that threats were made beforehand by the paramilitaries”.*⁸

Doris Botero Vásquez, aged 35 and from Picacho in north-west Medellín, received threats from paramilitary groups warning her to leave the area. On 25 March 2003 she was killed. According to reports, after shooting her several times, her killers, who were allegedly members of the AUC, took her body away.

⁷ AI interview in Barrancabermeja, 27 November 2003.

⁸ AI interview in Barrancabermeja, 27 November 2003.

It was later found in the Cabañas neighbourhood of Bello.

Doris Botero had worked as the coordinator of the Family Development Program at *Corporación Picacho con Futuro*. She also managed a project promoting the rights of female victims of sexual violence. But her killing was recorded in the police database as a criminal offence motivated by “personal vengeance”: *“While in the eyes of the police Doris died as a victim of common criminals, the press attributed her death to the paramilitaries. Police reports often state that women who die in Medellín are killed as a result of private matters”*.⁹

Although constitutional provisions on equality and laws to punish gender-based violence, including sexual violence, do exist, such legal protection is not enforced. In practice, there is impunity, discrimination and a lack of protection. As the 2003 report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia states:

*“Of particular concern is the lack of comprehensive policies on women’s rights. This implies a lack of budgetary, administrative and technical independence that hampers any attempt to launch programmes or projects aimed at improving the condition of women and promoting effective enjoyment of their rights. Equally, the Office in Colombia has not observed any effective move by the Government to investigate and punish violations of women’s rights”.*¹⁰

THE CONTINUUM OF VIOLENCE AGAINST WOMEN

Existing statistics on sexual abuse are alarming, but probably underestimate the problem significantly. The 2000 UNDP Human Development Report¹¹ – the latest for which figures are available – estimates that 60-70% of women in Colombia had been the

⁹ *Ruta Pacífica de las Mujeres – Regional Antioquia / Mujeres que Crean*, “Violación de los derechos humanos de las mujeres en Medellín y el Área Metropolitana”, Informe 2003, Medellín, February 2004, p. 27.

¹⁰ Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, para. 53, E/CN.4/2003/13, 24 February 2003. United Nations Commission on Human Rights, 59th session.

¹¹ UNDP, Human Development Report, *Human Rights and Human Development*, 2000, UNDP.

victims of some form of violence (physical, psychological, or sexual). However, less than half seek help and fewer than 9% make an official complaint. The *Instituto Nacional de Medicina Legal y Ciencias Forenses* (National Institute of Forensic Medicine and Sciences) – which is responsible for carrying out forensic reports into injuries and deaths in which a crime is suspected of having been committed – told Amnesty International that, between 2000 and 2002, possible sexual offences were referred to in 40,489 forensic reports. However, the data is not disaggregated and it is therefore not possible to examine which cases are a direct consequence of the conflict.

Women and girls in Colombia not only suffer the danger, hardship and suffering inherent in any armed conflict, but have to endure the gender discrimination which is prevalent in many societies around the world, including Colombia. It is this continuum – from domestic- to conflict-related sexual violence – that is particularly corrosive. Everyday gender-based discrimination and sexual abuse, combined with other forms of conflict-related discrimination, has placed women at particular risk. “Isabel” was living in a town in the department of Norte de Santander when at 12 years old she joined the FARC:

*“My father [sexually] abused me from the age of five. He didn’t want me to study or talk to anyone. Just work milking the cows. My mother knew nothing. He gave the orders. My father came looking for me but I didn’t go back. The FARC gave me an AK-47 with three ammunition magazines, clothes and boots. He [the father] couldn’t hurt me any more. [...] Now that I am no longer fighting, I would like to go somewhere else to study and work. Because I am worth it. I’ve never told anyone about the abuse. Nobody has ever asked me about it before. And anyway you keep quiet about such things. All I knew was that I had to get away”.*¹²

“Sofía” worked as a maid from the age of 12. At the age of 15 she was raped by her employer, a member of the paramilitaries, and became pregnant as a result. She was forced to act as a guide during patrols in the Montes de María in Bolívar Department, her place of origin. Paramilitaries have carried out several massacres and selective killings in that area:

¹² Testimony given to AI by an ex-combatant girl, 29 November 2003.

*“(...) when I was seven months pregnant with my daughter, I escaped but because I had no money at all, he found me on the road and took me to a place on the estate where there was nobody and, despite the fact I was seven months pregnant, beat me all over with an iron rod. I ended up all swollen and there in the house he asked me, ‘Did you talk to anybody? Who helped you to escape?’ Nobody helped me and so I told him but he started kicking me on the floor and I started rolling over, afterwards my belly went over to one side and green water started coming out of me. After I had been like that for 12 hours, he sent for a doctor from the village and he told me that the baby had done a ‘poo-poo’ in my belly and they took me to the clinic where I gave birth to my daughter but she was very ill”.*¹³

“Rosa”, from Caquetá Department, was reportedly seven years old when she was first raped by her father. When her mother found out she decided to confront the father. Given the outrage in the village, in 1999 the father went off to join the 3 Front of the FARC, which controlled the area. Shortly afterwards, the girl was kidnapped by members of this front. The mother denounced the father’s activities to the authorities and tried everything she could to get her daughter back. The girl tried to escape several times and was subjected to further abuse for doing so:

*“They subjected her to what they call ‘self-criticism’: she had to keep repeating ‘I am a cowardly Colombian woman’ while being beaten all over. She was forced to do guard duty both day and night. They told her that if she opened her mouth or tried to escape, her sisters would pay. The girl was in a bad state. She spent 18 months there. She made one suicide attempt”.*¹⁴

The persecution against “Rosa”, who is now 17, and her mother and the rest of the family continued. In February 2000, her mother was kidnapped by the FARC. “*Those who have weapons have power*”, they told her, and took her into the mountains. There they stripped and tortured her before departing, leaving her buried in a hole which she had been forced to dig

¹³ Sworn statement made before the *Unidad Nacional de Derechos Humanos de la Fiscalía General de la Nación*, National Human Rights Unit at the Office of the Attorney General, in 2000.

¹⁴ Testimony from a relative of the girl given to Amnesty International in November 2003.

herself. She survived with the help of a peasant farmer. During the months the daughter spent in the hands of the guerrillas, FARC members had killed her mother's new partner.

Sexuality and the body

"...sexuality is a characteristic of all human beings. It is a fundamental aspect of an individual's identity. It helps to define who a person is. The Special Rapporteur notes the abiding principles that have shaped international human rights law since 1945, including privacy, equality, and the integrity, autonomy, dignity and well-being of the individual. ...In these circumstances, the Special Rapporteur has no doubt that the correct understanding of fundamental human rights principles, as well as existing human rights norms, leads ineluctably to the recognition of sexual rights as human rights".¹⁵

In the report 'It's in our hands: Stop violence against women,' published in March 2004,¹⁶ Amnesty International described how the control of sexuality by the family, community, and state leads to violence and discrimination against women all over the world. In Colombia, ideas that deny women autonomy over their sexuality and reproduction persist and a whole host of social, cultural and religious rules which associate women's sexuality with honour remain entrenched. This report shows that the ways in which gender-based violence against women has been used as weapon by all sides in the conflict violates women's rights to sexual autonomy and control over their sexuality and reproductive capacity. Women are at risk not only as individuals but as members of social groups – sometimes their sexuality or reproductive capacity is attacked because they are indigenous or Afro-descendant women or from other marginalized communities. At other times they may be controlled by their 'own' side. In each case the

¹⁵ Paul Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report to the 60th session of the Commission of Human Rights. E/CN.4/2004/49, 16 February 2004, para. 54.

¹⁶ AI Index ACT 77/001/2004

motive is the same, to control women as reproducers of the nation, community or social group.

The UN Special Rapporteur on violence against women wrote the following in her 1998 report:

"Perhaps more than the honour of the victim, it is the perceived honour of the enemy that is targeted in the perpetration of sexual violence against women; it is seen and often experienced as a means of humiliating the opposition. Sexual violence against women is meant to demonstrate victory over the men of the other group who have failed to protect their women. It is a message of castration and emasculation of the enemy group. It is a battle among men fought over the bodies of women".¹⁷

The perpetuation of social norms that deprive women of autonomy encourages the notion that their bodies can be appropriated and their behaviour controlled. In armed conflicts, this appropriation and control can take extreme forms such as sexual slavery, sexual assault, and enforced contraception and abortions. The imposition of rules of conduct on civilians – such as dress codes and curfews – which invade their most intimate privacy is a strategy adopted by guerrilla and paramilitary groups to control individuals, and is fomented by sexist and homophobic attitudes.¹⁸ The armed groups therefore compete over who can most effectively eliminate those who are deemed "undesirable" or "strange". The fact that guerrillas and paramilitaries have targeted the same groups – such as sex workers and homosexuals – in an effort to win "legitimacy" from society as a whole, suggests that discrimination against these sectors in Colombia is heavily entrenched.¹⁹

¹⁷ United Nations document E/CN.4/1998/54, Section I, para. 5.

¹⁸ It is worth noting that control of women's behaviour and coercion in the area of sexuality and reproduction can occur in various spheres. Amnesty International has come across various ways in which privacy is invaded and coercion exerted in the work environment. "Women are forced to have blood tests. Although pregnancy testing was banned in 1997, it is still going on; there are rules about clothing, low-cut necklines, miniskirts and sandals are not allowed. A worker can even be told off if her roots are showing. That happens especially in places where there is no trade union. Men also have to have short hair and no piercing", a female trade union leader from Medellín told Amnesty International. Similar testimonies were collected in Bogotá.

¹⁹ The fact that armed groups censure certain groups in an effort to win legitimacy suggests that they build on what they

Women's ability to reproduce also means that their bodies have become a battleground in which the most brutal violence is committed. This has sometimes reached horrific proportions, such as the tearing open of the bellies of pregnant women in order to rip out the foetus. "Don't leave even the seed behind" ("*No dejar ni la semilla*") – an expression that dates back to the atrocities perpetrated during *La Violencia* in the 1950s but is still used today – is a reflection of the extreme cruelty involved. Many men have also been castrated for similar reasons in the context of massacres and selective killings committed during the armed conflict.

Gender-based discrimination

"A young woman who talks, who can express herself, is seen as subversive. In towns and in the countryside. This happens even when we say that it is our right."

An indigenous woman from Putumayo

The UN Committee on the Elimination of Discrimination against Women (CEDAW) noted in its 1999 observations on the report submitted to it by Colombia that no systematic work had been carried out to confront discriminatory cultural traditions or to change sexist stereotypes and that the media continued to project stereotypical images of women.²⁰

Although the Colombian state has an international obligation to combat gender-based discrimination and prevent, punish and eradicate violence against women, it has instead often helped to perpetuate and strengthen gender stereotypes. In November 2002 a row ensued after it was revealed that leaflets containing pictures of scantily-dressed women had been distributed by the army to "invite" combatants to demobilize. The director of the *Programa de Atención al Desmovilizado*, an army program to assist

perceive as popular or majoritarian sentiments regarding social deviance – armed groups reinforce the kinds of discrimination that already exist in society.

²⁰ UN Office of the High Commissioner for Human Rights, (1999) Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Colombia, 4 February 1999, UN document A/54/38, paras. 337-401, available at: [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.54.38.paras.337-401.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.54.38.paras.337-401.En?Opendocument)

demobilized combatants, Colonel Manuel Forero, revealed that 3-5 million copies had been printed and had been distributed in the special security zones, the *Zonas de Rehabilitación y Consolidación* (Rehabilitation and Consolidation Zones), set up by the government in the departments of Sucre, Bolívar and Arauca. The colonel told the media that "it is just an appetizer in the campaign to tell the guerrillas that they are welcome".²¹ The army also distributed leaflets in Medellín with the picture of a woman dressed as a guerrilla and the phrase "*Young guerrilla, are you bored?*". In response to the hostile reaction from women's organizations, the Defence Ministry stopped the distribution of the leaflets. Colonel Forero had defended the leaflets by stating that "It's an aggressive campaign to sell a product". He added that he did not know why the designers had chosen to use the female figure.

Under the UN Convention on the Elimination of All Forms of Discrimination against Women, states are obliged to take all appropriate measures to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women (Article 5(a)).

Amnesty International contacted the *Consejería Presidencial para la Equidad de la Mujer*, Office of the Presidential Adviser on Equality for Women, to ask what steps had been taken to implement Resolution 1325 (2000) of the UN Security Council on Women and Peace and Security.²² At a meeting in March 2004, no specific information on the subject was provided.

With regard to the serious human rights abuses suffered by women and girls in the context of the armed conflict, the Presidential Adviser rejected the information given to Amnesty International by NGOs working to promote, protect and defend the human rights of women. Despite requests by Amnesty International, the Office did not provide any information on what action the government was taking to prevent and punish serious abuses against women and girls.

²¹ *La Prensa*, 25 November 2002, digital version at www.prensa.com

²² See the appendix of this report which describes the content of Resolution 1325.

At Security Council session 4852 on 29 October 2003 marking the third anniversary of the adoption of Resolution 1325 (2000) on Women and Peace and Security, Colombia's representative, Luis Guillermo Giraldo, focused on female combatants and their demobilization:

*"We also have the tragedy of women combatants in these illegal armed bands, where, in addition to becoming machines of death, they are also the subjects of sexual and psychological discrimination and abuse. In such bands, women lose their very natures and vocation as the bedrock of family, community and social stability. The existence of women combatants makes it impossible to build the peaceful and sustainable society that every country requires".*²³

In his speech, Ambassador Giraldo also stated that the government had "focused special attention on the participation of women in issues related to peace and security". In this respect, he said that the government had "devised a national policy of women as builders of peace and development, a policy geared towards peace, equity and equal opportunity". Ambassador Giraldo continued by stating that such issues had been included in "National Development Plan 2002-2006: Towards a Communitarian State" (*Plan Nacional de Desarrollo 2002-2006 Hacia un Estado Comunitario*), "a document reflecting the current administration's priorities". However, according to information received by Amnesty International from Colombia's Office of the Presidential Adviser on Equality for Women, and with only two years before the official end of Colombia's National Development Plan, no specific decisions have been taken with regard to the action and mechanisms required to implement a gender-based approach across government bodies, including those responsible for dispensing justice and those state bodies which have direct responsibility for security and defence matters.

Amnesty International acknowledges that procedures have been initiated by some state bodies with regard to providing care for victims of gender-based and sexual violence and that other state bodies are seeking

²³ United Nations Security Council, document S/PV 4852 (Resumption I). Agenda Women and Peace and Security. English version. Complete intervention by Ambassador Giraldo, pp.5-7. Digital version at: <http://www.womenwarpeace.org/pm2003.pdf>

to address gender issues in areas under their jurisdiction (see below). But these are still at an early stage and their sustainability does not appear to be guaranteed. Moreover, none of these procedures are specifically directed towards addressing abuses linked to the armed conflict. There is also concern that bodies responsible for demobilized women are weak in key areas such as health care, including sexual and reproductive health.²⁴

State policy to combat violence against women

The Colombian state has signed and ratified the UN Convention on the Elimination of All Forms of Discrimination against Women and is therefore obliged to pursue "without delay" and by "all appropriate means" a policy of eliminating discrimination against women. Although several policy documents have been drawn up and legislation introduced over the last 10 years, there has been a distinct lack of coordination, effectiveness and adequate resources.

Amnesty International welcomes the government's policy document "Women Builders of Peace and Development 2003-2006" (*Mujeres Constructoras de Paz y Desarrollo 2003- 2006*) drawn up under the "National Development Plan 2002-2006 Towards a Communitarian State"²⁵ and past and present efforts by the Colombian state to promote the equality of women. The National Office for Women's Equality (*Dirección Nacional para la Igualdad de la Mujer*) was set up in 1995 but was abolished under the government of President Pastrana (1998-2002). The body currently responsible for public policy on equality issues is the Office of the Presidential Adviser on Equality for Women. In contrast to the National Office for Women's Equality, the Office of the

²⁴ *The Instituto Colombiano de Bienestar Familiar (ICBF)*, Colombian Institute of Family Welfare, which works, among other things, with juveniles who have demobilized from the armed groups, recognized such weaknesses – such as failure to follow up cases once the demobilized girl has left the ICBF programme and lack of statistics disaggregated by gender – in its response to a questionnaire sent by Amnesty International in March 2004. Testimonies given to Amnesty International by demobilized girls in that situation had alerted the organization to the lack of attention given to the needs of those who have been the victims of sexual abuse and enforced contraception. These girls claimed that they were not provided with advice nor assistance on sexual and reproductive rights.

²⁵ Law 812 of 2003.

Presidential Adviser on Equality for Women does not have budgetary autonomy. Its ability to implement the 2003-2006 policy document on women and to implement programmes and projects largely depends on its ability to obtain resources through international cooperation.

Although Amnesty International welcomes the work carried out by some public bodies, such as the *Defensoría del Pueblo* (Office of the Human Rights Ombudsman),²⁶ the *Instituto Colombiano de Bienestar Familiar* (ICBF), Colombian Institute of Family Welfare, the *Procuraduría General de la Nación* (Office of the Procurator General),²⁷ and local authorities, the state has failed to implement a comprehensive policy that complies with its international obligations to promote and protect the human rights of women. In particular, the Colombian state has failed to address the severe impact the conflict is having on specific groups of women which are at particular risk, such as indigenous, Afro-descendant, displaced and rural women.

Progress has been made in certain areas, especially in terms of gender equality. The government has introduced or is debating in Congress a number of measures related to this issue:

- Congress is debating a bill to ratify the Optional Protocol to the UN Committee on the Elimination of Discrimination against Women (CEDAW).
- Law 823 on equal opportunities for women was passed in July 2003.

²⁶ The creation of the *Defensoría* in the 1991 Constitution is of particular relevance to human rights protection. The constitutional role of the *Defensoría*, which forms part of the Public Ministry, is to oversee the “promotion, exercise and dissemination of human rights”. Although the *Defensoría* has no role in criminal investigations, since early 1992 it has provided an important and accessible point for receiving complaints of human rights violations and providing advice to victims. It has been effective in drawing attention to continuing human rights violations by analysing human rights issues and joining national debates relevant to human rights.

²⁷ The role of the Office of the Procurator General (*Procuraduría General de la Nación*) is to carry out disciplinary investigations into allegations of misconduct, including human rights violations, by public officials, such as members of the security forces.

- The National Agreement on Equality between Women and Men (*Acuerdo Nacional por la Equidad entre Mujeres y Hombres*) was signed on 14 October 2003 by a number of government ministries and the judiciary.
- The Gender Affairs Observatory (*Observatorio de Asuntos de Género*, OAG) was launched in May 2004 by the Presidential Adviser’s Office on Equality for Women.

Several laws relating to the issue of sexual violence have also been passed over the last 10 years, such as on sexual freedom (Law 360 of 1997), on persons protected under international humanitarian law (Law 599 of 2000), sexual offences against minors (Law 679 of 2001) and people trafficking (Law 747 of 2002). Although these laws have not to date been effectively implemented, they at least provide an important regulatory framework.

The Constitutional Court has done much to promote the rights of women in Colombia. On a number of occasions, its jurisprudence has helped to affirm the principle of equality, the prohibition of gender-based discrimination and the protection of women’s human rights, including their social and economic rights. The Constitutional Court has played a key role in protecting fundamental rights by ruling on the unconstitutionality of laws and measures relating to the armed conflict and protecting the fundamental rights of displaced persons.²⁸

The work of the Human Rights Ombudsman has also been important, especially that of the Ombudsman’s Delegate for the Rights of Children, Women and the Elderly (*Defensoría Delegada para los Derechos de la Niñez, la Mujer y el Anciano*), which has worked hard to

²⁸ One of the most significant rulings made by the Constitutional Court in connection with the rights of displaced persons was Judgment T-025 of 6 February 2004 in which it ruled that the rights of the elderly, female heads of households and children to, *inter alia*, a decent life, personal integrity, equality, work, health, social security, education, and special protection had been violated. The Court decided to order the institutions responsible for caring for the displaced population to redraft their public policies and to implement them effectively.

promote issues relating to the situation of women in the armed conflict.

There are also examples of inter-institutional coordination in detecting and indexing cases of domestic violence and sexual offences involving the Office of the Procurator General, the National Institute of Forensic Medicine and Sciences, the ICBF, and other public bodies.

Although Amnesty International welcomes these initiatives, they are in their very early stages and suffer from budgetary and institutional limitations which jeopardize their sustainability and limit their effectiveness and quality of service. It should also be stressed that such schemes have not been developed in response to the needs of the victims of sexual violence under the armed conflict.

Failing to protect women's health

Health policies in Colombia have failed to protect and support women's sexual and reproductive health. Reproductive health services in Colombia are provided mainly by *Profamilia* (*Asociación Pro-Bienestar de la Familia Colombiana*, Colombian Family Welfare Association), a private institution. However, its services are not free and this therefore restricts access to them, particularly for those from poor communities, such as internally-displaced women. In cases of collective displacement²⁹, extremely limited emergency aid is provided, which does not include reproductive health care. Individual women who are displaced face even harsher conditions.

The minimum initial services package (MISP) for reproductive health services, considered to be the basic standard of care in emergency situations, is not available to internally-displaced women.³⁰ Public institutions do not provide the survivors of sexual

²⁹ Less than half the total number of internally-displaced women.

³⁰ See *Reproductive Health in Refugee Situations: an Inter-Agency Manual* (WHO, UNFPA and UNCHR) which prescribes the Minimum Initial Services Package (MISP) for reproductive health as a set of priority activities designed to prevent excess neonatal and maternal morbidity and mortality; reduce HIV transmission; prevent and manage the consequences of sexual violence; and plan for comprehensive reproductive health services. The MISP includes a kit of equipment and supplies to complement a set of priority activities that must be implemented in the early days and weeks of an emergency.

violence with free services, not even emergency contraception. Internally-displaced women are usually turned away from hospitals and emergency gynaecology and obstetrics clinics because of their inability to pay.

Guerrillas, paramilitaries and the security forces have also failed to respect the work of the medical profession. Health workers, who often work in conflict areas and are forced to provide assistance to all the armed groups regardless of their affiliation, have been targeted because they are often seen as helping "the enemy". The resulting vulnerability of medical staff, as well as the armed groups' use of blockades to stop the provision of medical supplies in certain areas, can cause serious damage and risk to the general health of the population.

On 20 March 2002, on a road in the rural area of the municipality of San Carlos, department of Antioquia, four people, including a pregnant woman, died when a grenade, apparently thrown by the FARC, exploded against the ambulance that the woman was travelling in. On 20 February of the same year, four other people, including a newborn baby, died when the ambulance in which they were travelling fell into Las Playas reservoir in between the municipalities of San Carlos and San Rafael (Antioquia) after the FARC had dynamited La Dantica bridge.

Unplanned pregnancies and gynaecological and obstetric emergencies have serious repercussions for women and girls and can result in an increase in maternal mortality, an issue that affects the fundamental right to life of women and female adolescents.³¹ In areas under military dispute by the parties to the conflict, it has become increasingly difficult for women to gain access to sexual and reproductive health care services. Many are forced to travel long distances to obtain help. This often involves dangerous land travel. In the department of Putumayo, a 35-year-old woman in an advanced stage of pregnancy travelling towards the border with Ecuador to get help with the birth, was stopped at a paramilitary roadblock and ordered to go and get her husband before they would let her pass: "She was in a

³¹ Illegal, unsafe abortion is the second leading cause of maternal mortality and accounts for 15% of annual maternal deaths. From *Women of the World: Laws and Policies affecting their reproductive Lives, Latin America and the Caribbean, Progress Report 2000*.

terrible state. She just wanted help with the birth and they ended up killing her husband".³²

States must ensure that their citizens have the means to preserve and recuperate their health and that the right to achieve the highest possible level of physical and mental health is respected. Women are discriminated against if the state fails to protect their sexual and reproductive health. In Colombia, this failure has become particularly serious in the case of those sections of society most at risk of attack – those which live in areas where the conflict is most acute: the internally-displaced and women from indigenous, Afro-descendant and rural communities.

International protection against sexual violence

The rights of women to live free from sexual violence is codified in international treaties such as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the UN Convention on the Rights of the Child and the Rome Statute, and implicitly in the International Covenant on Civil and Political Rights, the American Convention on Human Rights, the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the Inter-American Convention to Prevent and Punish Torture.

The Inter-American Convention states that "Every woman has the right to be free from violence in both the public and private spheres" (Article 3). Non-discrimination should also be regarded as a fundamental right which should not be suspended in times of conflict. It is particularly relevant as gender-based violence against women has been recognized as a form of discrimination which leads to and reinforces other forms of discrimination. Women frequently face discrimination on several grounds simultaneously – as women but also as members of marginalized groups, such as indigenous and Afro-descendant women and because of their sexual orientation.

States have a duty to respect and protect the rights enshrined in such treaties. A state fails to fulfil its obligations with respect to these rights not only when

it violates them but when it fails to exercise due diligence in preventing, investigating, prosecuting and punishing sexual and gender-based violence, whether perpetrated by a state or non-state actor, and when it fails in its duty to protect the rights of the victims by refusing to provide them with help and fair and timely reparation. Several treaties – such as the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the 1994 OAS Inter-American Convention to Prevent, Eradicate and Eliminate Violence Against Women (1994), better known as the Belem do Pará Convention, both of which have been ratified by Colombia – stipulate that the state has a duty to provide appropriate assistance to those who suffer sexual abuse. Specific measures and means by which states can comply with their obligations in this area have gradually been established by international human rights protection bodies.

International bodies have also taken a position on laws which impact on the rights of women, especially on those women who have been subjected to sexual violence. The UN Human Rights Committee and the Committee on the Elimination of Discrimination against Women have both expressed concern about the criminalization of the voluntary termination of pregnancy even in cases of rape and have asked the Colombian authorities to review such legislation.

The provision of certain types of services and assistance can have a dramatic impact on the survivors of rape. These include provision of emergency contraception or post-exposure prophylaxis (PEP). However, the Colombian health authorities do not make these available.

As far as international humanitarian law is concerned, rape and other forms of sexual abuse are prohibited under Common Article 3 of the Geneva Conventions which applies to both international and non-international armed conflicts: "*To this end the following acts are and shall remain prohibited at any time and in any place whatsoever (...) (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (...) (c) outrages upon personal dignity, in particular, humiliating and degrading treatment; (...)*". Additional Protocol II – which Colombia acceded to on 14 August 1995 – and which applies to non-international armed conflicts prohibits: "*violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as*

³² Testimony given to AI by a social worker in Mocoa (Putumayo), November 2003.

torture, mutilation or any form of corporal punishment; collective punishments; taking of hostages; acts of terrorism; outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault; slavery and the slave trade in all its forms; pillage; [and] threats to commit any of the foregoing acts” (Article 4). The Colombian security forces and illegal armed groups have a responsibility to ensure that they comply with all aspects of international humanitarian law, including those related to sexual violence.

Under article 7 (1) (g) of the Rome Statute of the International Criminal Court (ICC) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity – are defined as crimes against humanity when committed as part of a widespread or systematic attack against any civilian population. When committed in the context of an international or non-international armed conflict, these offences also constitute war crimes. The ICC has specific jurisdiction over crimes against humanity and war crimes when they are committed as part of a plan or policy or as part of a large-scale commission of such crimes. Under Article 8 of the Statute, the ICC has jurisdiction over individual acts of “rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions”, when committed in armed conflicts of an international or non-international nature. Colombia ratified the Rome Statute by means of Law N° 742 of 2002. However, by invoking article 124 of the Statute, it has refused to recognize the ICC’s competence with regard to war crimes for a period of seven years. As a result, cases of war crimes committed in Colombia cannot be investigated by the ICC.

The fact that women and girls are particularly exposed to sexual violence in peacetime as well as in wartime has also given rise to several specialist instruments and mechanisms.³³ However, such protective legislation is meaningless without the will to implement and enforce it.

Several international human rights protection bodies have condemned persecution and violence that is

³³ See the appendix of this report.

inflicted on grounds of sexual orientation or gender identity. As the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health recently stated: “Sexual rights include the right of all persons to express their sexual orientation, with due regard for the well-being and rights of others, without fear of persecution, denial of liberty or social interference”.³⁴

Discrimination on grounds of sexual orientation or gender identity is implicitly or explicitly considered to be an unlawful form of discrimination in many countries’ constitutions. In Colombia, the Constitutional Court has ruled that the state is required to respect and protect the rights of individuals who suffer discrimination on grounds of sexual orientation.³⁵

Colombian criminal law was recently amended in order to increase the sentences applicable in cases of criminal acts that are motivated by intolerance or discrimination on grounds of sex or sexual orientation or as a result of illness or disability.³⁶ Amnesty International is not aware of any case in which the law in question has been applied.

SEXUAL VIOLENCE IN THE CONTEXT OF ARMED CONFLICT

Attacks against civilian communities, massacres and killings

Attacks on civilians by all the armed groups in Colombia have included rape, sexual abuse and sexual mutilation. The testimonies of survivors indicate that

³⁴ Paul Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report to the 60th session of the Commission of Human Rights. E/CN.4/2004/49, 16 February 2004, para. 54.

³⁵ See the following Constitutional Court rulings: C-507/99, C-481/98, T-037/95, T-569/94, T-097/94, T-101/98, C-098/96, SU.623/01, T-268/00.

³⁶ Colombian Penal Code: “Article 58 - Circumstances incurring increased punishment. The following are circumstances that shall incur increased punishment, as long as they have not been otherwise addressed: (...) “3. When the carrying out of the punishable conduct is motivated by intolerance and discrimination with regard to race, ethnic origin, ideology, religion or beliefs, gender or sexual orientation or any illness or disability the victim has.” [Unofficial translation]

most such atrocities are committed by paramilitary groups. Over the past ten years, there has been an increase in the number of reported attacks on civilians involving sexual violence in order to punish them for their perceived collaboration with the guerrillas, to generate terror, or to force whole communities to flee a particular area of military or economic interest.

Between 1 and 7 May 2003, soldiers from the army's Navas Pardo Battalion of the Brigade XVIII, and wearing AUC armbands, reportedly entered the indigenous reserves (*resguardos*) of Betoyes – Julieros, Velasqueros, Roqueros, Genareros and Parreros – in Tame Municipality, Arauca Department.³⁷ According to reports, on 5 May in Parreros armed men raped and killed 16-year-old Omaira Fernández, who was pregnant, before ripping open her belly. According to one source “*They opened her up in front of everyone. The bodies of the girl and the baby were thrown in the river.*”. During this incident, three members of the indigenous community were killed. In Velasqueros, three young girls were raped. According to witnesses, a contingent of men had been parachuted into Parreros from helicopters. One source told Amnesty International “*they were paramilitaries who live in the battalion [Navas Pardo] with the soldiers*”. These killings, and other attacks allegedly carried out by the army and paramilitaries in the surrounding area, led to the displacement of over 500 people from Flor Amarillo, Santo Domingo and the indigenous communities of Betoyes to Saravena in Arauca Department.³⁸

Between 18 and 21 February 2000, over 300 paramilitaries from the *Autodefensas Campesinas de Córdoba y Urabá* (ACCU), Córdoba and Urabá Peasant Self-Defence Groups, attacked the village of El Salado in the department of Bolívar, where they killed around 49 people. They reportedly spent three days torturing, strangling, stabbing, decapitating, beating and shooting the local inhabitants. Women were sexually humiliated, forced to strip naked and dance in front of their husbands. Several were raped and

subjected to various forms of torture. Testimonies from inhabitants gathered by Amnesty International also alleged that a pregnant woman was subjected to gang rape before having her sexual organs mutilated. She was subsequently impaled. The paramilitaries accused their victims of collaborating with the guerrilla.

Although the authorities were warned by social organizations that there was likely to be an attack on the people of El Salado, no action was taken by them to prevent the attack. According to testimonies, the paramilitary operation had the support of troops from the *Batallón de Fusileros de Infantería de Marina, Bafim N° 5*, Fifth Battalion of Naval Infantry Fusiliers. Over the three days of the massacre, helicopters with military markings allegedly flew over the area and machine-gunned the village; bullet holes were found in the roofs of people's houses.

Several days after the massacre, the bodies, which the inhabitants themselves had buried in the cemetery or in mass graves, were exhumed by officials from the Office of the Attorney General (*Fiscalía General de La Nación*).³⁹ The investigators identified 28 bodies. Although they were told that some of the victims had been abused sexually, the investigators did not collect evidence to prove that sexual abuse had taken place or to help identify the perpetrators.

The massacre led to the displacement of 600 families⁴⁰ towards the municipalities of El Carmen de Bolívar, Turbaco, Arjona and Ovejas and nearby cities such as Cartagena, Sincelejo and Barranquilla. Other families fled to other departments and some sought refuge in Venezuela.

There is strong evidence that sexual violence was routinely employed in other recent massacres carried out by paramilitary forces, often reportedly in collusion with the security forces:

³⁷ The population of Betoyes is around 745, spread over an area of 702 hectares. It is an area in which oil interests are accompanied by a strong military presence. In recent years, the paramilitaries have increased their attacks on Betoyes.

³⁸ Report by the *Comisión Humanitaria de Verificación, Defensoría Delegada para la Defensa de los Derechos Humanos y Asuntos Étnicos, defensoría Seccional de Arauca, Coordinación de la zona de rehabilitación de Arauca de la Defensoría del Pueblo, Organización Nacional Indígena de Colombia* (ONIC), 23 June 2003.

³⁹ The Office of the Attorney General (*Fiscalía General de la Nación*) was set up by the 1991 Constitution to investigate and prosecute all crimes committed in Colombia, including human rights violations and abuses.

⁴⁰ Office of the Human Rights Ombudsman, Ombudsman's Resolution N° 008, *Concerning the process of return of the displaced population from the village of El Salado – Bolívar*, Bogotá, November 2002, p.7.

- Between 10 and 13 April 2001, paramilitaries allegedly entered the region of Alto Naya, in the municipalities of Buenos Aires and Miravalle, between the departments of Cauca and Valle del Cauca, passing a checkpoint of the army's Brigade III along the way. The area is home to indigenous and Afro-descendant communities. The paramilitaries used chain saws to torture, mutilate and kill the inhabitants. At least 20 people accused of collaborating with the guerrillas were killed. Some 1,000 people fled to Buenaventura and other points along the Naya river. Another paramilitary incursion into the municipality of Buenos Aires in 2000 had left several people dead. According to witnesses from the area, during both incidents the attackers raped some of the women before killing them and tortured young people in front of the local population.
- On 17 January 2001, 70-100 paramilitaries entered the village of Chengue in Ovejas Municipality, Sucre Department. They killed 34 people and set fire to 30 homes, causing 900 people to flee. Those killed were tortured and several were subjected to sexual violence. On 6 October 2000, members from the community of Ovejas and the villages of Don Gabriel, Salitral and Chengue had signed a petition and sent it to the Colombian President asking for protection because of the threat of a paramilitary massacre in the area. According to reports, for several hours before and during the massacre, military helicopters flew over the area. In August 2001, the prosecutor in charge of the investigation, Yolanda Paternina, was killed. On 6 February 2002, Oswaldo Borja, the investigator from the Attorney General's *Cuerpo Técnico de Investigaciones* (CTI), Technical Investigations Unit, who had collected evidence about the case, was also killed. The investigations had implicated senior armed forces' personnel in the massacre.
- On 9 January 1999, in the village of El Tigre in the municipality of La Hormiga, department of Putumayo, a paramilitary

incursion took place, reportedly with the collaboration of the Brigade XXIV and police officers. At least 26 people were killed and 14 "disappeared". Some of those killed had allegedly been tortured and sexually mutilated. The victims included children, adolescents, pregnant women and elderly women. The massacre marked the beginning of a paramilitary offensive in Putumayo, an area which had previously been under the control of the FARC. The events resulted in the displacement of 700 people from that village and other neighbouring villages to other areas throughout the region, with some fleeing to neighbouring Ecuador.

There is strong evidence to support the view of the UN Special Rapporteur on violence against women, its causes and consequences that "[r]ape during warfare has also been used to terrorize populations and induce civilians to flee their homes and villages".⁴¹

- On 23 August 2002, in San Benito Abad, Sucre Department, four women were raped by AUC paramilitaries. Some 60 paramilitaries went into the urban centre and, after intimidating the inhabitants, looted shops and homes and raped the four women in the presence of their children. An unknown number of peasants were injured in the incident. The attack led to the forced displacement of about 50 families. The ICBF sent a commission to investigate the incident and concluded that the population was suffering from deep psychological crisis, post-traumatic stress and widespread anxiety.⁴²
- Between December 2001 and the beginning of 2002, incursions by paramilitaries into the municipalities of El Tarra and Teorama, in

⁴¹ United Nations, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission resolution 1997/44, E/CN.4/1998/54, 26 January 1998, Section I.6.

⁴² *Banco de datos de derechos humanos y violencia política del CINEP y Justicia y Paz (BCJP), Noche y Niebla - Panorama de Derechos Humanos y violencia política en Colombia*, Bogotá, BCJP, 2000, N° 25, p.75.

the department of Norte de Santander – during which a number of women were allegedly sexually abused – led to the forced displacement of over 10,000 civilians, many fleeing to other municipal capitals.

Many civilians have also been killed after being kidnapped or trapped inside their homes or in the course of incursions into towns by armed groups. In many cases, death has been preceded by torture and sexual abuse or mutilation. Victims have also been subjected to mutilation and other appalling forms of abuse after death. Many of the victims are civilians accused by the armed groups of collaborating with “the enemy” or viewed as dissidents or members of the opposition or simply as a hindrance to their aims and objectives:

- On 15 April 2002, “Elisabeth” from San Antonio, in Jamundí, Valle del Cauca, was violently dragged out of a meeting by paramilitaries and taken to a park where she was tortured. After having her breasts and then her arms cut off, she was decapitated. The paramilitaries, from the Farallones Front, accused her of being a guerrilla informant.
- In September 1997, 26-year-old Mónica Pulgarín was travelling by bus from Dabeiba to Medellín with her boyfriend. As it was leaving Dabeiba, the bus was stopped by paramilitaries, believed to be the ACCU. Mónica was dragged out of the vehicle. Her body later turned up in Uramita showing signs of torture. Her nails had been pulled out, her back and legs were broken, she had been raped and her hair had been pulled out.

Amnesty International has been informed of cases in which paramilitaries raped and killed women who were heads of household or whose husbands or partners were away. A husband’s absence is viewed as evidence that they belong to the guerrilla. In June 1997, paramilitaries arrived in Santa Lucía (Turbo) where they stopped a woman, her three-month-old son, her mother and three other children. The paramilitaries asked where her husband was and she told them that he was away. ‘Why did he leave?’, they asked, ‘your husband must be a guerrilla’. She replied that her husband had a job but was not at home. ‘But you

are, come with us”. Despite her mother’s pleas, she was tied up and taken away. On 23 June her mother went to look for her but found her dead. She was lying naked. Her genitals had been cut out and she had had her throat cut.

Although both women and men can be targeted for deliberate killing because of their activities, women and girls are also killed because they are related to or have emotional ties with people who are considered by the armed groups to be military targets. Paramilitaries, guerrillas and the security forces have been accused of raping their victims before killing them:

- On 21 December 1999, a 13-year-old girl, the daughter of Martha Olaya, a trade union leader and member of the *Asociación Nacional de Mujeres Campesinas, Negras e Indígenas de Colombia* (ANMUCIC), National Association of Peasant, Black and Indigenous Women of Colombia, in Tuluá, department of Valle del Cauca, was raped and killed, allegedly by the army in the village of Monteloro. Her body was displayed by the security forces dressed in military uniform to give the impression she was a guerrilla killed in combat. The doctor who performed the autopsy was killed a week later. On 31 July 2000 the home of Martha Olaya was burned down, apparently by paramilitaries.
- In March 2001, the 16-year-old daughter of another ANMUCIC leader was raped, tortured and killed as she travelled to Valledupar, department of Cesar. She was dragged from a bus and taken away. ‘I don’t know who found the body. She had been buried as an unknown person. The AUC had paid for the urn. That’s what they do. The indigenous people who lived near the well had heard her cries. They told me that she was saying ‘Don’t kill me, I haven’t done anything to you’ and that she was calling out for me. The paramilitaries shouted out to her ‘What damned mother? If it wasn’t for her, we wouldn’t be doing this’. They cut off her breasts’.⁴³

⁴³ Testimony received from the mother of the dead girl, March 2004.

Several massacres and selective killings have taken place in areas inhabited by indigenous and Afro-descendant communities where there is even less legal protection and the inhabitants are particularly at risk. The AMNUCIC leader whose daughter was killed in March 2001 said that in that year paramilitaries had killed and mutilated other indigenous girls in the area:

“In Las Delicias a 10-year-old girl was killed, had her throat cut and was mutilated. It was around the same time they killed my daughter. Also around that date a 16-year-old indigenous girl had her breasts cut off. They wanted to make their presence felt. All [the victims] were indigenous women. For the indigenous peoples in any war women, children and old people must be respected. They are horrified.”

At the start of 2002, paramilitaries reportedly entered an indigenous community in Puerto Caicedo, department of Putumayo. During the paramilitary incursion, a woman was killed after being raped and mutilated. Her 14-year-old daughter was also raped:

*“A woman from the Nasa indigenous group was quartered. After raping her, they cut her up piece by piece with a chain saw. A 14-year-old girl who had also been raped by them left and went to Ecuador. Her 38-year-old mother was also raped. I knew about the case because they were in mourning and I do plant cures. After she was raped, the girl refused to eat and was crying and they took her to the shaman to be cleansed with ‘yagé’ [a type of liana which is cooked up with other plants to make a cure]”.*⁴⁴

The authorities responsible for investigating such crimes do not usually carry out the procedures necessary to confirm that the victims had been sexually abused. Even when the atrocities perpetrated on the bodies, such as sexual mutilation, are visible, they are generally not recorded. In a few rare cases, sexual mutilation has been recorded under the general category of torture.

Detentions, house searches and kidnappings

In the Colombian armed conflict, the use of torture to obtain information or as a terror tactic, or to

⁴⁴ Testimony given to AI by an indigenous woman in Putumayo, 13 November 2003.

punish, intimidate, or coerce often includes sexual violence. Sexual violence is used by the security forces, paramilitary groups, and the guerrilla. Women are at particular risk of rape when in detention or during house searches and kidnappings:

- Jineth Bedoya, a journalist from the Bogotá-based newspaper *El Espectador*, was kidnapped by three men on 25 May 2000 at the entrance to Bogotá’s Modelo prison, and later abandoned near Villavicencio, department of Meta. She had been beaten and raped. A few days previously, she had published an article on killings committed by members of the AUC held in Modelo prison. Although investigations were opened for kidnapping and rape (*acceso carnal*), no one has yet been brought to justice.⁴⁵
- On 13 September 1998 in Mutatá (Antioquia), two soldiers from the Brigade XVII arrived at a house belonging to an indigenous Embera family and at gunpoint the soldiers allegedly raped the two women present in front of their children, then threatened them with death if they told anyone what happened.
- During *Operación Marcial* (Operation Marcial), a large-scale military operation against guerrilla forces in the department of Antioquia which started in early 2003, soldiers entered the home of “Matilde”, a woman living in Los Medios, in the municipality of Granada. They interviewed her and told her that she should go and look for her husband. She set off down the road and on the way was allegedly raped by soldiers from the army’s Brigade IV. An official complaint was lodged with the

⁴⁵ In June 2000 the Inter-American Commission on Human Rights issued precautionary measures for Jineth Bedoya. In compliance with the order, the Interior Ministry Protection Program provided her with a bodyguard. However, the escort was withdrawn without explanation. On 8 August 2003, she was kidnapped, together with a photographer, by members of Front 44 of the FARC in the department of Meta, when they were investigating the circumstances surrounding forced displacement in Puerto Alvira. Both were released on 12 August 2003.

Fiscalía Seccional de Santuario, Attorney General's Office in Santuario, but to date no one has been brought to justice. According to reports received by Amnesty International, several women were raped in the context of the same operation.

- On 10 December 2002, in Bogotá, the home of Mercedes Corredor, a member of the Communist Party and activist with the *Unión Patriótica (UP)*, Patriotic Union party, was raided by about 80 men believed to be plain-clothed members of the Metropolitan Police carrying no external form of identification. The woman was verbally and physically attacked and subjected to sexual violence in front of her nine-year-old daughter, who, together with her brother (who suffers from learning difficulties), was also subjected to verbal and physical ill-treatment. The family members were filmed and their rooms searched. However, all that was found were legal documents relating to their political affiliation.

Members of women's organizations and activists, such as those belonging to ANMUCIC, have been targeted by the armed groups. They have been kidnapped and tortured, including sexually abused, for defending human rights and denouncing abuses, and for asserting the autonomy of women's organizations and challenging traditional gender roles. Campaigning for women's empowerment, defending their rights and promoting their involvement in public life can expose women to ridicule, threats and even "exemplary" punishment. Their husbands or boyfriends can also be ridiculed or attacked for not knowing "how to control" their partners.

On 21 July 2003, "Angela", a leader of ANMUCIC in the department of Cundinamarca, was kidnapped by alleged paramilitaries. She was held captive for three days before being released. While in captivity, she was physically and psychologically tortured and subjected to serious sexual abuse. She had to flee the country a few months later. *"There was a grey truck with dark windows. They grabbed hold of me roughly and threw me inside. They had cartridge belts and were wearing military uniform. They asked me my name, trampled on me and started driving off. It must have been about six hours before they let me out. I asked where we were going and they said that they were taking*

me for a drive. They tied me up, it was dark and I was thirsty and very afraid. They hit me and insulted me and asked me about other ANMUCIC leaders, they ..." She was unable to continue her account as the memory of what she went through that day came back to her. Sobbing, she covered her body with her hands.⁴⁶ Testimony obtained subsequently indicated that she suffered serious sexual abuse.

Amnesty International has also learned of cases of mutilation with sharp instruments. On 24 November 2002, "Lidia", aged 18, a member of a group of young women based in Bello Oriente, in north-eastern Medellín, was intercepted by six men carrying small arms and wearing AUC armbands as she was walking along the street. She was blindfolded and driven away. One of them referred to her as the "target". According to "Lidia", more men were picked up along the way. They asked her what she did and pressured her to admit she was a guerrilla. She was raped several times. Marks were made on her legs, breasts and buttocks with a penknife or knife. They carved the letters AUC on her left arm. They told her to leave the area and said that, if she talked, they would kill her and her siblings. With the support of a women's organization, Lidia lodged an official complaint with the Attorney General's Office, but to date no one has been brought to justice. Lidia and her family had to move away from the area.



The initials of the *Autodefensas Unidas de Colombia (AUC)*, United Self-Defence Forces of Colombia, cut into the arm of "Lidia" (formerly G.) aged 18 in 2002. © Jesús Abad Colorado

Kidnappings carried out by the FARC, to obtain resources with which to finance their activities or to assert their presence and authority in a particular area, can expose women to sexual abuse in captivity, as reflected in the testimony of Rina Bolaño, a

⁴⁶ Testimony given to Amnesty International in September 2003.

bacteriologist working with indigenous peoples who was kidnapped in August 2003 in the Sierra Nevada de Santa Marta in the north of the country. She was allegedly repeatedly raped by the local FARC commander, “Beltrán”, while being held captive (see Chapter 5 for further information on this case):

“I was just finishing work when the guerrillas turned up. Omar López Beltrán, who was in charge of my detention, said “You didn’t ask permission”. The FARC sent a letter to Empresa Dusakawi [her employer] demanding that they pay a ‘fine’ of 15 million pesos [USD 5,600], which is their way of asking for a ransom. Members of the Arbuaco indigenous community took action on my behalf and the case was brought to the attention of the authorities. While I was in captivity, Beltrán harassed me. If anyone spoke to me, they would be punished. All that harassment made me cry. In the end I talked to a female guerrilla and she told me that he was just like that, that he always behaved like that. He asked women to masturbate him. Four nights later, tired of my refusal to do so, he grabbed my breasts and savagely manhandled them and raped me. There was a lot of noise because I struggled. The next night it happened again. One of the women guerrillas asked me, “What happened? I heard you complaining”. Beltrán punished her for ‘gossiping’. He intimidated everyone. I was terrified of him. Because he was abusive, everyone was against him. Beltrán was confronted and the troops turned against him. We had already begun to come down from the mountains so that I could be released. He blew up saying it was all lies. That they wanted to mess up the CV of someone who had been a guerrilla for 14 years. I held his gaze and said that I would rather die. The other guerrillas were not going to let him kill me. They told me to denounce him so that the commanders would believe them. ... Beltrán wanted money to release me. The indigenous people said they couldn’t give money and so Beltrán didn’t want to release me but at the same time he couldn’t stand the sight of me anymore because he had lost control of his troops. In the end he told me I could go but on my own. I was afraid until some indigenous people recognized me. They took me to the their mamo [spiritual authority] to pray and give thanks. When they released me, I wanted to pour water all over myself to get rid of all that filth but I was determined to report it. Many women who are kidnapped in Cesar are raped but they say nothing.”

Rape as a form of punishment

All the parties to the conflict have declared women to be “military targets” for having relationships or fraternizing with those deemed to be their enemies. Surveillance is regularly carried out on women and teenage girls to ensure compliance, and rape is sometimes used to punish the individuals concerned and to send out a general warning to the female population.

In a municipality in the department of Huila in mid-2002, a young woman was raped by alleged members of the FARC, who had issued warnings to young women who had relationships or contact with members of the army. In February 2002 in the municipality of Saravena in the department of Arauca, the 45 Front of the FARC distributed leaflets declaring women who visited army battalions and police stations to be military targets: “We are writing to inform women who frequent military installations belonging either to the army or the police, that they will be considered military targets”. The following testimony about a rape committed by alleged members of the FARC was obtained in Cali in 2002:

“...when I was half way along the road, four young men appeared. They had their faces covered and asked me if I wanted to go dancing. I was afraid. I said no. Then they asked me if at home we looked after the army which was camping next door and whether we gave them water. I said that we couldn’t refuse to give someone water and that if they asked for it, we gave them some. They asked if I had a boyfriend in the army. I said no. The one who talked most dragged me to an abandoned house which was a bit further on and when I tried to resist he held his hand over my mouth. He said that if I shouted out or opened my mouth they would take revenge on my family or take my little brothers away. When we reached the house, he told me that he was going to leave me a little something to remember him by... I was wearing a short dress and he pulled the zip down and started to fondle me. I was very frightened and didn’t know what to do. If it had been just one of them... but there were four and I couldn’t defend myself. I kept quiet. I made no effort to defend myself. I didn’t say anything or shout out because I was afraid. All I could think about was that they shouldn’t do anything to my mother or take my little

brothers away. Three were standing guard, two a bit up from the house and the other lower down. The other one went into the house with me. He raped me and told me that it was a little reminder so that I wouldn't forget that they were not talking rubbish, that they would keep their word. That they were fed up with the girls from the town ignoring their orders not to get mixed up with soldiers. He also told me that I had to leave the town for the good of my family. They said they were from the FARC".

Rules of conduct and the use of corporal punishment

In parts of the country they effectively control, paramilitaries and guerrillas seek to interfere in the most intimate aspects of people's lives. They set rules and curfews, intervene in family and community disputes, and inflict punishment, including torture, killings and other forms of cruel and degrading treatment. In recent years there has been an increase in such reports.

Amnesty International has collected testimonies highlighting how the armed groups have forced their way into the daily lives of the rural and urban populations by imposing intrusive regulations and following them up with threats and abuse. The punishments for contraventions of these rules of conduct can include flogging, putting glue into a person's hair, shaving the head, mutilation and disfiguring the face and other parts of the body with acid or sharp instruments. Public humiliation is also common. One method of punishment encountered in testimonies obtained from many regions is to undress the person and force him or her to carry out chores for them while carrying a sign outlining their supposed transgression.

The armed groups impose rules on communities that are based on culturally-entrenched gender stereotyping and in which extreme sexism and homophobia prevail. Their desire for strict differentiation between men and women to be maintained is reflected in rules on dress and personal appearance. For example, males are not permitted to wear earrings or have long or dyed hair. The restrictions on them can extend to any expression of individuality such as the use of tattoos or piercings. In effect, military discipline has been transposed to community life.

Keeping women under control, especially in respect to their sexuality, is a key strategy adopted by the armed groups. Guerrilla and paramilitary groups have sought to standardize female clothing and prohibit garments that might be considered provocative or suggestive. Wearing clothes that expose the body to men's gaze, having sexual relations outside of marriage, being a prostitute, or exercising independence by not having a male partner can drive the armed groups to persecute women and inflict on them the most appalling punishment.

- NORMAS DE CONVIVENCIA
AUTODEFENSAS Y POBLACIÓN CIVIL
1. HORARIO PARA LOS MENORES DE EDAD
 2. HORARIO PARA LOS ESTABLECIMIENTOS PÚBLICOS
 3. VENTA DE LICORES
 4. ESCANDALOS EN LA VÍA PÚBLICA
 5. RELACIONES CON LA POBLACIÓN CIVIL
 6. JUEGOS DE AZAR
 7. DESARME DE LA POBLACIÓN CIVIL
 8. PRENDAS DE USO PRIVATIVO
 9. MANTENIMIENTO DE FACIADAS
 10. RECOLECCIÓN DE BASURAS
 11. LIMPIEZA DE FINCAS Y POTRESOS
 12. MANTENIMIENTO DE ANIMALES
 13. ESTUDIO OBLIGATORIO
 14. USO DE VEHÍCULOS OFICIALES O DE ENTIDADES PRIVADAS
 15. HOSPEDAJE Y SITIOS DE VIVIENDA PARA LOS MIEMBROS DE LAS AUC
 16. RESPETO DE LA PROPIEDAD PRIVADA

Rules of conduct imposed by the *Autodefensas Unidas de Colombia* (AUC), United Self-Defence Forces of Colombia on the civilian population. © AI

Both the paramilitaries and the guerrillas appear to be competing to demonstrate that they are the guardians of a traditional form of sexual morality associated with the idea of order. The imposition of rules on civilians is also a means to make visible the control of an area by a group when there is no military confrontation with the adversary in the area. It provides a means of ensuring that civilians do not seek to pursue socio-political projects that do not conform to the ideology of the dominant armed

group. The rules imposed are generally known as “rules of coexistence” (*normas de convivencia*), an expression widely used by the paramilitary groups. The FARC have used several different terms for the rules they impose on communities.⁴⁷



This notice lists the range of sanctions and fines imposed by the FARC on the civilian population in areas they control for infractions of rules they impose, ranging from “being quarrelsome” to “bringing in prostitutes”, to “not participating in community work”. © AI

The armed groups often make their rules known by placing leaflets and lists in places where they are likely to be seen. Sometimes they summon the inhabitants of a community to a meeting to issue their warnings. Such announcements can involve threatening specific individuals that they will be killed if they do not leave the community. The armed groups have also carried out such killings at the same time as announcing their rules. The expulsion or “elimination” of beggars,

⁴⁷ Amnesty International came across one FARC poster entitled “*Sanciones y multas - Normas para vivir en una comunidad digna y honesta*”, “Rules for living in a decent and upright community – Fines and punishments”.

thieves, “recyclers” (*recicladores*),⁴⁸ prostitutes, homosexuals and people living with, or believed to have, HIV/AIDS has become part of the strategy of armed groups to demonstrate how effective they are at “establishing order” and “cleansing the community of undesirables”.

Rules of Coexistence

“When the paramilitaries arrived, they put lists of people on the posts. They accused them of vice. For being lesbians or homosexuals or because women had been unfaithful. (...) They told girls they mustn’t wear cropped tops (ombligueras) and low-slung jeans. The boys were banned from having long hair or wearing earrings. (...) In San Francisco in November 2002, a young woman had acid put in her belly button. A young man had his earrings ripped off injuring his ears.”⁴⁹

“In Isla de León [Cartagena], they put warnings up on posts saying that they are going to kill prostitutes, criminals and drug addicts. They put names and killings have occurred. You’re also not allowed to walk around at night. These days they’re killing off a great deal in this neighbourhood.”⁵⁰

“In Cesar, the paramilitaries make women who do not adhere to traditional roles do forced labour. In Valledupar, young girls wearing cropped tops have had their heads shaved, one girl was marked with a penknife and prostitutes were tied up. In Antioquia, young lads with earrings have had their ears pulled off. They have total control.”⁵¹

“I remember it well. They arrived and started circulating leaflets containing supposed rules of coexistence. They said that it was forbidden to wear camouflage clothing, the sort that is similar to what they wear, and that we women had to wear clothes that were not suggestive, that the type of punishment would depend on who it was but would range from having the item of clothing confiscated to being arrested by members of the AUC and even being expelled from the district. We were well and truly warned. One day a young woman who lived almost opposite me went out wearing shorts, and when she was coming back, two of those men stopped her and, right in the middle of the street, took her clothes off, tied her up and stuck a sign on

⁴⁸ Colombia has approximately 50,000 recyclers or scavenger families (*recicladores*) that earn their livelihood in collecting solid waste. Source: <http://www.unesco.org/most/southam4.htm>

⁴⁹ Testimonies given to AI by the inhabitants of a district near Cartagena, 23 November 2003.

⁵⁰ Testimony from an inhabitant given to AI in Cartagena, 21 November 2003.

⁵¹ Interview with women leaders, September 2003.

her though I can't remember exactly what it said. They then paraded her around the whole district and, using a megaphone, warned people that if they didn't want to end up like the girl, then they had to comply with the warnings they had distributed when they arrived".⁵²

Guerrilla and paramilitary groups have succeeded in assuming authority in the poor urban neighbourhoods because official institutions have taken no action to curb or stop their activities which, in some areas, have their consent and acquiescence. In many cases, in the absence of effective state institutions, the armed groups are requested by the local population to intervene in their private disputes and "restore order". In the city of Barrancabermeja, department of Santander, there have been cases in which parents have asked the paramilitaries to discipline their own children and the paramilitaries have done so by inflicting corporal punishment. A young woman was reportedly left naked and tied to a pole in the sun for three days to teach her a lesson about her behaviour. *"Girls are tied to poles or left lying on the ground in the sun, boys are half-buried and frightened with snakes".*⁵³ In Barrancabermeja, a women's organization reported that *"husbands and partners often pressurize women by threatening to put 'los paracos' [the paramilitaries] on to them"*. In Puerto Asís, in the southern department of Putumayo, a woman complained to the paramilitaries that a young girl was having sex with her husband. As punishment, the paramilitaries stripped the girl naked and paraded her through Puerto Asís carrying a sign.

As part of "social cleansing" operations, women who work as prostitutes have been persecuted, "disappeared" and killed:

- In Barrancabermeja, on 2 October 2003, three paramilitaries kidnapped a 26-year-old sex worker who had arrived in the city in April of that year. She was driven to an abandoned house in the Miraflores neighbourhood, where she was interrogated and beaten. All her clothing was removed and one of them put his hand into her vagina. They threatened to cut off her breasts.

⁵² Testimony from Medellín, January 2003.

⁵³ Testimony from a woman from a neighbourhood of Barrancabermeja given to AI in November 2003.

- In February 2003, in the centre of the city of Cartagena, four women who were believed to be sex workers were killed after being shot at from a motorcycle.
- In Putumayo, a sex worker was forced to seek refuge in Ecuador after being threatened by paramilitaries. In the course of her work, she had sexual contact with soldiers, paramilitaries and guerrillas. Other women from the area have reportedly been killed.

Homophobic persecution and killings

Rigid gender stereotypes, which fuel violence against women in Colombia, has also resulted in lesbians, gay men and those suspected of carrying HIV/AIDS to be targeted by paramilitaries and guerrillas. This homophobic violence is fuelled by the impunity which exists in relation to "anti-gay hate crimes". Activists from the LGBT sector provided Amnesty International with several cases of people who had been killed because of their sexual orientation or gender identity, including cases in which those concerned had received threats from armed groups prior to their death. Such crimes are rarely properly investigated by the authorities. Amnesty International has collected information from various cities and regions demonstrating the persecution and violence to which the LGBT sector is subjected to by the armed groups:

- In Medellín, at the end of 2002, a 14-year-old girl was undressed in the street and a sign was attached to her saying "I'm a lesbian". According to residents from the area, she was raped by three armed men, believed to be paramilitaries. A few days later she was found dead with her breasts cut off.
- In the municipality of Mesetas, department of Meta, one of the five municipalities of the then Demilitarized Zone⁵⁴, reports began to

⁵⁴ Mesetas was one of five municipalities which made up the Demilitarized Zone, in which the FARC had *de facto* control during peace talks with the government from 1998 until February 2002, when the talks collapsed.

emerge that the 27 Front of the FARC was persecuting lesbians and gays in the area: *“Two lesbians were living there. The guerrillas told them they had to leave the municipality. Within a month they had ‘disappeared’. People say they were killed. Their relationship was public knowledge, they lived together. They had become more or less accepted in the town”*.⁵⁵

- In 2002, in the Miraflores neighbourhood of Barrancabermeja two lesbians were raped, allegedly by paramilitaries, *“to show these girls what it’s like to feel a man”*.

The armed groups have responded to the spread of HIV/AIDS by persecuting, expelling and killing those believed to be carrying HIV. According to testimonies given to Amnesty International, such abuse has been targeted at civilians as well as at their own combatants. Obligatory HIV testing was reportedly imposed on civilians by the FARC when the former Demilitarized Zone was in operation between 1998 and 2002 in Meta and Caquetá Departments.

For example, the 27 Front of the FARC allegedly began a campaign of mass testing in Vistahermosa, Meta Department, to detect who was HIV-positive. People were forced to submit to the tests at gunpoint and to pay for them themselves. Male hairdressers and homosexuals were forced to leave their homes and businesses. All municipalities within the Zone were affected by the action.

Members of the illegal armed groups believed to be carrying HIV have also reportedly been killed. However, according to testimonies and reports provided by former guerrillas, female guerrilla fighters who are HIV-positive were more likely to be killed. *“It is the women who suffer all the consequences. Men are not obliged to use condoms but pregnancy is punished. While a woman who is HIV-positive may be shot, there are [positive] men who are not”*.⁵⁶

Women and girls living in slavery

Women and girls have been kidnapped by the illegal armed groups as sexual slaves for the commanders.

⁵⁵ Testimony obtained by Amnesty International in March 2004.

⁵⁶ Meeting held with a women’s organization in March 2004.

Guerrilla and paramilitary groups have also recruited women and girls to their ranks who have subsequently been sexually abused by fellow combatants. According to reports received by Amnesty International, girls in Cúcuta, Norte de Santander Department, who were forced to have sexual relations with paramilitary commanders subsequently become military targets for the guerrillas. Women and girls have also been forced into prostitution. In 2002, in the city of Barrancabermeja, 15 teenage girls who had been forced to become prostitutes for the paramilitaries reportedly had to leave the area for fear of further abuse. Sex workers also allege that they have been forced to provide sexual services to combatants. In 2002, in Medellín, 10 sex workers were reportedly abducted by the FARC and forced to provide sexual services.⁵⁷

In 2002, in a neighbourhood of north-eastern Medellín, two young girls were kidnapped:

“My 13-year-old daughter was abducted for a week. When I went to the police, they told me she would turn up soon. The girl managed to phone me, she was crying, she said she couldn’t tell me anything. She was brought back at night in a taxi. They had kept her in a house of prostitution that they [the paramilitaries] control. The girl didn’t want to speak, she was afraid to say what happened. The same thing happened to another girl of 14. They kept her blindfolded in a brothel for two weeks. They threatened to kill her if she said anything. The girl ended up pregnant and the baby is now six weeks old. They [the paramilitaries] go after the very young ones”.⁵⁸

In Putumayo, a FARC guerrilla reportedly abducted a 16-year-old girl and forced her to stay with his mother-in-law while his wife was in prison. The girl was sexually abused and ill-treated by the man. She managed to escape to Ecuador. But the guerrilla followed her and went on subjecting her to violence. In October 2003, a woman who lived alone with her son was held in her own house in the Las Independencias 3 neighbourhood of Medellín by two paramilitaries who told her that they were going to stay in the house *“because they could stay wherever they*

⁵⁷ Information provided by the International Organization for Migration (IOM).

⁵⁸ Testimony from the mother of the kidnapped child given to Amnesty International in November 2003.

liked". She was sexually abused and warned not to say anything about what had happened.

The illegal armed groups also abduct women to carry out duties such as cooking and laundry. One source told Amnesty International, *"In the neighbourhoods [of Medellín] the paramilitaries are kidnapping women to get them to work for them. I knew of a young girl of 20 who was kidnapped to get her to wash their clothes"*. According to another informant, *"They [the paramilitaries] take them away for a week at a time. They force them to do the washing for several men. One woman was forced to wash clothes for 20 men. Her family doesn't believe she was kidnapped, they say she abandoned her children"*. A woman from a poor Medellín neighbourhood told Amnesty International that *"The paramilitaries tell girls 'You were the girlfriend of a guerrilla, now you can do my washing'."*⁵⁹

Sources in Putumayo claim that mothers are taking their daughters out of the area for fear of the paramilitaries. If the girls do not do what they want, they threaten to kill the parents. The FARC in the area have also reportedly put pressure on girls. *"Four girls from school went off with the guerrillas four months ago. A week ago they escaped. One told me that they used them if they wanted sex. They forced them to do it in front of everyone. They gave them injections which they said were for birth control. They were whipped if they didn't do their chores"*.⁶⁰

Enforced contraception and abortion for combatants

The use of enforced contraception or abortion is a violation of human rights. Women and girls who have abandoned the FARC and the ELN told Amnesty International that both guerrilla groups force their own combatants to have abortions and use contraception, including girls as young as 12. "Gabriela" was 11 or 12 when she joined the ELN and from 13 was involved in combat. She was given the contraceptive Norplant when she was with the ELN:

"In the guerrillas birth control is standard practice. They inserted IUDs [intrauterine devices] and gave injections ... They gave me that little tube-like thing

⁵⁹ Testimony of a member of an organization working with the displaced in a poor neighbourhood of Medellín, given to Amnesty International on 16 November 2003.

⁶⁰ Testimony from an indigenous girl from Putumayo given to AI on 13 November 2003.

*in the arm. After that, I didn't stop bleeding, I was in a bad state. I nearly died but not long ago they took it out. They took a knife to it and now I've got this scar. No... the man who did it wasn't a doctor. (...) Girls who get pregnant are forced to have an abortion."*⁶¹

"Janet" was 12 years old when she joined the FARC:

"As soon as you get there, they give you coils and injections. Any girl who gets pregnant has to have an abortion. The commander decides whether you can have the baby or you have to have an abortion. Some have run away because of that. If they catch them, they kill them no matter how old they are. Running away is seen as betraying the movement".⁶²

According to the Human Rights Ombudsman out of a group of 65 girls who had left the guerrilla, all had had intrauterine devices inserted, some against their will and without being given information about the device, on the grounds that it was an order they had to obey to be able to stay with the group.⁶³

In November 2002, Amnesty International wrote an open letter to FARC leader Manuel Marulanda including its concerns about sexual abuse and violations of reproductive rights. No reply was received:

*"According to reports, the FARC-EP, in common with other parties to this conflict, have been responsible for abuses against the human rights of women. ... Practices such as forcing women to use birth control, and forced abortions are an outrage to the personal dignity of women. Testimonies of girls that have left guerrilla groups allege that the FARC-EP carry out these practices ... We urge the guerrilla organizations, including the FARC-EP, to publicly commit themselves to taking the necessary measures to ensure full respect for the integrity and human rights of women in Colombia."*⁶⁴

⁶¹ Testimony of a girl from Cauca who abandoned the ELN, given to AI in March 2004.

⁶² Testimony of a girl from Norte de Santander who abandoned the FARC, given to AI on 29 November 2003.

⁶³ Report of the United Nations High Commissioner for Human Rights on the Human Rights Situation in Colombia, E/CN.4/2003/13, 24 February 2003, para. 48.

⁶⁴ AI Index: AMR 23/124/2002, 16 December 2002.

Internally-displaced women

Hundreds of thousands of Colombians have been forced to flee their homes in search of safety in recent years. They are fleeing human rights abuses committed by all parties to the conflict. A few thousand of those fleeing persecution manage to cross the border to seek asylum in other countries, although even then there is no guarantee of safety; many have been forcibly repatriated to Colombia where some have been killed and others remain in serious danger.



Since 1985 more than 3 million Colombians have been forced to flee their homes in search of safety. They are fleeing human rights abuses committed by all parties to the conflict. © Jesús Abad Colorado

Between 18 and 21 April 2003, more than 100 Colombians who had fled violence in their communities were deported from the town of Punuza Boca de Cupe in Panama. The deportees, who were mainly Afro-descendants, were filmed or photographed while being forced to sign or put their fingerprint on documents stating that the deportation was voluntary. They were forced to do this after being subjected to three days of intimidation and ill-treatment, including the alleged threatened rape of a 23-year-old woman. According to information obtained by Amnesty International, members of the Panamanian Guard demanded that the woman tell them whether her husband was a guerrilla. They allegedly threatened to bury her alive. They then forced her to strip, showed her a knife and threatened to rape and mutilate her. A 15-year-old girl was also accosted during the same operation and questioned over whether she had a boyfriend in the guerrillas.

However, the vast majority of Colombians at risk of human rights abuses are not able to cross an international border. They have no choice but to seek

refuge in another area of the country less immediately affected by the escalating violence. They are internally displaced within their own country.

The causes of displacement are varied: counter-insurgency operations, guerrilla reprisals, land conflict, economic interests. But most of Colombia's internally displaced are fleeing political violence caused by the conflict. Some are casual victims caught up in the hostilities, but in many cases displacement is a deliberate strategy routinely used by the parties to the conflict to "cleanse" civilians from areas which they perceive are controlled by their enemies.

To add to their already serious economic problems, the displaced are often stigmatized by local and regional authorities in the reception areas who often label them "guerrillas" or "guerrilla sympathizers", merely because they have fled from areas of guerrilla presence, and claim the displaced will bring the conflict with them. Fear of persecution leads many not to admit they have been forcibly displaced. As a result, they have no access to what little help is available.

Although women are generally not directly involved in the hostilities, they are the most affected by the trauma of displacement. Many of them are recently widowed, and have been forced to flee their rural homes with their children, abandon their livestock and possessions, and take precarious refuge in shanty towns surrounding towns and cities. More than half of all internally-displaced persons are women; many of these are also heads of households.

Internally-displaced women are at far greater risk of being sexually abused, raped or forced into prostitution because of their particular social, psychological and economic condition. According to statistics from the Ministry of Social Protection (*Ministerio de Protección Social*), 36% of internally-displaced women have been forced to have sexual relations with men they did not know.⁶⁵ For example, internally-displaced girls and teenagers in Mocoa, department of Putumayo, who are employed as domestic servants are often sexually abused or put to work in brothels. Similar reports were received from

⁶⁵ *Política Nacional de Salud Sexual y Reproductiva*, National Policy on Sexual and Reproductive Health, Ministry of Social Protection, 2003, p.14, quoting ENDES -2000 PROFAMILIA.

Puerto Asís and Puerto Leguizamo, also in the department of Putumayo.

While on the move and once they have settled elsewhere, displaced women face serious barriers that prevent them from accessing goods and services in a climate where they are often stigmatized and their access to resources and protection determined by whether or not they provide sexual services.

Special security zones and areas under military dispute

Although the armed conflict affects the whole country, certain areas have been particularly hard hit, especially those disputed militarily by the armed groups and, more recently, those regions which are being “reclaimed” by the government as part of its ‘democratic security’ strategy. Previous administrations have sought to introduce special security areas in which the security forces have been granted additional powers over the civilian population. However, most of these security areas were subsequently declared unconstitutional by the Constitutional Court.

The government of President Uribe declared a State of Internal Commotion on 11 August 2002, three days after assuming office, and issued Decree 2002 – which established two so-called Rehabilitation and Consolidation Zones (RCZs) and granted judicial police powers to the military – on 9 September 2002.⁶⁶ A State of Internal Commotion gives additional powers to the military, including the right to restrict freedom of movement and residence, prevent radio and television from transmitting “sensitive” information, and restrict meetings and demonstrations

Two RCZs were set up on 21 September: one in the three northern municipalities of Arauca (Arauca, Arauquita and Saravena), and a second covering parts of the departments of Sucre and Bolívar.⁶⁷ Aside from the additional powers granted to the security forces under the State of Internal Commotion, in the

RCZs a single military commander had control over all the security forces, including the police. But on 29 April 2003 the Constitutional Court ruled against the renewal of the State of Internal Commotion and Decree 2002, and by extension, the RCZs.

The government presented a constitutional reform bill in Congress, approved by the legislature in December 2003, which grants judicial police powers to the military by allowing the armed forces to raid homes, detain individuals and intercept communications without a judicial warrant. These powers, contained in the so-called Anti-Terrorist Statute, will allow the military to operate merely on the basis of their suspicions, and not on evidence gathered in the course of independent and impartial criminal investigations. It could also facilitate the surveillance and arbitrary criminal investigation of human rights defenders, witnesses to human rights violations and other civil sectors of society which are labelled as subversives by the military. It also provides the security forces with the capacity to investigate human rights violations they have committed with or without their paramilitary allies and thereby conceal the facts. In August 2004, the Constitutional Court declared that the reform proposal was unconstitutional.

The eight-months during which the RCZs were formally in operation were marked by an increase in the violation of human rights and breaches of international humanitarian law committed by all the parties to the conflict. During this period the military carried out numerous arbitrary and mass detentions, arrests and raids, many of which affected human rights defenders and social and trade union activists. There was also an increase in bomb and mortar attacks by guerrilla groups, many of which killed civilians, including women and children. The killing of human rights defenders, trade unionists, journalists, politicians and public officials continued unabated, and even increased in some municipalities. Mass death threats by guerrillas and paramilitaries against all sectors of society were also issued during this period.

In such areas, and despite the official end of the RCZs, civilians continue to suffer the burden of living in regions deemed by the security forces to be *zonas rojas* (red zones) which are dominated by guerrilla groups and whose presence, they claim, is

⁶⁶ See Security at What Cost? The Government’s Failure to Confront the Human Rights Crisis (AI Index: 23/123/2002) for a detailed analysis of the State of Internal Commotion and Decree 2002.

⁶⁷ See Laboratory of War: Violence and Repression in Arauca. AI Index AMR 23/004/2004

aided and abetted by the civilian population. Here, violations of human rights and international humanitarian law carried out by the security forces, the paramilitaries and the guerrilla are particularly acute.

Several sources have expressed concern about the fact that women are at particular risk: *“In the Rehabilitation and Consolidation Zones, they [the security forces] carry out lots of different types of searches, they are very disrespectful towards women. They say that ‘if men have to do military service, then women have to provide us with sexual services’. When there are abuses, the local officials persuade them [the women] not to report them”*.⁶⁸

There have been several cases of rape committed by the security forces in the former RCZs. In October 2002 in Araucuta, department of Arauca, at least two soldiers attached to the *Batallón de Contra Guerrilla 46 “Héroes de Saraguro”*, “Heroes of Saraguro” Counter-Guerrilla Battalion 46, arrived at La Primavera ranch in the neighbourhood of Las Bancas at about 11pm and allegedly forced the residents to shut themselves in their homes and leave the lights off. One of the soldiers reportedly forced his way into the home of Francisco Guerrero before shooting him dead. According to reports, he subsequently raped Francisco’s 36-year-old wife, Inocencia Pineda Pabón, in front of their four children, three of whom were minors:

“I heard the shot and tried to hide from the man who said ‘Get out from under the bed’ and then I began to cry and I asked him to please not kill me because I had three young children and there was nobody to leave them with and he said I’m not going to hurt you, and I lay down on the bed and kept still and when I laid down, he got on top of me and said I had to be with him and that, if not, I was going to die too and he forced me to have sex with him and when he left, he told me not to go out because he couldn’t answer for what might happen and I had to stay the rest of the night there with my dead husband there on the floor and me in bed, it was a very difficult night, very, very difficult”.⁶⁹

Although the soldier was taken into custody by the Brigade XVIII he subsequently escaped twice. No

⁶⁸ Amnesty International interview with members of a women’s organization, November 2003.

⁶⁹ Testimony of Inocencia Pineda Pabón.

information has been received on whether he has been recaptured.

On 10 November 2002, in the village of Peralonso, municipality of Araucuta, department of Arauca, a soldier from the Counter-Guerrilla Battalion No.46 entered the home of Libardo Pinto and went to the rooms of his daughters, aged 14 and 12. Prior to that, the electricity supply had been cut off. Libardo Pinto managed to fight off the man who was attacking his daughters but he threatened to kill them all.

On 22 September 2003, in the municipality of La Mohana, department of Sucre, Esteban Farrayán and Marisel Martínez Cabarcas were approached by a group of seven peasant soldiers who tried to rape Marisel Martínez Cabarcas. When Esteban Farrayán tried to intervene, he was beaten, threatened and chased. Marisel Martínez managed to escape. On 23 September, Esteban Farrayán and Marisel Martínez went to the Attorney General’s Office where judicial officials told them that they could not accept the complaint unless the attackers were fully identified. Nevertheless, the couple lodged a complaint at the local police headquarters. Once the complaint had been made and after its existence had been verified, it failed to appear in the corresponding file because, according to the officials who recorded the complaint, it was withdrawn on the direct and specific request of the complainant herself, which Farrayán and Martínez deny. The couple were later threatened that they would be killed if they persisted with their complaint.

The strategy employed by the security forces in the RCZs was also extended to other areas, such as the poor neighbourhoods of Medellín, which had a strong guerrilla presence. To reclaim this territory from the guerrilla, the security forces launched a series of large-scale military operations, notably “Operation Orion” in the Comuna 13 district of Medellín in October 2002.⁷⁰ As in the RCZs, this led to an increase in human rights violations committed by the security forces, including extra-judicial executions, “disappearances”, mass detentions and arrests, and torture. As in other large-scale military

⁷⁰ During *Operación Orión*, which was initiated on 16 October 2002, some 350 people were reportedly detained in the first few days. Dozens of civilians were killed during the gun battles between the security forces and guerrilla groups. There were also reports of several “disappearances”.

operations carried out by the security forces over the last few years, the Medellín operation facilitated the entry and consolidation of paramilitaries in Comuna 13 and other parts of the city. One illegal armed group was thus replaced by another. The paramilitaries quickly introduced “rules of coexistence”:

“When the paramilitaries took over, they distributed leaflets in the upper part of Comuna 13 forbidding young women to use cropped tops, piercings and low-rise jeans. Young girls stopped using them. The boys were told to cut their hair. The paramilitaries used to cut their hair with a machete. They were also not allowed to wear earrings.. (...) Curfews were also imposed. They put out leaflets telling mothers that if they didn’t send their sons and daughters to bed, they would do it for them”.⁷¹

“In the neighbourhood of Guadalupe, in the north-eastern part, the paramilitaries said that women were gossips and banned them from getting together. They virtually want to shut them away altogether”.⁷²

Many young women in Medellín have been threatened by the guerrillas and paramilitary groups, and have been forced to go into hiding. At the time of writing this report, “Liliana”, aged 18, had been living in hiding for eight months in Comuna 13. At the age of 16, she told Amnesty International, the ELN recruited her to do various kinds of work. When she refused, they gave her drugs. She escaped by pretending she was pregnant and moved out of the area. But fearing she had been discovered, she returned to Comuna 13. During *Operación Orion* in late 2002 “Liliana” was arrested by the security forces and threatened that she would be handed over to the paramilitaries. In January 2003 paramilitaries took her out of the house and gave her a day to give them addresses of suspected guerrilla militia members. She fled again. Since January 2004 her anxiety has increased, partly because there are rumours that the guerrillas are coming back and partly because in recent months several young women have been found dead after having been raped and mutilated, allegedly at the hands of the paramilitaries:

“There are lots of girls hiding in this neighbourhood. I know one who made a hole in the ground to hide in. Any noise I hear I think they’re coming for me. We are all afraid. At the moment I’m afraid because of the disappearances and the fact that girls’ bodies turn up later naked and ‘chopped up’. ... They [the ELN] gave me ‘perico’ [cocaine], they said it was so that I shouldn’t feel anything and would enjoy it. I didn’t want to do what they wanted. Once they gave me an overdose and my whole body went stiff. They bit me so that I would react. I pretended to be pregnant because the ELN wouldn’t let me leave. They gave a pill to make me abort and I ran away.... During Operation Orion, here in Comuna 13, the paramilitaries kicked the doors in and tied up and abused girls for being the lovers of guerrillas. In January 2003 the paramilitaries took me out of the house so that I would tell them where the ‘hideouts’ were. They said they would torture me and gave me a day to give them the addresses. Next day I ran away. ... If they [the paramilitaries] like a girl, they don’t like being rejected, they will do anything to make her theirs. There was one called Jorge who told me, ‘If you come and live with me, I’ll get you out’. I had to escape. In January [2004] I started shaking all over. There are many cases of girls who have been sexually abused and murdered here but people are afraid to say anything. Everyone is afraid. The girls are isolated. ... I don’t want psychologists. They want me to remember and all I want to do is to keep my mind occupied precisely so that I won’t remember”.⁷³

In another neighbourhood of Medellín where there is a heavy paramilitary presence, three boys aged between 8 and 12 attacked some young girls from the same neighbourhood. They urinated on them and said “We’re going to do whatever we want with you”. According to testimonies obtained by Amnesty International, several young boys stood around watching. “No one went to the girls’ aid. Instead they were laughing. A woman who was travelling in a minibus got out. It was only then that the boys dispersed”.⁷⁴ Several sources indicate that minors in the poor neighbourhoods of Medellín have adopted the paramilitaries as role models. “They are the ‘tough guys’ and can do what they want. If they like a girl, they take her, nobody can argue with

⁷¹ Testimony of a member of a youth organization in Medellín, given to AI on 16 November 2003.

⁷² Testimony of a member of a youth organization in Medellín, given to AI on 16 November 2003.

⁷³ AI Interview in Medellín, March 2004.

⁷⁴ AI interview in Medellín.

them. That is the model of masculinity that is being encouraged".⁷⁵

Amnesty International has received frequent reports of women being sexually assaulted by the security forces in areas where they are deployed. In those cases brought to the attention of Amnesty International, the alleged perpetrator has usually accused the women or teenage girls of belonging to or collaborating with the guerrillas. The army's counter-insurgency strategy views civilian victims of the armed conflict, including those who inadvertently come into contact with guerrilla groups, not as innocent victims but as part of the enemy. This strategy has been put into practice through the stigmatization and harassment of the civilian population, especially those living in areas of territorial dispute. This has had a disproportionate impact on indigenous and Afro-descendant communities, many of whom live in areas of conflict.

On 25 September 2001, in the indigenous community of Piñales in the municipality of Mutatá, department of Antioquia, "Clara", a 24-year-old indigenous woman who was four months pregnant, was raped. According to her testimony, the attack occurred when she was at the stream carrying out her daily chores and a man wearing military uniform appeared and told her he was a member of the armed forces. He intimidated and ill-treated her and accused her of being a guerrilla collaborator. She tried to resist but the man took her away and raped her. According to members of the community, three days earlier an army platoon had been camped nearby. A complaint was lodged with the *personero* (local human rights ombudsman) in Mutatá who passed the case on to the Attorney General's Office.⁷⁶ Shortly afterwards, the *personero* was killed.

Negotiating army, paramilitary or guerrilla checkpoints are a daily chore for those living in conflict areas. For many women and girls, these checkpoints have become a source of real danger. Amnesty International has received reports indicating that people have been forced to strip when being searched by the security forces at checkpoints. Some

⁷⁵ AI interview with a psychologist in north-eastern Medellín, March 2004.

⁷⁶ The *personero* is a municipal representative who acts as the agent of the Public Ministry and serves as a people's advocate, protector of human rights and civic inspector.

of the women interviewed also allege that in some localities they have been subjected to vaginal examination.

In eastern Antioquia Department women have been abused at checkpoints by both the security forces and paramilitaries. "They undress them and touch their breasts, it's something that has been happening since Operation Marcial started [early 2003]. It happened before but since January [2004] it has got worse," one source said.

On 23 October 2003, Yorman Rodríguez, the wife of Ruddy Robles Rivero, secretary general of the agricultural trade union SINDAGRICULTORES was stopped at a police checkpoint on the road between Tolú Viejo and Colosó (at a place known as La Siria) in the department of Sucre. She was sexually assaulted and then subjected to further physical and psychological ill-treatment to pressure her to "cooperate with the police". The officers in charge confiscated the mobile phone she was carrying which had been given to her husband by the Interior Ministry's *Programa de Protección a Líderes Sociales*, Program for the Protection of Social Leaders.

Resisting or reacting to sexual harassment and molestation at checkpoints can result in punishment or even "disappearance". "Alejandra" was 21 when she 'disappeared' on 18 August 2001 between Concordia and Urrao in the department of Antioquia, an area where the AUC operate, as she was on her way from Medellín to Urrao. The minibus she was travelling in was stopped at an AUC checkpoint. "According to the driver ... one of the men doing the search treated her disrespectfully [he touched one of her breasts] and she asked him to apologise ... The one who did the search called "Lieutenant René" from the AUC by radio and he ordered them not to let her back on the bus. The driver pleaded with them on her behalf. They told him they would put her on the next bus but that they were going to teach her a lesson because she had been rude". Alejandra is still missing. Her father, who has worked ceaselessly to find her, has been detained twice by the *Servicio de Investigaciones Judiciales e Inteligencia* (SIJIN) Judicial Investigation and Intelligence Service, and at the time this report was written he was being held in Bellavista prison in connection with alleged guerrilla association.

When detaining people on suspicion of collaborating with the guerrilla, the security forces sometimes seek to put pressure on detainees to falsely incriminate

their neighbours, often using violence to do so. On 10 November 2002, in Arauquita, Arauca Department, Ana Alejandra Castillo del Rincón was allegedly tortured by the police. Ana was sitting in a park with a man and a woman when the police arrived and took her to the police station. There they told her that they needed her to cooperate by accusing a young man who was in detention of being responsible for a murder. Ana said she did not know the detainee and that she did not know that anyone had died. The lieutenant then allegedly threatened to plant two grenades on her and send her to prison for 15 years if she did not say what he wanted. She refused to lie and the police took photos of her and decided to keep her handcuffed and standing up to keep up the pressure. After several hours, the man who was guarding her said "Look, it's best if you cooperate because if the lieutenant comes, he will do worse things to you than I'm thinking about doing". He then reportedly attached a cable that was plugged into the electricity supply to her breasts and tried to fondle her. Having failed to get her to make a statement, they released her. She was warned that she would not escape the paramilitaries.

PUNISHED AGAIN: REJECTED BY THE FAMILY AND THE STATE

Staying silent to survive: the stigma of sexual violence

"Survivors are rejected, 'look, look, she was raped', one girl had to leave for that reason. Women who are raped during massacres [but who survive] are also stigmatized".⁷⁷

"Many women are raped here but that never comes to light. They don't want to be scarred for the rest of their lives".⁷⁸

In Colombia, the stigma of sexual violence prevents many women from speaking out. Survivors are often ostracized by those around them simply because of the type of violence that has been used against them. Surviving sexual violence is viewed as shameful or 'dishonourable'. This makes sexual violence a

⁷⁷ Testimony of a member of a women's organization in Cartagena given to AI on 21 November 2003.

⁷⁸ Testimony of a member of a youth organization in Medellín, given to AI on 16 November 2003.

particularly perverse crime. When a woman survives rape, she is sometimes accused of not having resisted enough or even of having "asked for it". In several testimonies obtained by Amnesty International, women and girls said they felt guilty for having survived.

In an armed conflict, women have to contend with added forms of stigmatization. If a person has survived, the view is sometimes taken that he or she must have offered something in exchange for their life or been a willing victim. Amnesty International has also heard testimony which appears to show how communities have been influenced by the way in which the armed groups themselves behave. For example, if sexual violence has occurred in areas in which such groups have imposed rules and punishments, instead of recognizing it as sexual abuse and condemning it, the community has said the person deserved it because they broke the rules.

In some cases of sexual violence committed against members of a community in the context of a general attack by armed groups, it is the community that has decided not to bring to light the sexual violence for fear of "bringing shame" on the communities in question.

Survivors also remain silent for fear that their family will reject them, sometimes violently. Some survivors of sexual abuse feel that they have failed to live up to their family's expectations while others face the prospect of being abandoned or assaulted by their partners.

Those who survive sexual abuse often receive threats from the armed groups that they or their families will be killed. A frequent feature of the testimonies received by Amnesty International is that the victim continues to be terrorised by such threats, and to live in a state of constant fear and anguish, especially given the very real likelihood that such reprisals will be carried out.

The consequences of sexual violence: state care for survivors

Sexual violence can have a devastating impact on the lives of survivors, especially when they receive insufficient emotional or social support from those closest to them or when they do not receive

appropriate assistance to recover from the physical and mental damage caused by such abuse. Apart from the immediate physical injury and mental anguish, women who are raped run the risk of becoming pregnant or of contracting STDs, such as HIV/AIDS.

There can also be an increased risk of developing other health problems in the long term, including chronic pain, physical disability, misuse of drugs and alcohol and depression. Victims may suffer traumatic consequences for long periods of time – even for the rest of their lives – if they do not receive appropriate help. In terms of reproductive health, sexually abused women are more likely to suffer unwanted pregnancy and gynaecological problems and to develop serious problems with their sex lives. The undermining of their self-confidence can have a devastating effect on their day-to-day lives.

Experiences of addressing the needs of victims of sexual violence around the world has shown that the following free services must be made available: immediate medical attention for injuries; medical monitoring to deal with the clinical consequences of the violent act; immediate provision of emergency contraception and prophylactic treatment to avoid STD infection; immediate psychological attention and crisis intervention for the victim and her family; specialist psychological support to address the trauma; forensic assistance; assistance from a social worker; and protective measures to keep the victim safe from her attackers.

In Colombia, however, free provision of these services by the state is practically non-existent. In some areas, rape survivors who have been able to obtain access to medical services and immediate procedures such as emergency contraception have done so through social and welfare networks run by women's organizations and other private organizations. As a result of training and awareness-raising carried out by these organizations and inter-governmental bodies, such as the United Nations Population Fund (UNFPA), some primary health care providers are able to address some of the survivors' immediate needs. In any event, the possibility of gaining access to certain services is seriously limited for economic reasons. The victims of such abuses face various expenses. HIV and pregnancy tests and emergency contraception are generally not free. Prophylactic treatment to avoid STD infection,

including HIV is practically unknown. Some forensic authorities interviewed by Amnesty International expressed reservations about providing these services because of the costs involved.

As far as the governmental response is concerned, the only example of sustained inter-institutional coordination has been as the result of a project, '*Atención integral a víctimas de violencia sexual*', 'Comprehensive care for victims of sexual violence', set up with technical and financial support from UNFPA. This project has led to the development of certain limited services in specific areas of the country. Although Amnesty International welcomes such initiatives, their territorial scope is too limited. Moreover, they have not been geared towards addressing the specific conditions in which women who have suffered sexual abuse in the context of the conflict find themselves. Even in areas where such initiatives have been introduced, and where services and emergency procedures are available for the victims of sexual violence, those who are most likely to be exposed to such abuse are rarely aware of their existence.

Women who live far from health centres or in conflict zones face huge obstacles to gain access to even basic services. Health policies, and in particular the failure to make a commitment to the rights of displaced peoples, have left survivors of sexual violence to fend for themselves.

Justice denied: inaction, complicity and impunity

"The fact that torture generally precedes extra-judicial executions skews the statistics on torture. When information is gathered on massacres and selective killings, the victims are usually classified under violations of the right to life, with no mention of the violation of their right to personal integrity. In other instances, physicians omit to mention in autopsy reports the existence of signs of torture in the corpses examined".⁷⁹

Sexual violence is rarely reported by the victim. In those cases in which survivors muster the strength to

⁷⁹ Report submitted to the 57th session of the United Nations Commission on Human Rights by the Office of the United Nations High Commissioner for Human Rights in Colombia. E/CN.4/2001/15, 8 February 2001.

do so, the authorities often seek to dissuade women from doing so:

- In the neighbourhood of Acacio, in the municipality of Jamundí, department of Valle del Cauca, “Marta”, who was then 15, had an altercation with a person known to be a paramilitary. The paramilitaries beat her up. They then started to follow her around. Towards the end of February 2003, they took her from her home and pushed her into a car where they raped her. Some people found her bleeding and took her to hospital. The Attorney General’s Office reportedly refused to process the complaint because they said that the paramilitaries were very dangerous and that they would kill her mother and younger siblings. “Marta” became pregnant as a result of the rape. The complaint was lodged in Bogotá. It was presented to the Human Rights Office of the Attorney General’s Office on 23 March 2003.
- *“My daughter is 9 years old. The events happened two years ago. I was at home with her and they were talking about rape on TV. My daughter lowered her head. ‘Caliche touches me, he touches my vagina’. I was furious and I confronted Caliche. I told him I would bring an action against him. I went to the Attorney General’s Office but they would not accept my complaint because they said that if it wasn’t rape, they couldn’t... Caliche disappeared but on 31 October, my daughter saw him in Manrique. He is from the AUC in Combo del Hoyo, he’s 19. He said that if I did anything to him, he would kill us.”* Nothing further happened as regards the complaint.⁸⁰

Even if they persist the case is unlikely to be fully and independently investigated. The prospect of a conviction is virtually zero, especially if the alleged perpetrator is a member of the security forces, the paramilitaries or the guerrilla. Every step of the process appears to be designed to block survivors’ attempts to seek truth and justice. In Colombia, the chances that victims of sexual abuse have access to the courts and secure justice, whether or not the

offences in question are connected with the armed conflict, are small. Amnesty International has received numerous testimonies and data showing the arduous and usually fruitless journey embarked on by survivors and others who report such offences. Although changes have been made to Colombian law in recent years with regard to how sexual offences are to be dealt with, in practice little substantial change has taken place.

The Rina Bolaño Case

Rina Bolaño, a bacteriologist working with indigenous peoples, was kidnapped on 12 August 2003 by the 19 Front of the FARC in the Sierra Nevada de Santa Marta in the north of the country. After being released, she made public statements and lodged an official complaint alleging that she had been repeatedly raped by the local FARC commander, “Beltrán”, in the two weeks she spent in captivity. Viewed by the media as the first woman to publicly denounce sexual abuse by armed groups, the case attracted considerable public attention. She received the support of a well-known women’s organization (*Red Nacional de Mujeres*, National Women’s Network) as well as the *Defensoría del Pueblo* (Human Rights Ombudsman). A few days after lodging her complaint, the case took a surprising twist. On 12 September, Bolaño was arrested on the orders of the local Attorney General’s Office and accused of rebellion:

*“Two carloads of men armed to the teeth arrived. They said, ‘We’ve come from the Vice-President’s Office to protect you. This isn’t a safe neighbourhood. Get your clothes’. I innocently fell into the trap. When I arrived at the DAS [Departamento Administrativo de Seguridad], Department of Administrative Security, they took my fingerprints. The officer said to me cynically, ‘So what did you do? Now we can’t protect you, we’ll have to arrest you for rebellion’. Like a common criminal, with photos. The National Director of DAS made public statements saying that I had been captured and that I was from the ELN. I had the support of women who said ‘We’re going to get you out’. But it went on for 46 days. Commander ‘Beltrán’ got reinserted and so was protected by the state. He made statements on television. The police authorities said we had been in love and that I was a guerrilla. The word of a reinserted guerrilla had more weight than mine”.*⁸¹

⁸⁰ Testimony of a woman from a Medellín given to AI on 15 November 2003.

⁸¹ AI interview with Rina Bolaño, March 2004. A “reinserted

Rina Bolaño was released on appeal after being held for 46 days, and in August 2004 was finally exonerated by the Attorney General's Office of links to the guerrilla. While the case against her remained open, no progress could be made in investigating and prosecuting the offence of rape which she reported.

Although it is possible for a woman to bring a criminal action for offences involving sexual violence, in practice she is expected to lodge a complaint, ratify it and then respond to summonses from the authorities to provide further information. If she fails to do so, the investigation may be closed. A woman from Medellín's Comuna 13 reported to the police base in Los Laureles that she had been raped while held in her own home by members of a paramilitary group. According to the information obtained by Amnesty International, the police failed to report the case to the Office of the Attorney General, despite being required to do so.

Some human rights defenders have felt completely powerless to help victims of sexual violence who are often being subjected to abusive and humiliating questioning. *"Some women have called me from there on my mobile to tell me they couldn't take any more. They said, 'give me strength, give me strength' That was when they most needed me and I couldn't do anything. Just support them ... knowing that they were being destroyed".*⁸² The lack of procedural norms to protect the victims make complainants even more likely to drop their claims. By isolating the victim, and interviewing her without legal or emotional support, the authorities are effectively criminalizing the survivor.

The Special Rapporteur on Violence against Women urged Colombia's Attorney General to appoint a high-level legal advisor to deal with sexual and gender-based violence. But such an appointment is yet to be made. Although Law 599 of 2000 makes it a punishable offence (under articles 138 to 141 of the Penal Code) to inflict sexual violence on individuals who are protected under international humanitarian law, at least until the end of 2003 no investigations

guerrilla" is one which has left a guerrilla group and joined the government's program for illegal combatants who decide the lay down their arms.

⁸² Testimony from a defence lawyer working with a women's organization in Medellín, given to Amnesty International in March 2004.

were known to have been carried out by the Attorney General's Office in line with such provisions.

In January 2003, in an effort to pave the way for the "peace negotiations" with paramilitaries belonging to the AUC, the government issued Decree 128 which grants pardons to members of illegal armed groups who surrender to the authorities as long as they are not implicated in criminal investigations for human rights violations or abuse, or are not in prison for such crimes. But most paramilitaries and guerrillas responsible for human rights abuses, including sexual violence, have not been identified and are thus not under investigation. This decree will thus grant amnesties to abusers and violators, including those responsible for sexual crimes.

To further facilitate the negotiations with the AUC, the government has presented a bill to Congress, the "Justice and Reparation" bill, that will go beyond Decree 128 by establishing "conditional liberty" for incarcerated combatants of illegal armed groups who renounce membership of such groups or those associated with armed groups involved in a peace process with the state and who surrender to the authorities, even if they have been found responsible for serious human rights violations or abuses, including sexual crimes. The bill would extend these benefits to individual members of armed groups who admit to crimes and "make reparations", such as financial compensation to victims. The main beneficiaries of this legislation would be paramilitary groups who are negotiating with the government. If the Justice and Reparation bill is approved those responsible for human rights violations, including for crimes against humanity and war crimes, will not be properly investigated or brought to justice for their alleged crimes.

CONCLUSIONS AND RECOMMENDATIONS

All parties to the Colombian armed conflict exploit gender stereotypes and commit sexual crimes. Although it is impossible to state that such acts are committed by the parties to the conflict as part of their war strategies, these crimes are clearly widespread and so constitute war crimes. Such violence is often directed at women and girls and takes many forms, including the persecution and serious abuse of individuals because of their sexual orientation and gender identity. The conflict is also characterized by strategies designed to sow terror, demonstrate supremacy, and undermine social bonds. Despite the overwhelming number of cases and gravity of such crimes, they remain shrouded in silence and impunity.

The Colombian state has a responsibility to prevent and punish the sexual abuse of women. Despite the specific concerns and recommendations raised by international human rights protection bodies, including the UN Special Rapporteur on Violence against Women, the committee which monitors implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women, the UN Committee against Torture, the UN Human Rights Committee and the UN High Commissioner for Human Rights, there is little evidence to suggest that the Colombian authorities have taken sufficient measures to put an end to such abuses, to bring perpetrators to justice, or to tackle their causes. As long as gender-based discrimination is not addressed, and international norms on violence against women not enforced, the foundations remain in place for gender-based and sexual violence to take on more extreme forms in the context of the armed conflict and to continue to spread to all spheres of society. The illegal armed groups also have a responsibility to ensure that its members comply with international humanitarian law and prevent them from committing acts of sexual violence against civilians and combatants.



A woman of the *Ruta Pacífica de las Mujeres* (a feminist-pacifist movement) holds a yellow handkerchief which says: "We women want to live free of violence". © Paul Smith/Panos Pictures

Amnesty International believes that the Colombian state has failed to respect or protect people's human rights with regard to sexual violence and gender-based violence, to comply with its obligation to ensure that women and girls are able to enjoy a life free of violence and discrimination and, in general, to view sexual rights, including the duty to protect sexual and reproductive health and the right not to be subjected to persecution on grounds of sexual orientation or gender identity, as human rights. Women from marginal groups, such as rural, indigenous and Afro-descendant women, members of women's organizations, activists, trades unionists and human rights defenders continue to be at particular risk. Moreover, government policies, particularly those implemented under its "Democratic Security" strategy, have further undermined the little protection that these women enjoy in Colombia.

The duty of the Colombian State to respect the right not to be subjected to sexual or gender-based violence and to abide by international humanitarian law

The security forces and their paramilitary allies are frequently alleged to be responsible for instances of sexual abuse, including rape and sexual mutilation in the context of mass attacks on civilian communities, particularly in conflict areas; the selective killing of civilians and members of guerrilla groups who are *hors de combat*; rape and sexual abuse in the course of detentions and raids; sexual assaults on women and girls; sexually abusing women and girls at roadblocks and checkpoints and during searches; the use by paramilitaries of abusive methods of forcing women and girls to enlist or go into sexual slavery and enforced prostitution; the imposition of rules on the most private spheres of life and the use of corporal punishment by such groups to enforce them, and often implemented with the participation and acquiescence of the authorities; and various forms of “social cleansing”, including the persecution, enforced disappearance and killing of civilians on account of their sexual orientation or gender identity and, among others, people living with HIV and sex workers.

The duty of guerrilla groups to abide by international humanitarian law and respect right of everyone not to be subjected to sexual or gender-based violence.

Although guerrilla groups have persistently been exhorted by international human rights protection bodies and mechanisms to respect international humanitarian law and stop using practices that constitute breaches of it, such groups have continued to carry out serious abuses against civilians and their own combatants. Such abuses include the rape and sexual abuse of women and girls who have been recruited or kidnapped by them, sexual slavery and enforced prostitution, and forcing their own combatants to use contraception and have abortions. Women and girls have been persecuted and subjected to attacks, including rape and sexual abuse, for fraternizing with members of the security forces or paramilitaries. The FARC have also persecuted and killed people because of their sexual orientation or gender identity, forced people to have HIV tests and persecuted and killed HIV carriers and sex workers, among others.

The duty of the state to protect people's rights in the face of sexual and gender-based violence

The state has a duty to prevent, punish and eradicate sexual and gender-based violence, whether perpetrated by state or non-state actors. Colombia's Criminal Code contains specific provisions that prohibit discrimination and specific offences, including, within the context of the armed conflict, against people who are protected under international humanitarian law.

The duty to prevent: The state has failed to combat paramilitarism nor has it taken action to eradicate acceptance of sexual and gender-based violence within the security forces. On the contrary, Amnesty International believes that by continuing to investigate cases of sexual violence committed by the security forces within the military justice system, sexual abuse can more easily be covered up. The state also has a duty to hold the guerrilla accountable for sexual and gender-based violence committed by its combatants. The democratic security policy being implemented by the government has increased the risk that sexual violence will occur and that it will remain unpunished. The authorities have failed to implement comprehensive policies to combat the discrimination which forms the basis for sexual and gender-based violence or take steps to combat discriminatory gender stereotypes. Through its policies and actions, the government is sending an ambiguous message about the tolerability of sexual violence. The human rights of women are absent from the government's agenda at both domestic and international levels.

The duty to provide help for the survivors of sexual violence: The Colombian state has made little effort to make basic services and emergency procedures available to the survivors of sexual and gender-based violence. Access to these services is only possible through non-governmental and private organizations. The services the state does provide, such as emergency contraception, are not free. Prophylactic treatment for those who may have had contact with a carrier of HIV or other STDs is virtually non-existent. In the case of displaced women and girls, as well as those living in conflict zones, the help available is even more scant. Abortion, even in the event of rape, is a criminal offence in Colombia, which could result in imprisonment. Women and girls

must therefore either carry an unwanted pregnancy to term or attempt to end the pregnancy illegally, usually unsafely and possibly with fatal consequences.

There are no appropriate state specialist services available to assist the rehabilitation and social reintegration of survivors of sexual abuse committed in the context of the armed conflict. Although some government bodies are doing some work around sexual and gender-based violence, such efforts do not form part of a comprehensive state policy and do not meet the needs of those who have suffered sexual abuse in the context of the armed conflict. Amnesty International welcomes a number of official initiatives, such as the project on models and centres for providing comprehensive help to victims of sexual violence (*Modelos de Atención Integral a Víctimas de Violencia Sexual y Centros Integrales de Atención a Víctimas de Violencia Sexual*) which have been introduced in some areas, and is encouraged by the specific work being carried out by some official bodies, such as the National Institute of Forensic Medicine and Sciences. However, such initiatives appear not to be a priority for the government, which is also failing to encourage inter-institutional work, particularly on groups of women viewed as particularly at risk as a result of the armed conflict (Afro-descendant, indigenous and displaced women). Although Amnesty International welcomes the work being carried out by bodies such as the ICBF to reintegrate girls who have demobilized from the illegal armed groups, these bodies lack the resources to carry out their work effectively. One critical area which has been neglected is sexual and reproductive health.

The duty to ensure truth, justice and reparation for the victims of sexual violence

The authorities have failed in their duty to exercise due diligence in the prosecution and investigation of such offences which, when accompanied by other offences such as murder, are not even recorded. Moreover, the authorities have continued to justify their lack of action on survivors' failure to lodge complaints when they have not taken the appropriate steps to help them do so, and which have had such a decisive impact on many victims' decision not to pursue cases. Despite the fact that victims and complainants have been threatened, no appropriate effective steps have been taken to protect them. The defencelessness of complainants during criminal

proceedings and the lack of procedural measures that take into account the situation of survivors are factors that lead many women to drop their claims. As long as the authorities responsible for prosecuting crime do not carry out their duty to investigate, it is easy for those responsible to evade justice. In the few prosecutions that have been opened, the proceedings have been extremely long and lacked fair trial guarantees. Members of the security forces accused of rape are still being tried under military jurisdiction. It is rare for victims of sexual abuse to receive compensation. The only cases occurred as the result of civil claims against the state under administrative law (*procedimiento contencioso administrativo*) which are applicable in cases involving members of the security forces. Such proceedings can take 10 years or longer. The government has introduced *de facto* amnesties for egregious crimes, including offences involving sexual or gender-based violence. Under cover of the policy to encourage the armed groups to demobilize, those being reintegrated back into society are not being prosecuted for abuses they may have committed and have been assured that they will not pay for their crimes.

Amnesty International calls on the Colombian government to:

- Implement Security Council Resolution 1325 (2000) on Women and Peace and Security. The government should use the resolution as a guide and ensure that women are able to participate at all levels of decision-making with regard to the armed conflict.
- Ratify the Optional Protocol to the UN Convention on the Elimination of All Forms of Discrimination against Women.
- Implement the recommendations made by the Special Rapporteur on Violence against Women, the UN Committee against Torture, the UN Human Rights Committee, the committee which monitors the UN Convention on the Elimination of All Forms of Discrimination against Women and the UN High Commissioner for Human Rights.
- Comply with its obligation to conduct thorough and impartial investigations into

incidents of sexual and gender-based violence, and to prosecute those found to be responsible. Ensure that all members of the security forces implicated by judicial or disciplinary investigations in cases of human rights violations, including through collusion with paramilitarism, are suspended from duty until such time as their responsibility or innocence has been determined. Remove the crime of rape from the jurisdiction of the military justice system.

- Reverse proposals which threaten to drag the civilian population, including women, further into the conflict.
- Repeal measures which threaten to exacerbate the problem of impunity in Colombia, such as those granting judicial police powers to the military and *de facto* amnesties to members of illegal armed groups implicated in serious human rights violations.
- Ensure that human rights defenders can carry out legitimate human rights work without fear of retaliation or punishment by adopting, publishing and implementing a comprehensive policy on the right to defend human rights.
- Ensure that the treatment of people subjected to any form of arrest, detention or imprisonment meets international standards.
- Maintain reliable, up-to-date statistics on the incidence of complaints relating to sexual violence, whether or not connected with the armed conflict. Ensure that these records reflect abuses targeted at specific groups and that any categories that may distort the statistics, such as the definition of “crimes of passion”, are removed.
- Acknowledge that sexual and gender-based violence is an integral part of the serious human rights crisis facing Colombia and publicly express its strong condemnation of such abuses.

- Implement a comprehensive policy to ensure that there is a coordinated and adequately-funded institutional response to prevent, punish and eradicate sexual and gender-based violence. Such a response must ensure that survivors have access to the services and resources they need, as well as rehabilitation, and include special measures to protect women and girls from communities at particular risk as a result of the armed conflict, such as displaced, Afro-descendant, and indigenous women, as well as lesbians and women with HIV/AIDS.

Amnesty International calls on the Colombian government to guarantee the care and rehabilitation of survivors of sexual violence, including to:

- Guarantee free and timely access to counselling, information, tests and treatment for STDs, including HIV/AIDS, as well as emergency contraception. Where it is recommended by doctors, post-exposure prophylactic drugs in the 72-hours after rape should be made available free of charge to prevent possible HIV infection.
- Ensure access to reliable and appropriate services that can provide victims with psychological help and social support for their rehabilitation and reintegration.
- Provide effective training programs for personnel from the public health system on how to care for victims of sexual violence.
- Implement education programs aimed at public and community leaders on the importance of not stigmatizing victims of sexual and gender-based violence and take action to empower women and girls to enable them to seek help and adequate support.
- Ensure that organizations working on sexual and gender-based violence are involved in the drawing up of programs, services, policy and management tools and the monitoring

and evaluation of government action to address the needs of the survivors.

Amnesty International calls on the Colombian government to ensure that the justice system meets the needs of survivors of sexual abuse and gender-based violence, including to:

- Take steps to ensure that incidents of sexual violence are recorded and that evidence is gathered and preserved. Ensure that the survivors of sexual violence have timely access to forensic experts and that forensic tests are properly carried out. Train forensic experts to detect and provide information about the existence of sexual abuse.
- Establish effective guarantees to enable victims to report the perpetrators, including effective protection for complainants, survivors and witnesses.
- Introduce special provisions to guarantee the rights of complainants and survivors, including the right to have legal assistance and/or the support of an individual of their choice throughout any proceedings in which the victim's attendance is required; prohibit humiliating or discriminatory questioning, especially about intimate details of the victim's private life; prevent any form of secondary victimization, including requiring the victim to repeatedly answer questions and expand her statement; and ensure that forensic medical services are of high quality and relate with the victims of sexual violence in a sensitive manner.
- Comply with the recommendation made by the Special Rapporteur on Violence against Women, its causes and consequences that the Attorney General should appoint a high-level legal adviser on sexual and gender-motivated violence. Ensure that the Human Rights Unit of the Office of the Attorney General is given the necessary training and resources to prosecute and investigate offences of a sexual nature that are committed in the context of the armed conflict.

- Take immediate steps to ensure that officials responsible for prosecuting crimes, dispensing justice and monitoring the performance of public officials are aware of, and correctly apply, national and international standards concerning the trial of offences of a sexual nature.

Amnesty International calls on the Colombian government to improve the care provided to women and girls who have demobilized from the illegal armed groups, including to:

- Ensure that demobilization programmes adopt a gender-based approach (eg. providing sexual and reproductive health care and maintaining gender-specific data) and give priority to the right of women and girls not to be subjected to discrimination and violence.

Amnesty International calls on the guerrilla organizations to:

- Order all combatants to abide by international humanitarian law, which prohibits parties to an internal armed conflict from targeting civilians.
- Issue clear instructions to all combatants under their control not to commit rape and other forms of sexual violence against women and girls, whether civilians, their own combatants, or members of the armed forces and their paramilitary allies.
- Publicly denounce gender-based violence, whenever and wherever it occurs issuing clear warnings or instructions to their forces that violence against women will not be tolerated and that anyone responsible for any form of violence against women will be held accountable and brought to justice.
- Make a public commitment not to recruit anyone under the age of 18; stop the use of rape and other forms of sexual violence, and

stop the practice of forced abortions and contraception with respect to female members of the guerrilla.

Amnesty International calls on the international community to:

- Urge the Colombian government to fulfil the above recommendations and closely monitor its efforts to fulfil these recommendations and those made by the UN High Commissioner for Human Rights and other inter-governmental bodies.
- Call on guerrilla groups to publicly commit themselves to respecting international humanitarian standards and to prevent their members from committing abuses, including sexual violence, that breach international humanitarian law.
- In their relations with the Colombian government, express concern for its failure to prevent, prosecute and punish sexual violence against women and girls. Those at particular risk include women and girls living in conflict areas, those who are internally displaced, the indigenous and Afro-descendent communities, lesbians and women with HIV/AIDS.
- Provide support to women's organizations, LGBT organizations, activists and human rights defenders to enable them to carry out their work without fear.
- Desist from providing military aid and security transfers to the Colombian security forces until it can be demonstrated beyond doubt that this aid is not contributing to human rights violations, including sexual violence against women and girls.

APPENDIX 1: International Protection

Under the universal system of human rights protection, it is firmly stated that violence against women and girls constitutes both a violation of their human rights that prevents them from enjoying fundamental rights and freedoms⁸³ and a form of discrimination⁸⁴ which all states have an obligation to eradicate. Article 2 of the Declaration on the Elimination of Violence against Women, which was approved as a result of General Assembly Resolution 48/104 of 20 December 1993, states that “[v]iolence against women shall be understood to encompass, but not be limited to, the following: (a) (...); (b) (...) forced prostitution; and (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs”.⁸⁵

As a result of General Recommendation 19, adopted by the Committee on the Elimination of Discrimination against Women (CEDAW) at its 11th session in 1992⁸⁶, it was confirmed that the definition of discrimination against women contained in article 1 of the Convention on the Elimination of All Forms of Discrimination against Women included violence against women.⁸⁷ General Recommendation 19 states that “[w]ars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women,

⁸³ Beijing Platform for Action, Fourth World Conference on Women (1995), para.112.

⁸⁴ “[...] violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men”. Declaration on the Elimination of Violence against Women, A/RES/48/104, 23 February 1994. See also CEDAW General Recommendation 19 (Violence against Women). UN Doc. A/47/38, 29 January 1992, para.7.

⁸⁵ A/RES/48/104, 23 February 1994.

⁸⁶ U.N. Doc. HRI/GEN/1/Rev.1 at 84 (1994).

⁸⁷ “The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence”, para. 6, U.N. Doc. HRI/GEN/1/Rev.1 at 84 (1994).

which require specific protective and punitive measures”.⁸⁸ The Colombian state has signed and ratified the International Convention of the Elimination of Discrimination against Women. It has also signed but not ratified the Optional Protocol to the Convention.

The Convention on the Prevention, Punishment and Eradication of Violence against Women, also known as the Convention of Belem do Pará,⁸⁹ is a particularly useful specialist instrument which has been signed and ratified by the Colombian State.

As far as international humanitarian law applicable in time of armed conflict is concerned, all parties involved are obliged to respect it and are answerable for any acts which contravene treaty-based or customary law within that sphere.

Under international human rights law, the state is responsible for the acts of its officials and agents, including armed groups who work with or whose actions are tolerated by the authorities, as with the paramilitaries. A state may also be held internationally accountable regardless of whether or not the alleged perpetrator of a crime of violence against a woman has connections with the state (i.e., if he or she is a private actor or even a member of an armed opposition group), if it has not adopted or implemented measures to prevent, punish and eradicate violence against women and girls or if the officials or actors responsible for prosecuting and punishing such crimes do not comply with the obligation to exercise due diligence.

The State’s duty to exercise due diligence

Under international law, as well as having a duty to respect the human rights of women and girls, the state also has a duty to protect their rights in the face of acts of gender-based violence wherever they occur and whether or not those responsible are acting on the state’s behalf. This obligation is not confined to ensuring that such acts are established as criminal offences in law but requires the state to adopt measures to prevent, punish and eradicate them.

⁸⁸ General recommendation 19, adopted by the Committee for the Elimination of Discrimination against Women, para.16, UN Doc. HRI/GEN/1/Rev.1 at 84 (1994).

⁸⁹ Adopted in 1994 by the General Assembly of the Organization of American States (OAS).

The obligation to exercise *due diligence* is explicitly included in various instruments and documents relating to human rights protection.⁹⁰ In general, it refers to the degree of effort a state must make to comply with its duty to protect people from abuse. As far as the prohibition of discrimination against women is concerned, the duty to exercise due diligence requires the state to implement, immediately and without delay, a policy to combat violence that has its roots in the lack of equality between men and women.

According to the United Nations Special Rapporteur on Violence against Women, “a state can be held complicit where it fails systematically to provide protection from private actors who deprive any person of his/her human rights”.⁹¹

Exercising due diligence means adopting effective measures to prevent abuses, investigating them when they take place, prosecuting the alleged perpetrators and ensuring that they are brought to justice and given a fair trial, as well as ensuring that appropriate reparations are made to the victim. As well as ensuring that women who have suffered any form of violence have access to justice, the state must also ensure that the law effectively addresses their needs.

Crimes under international criminal law

Some types of violence against women and girls can be classified as genocide⁹², crimes against humanity or war crimes, all of which are acknowledged under

⁹⁰ In terms of jurisprudence, the most authoritative precedent is to be found in the inter-American system. In its judgment in the case of Velásquez Rodríguez, the Inter-American Court said that states parties have an obligation to guarantee the free and full exercise of the rights recognized by the Convention to all persons subject to their jurisdiction and that, as a consequence of that obligation, states must prevent, investigate and punish any violation of the rights recognized by the Convention.

⁹¹ United Nations document E/CN.4/1996/53, para. 32.

⁹² It is now firmly accepted that violence against women can be used as a means to commit genocide. Although women were not among the four groups expressly protected by the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) of 1948, certain types of attacks on women belonging to one of the four protected groups (national, ethnic, racial and religious), when committed with the intent to destroy such groups, in whole or in part, can amount to genocide.

international criminal law to be the most egregious of crimes.

The Rome Statute of the International Criminal Court (ICC) has sought to ensure that women who are the victims of crimes under international law have access to justice. The ICC has jurisdiction with respect to genocide, crimes against humanity and war crimes (although the ICC cannot investigate suspected war crimes in Colombia since the country invoked article 124 of the Rome Statute, which excludes such crimes from being investigated by the Court for a period of seven years). Although both men and women can be victims of most of these crimes, some forms especially or overwhelmingly affect women and girls.

The following offences are among those classified as crimes against humanity under article 7 (1)(g): rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence of comparable gravity. The same article also expressly recognizes that enslavement includes the trafficking of women. Article 7(1)(h) stipulates that the persecution of any identifiable group or collectivity on gender grounds, when committed in connection with any crime for which the Court has jurisdiction, constitutes a crime against humanity.

Conflict and post-conflict: gender-based violence and women’s participation

Resolution 1325 (2000), which was endorsed by the UN Security Council at its 4213th session on 31 October 2000, addressed gender issues in situations of conflict and post-conflict as well as the participation of women. It called on all parties to armed conflict “to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in

mind the relevant provisions of the Rome Statute of the ICC".⁹³

As far as gender-based violence is concerned, it calls on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict.⁹⁴ It also emphasizes the responsibility of all states to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes, including those relating to sexual and other violence against women and girls, and in this regard stresses the need to exclude these crimes, where feasible, from amnesty provisions.⁹⁵

Resolution 1325 (2000) also calls on "all actors involved to adopt a gender perspective when negotiating and implementing peace agreements, including, *inter alia*:

- (a) The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction;
- (b) Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;
- (c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary".⁹⁶

APPENDIX 2: Definitions of Sexual Violence

The Vienna Declaration and Programme of Action hold that "[v]iolations of the human rights of women in situations of armed conflict are violations of the fundamental principles of international human rights and humanitarian law. All violations of this kind, including in particular murder, systematic rape, sexual

slavery, and forced pregnancy, require a particularly effective response" (para. 28).⁹⁷

Rape constitutes violence against women which, in turn, 'both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms' (Beijing Platform for Action, para. 112). According to former UN Special Rapporteur on Violence against Women, Radhika Coomaraswamy, "rape as the ultimate violent and degrading act of sexual violence, constitutes "an intrusion into the most private and intimate parts of a woman's body, as well as an assault on the core of her self".⁹⁸

At various international conferences, governments have condemned rape as a weapon of war:

The World Conference on Human Rights expresses its dismay at massive violations of human rights especially in the form of genocide, "ethnic cleansing" and systematic rape of women in war situations, creating mass exodus of refugees and displaced persons. While strongly condemning such abhorrent practices it reiterates the call that perpetrators of such crimes be punished and such practices immediately stopped. (UN World Conference on Human Rights, Vienna Declaration and Programme of Action, Vienna, Austria, UN Doc. A/CONF.157/23, 1993, para. 28)

Countries are urged to identify and condemn the systematic practice of rape and other forms of inhuman and degrading treatment of women as a deliberate instrument of war and ethnic cleansing and take steps to assure that full assistance is provided to the victims of such abuse for their physical and mental rehabilitation. (International Conference on Population and Development, Cairo, Egypt, 1994, UN Doc. A/CONF.171/13, para. 4.10)

⁹³ Paragraph 9 of Security Council Resolution 1325.

⁹⁴ Paragraph 10 of Security Council Resolution 1325.

⁹⁵ Paragraph 11 of Security Council Resolution 1325.

⁹⁶ Paragraph 8 of Security Council Resolution 1325.

⁹⁷ [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En?OpenDocument), see also Beijing Platform for Action, Fourth World Conference on Women, para. 114, <http://www.un.org/womenwatch/daw/beijing/platform/violence.htm>

⁹⁸ E/CN.4/1997/47, para. 19

Grave violations of the human rights of women occur, particularly in times of armed conflict, and include murder, torture, systematic rape, forced pregnancy and forced abortion, in particular under policies of “ethnic cleansing”. (Fourth World Conference on Women, Beijing, China, 1995, UN Doc. A/CONF.177/20, para. 11)

Sexual slavery and sexual assault, including rape, constitute violations of women’s sexual and reproductive rights. They may lead to serious reproductive and sexual health consequences: unwanted and early pregnancy and the detrimental health effects of unsafe abortion, physical and psychological trauma, and sexually transmitted diseases, including HIV/AIDS.

Reproductive and sexual rights are composite rights, founded on the various human rights codified under international human rights law.⁹⁹

Building strongly on the elaboration of the rights to health (ICESCR Article 12, CEDAW Article 12, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ‘Protocol of San Salvador’, Article 10), reproductive rights were first internationally codified at the 1994 International Conference on Population and Development in Cairo. At the ICPD, governments noted that “[r]eproductive health eludes many of the world’s people because of such factors as inadequate levels of knowledge about human sexuality and inappropriate or poor-quality reproductive health information and services; the prevalence of high-risk sexual behaviour; discriminatory social practices; negative attitudes towards women and girls; and the limited power many women and girls have over their sexual and reproductive lives”.

They laid down the following definitions of reproductive health and reproductive rights:

Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the

⁹⁹ Rebecca C. Cook, ‘International Human Rights and Women’s Reproductive Health’, in J. Peters and A. Wolper, *Women’s Rights, Human Rights*, Routledge, 1995, p. 259.

reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. ... [Reproductive health] also includes sexual health, the purpose of which is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases. (para. 7.2)

[R]eproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents. ... As part of their commitment, full attention should be given to the promotion of mutually respectful and equitable gender relations and particularly to meeting the educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality. (para. 7.3)

These definitions were endorsed at the Fourth World Conference on Women (Beijing 1995).¹⁰⁰ The Beijing Platform for Action states that: “The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence” (para. 96). At Beijing, governments vowed to “take action to ensure the conditions necessary for women to exercise their reproductive rights and eliminate coercive laws and practices” (Beijing Platform for Action, para. 107).¹⁰¹

¹⁰⁰ See para. 96.

¹⁰¹ <http://www.un.org/womenwatch/daw/beijing/platform/halth.htm>

Enforced contraception and enforced abortion are violations of women's reproductive rights, in particular their "right to make decisions concerning reproduction free of discrimination, coercion and violence" (see above). In international humanitarian law, the Rome Statute of the International Criminal Court defines forced pregnancy and enforced sterilization as crimes against humanity and war crimes.¹⁰²

Former Special Rapporteur on Violence against Women, Radhika Coomaraswamy, has stated:

Forced abortions, forced contraception, coerced pregnancy and unsafe abortions each constitute violations of a woman's physical integrity and security of person. In cases, where, for instance, government officials utilize physical force and/or detain women in order to force them to undergo these procedures, these practices may amount to torture and cruel, inhuman and degrading treatment.¹⁰³

The same analysis must hold in cases where members of armed groups force women to use contraception or undergo abortions without their consent and against their will. In its General Recommendation 19 (Violence against Women), the CEDAW Committee recommends that states "ensure that measures are taken to prevent coercion in regard to fertility and reproduction" (para. 24(m)).

Like reproductive rights, **sexual rights** embrace human rights that are already recognized in national laws, international human rights documents and other consensus documents. These include the right of all persons, free of coercion, discrimination and violence, to the highest attainable standard of health in relation to sexuality, including access to sexual and reproductive health care services; seek, receive and impart information in relation to sexuality; sexuality education; respect for bodily integrity; choice of

¹⁰² Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998 (A/CONF.183/9), arts. 7 and 8

¹⁰³ UN Doc. E/CN.4/1999/68/Add. 4, para. 45, see also paras. 49 and 51.

partner; freedom to decide to be sexually active or not; consensual sexual relations; consensual marriage; freedom to decide whether or not, and when to have children; and freedom to pursue a satisfying, safe and pleasurable sex life.¹⁰⁴

Sexism and homophobia prevent women and men from exercising their sexual rights. Sexual orientation discrimination is a major obstacle to the provision of sexual and reproductive health care on the basis of equality and human rights. Individuals' human rights to sexual health are not confined to their relationships with members of the other sex:¹⁰⁵

[D]iscrimination on the grounds of sexual orientation is impermissible under international human rights law. The legal prohibition of same-sex relations in many countries, in conjunction with a widespread lack of support or protection for sexual minorities against violence and discrimination, impedes the enjoyment of sexual and reproductive health by many people with lesbian, gay, bisexual and transgender identities or conduct.¹⁰⁶

In conformity with the **right to health**, women should have access to health services, including in particular sexual and reproductive health services. Denial of such services to women may constitute gender discrimination in addition to constituting a violation of their right to health.

The extent to which governments implement – or fail to implement – the right to health can be assessed by reference to four criteria:

1. Availability. Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity.¹⁰⁷

¹⁰⁴ www.iwhc.org

¹⁰⁵ WHO, Considerations for Formulating Reproductive Health Laws, Occasional Paper, Second Edition, http://www.who.int/reproductive-health/publications/RHR_00_1/RHR_00_1_contents.htm, 52.

¹⁰⁶ SR Right to health, 2004

¹⁰⁷ This should include the underlying determinants of health, such as safe and potable drinking-water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving

2. Accessibility. Health facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions: non-discrimination;¹⁰⁸ physical accessibility;¹⁰⁹ economic accessibility (affordability); and information accessibility.¹¹⁰
3. Acceptability. All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.
4. Quality. Health facilities, goods and services must be scientifically and medically appropriate and of good quality.¹¹¹

In its General Comment 14 on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights stresses the inclusive nature of the right to health: its fulfilment requires timely and appropriate health care *and* the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.

domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs.

¹⁰⁸ Health facilities, goods and services must be accessible to all, in law and in fact, without discrimination on any of the prohibited grounds.

¹⁰⁹ Health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups such as ethnic minorities and indigenous populations, women, children, adolescents, older persons, persons with disabilities and persons with HIV/AIDS, including in rural areas.

¹¹⁰ Accessibility includes the right to seek, receive and impart information and ideas concerning health issues. However, accessibility of information should not impair the right to have personal health data treated with confidentiality.

¹¹¹ This requires, *inter alia*, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation.

Considering sexual and reproductive health through the prism of the right to health, UN Special Rapporteur on the Right to Health Paul Hunt elaborates an analysis of sexual and reproductive rights in terms of freedoms and entitlements:

The right to health, including sexual and reproductive health, encompasses both freedoms, such as freedom from discrimination, and entitlements. In the context of sexual and reproductive health, freedoms include a right to control one's health and body. Rape and other forms of sexual violence, including forced pregnancy, non-consensual contraceptive methods (e.g. forced sterilization and forced abortion), ... forced marriage all represent serious breaches of sexual and reproductive freedoms, and are fundamentally and inherently inconsistent with the right to health. Some cultural practices ... carry a high risk of disability and death. ... Early marriage, which disproportionately affects girls ... is linked to health risks including those arising from premature pregnancy. ... It should be emphasized that although subject to progressive realization and resource constraints, the international right to health imposes various obligations of immediate effect (*ibid.*, para. 27). These immediate obligations include a duty on the State to respect an individual's freedom to control his or her health and body. For example, there is an immediate obligation on a State not to engage in forced sterilization and not to engage in discriminatory practices. In other words, the freedom components of sexual and reproductive health are subject to neither progressive realization nor resource availability.

The right to health includes an entitlement to a system of health protection, including health care and the underlying determinants of health, which provides equality of opportunity for people to enjoy the highest attainable level of health. For example, women should have equal access, in law and fact, to information on sexual and reproductive health issues. Thus, States have an obligation to ensure reproductive health

and maternal and child health services, including appropriate services for women in connection with pregnancy, granting free services where necessary. More particularly, States should improve a wide range of sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information. The Special Rapporteur urges all duty-holders also to ensure access to such vital health services as voluntary testing, counselling and treatment for sexually transmitted infections, including HIV/AIDS, and breast and reproductive system cancers, as well as infertility treatment. ... Women with unwanted pregnancies should be offered reliable information and compassionate counselling, including information on where and when a pregnancy may be terminated legally. Where abortions are legal, they must be safe: public health systems should train and equip health service providers and take other measures to ensure that such abortions are not only safe but accessible. In all cases, women should have access to quality services for the management of complications arising from abortion. Punitive provisions against women who undergo abortions must be removed. Even when resources are scarce, States can achieve major improvements in the sexual and reproductive health of their populations.

He offers the following interpretation of the respect/protect/fulfil framework in the context of sexual and reproductive health:

The obligation to *respect* requires States to refrain from denying or limiting equal access for all persons to sexual and reproductive health services, as well as the underlying determinants of sexual and reproductive health. For example, it requires them to refrain from denying the right to decide on the number and spacing of children. The obligation to *protect* means that States should take steps to prevent third parties from jeopardizing the sexual and reproductive health of others, including through sexual violence and harmful cultural practices. ...

The obligation to *fulfil* requires States to give recognition to the right to health, including sexual and reproductive health, in national political and legal systems. Health systems should provide for sexual and reproductive health services for all, including in rural areas, and States should carry out information campaigns to combat, for example, HIV/AIDS, harmful traditional practices and domestic violence.

Unlike civil and political rights, the right to health (as one of the economic, social and cultural rights) is subject to progressive realization in accordance with resource constraints. "Progressive realization means that States have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of the right to health".¹¹² Nevertheless, the right to health imposes some obligations which take effect immediately regardless of resource constraints. These include: the obligation of non-discrimination and equal treatment; the obligation to take deliberate, concrete and targeted steps towards the full realization of the right to health, such as the preparation of a national public health strategy and plan of action.

The right to health imposes obligations not only on states: "While States have primary responsibility for the realization of international human rights, all actors in society - individuals, local communities, intergovernmental and non-governmental organizations, health professionals, private businesses and so on - have responsibilities regarding the realization of the right to health".

¹¹² UN Special Rapporteur on the right of everyone to the highest attainable standard of health, Report to the UN Commission on Human Rights, UN Doc. E/CN.4/2004/49, 16 February 2004.