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**VIOLENCE AND DISCRIMINATION AGAINST WOMEN  
IN THE ARMED CONFLICT IN COLOMBIA**

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WASHINGTON, D.C. 20006  
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Internet: <http://www.cidh.org>  
E-mail: [cidhoea@oas.org](mailto:cidhoea@oas.org)

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## EXECUTIVE SUMMARY

1. The Inter-American Commission on Human Rights (hereinafter the "IACHR" or the "Inter-American Commission") has repeatedly expressed its concern over the serious impact on the human rights of men and women of the armed conflict that has affected the Republic of Colombia over four decades. The conflict has severely affected the civilian, non-combatant population, particularly groups at greater risk such as women, children, indigenous peoples, Afro-Colombian communities, social leaders and human rights defenders. The IACHR has adopted a report which addresses the impact of the armed conflict on women and the way in which it deepens and aggravates the discrimination and violence they suffer, and formulates conclusions and recommendations.

2. This report is based on the results of the on-site visit to Colombia undertaken by the former Special Rapporteur on the Rights of Women of the IACHR (hereinafter "Rapporteur" or "IACHR Rapporteur"), Ms. Susana Villarán, between June 20-25, 2005. The primary objective of the visit was to assess the impact of the armed conflict on Colombian women and to receive information about the legislative, policy, institutional and judicial measures taken by the State to safeguard the rights of women within this sociopolitical context. During her stay, the Rapporteur visited the cities of Bogotá, Valledupar and Quibdó, where she met State authorities, as well as a number of victims, relatives of victims, civil society organizations—including indigenous and Afro-Colombian organizations—and intergovernmental agencies working to defend and promote the rights of women. The report is also based on information gathered by other official entities and intergovernmental and non-governmental organizations.

3. Violence and discrimination affect the lives of women during times of peace and degenerate during internal armed conflicts which impact the civil population. In its report, the IACHR analyzes the discrimination and violence against women in the context of the Colombian armed conflict and the way in which the circumstances that have historically exposed women to discrimination and subjected them to social stereotypes, an inferior treatment and the civil, political, economic and social consequences of these disadvantages, are exploited and manipulated by the actors of the armed conflict.

4. Violence against women is employed as a strategy of war by the actors of the armed conflict in their struggle to control territories and communities in different areas of the country. On the basis of firsthand observations and the testimonies received, the IACHR has identified four main manifestations of violence that especially affect women within the armed conflict. First, the actors in the armed conflict employ different forms of physical, psychological and sexual violence to "wound the enemy" by dehumanizing the victim, injuring her family circle and/or spreading terror in her community, thus furthering their control of territories and resources. In these cases, women can be direct targets or collateral victims, as the result of their affective relationships as daughters, mothers, wives, partners or sisters of any of the members of the groups that participate as actors in the conflict. Second, the violence destined to cause the forced displacement of women from their territory and the consequent removal from their homes, daily lives,

community and family. Third, sexual violence can be part of the forced recruitment of women, which is destined to make them render sexual services to members of the guerrilla or paramilitary forces. Fourth, the violence intended to make them a constant object of social control measures imposed by the illegal armed groups in the communities that inhabit territories these groups control.

5. The IACHR stipulates in this report that the physical, psychological and sexual violence exercised by the actors in the armed conflict against women, has the objective of wounding, terrorizing and weakening the enemy to advance in the control of territories and economic resources. Acts of physical, psychological and sexual violence purport to intimidate and punish women for having affective relationships with members of the opposing faction, for disobeying the norms imposed by the armed actors or for participating in organizations perceived as enemies. These aggressions additionally serve as a tactic to humiliate, terrorize and wound the “enemy”, whether the victim’s family nucleus or community.

6. The crimes perpetrated against women and girls during these manifestations of violence result in: (1) attacks, massacres and homicides committed against communities intended to cause their displacement; (2) homicides, acts of torture and markings against women who sustain affective relationships with supporters or combatants or because they or their relatives are involved in political activities; and (3) home searches and kidnappings to obtain information, terrorize, punish, intimidate or coerce the women. Both men and women are the victims of crimes perpetrated by all the actors in the armed conflict, but in the case of women, acts of physical and psychological violence are joined by aggressions and crimes of a sexual nature.

7. Regarding women as victims of displacement, the figures indicate that they constitute approximately half of the population affected in Colombia. State figures confirm that four out of ten displaced families are headed by women. The report of the IACHR analyzes the impact of displacement on women in terms of the radical, traumatic and sudden change in their family structure and roles, geography, culture, community and socio-economic standing, and their exposure to threats, violence and discrimination based on their gender by either the actors of the conflict that caused the displacement, as well as the receiving populations.

8. The IACHR also addresses the recruitment of women and girls—either forced or voluntary—by the illegal armed groups, with the intention that they act as combatants, escorts, sexual slaves, informants, guides and undertakers of domestic duties.

9. The report discusses the problem of the imposition of forms of social control over the living conditions of women that inhabit territories controlled by the illegal armed groups. One form of control is displayed in the general imposition of daily behavioral standards and codes of conduct in communities, where the armed actors intervene in family and community conflicts and even in the lifestyle of community members, imposing punishments that can include murder, torture and forms of cruel and degrading

treatment. In this context, the actors in the conflict regularly monitor the behavior and dress of women and adolescent girls and use sexual violence as a punishment and a general warning to the female population within the community under control. These forms of control promote culturally-rooted gender stereotypes and crimes against women which tend to remain in impunity for different reasons.

10. Colombia stands out for the organizational experiences of groups of women who want to participate and influence the public agenda, both in areas traditionally linked to the specific needs of women, as in issues related to the resolution of the armed conflict. However, in the case of Colombia, this type of participation has become an extremely dangerous activity in which women's rights defenders and their loved ones are exposed to violence and displacement. In fact, armed actors find that the leadership exercised by women's rights organizations challenges the extent of their social and territorial control, which—the IACHR believes—has resulted in the systematic intimidation, persecution, kidnapping, torture and sexual abuse, among other crimes, of members of organizations such as the *Organización Femenina Popular-OFP*, *Asociación Nacional de Mujeres Campesinas, Negras e Indígenas-ANMUCIC*, the *Liga de Mujeres Desplazadas* and the *Casa de la Mujer*.

11. The Convention of Belém do Pará stipulates that when a State acts with due diligence, it should take special account of the vulnerability to violence that may affect women on the basis of their race and ethnicity, among other risk factors. Through this provision States acknowledge that discrimination, in its different manifestations, does not always affect all women to the same degree. There are women who are particularly exposed to the infringement of their rights and to suffer discrimination on the basis of more than one factor.

12. In this respect, the IACHR's report indicates that the situation of indigenous and Afro-Colombian women is particularly critical, as they are victims of multiple forms of discrimination on the basis of their race, ethnicity and the fact that they are women, a situation aggravated in the context of the armed conflict. They face two layers of discrimination since they are born: first, for belonging to their racial and ethnic group and second, because of their sex. Being exposed to two forms of discrimination historically, they are doubly vulnerable to abuse and mistreatment by the armed groups in their struggle to control resources and territories. In the case of indigenous and Afro-Colombian women, the armed groups have more than one factor of social disadvantage to exploit and manipulate as part of their strategy of war against the civil population.

13. The Rapporteur of the IACHR could verify during the visit that the situation of Afro-Colombian women living on the Pacific coast is particularly precarious and alarming. Both State authorities and non-State sources confirm that the Afro-Colombian population has been subjected to a history of discrimination, exclusion, invisibility and social disadvantage, both economic and geographic. The armed conflict has worsened this situation, since the armed actors profit from these disadvantages in their struggle to control territories and resources. In the particular case of Afro-Colombian women, their

condition as women adds another layer of discrimination and vulnerability to their lives and exposes them to greater abuse by the actors of the conflict.

14. The impact of forced displacement on Afro-Colombian women is significant and manifests itself in various ways, due to their worldview, culture and traditions, identification with their territory and their condition as women. According to the information and testimonies gathered, displacement leads Afro-Colombian women to suffer from discrimination because they are women, because of their Afro-Colombian origin, and because of their status as displaced persons. The change in roles and family structure faced by displaced women may be even more intense and radical in the case of Afro-Colombian women living in rural areas who move to urban zones, because of the community life that they used to lead, the traditional correlation of their activities with those of their husbands or fathers, and the uprooting of this social model. Furthermore, Afro-Colombian women who are displaced suffer acts of racism, ridicule and stigmatization by the receiving communities. Their race, as well as the low levels of education and poverty of displaced women in general, challenges their adequate access to work and to different forms of economic subsistence.

15. In regards to the situation of indigenous women, the report stipulates that the same is especially critical due to the history of discrimination and exclusion they have faced on the basis of their condition as women and indigenous and the serious effects of the armed conflict. In fact, the pressure exercised by armed groups over indigenous lands, whether for reasons of military strategy or economic interests, impacts the lives of indigenous women in a particularly alarming way. The testimonies gathered by the IACHR indicate that indigenous women perceive their ancestral lands as essential places for their existence, culture, and family. Therefore, they consider that their security and the very existence of their peoples will be endangered while the integrity of their lands is threatened by the conflict. Regarding forms of violence perpetrated against indigenous women, the report states that armed actors use women as “spoils of war” and as objects of sexual aggression in which armed patrols kidnap indigenous women, collectively use them sexually and later abandon them, with impunity.

16. Besides describing the manifestations of violence directed towards women in the context of the armed conflict, the report of the IACHR addresses the measures adopted by the State to resolve the crimes perpetrated against women and to repair their consequences, as well as to prevent their recurrence. In this respect, the report confirms that State officials at the national and local level interviewed during the visit of the Rapporteur of the Rights of Women, recognize both the existing challenges and that the Colombian State has advanced in the adoption of a legislative and public policy framework, and in the design of State programs destined to protect the rights of women. The IACHR also highlights the efforts destined to gather statistics about crimes perpetrated against women, including the Observatory of Gender Issues, the work of the National Institute of Legal Medicine, the incorporation of gender into the statistics of the Administrative Department of National Statistics and the Social Solidarity Network. Moreover, the Constitutional Court has issued a series of notable court decisions over the last ten years,

successfully invoking the recourses of *tutela* and *inconstitucionalidad* to protect the civil, political, social, cultural and economic rights of Colombian women.

17. Nonetheless, despite these measures, both State authorities and civil society representatives expressed their concern over the lack of an integral State policy addressing the specific impact of the armed conflict on the human rights of women, applicable to the national and local levels, and how this void perpetuates the impunity towards violence and discrimination practices. The Report corroborates noticeable flaws in the diagnosis, prevention and early warning of different forms of discrimination and violence against women which are aggravated by the armed conflict, and gaps in the provision of humanitarian assistance and multidisciplinary support services for victims. The Colombian State is obligated to act with due diligence to eradicate violence and discrimination against women despite the challenges its response faces. This obligation of the State to act with due diligence has four fundamental components: prevention, investigation, sanction and reparation of human rights violations perpetrated against women.

18. On the other hand, the State's homogenous view of women as a target group, beneficiary of public policies, has resulted in responses that fail to consider the particular needs of different groups, particularly Afro-Colombian and indigenous women. In consequence there is, both nationally and locally, a failure to consider the specific and different needs of indigenous and Afro-Colombian women in public programs and policies geared towards protecting the rights of women. In this regard, the report of the IACHR affirms that the State ought to implement measures to eradicate discriminatory socio-cultural patterns based on sex, race, ethnicity and social class, and take these differences into account in the development of public policies to mitigate the effect of the armed conflict on all Colombian women and in particular over those belonging to vulnerable groups.

19. In this context, and even in the presence of certain progress, women still confront numerous legislative, institutional, cultural and geographic obstacles to effectively access justice. Among the most notable challenges are deficiencies in the investigation, judgment and sanction of acts of violence and discrimination, which result in a mistrust of the administration of justice; gaps in systems to gather statistics; and the dearth of human and financial resources to address the persisting problems. Furthermore, it is necessary to establish sustainable capacity-building programs for justice officials and to begin programs to sensitize the population and to promote an increase in the submission of complaints. Lastly, the report recognizes weaknesses of the administration of justice in the zones occupied by the armed actors, and the implementation of principles and practices within the penal procedures applicable to violence against women that can challenge women's access to effective judicial protections and guarantees.

20. Based on its observations and on the conclusions reached, the IACHR formulates in its report a series of recommendations geared towards the design of an integral State policy that will take into account the forms of discrimination and violence affecting women that are aggravated by the armed conflict, in order to achieve progress in the diagnosis, prevention and response

to these problems and in the incorporation of the specific needs of women in the public agenda. Additionally, they call on the State to implement measures to eradicate discriminatory socio-cultural patterns based on sex, race, ethnicity and social class and to take account of these differences in the development of public policies to mitigate the pernicious effect of the armed conflict on Colombian women throughout the national territory. The recommendations formulated herein are of a dual nature: general recommendations and recommendations by category of attention and response, covering legislation, public policies, State institutions and programs, diagnosis and prevention, public services for displaced women, administration of justice, civic and political participation, and truth, justice and reparation.

21. The IACHR in its report reiterates its grave concern over the situation of Colombian women due to the violence and discrimination aggravated by the armed conflict and the urgent need to respond to the problem according to their specific needs to facilitate that Colombian women and girls enjoy and exercise their rights under the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the American Convention on Human Rights, and other international instruments. The IACHR reiterates its commitment to collaborate with the Colombian State in the search for solutions to the problems identified. Some steps adopted to address this situation display an understanding of the gravity of the existing problems and the commitment of the State and non-State sectors to consider the specific needs of women in public policies designed to solve, sanction, prevent and eradicate acts of violence and discrimination against women.

## **VIOLENCE AND DISCRIMINATION AGAINST WOMEN IN THE ARMED CONFLICT IN COLOMBIA**

### **I. INTRODUCTION**

1. This report analyzes the results and main conclusions of the work of the IACHR in examining the human rights situation in Colombia and how the armed conflict affects women. As part of this work, the report reviews in particular the main results of the on-site visit undertaken by the former Special Rapporteur on the Rights of Women of the IACHR (hereinafter "Rapporteur" or "IACHR Rapporteur"), Ms. Susana Villarán, to Colombia between June 20-25, 2005. The primary objective of the visit was to assess the impact of the armed conflict on Colombian women and receive information about the legislative, policy, institutional and judicial measures taken by the State to protect the rights of women within this sociopolitical context. During her stay, the Rapporteur visited the cities of Bogotá, Valledupar and Quibdó, where she met State authorities, as well as a number of victims, relatives of victims, civil-society organizations and inter-governmental agencies related to the defense and promotion of the rights of women.

2. The report is structured in six parts, including a review of the Colombian armed conflict and its impact on women; an assessment of the manifestations of violence against women that are aggravated by this phenomenon; the particular impact of the conflict on indigenous and Afro-Colombian women; and the response of the State to these problems. The report ends with a series of conclusions and recommendations for the State.

3. The analysis and recommendations contained in this report are based first and foremost on the regional obligations regarding human rights voluntarily undertaken by the Colombian State, mainly the American Convention on Human Rights ("American Convention") and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará"). Pursuant to its obligations under the framework of international law, the Colombian State is obligated to exercise due diligence to prevent, punish and eradicate the violence and discrimination against women aggravated by the armed conflict, although the conflict presents structural challenges to this response.

4. The recommendations issued in the report are geared towards the design of an integral State policy that takes into account the manifestations of discrimination and violence affecting women that are aggravated by the armed conflict, intended to achieve advances in the diagnosis, prevention and response to these problems and the incorporation of women's specific needs into the public agenda. They are also destined to motivate the State to implement measures to eradicate discriminatory socio-cultural patterns based on sex, race, and ethnicity and account for these differences in the development of public policies to mitigate the pernicious effect of the armed conflict on Colombian women throughout the national territory. The recommendations formulated herein are of a dual nature: general recommendations and recommendations by category of attention and response,

covering legislation, public policies, State institutions and programs, diagnosis and prevention, public services for displaced women, administration of justice, civic and political participation, and truth, justice and reparation.

5. The draft of the report "Violence and Discrimination against Women in the Armed Conflict in Colombia" was approved by the IACHR on March 14, 2006. According to article 58 of the Rules of Procedure of the Inter-American Commission, this document was transmitted to the Colombian State on April 4, 2006, and the Colombian State was requested to provide observations it considered pertinent within a one-month period. On May 30, 2006, the Colombian State submitted its observations through note DDH/OEA 25245/1210 from the Human Rights Division of the Ministry of Foreign Affairs of the Colombian Republic, dated May 24, 2006. These observations were analyzed by the IACHR and incorporated, where pertinent, into the final version of the present report. The Commission approved the final version of the report on October 18, 2006.

6. It is important to point that the serious impact the armed conflict has on the lives of Colombian women, particularly the situations of discrimination and violence that they experience and are aggravated, has been documented by several United Nations agencies and civil society organizations internationally. On May 4, 1999, the Committee that oversees compliance with the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter "CEDAW"), in the context of reviewing the progress report submitted by Colombia, expressed its concern over the widespread violence in Colombia and its impact on women, particularly on those who are displaced and heads of household, who are forced to shoulder productive and reproductive responsibilities because of their displacement.<sup>1</sup> Similarly, the United Nations Special Rapporteur on violence against women, its causes and consequences (hereinafter "United Nations Rapporteur") visited the country in 2001, to investigate and evaluate the consequences of the conflict on the protection of the rights of women. Among her observations, she stated that:

The conflict reproduces and deepens discrimination between the different groups and women suffer intersectional discrimination on the basis of their gender, and their ethnic and cultural origin. Although men are most frequently the victims of summary executions and massacres, violence against women, particularly sexual violence by armed groups, has become a common practice in the context of a slowly degrading conflict and lack of respect for international humanitarian law.<sup>2</sup>

7. Moreover, the Office of the United Nations High Commissioner for Human Rights (hereinafter "High Commissioner for Human Rights") has

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<sup>1</sup> United Nations, *Report of Session 20 of the Committee on the Elimination of Discrimination against Women*, 4 May 1999, para. 358.

<sup>2</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 42.

closely followed the precarious situation of the most vulnerable groups in Colombia and the persistent violation of their rights, including women. In her report dated February 28, 2005, she stated the following:

The rights of women, especially women heads of household, rural, indigenous, Afro-Colombian and displaced women, continue to be affected by sexual discrimination as well as by diverse forms of gender violence..... The security of women and girls has deteriorated as a result of the armed conflict and the use of sexual violence and social control by the illegal armed groups.<sup>3</sup>

8. The Special Rapporteurs of the United Nations on Racism and the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples have verified and manifested how the situation of indigenous and Afro-descendent women is especially critical, particularly in regard to the high percentage of displacement among the women from these communities.<sup>4</sup>

#### **A. The on-site visit to Colombia on June of 2005**

9. The Rapporteur of the IACHR conducted an on-site visit to the Republic of Colombia from June 20 through 25, 2005, with the support of the government of Finland, during which she met with high-level State authorities, as well as victims, relatives of victims, civil-society organizations and United Nations agencies involved in defending and promoting the rights of women in the cities of Bogotá, Valledupar and Quibdó. To examine the particular situation of indigenous women, the Rapporteur met with indigenous authorities and female leaders of different indigenous groups and organizations. The Rapporteur also gathered specific information about the situation of Afro-Colombian women by meeting with networks and organizations working to protect their rights.

10. The purpose of the visit of the Rapporteur of the IACHR was to investigate and obtain qualitative and quantitative information about the differentiated impact of the armed conflict on Colombian women and girls belonging to different races, ethnic groups and economic conditions, and to evaluate the response of the Colombian State through legislation, public policies and institutions to protect the rights of women in this context.

11. The IACHR has observed in the past with great concern the grave situation of violence affecting Colombian women and the duty of the Colombian State to act with due diligence in order to prevent its causes,

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<sup>3</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, paras. 100 and 124.

<sup>4</sup> United Nations, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Intolerance*, E/CN.4/2004/18/Add.3, 24 February 2004, para. 49; United Nations, *Report of the Special Rapporteur on Human Rights and Fundamental Freedoms of the Indigenous Peoples, Mission to Colombia*, E/CN.4/2005/88/Add.2, 10 November 2004, paras. 31 and 71 and recommendation number 84.

sanction its consequences and eradicate the phenomenon.<sup>5</sup> Violence against women and the social discrimination promoting and validating it are serious human rights problems with negative repercussions for women and society at large. They constitute an obstacle to the recognition and enjoyment of all their human rights and threaten their physical, psychological and moral integrity.

12. Before and after the visit, the Rapporteur and the IACHR received in the context of thematic hearings celebrated in their headquarters, information from victims, non-governmental organizations and international agencies about the alarming situation of Colombian women, aggravated by the armed conflict. This information also confirmed that the phenomenon is not adequately registered, analyzed and addressed by the Colombian State. The information received was of vital importance in defining the objectives of the visit and in confirming its results.<sup>6</sup>

13. A variety of international organizations, including the United Nations Rapporteur and the High Commissioner for Human Rights, as well as non-governmental organizations such as Amnesty International, have also manifested and documented repeatedly that women and girls from different regions, ethnic groups and economic conditions have been victims of different forms of violence and discrimination during the internal conflict, perpetrated by all of its actors.<sup>7</sup>

14. The High Commissioner for Human Rights stated on 2005 that the safety of women and girls-particularly rural, indigenous, Afro-Colombian women and those organized, displaced, returned or confined-is worsened by the armed conflict, especially by the sexual violence and the social control

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<sup>5</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter XII, Rights of Women; *International Women's Rights Experts Express their Concern over the "Invisibility" of the Widespread Gender-Based Violence in Colombia*, Press Release, IACHR, 8 March 2002.

<sup>6</sup> Two hearings were celebrated in the framework of the 122° and 124° periods of sessions addressing the themes of violence against women and the rights of women to truth, justice and reparation and forced displacement, respectively. During these hearings, information was received from organizations such as *La Casa de la Mujer*, *Corporación Sisma Mujer*, *Confluencia Nacional de Redes*, *Iniciativa de Mujeres Colombianas por la Paz*, *Observatorio de los Derechos Humanos de las Mujeres*, *Red Nacional de Mujeres*, *Ruta Pacífica de las Mujeres*, *Organización Femenina Popular*, *Red Nacional de Mujeres Afrocolombianas*, *Centro Meira del MAR*, *CERFAMI*, *Colectivo María María*, *Corporación Desarrollo Humano-Humanizar*, *Fundación MAVI*, *Fundación Mujer y Futuro*, *FUNDESAP*, *Grupo Mujer y Sociedad*, *ILSA*, *Liga de Mujeres Desplazadas*, *Liga Internacional de las Mujeres por la Paz y la Libertad-LIMPAL*, *Movimiento Popular de Mujeres*, *Orocomay*, *Oye Mujer*, *Red de Empoderamiento de Cartagena y Bolívar*, *Red Departamental de Mujeres Chocoanas*, *Red de Género y Comercio*, *Comisión Colombiana de Juristas* and *Planeta Paz*, among other organizations working to defend the rights of Colombian women.

<sup>7</sup> See United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005; United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002; Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004; United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005.

wielded by the armed groups.<sup>8</sup> The *Comisión Colombiana de Juristas*, a Colombian non-governmental organization, has also reported that between July 1996 and June 2004, 2,110 women lost their lives in Colombia due to socio-political violence.<sup>9</sup> According to the observations submitted by the State to this report, the Observatory of Human Rights of the Presidency, states that between the years 2003 and 2006, 65,864 persons were homicide victims in Colombia, of which 5,395 were women.<sup>10</sup> The same cited source by the State indicates that 274 of the murders perpetrated against women were attributed to illegal armed forces.<sup>11</sup>

15. The IACHR Delegation included Susana Villarán, former Commissioner and Special Rapporteur on the Rights of Women; Elizabeth Abi-Mershed, Senior Human Rights Specialist; Verónica Gómez, Senior Human Rights Specialist; Isabel Madariaga; Senior Specialist in the Rapporteurship on the Human Rights of Indigenous Peoples; Rosa Celorio, Attorney-Adviser to the Rapporteurship on the Rights of Women; Norma Colledani, Human Rights Specialist, and Ana Cecilia Adiazola, Administrative Assistant.

16. During the stay, the IACHR met with high-level State officials, with representatives from different sectors of civil society and non-governmental organizations in Bogotá, Valledupar and Quibdó and with United Nations agencies, to assess the situation of women in different regions of the country.

17. In regard to State authorities, in Bogotá the Rapporteur met with the Vice-Ministry for Multilateral Affairs, the Presidential Advisory Office on Gender Equality (hereinafter “Presidential Advisory Office” or “Presidential Office on Gender Equality”), the Colombian Family Welfare Institute (hereinafter “ICBF”), the National Institute of Legal Medicine (hereinafter “National Institute of Legal Medicine” or “INML”), the Directorate of Ethnic Groups of the Ministry of the Interior and Justice, the Office of the Ombudsman for the Rights of Children, Women and the Family, the National Coordinator for the Attention of the Displaced Population, the Social Solidarity Network, the Office of the Procurator for Human Rights and Ethnic Affairs, the Office of the Procurator for the Minor and the Family, the Ministry of Social Protection and the units of International Affairs, Human Rights and Sexual Crimes of the Office of the Attorney General. In Valledupar, they met with the Governor of the Department of César, the Social Solidarity Network, units of the Ombudsman’s Office, the ICBF, and the Regional Office of the Attorney General. In Quibdó,

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<sup>8</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 124.

<sup>9</sup> *Report Enforcement, Protection and Violation of Women’s Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005, Section 2.1.

<sup>10</sup> Note DDH/OEA 25245/1210 from the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

<sup>11</sup> Note DDH/OEA 25245/1210 from the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

they met with the Private Secretary of the Governor's Office, the ICBF, the Social Solidarity Network and the Regional Office of the Procurator.

18. The Rapporteur also received valuable testimonies by women who have been victims of violence and relatives of women that have been murdered. She also met with civil society organizations working to promote and protect the rights of women, such as *Corporación Sisma Mujer*, *Asociación Mujer y Madre Abriendo Caminos-AMMAC*, *Asomujer y Trabajo*, *Casa de la Mujer*, *Casa de la Mujer Estela Brand*, *Católicas por el Derecho a Decidir*, *Centro de Recursos Integrales para la Familia-CERFAMI*, *Centro Meira del Mar*, *Colectivo de Mujeres Pacíficas*, *Colectivo María María*, *Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer-CLADEM* (hereinafter "CLADEM"), *Confluencia Nacional de Redes de Mujeres*, *Corporación Desarrollo Humano-Humanizar*, *Corporación Mujeres y Economía*, *Fundación Diálogo Mujer*, *Fundación Mavi*, *Fundación Mujer y Futuro*, *Grupo de Apoyo Pedagógico-GAP*, *Grupo Mujer y Sociedad*, *Iniciativa de Mujeres Colombianas por la Paz-IMP*, *Mesa Nacional de Incidencia*, *Liga de Mujeres Desplazadas*, *Liga Internacional de las Mujeres por la Paz y la Libertad-LIMPAL*, *Marcha Mundial de las Mujeres*, *Mesa de Trabajo "Mujer y Conflicto Armado"*, *Mesa Mujer y Economía*, *Mesa Nacional de Concertación*, *Movimiento Nacional de Mujeres Autoras Actoras de Paz*, *Movimiento Popular de Mujeres*, *Mujeres que Crean*, *Organización Femenina Popular-OFP* (hereinafter "OFP"), *Orocoma y*, *Oye Mujer*, *PROFAMILIA*, *Red de Educación Popular entre Mujeres-REPEM*, *Red de Empoderamiento de Cartagena y Bolívar*, *Red de Género y Comercio*, *Red Decide Mujer*, *Red Departamental de Mujeres Chocoanas*, *Red Mujer y Participación Política*, *Red Nacional de Mujeres*, *Red Nacional de Mujeres Afro-Colombianas*, *Ruta Pacífica de las Mujeres*, *Tawara por una Red de Mujeres Jóvenes en Bogotá*, *Tribunal Mujeres y DESC*, *Vamos Mujer*, *organizations and representatives of the Foro Interétnico de Solidaridad Chocó*, *OBAPO* and *la Red de Mujeres del Caribe* and *la Asociación Nacional de Mujeres Campesinas, Negras e Indígenas-ANMUCIC* (hereinafter "ANMUCIC"), among others.

19. Furthermore, the Rapporteur met with human rights organizations such as *la Alianza de Organizaciones Sociales y Afines por una Cooperación para la Paz y la Democracia en Colombia*, *la Coalición contra la Vinculación de Niños, Niñas y Jóvenes al Conflicto Armado en Colombia*, *la Conferencia Nacional Afro-Colombiana*, *la Coordinación Colombia-Europa-Estados Unidos-CCEEU*, *la Corporación Colombia Diversa*, *la Corporación de Apoyo a Comunidades Populares-CODACOP*, *la Fundación para el Desarrollo de San Andrés y Providencia-FUNDESAP*, *el Instituto Latinoamericano de Servicios Legales Alternativos-ILSA*, *Planeta Paz*, *Red Nacional de Iniciativas por la Paz y Contra la Guerra-REDEPAZ*, *Reiniciar*, *Comisión Intereclesial de Justicia y Paz* and the *Colectivo de Abogados José Alvear Restrepo*.

20. Additionally, the Rapporteur met with traditional indigenous authorities of peoples in Sierra Nevada, with indigenous organizations such as the *Organización Nacional Indígena de Colombia-ONIC*, *Confederación Indígena TAYRONA-CIT*, *Autoridades Indígenas de Colombia-AICO* and *Organización de los Pueblos Indígenas de la Amazonía Colombiana-OPIAC* and with women representatives from different indigenous peoples in Colombia.

21. The Rapporteur also received valuable input from such international entities as the Inter-Agency Gender Workgroup of the United Nations System and representatives of the Resident Coordinator, the United Nations High Commissioner for Refugees–UNHCR (hereinafter "UNHCR"), the United Nations Development Program–UNDP (hereinafter "UNDP") , the High Commissioner for Human Rights, the International Organization for Migration–IOM, the United Nations Development Fund for Women–UNIFEM (hereinafter "UNIFEM"), the United Nations Office for Drug and Crime Control–UNODC, and the United Nations Population Fund–UNFPA (hereinafter "UNFPA") and the MAPP/OAS office in Colombia.

22. The Rapporteur and her team would like to express their gratitude for the cooperation and support provided by the State of Colombia and by the non-governmental organizations, civil society institutions and international agencies during the preparation of this visit. The Rapporteur wishes to express its gratitude to the administration of President Uribe for its collaboration with the information-gathering process and the goodwill shown in the search for solutions to the problems identified. For the IACHR, the commitment of the Colombian society to find viable solutions to the problems of discrimination and violence against women was evident.

23. The Rapporteur and the IACHR would also like to express their gratitude for the collaboration they received from Colombian women and their organizations. Particularly, the Rapporteur wishes to highlight the dignity, confidence and courage displayed by the victims and their families in presenting their testimonies, as well as their tenacious struggle for a lasting peace in Colombia.

**B. Legal framework of the report: international norms and standards applicable to discrimination and violence against women**

24. The right of women to live free from discrimination and violence has been reaffirmed and established in the regional and international human rights protection systems. International jurisprudence has established the duty of the State to act with due diligence<sup>12</sup> to protect human rights. This obligation entails four components: prevention, investigation, sanction and reparation of human rights violations.<sup>13</sup>

25. The obligations of OAS Member States in regards to human rights are derived from the OAS Charter and the American Declaration of the

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<sup>12</sup> See I/A Court H.R., *Velásquez Rodríguez Case*. Judgment of July 29, 1988. Series C No. 4. A series of Inter-American Conventions also establish the express obligation of the State to act with due diligence to protect human rights. See, for example, Article 6 of the Inter-American Convention against Torture and Article 7(b) of the Convention of Belém do Pará.

<sup>13</sup> See I/A Court H.R., *Velásquez Rodríguez Case*. Judgment of July 29, 1988. Series C No. 4. A series of Inter-American Conventions also establish the express obligation of the State to act with due diligence to protect human rights. See, for example, Article 6 of the Inter-American Convention against Torture and Article 7(b) of the Convention of Belém do Pará.

Rights and Duties of Man, as well as the regional human rights treaties that they have ratified. In the Americas, the binding principles of equality and non-discrimination are the core of the Inter-American human rights system and of binding instruments applicable to Colombia's situation, such as the American Convention and the Convention of Belém do Pará. This factor, as well as the priority granted by the Commission and its Rapporteur to protect the rights of women, also reflects the importance given to this area by the Member States themselves.

26. Colombia is a State Party to the American Convention since July 31, 1973. Article 1 of the American Convention provides that States Parties are obligated to respect and guarantee all rights and freedoms recognized therein, without discrimination based on sex, among other conditions. Additionally and in accordance to the principles of non-discrimination, Article 24 recognizes the right to equal protection under the law, and Article 17 establishes that the State must guarantee an equal recognition of the rights and "an adequate balance of responsibilities" for spouses within marriage. By recognizing the fundamental rights of all persons, without distinction, this Convention protects basic rights such as the right to life, liberty and personal integrity (Articles 4, 5 and 7). Trafficking of women is expressly prohibited in Article 6 and children's rights are subject to special protection measures under Article 19.

27. The main objectives of the regional human rights system and the efficacy principle require that these guarantees become a reality and are implemented. Consequently, when the enjoyment of any of these rights is not guaranteed *de jure* and *de facto* under their sphere of jurisdiction, the States Parties, pursuant to Article 2 of the American Convention, are committed to adopting legislative and other measures as needed to put them into practice. In addition, the American Convention requires the domestic system to provide judicial recourses that are effective and accessible to persons alleging violations of their rights protected under national law or under the Convention. When these remedies are not accessible or effective, the Inter-American system provides a second avenue through the individual petitions system.

28. The Convention of Belém do Pará is particularly relevant to this report, and the information gathered during the on-site visit of the Rapporteur. This Convention reflects a uniform concern throughout the Hemisphere of the seriousness and gravity of the problem of violence against women, its relationship with the discrimination historically suffered by women, and the need to adopt comprehensive strategies to prevent, punish and eradicate it. Among the most important principles enshrined in this Convention are the following:

- It defines violence against women as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere."<sup>14</sup>

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<sup>14</sup> See Article 1.

- It expressly recognizes the relationship between gender violence and discrimination, indicating that such violence is a reflection of historically unequal power relationships between women and men, and that women's right to a life free of violence includes the right to be free from all forms of discrimination and to be valued and educated free of stereotyped patterns;<sup>15</sup>
- It establishes that violence affects women in multiple ways, impairing their exercise of other fundamental rights of a civil and political nature, as well as economic, social and cultural rights;<sup>16</sup>
- It provides that States Parties must act with due diligence to prevent, investigate and sanction violence against women occurring in the public and private domains, within the home or in the community, perpetrated by individuals or State agents;<sup>17</sup>
- It provides that States must take special account of the situation of vulnerability to violence that certain groups of women can face by reason of their race or ethnic background; their status as migrants, refugees, or displaced persons; for being pregnant or disabled; for facing unfavorable economic conditions; affected by an armed conflict; or deprived of their liberty.<sup>18</sup>

29. Therefore, the Inter-American system recognizes that violence against women and its root, discrimination, is a serious human rights problem with negative repercussions for women and their surrounding community, and constitutes an impediment to the recognition and enjoyment of all their human rights, including the respect of their lives and their physical, mental and moral integrity.

30. According to this precedent, the responsibility of the State to act with due diligence to prevent the infringement of women's human rights in times of peace and conflict has a comprehensive nature.<sup>19</sup> The State is directly

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<sup>15</sup> See Preamble, Articles 4 and 6. The Commission has discussed the serious consequences that discrimination against women and the stereotypical notions of their role in society can have, including violence against women. See IACHR, *Merits Report*, N° 4/01, *Maria Eugenia Morales de Sierra (Guatemala)*, 19 January 2001, para. 44.

<sup>16</sup> See Preamble, Articles 4 and 5.

<sup>17</sup> See Articles 2 and 7.

<sup>18</sup> See Article 9.

<sup>19</sup> The principle of due diligence was initially established by the Inter-American Court of Human Rights in its ruling on the case of *Velásquez-Rodríguez*, Judgment of 29 July 1988, stating: "[.....] It is the obligation of the Member States to "guarantee" the free and full enjoyment of rights recognized in the Convention for all persons subject to their jurisdiction [.....] As a consequence of this obligation, States must prevent, investigate and punish all violations of the rights recognized by the Convention," I/A Court H.R., *Velásquez Rodríguez Case*. Judgment of July 29, 1988. Series C No. 4. para. 166. [emphasis added]

responsible for violence perpetrated by its own agents, as well as that perpetrated by individual persons. Furthermore, the State's obligation is not limited to eliminating and punishing violence, but also includes the duty of prevention. Finally, the State has the obligation to provide special protection to women who are particularly exposed to acts of violence because they are minors, Afro-descendent, indigenous, for being displaced and/or directly affected by the armed conflict.

31. Also relevant for the present analysis are the international obligations adopted by the Colombian State promoting equality and non-discrimination, such as Articles 1 and 2 of the Universal Declaration of Human Rights, Articles 2 and 3 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Colombia is also a State Party to CEDAW, which provides that the State and its agents are obligated to act with due diligence to eliminate socio-cultural patterns and stereotypes that promote discrimination against women, in all of its forms. CEDAW defines discrimination against women broadly in its Article 1:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

32. This definition includes all differences in treatment based on sex that intentionally or in practice place women in a disadvantaged position and prevent the full recognition of their human rights in the public and private spheres. The Committee overseeing compliance with CEDAW has also established that the definition of discrimination in the Convention includes violence against women in all of its forms, direct and indirect, including:<sup>20</sup>

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.<sup>21</sup>

33. In the sphere of violence, it is important to mention as complementary to CEDAW, the Declaration on the Elimination of Violence against Women of Vienna in 1993, which defines violence against women as a phenomenon which includes the following actions: forced prostitution, physical, sexual and psychological violence.<sup>22</sup> Furthermore, the Rome Statute<sup>23</sup> of the

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<sup>20</sup> United Nations, Convention on the Elimination of All Forms of Discrimination against Women, *General Recommendation 19, Violence against Women*, U.N. Doc. HRI/GEN/1//Rev.1, p. 84, para. 11.

<sup>21</sup> United Nations, Convention on the Elimination of All Forms of Discrimination against Women, *General Recommendation 19, Violence against Women*, U.N. Doc. HRI/GEN/1//Rev.1, p. 84, para. 11.

<sup>22</sup> U.N. Doc. A/RES/48/104, 23 February 1994.

International Criminal Court, applicable to situations of armed conflict, has included as crimes against humanity and war: rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization, and other sexual abuses of comparable gravity.<sup>24</sup>

## II. THE ARMED CONFLICT IN COLOMBIA AND ITS IMPACT ON WOMEN

### A. Characteristics of the Colombian armed conflict

34. The IACHR has repeatedly manifested over the gravity of the human rights situation in Colombia and the systematic and widespread violence that is part of the daily life of the civilian population, affected by an internal conflict that has lasted for four decades.<sup>25</sup> In particular, during the last fifteen years, acts of violence perpetrated by the actors in the internal armed conflict have resulted in serious human rights violations and/or violations of international humanitarian law against the civilian population. The IACHR has expressed its concern over the perpetration of acts of violence that have worsened the humanitarian crisis which affects over two million persons and has caused thousands of casualties.<sup>26</sup> Colombia is immersed in a dramatic spiral of violence affecting all sectors of society, undermining the very foundations of the State, and moving the international community as a whole. Undoubtedly, this is one of the most difficult and serious human rights situations in the Continent.<sup>27</sup>

35. The struggle for territorial, economic and military control is conducted by the Security Forces, in defense of the State, and by two illegal armed groups: the guerrilla – mainly represented by the *Fuerzas Armadas Revolucionarias de Colombia* (hereinafter "FARC-EP") and the *Ejército de Liberación Nacional* (hereinafter "ELN"), and paramilitary forces, mainly grouped into the *Autodefensas Unidas de Colombia* (hereinafter "AUC"), comprising a number of blocks operating in different areas of the country. Guerrilla groups arose in the decade of the sixties and grew during the seventies and eighties.

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<sup>23</sup> United Nations, *Rome Statute of the International Criminal Court*, U.N. Doc. A/CONF.183/9, 17 July 1998. The Rome Statute was ratified by the Colombian State through Law 742 of 2002.

<sup>24</sup> Rome Statute, International Criminal Court, Article 7.1 (g).

<sup>25</sup> The IACHR has communicated its impressions and viewpoints on the overall human rights situation in Colombia regularly in Chapter IV of its annual reports for the years 1995, 1996, 1999, 2000, 2001, 2002, 2002, 2003 and 2004, in its *Third Report on the Human Rights Situation in Colombia*, OAS/Ser.L/V/II.102, Doc. 9, rev. 1, 26 February 1999 and in its *Report on the Demobilization Process in Colombia*, OAS/Ser.L/V/II.120, Doc. 60, 13 December 2004.

<sup>26</sup> According to Amnesty International, in the last 20 years, the conflict has taken the lives of at least 70,000 persons, most of them civilians killed outside of combat. See Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, p. 16

<sup>27</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter 1, para. 1.

In reaction to the emergence of these dissident armed groups, the State authorized the formation of "self-defense groups" with civilians not subject to mandatory military service to "contribute to reestablishing normalcy".<sup>28</sup> By the end of the seventies and beginning of the eighties, the self-defense groups became much stronger by allying with economic and political sectors in several parts of the country and took part in grave acts of violence. Towards 1989, the State changed the norms that authorized these self-defense groups to operate, but did not take the necessary measures to guarantee their dismantlement. Consequently, their influence was not only sustained, but it spread and consolidated in 26 of the 32 departments of the country and in 382 of the total of 1,098 municipalities.<sup>29</sup>

36. Given the characteristics of the conflict, its historical development and the economic interests at stake, the illegal armed groups have generated a combination of alliances and at the same time clashes with the drug traffic and even members of the Security Forces, whose involvement with the paramilitary groups has been documented by the Commission, as well as by United Nations agencies and by numerous international and local non-governmental organizations.<sup>30</sup> Based on what has been established by the Inter-American Court of Human Rights, although the State claims not to have any official policy of encouraging the formation of paramilitary groups, this does not relieve the State of its responsibility for the interpretation that was given for years to the legal framework that supported them; for the disproportionate use made of the weapons they were given; and for not taking the necessary measures to prohibit, prevent and properly punish them for their criminal activities. Moreover, members of the Armed Forces and the Police in certain areas of the country have encouraged self-defense groups to develop an offensive attitude towards anyone considered to sympathize with the guerrilla.<sup>31</sup>

37. In any case, paramilitaries and guerrilla groups have imposed their presence in the country's *corregimientos* and municipalities by punishing and wielding social control over the civilian population, especially when community members are perceived to sympathize with adversary groups, often simply for not showing or not having shown resistance against them in the past. These punishments involve massacres of vulnerable groups, such as indigenous and Afro-descendent communities, in order to force survivors to displace; and selective assassinations and forced disappearances of social and union leaders, human rights defenders, justice officials, journalists and candidates for popular election. In particular, the guerrilla has employed

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<sup>28</sup> Decree No. 3398 of 24 December 1965 "by means of which the national defense is organized".

<sup>29</sup> IACHR, *Report on the Demobilization Process in Colombia*, OAS/Ser.L/V/II.120, Doc. 60, 13 December 2004, p. 25, para. 42.

<sup>30</sup> Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, p. 17.

<sup>31</sup> I/A Court H. R., *Case of the 19 Merchants*. Judgment of July 5, 2004. Series C No. 109, para. 124.

attempted attacks with explosives of an indiscriminate nature and kidnappings as a strategy.

38. During the month of August of 2002, some leaders of the AUC publicly expressed their intention of negotiating the terms for demobilization of their forces with the administration of President Uribe. In this regard, on July 15, 2003, a preliminary agreement was reached, which has resulted in the establishment of a zone to locate and materialize a series of demobilizations in different parts of the country for the forthcoming months. From February of 2004, the process has been monitored by a special mission established by the OAS Secretary-General.<sup>32</sup>

39. In addition to belonging to an illegal armed group, many members of the AUC involved in the demobilization process have been accused of perpetrating serious human rights and international humanitarian law violations against the civilian population. The IACHR has repeatedly expressed its concern over the lack of judicial resolution regarding most of these crimes. In some cases, the Commission and the Inter-American Court of Human Rights have established the responsibility of the State, since major violations of the American Convention were perpetrated by these groups with the acquiescence of State agents.<sup>33</sup> In view of this situation, the IACHR and other international bodies, such as the Office of the High Commissioner of the United Nations in Colombia, have stressed that the demobilization process must be accompanied by guarantees of respect for the State's international obligations.

40. On July of 2005, President Uribe enacted Law 975, known as the "Law of Justice and Peace", which establishes the legal framework for the demobilization of members of illegal armed groups, involved in the perpetration of major crimes against the civilian population in the context of the armed conflict. On May of 2006, the Constitutional Court of the Colombian Republic

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<sup>32</sup> On 6 February 2004 the Member States of the Organization of American States (OAS), meeting in the framework of the Permanent Council, expressed their unanimous "unequivocal support for the efforts of the State of President Álvaro Uribe-Vélez, to procure a firm, lasting peace" in the Republic of Colombia and expressed their will for the Organization to support these efforts. Some weeks earlier, the former OAS Secretary-General, César Gaviria, and President Álvaro Uribe-Vélez had signed an agreement to establish a Mission to Support the Peace Process in Colombia (hereinafter "the MAPP/OAS Mission") with the mandate to verify the cease fire and the cessation of hostilities initiatives, demobilization, disarmament and the reinsertion of illegal armed groups operating in Colombia. The Permanent Council resolution authorizes the establishment of the MAPP Mission and stresses the need to "ensure that the role of the OAS is completely in accordance with the obligations of its Member States in regard to the full enforcement of human rights and international humanitarian law".

<sup>33</sup> In those cases in which it is possible for the Inter-American System bodies to exercise their jurisdiction – for example, cases in which State agents are held liable for actions or omissions in the death outside of combat of persons who cannot be considered legitimate military targets – the IACHR has processed petitions about alleged violations of human rights protected under the American Convention. A large number of complaints have been resolved by the Commission and some cases have been referred to the jurisdiction of the Inter-American Court of Human Rights, such as those involving the massacre of *19 Comerciantes* in the Magdalena Medio in 1987; the massacre of civilians in Mapiripán (Meta) perpetrated in 1997; the disappearance of civilians in Pueblo Bello (Córdoba) in 1990; and the massacres of civilians in Ituango (Antioquia) perpetrated in 1996 and 1997.

declared the constitutionality of this Law in global form, established conditions for its interpretation and declared some of its clauses ineffective. The IACHR has publicly stated its general observations regarding the contents of the Law of Justice and Peace<sup>34</sup>, as well as in regard to the Constitutional Court's pronouncement.<sup>35</sup> In this respect, the IACHR has called on the State's institutions to give full effect to the Court's decision and has formulated recommendations aimed at strengthening the mechanisms available for establishing the truth of what happened, to administer justice, and to provide reparations to the victims of the conflict that has affected Colombia for more than four decades.

41. In sum, the conflict is at a crucial stage in which both negotiations with dissident armed groups and the respect to commitments of cessation of hostilities must be guided by the principles and norms established in international law, in order to overcome armed conflicts, and the content of the States' obligation to guarantee justice, truth and reparation to all persons under their jurisdiction.

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<sup>34</sup> See IACHR Press Release 26/05 available online: <http://www.IACHR.org/Comunicados/Spanish/2005/26.05.htm>. The IACHR press release observed that the adopted bill concentrates on the mechanisms to determine individual criminal responsibility in particular cases, in the framework of determining the individual criminal responsibility of those demobilized who seek refuge in the benefits of the law. However, its provisions do not provide incentives for those demobilized to confess in an exhaustive fashion the truth about their responsibility, in exchange for the judicial benefits they will receive. The IACHR also observes that the institutional mechanisms created by the law to administer justice—in particular the Prosecutor's National Unit for Justice and Peace, composed of 20 prosecutors—lack the strength necessary to effectively assume the task of prosecuting thousands of massacres, selective executions, forced disappearances, kidnappings, tortures, forced displacement and usurpation of lands, amongst other crimes, committed by several thousand demobilized individuals during the many years that paramilitary structures have operated in Colombia. Regarding the seriousness and complexity of the crimes perpetrated, the short deadlines and procedural stages provided for in the legal mechanisms to investigate and prosecute the demobilized individuals benefiting from the law also fail to offer a realistic alternative to fully determine individual responsibility. The investigation of serious human rights violations requires broader deadlines and a greater degree of procedural activity. In terms of the reparation of the damage caused by those responsible for the commission of heinous crimes, the IACHR emphasized that the law places more importance on the restitution of unlawfully-acquired property rather than on mechanisms that facilitate the full reparation of the victims. Particularly, it does not specifically refer to reparation mechanisms for the damage to the social fabric of indigenous peoples, the Afro-descendent communities, or the displaced women, often heads of household, who rank among the groups more vulnerable to the acts of the armed conflict actors.

<sup>35</sup> See *Statement of the Inter American Commission on Human Rights on the Constitutional Court's decision regarding the application of Law of Justice and Peace in the Republic of Colombia*, available online: <http://www.cidh.org/Comunicados/English/2006/28.06eng.htm>.

## **B. Dynamics of the armed conflict that particularly affect women in Colombia**

42. The enactment of international human rights instruments protecting the rights of women reflects a consensus and acknowledgement among the States regarding the discriminatory treatment that women have traditionally suffered in their societies. Some examples of discrimination suffered by women in the Americas, both in peace and conflict times, and in the presence of legislative and public policy developments, have been an unequal participation in civil and political affairs; a limited access to the benefits of their societies' economic and social development; an unequal treatment within their families; and being victims and exposure to different forms of violence against women, and abuse of their bodies, including psychological, physical and sexual violence.<sup>36</sup>

43. Moreover, binding instruments such as CEDAW and the Convention of Belém do Pará have established that violence against women is based on and is caused by elements of discrimination, stereotypes, social and cultural practices based on the concept that women are inferior.<sup>37</sup> Discrimination against women and gender stereotypes promote, validate, increase and aggravate violence against women. The two Conventions obligate State parties and their agents to take affirmative measures to eliminate socio-cultural patterns and stereotypes which promote discrimination against women, in all of its forms, and its most serious consequences, such as violence against women.<sup>38</sup>

44. Colombia has been no exception to this pattern of discrimination and violence against women.<sup>39</sup> The IACHR has reported in the past its concern over the gender-based discrimination affecting Colombian women, particularly in the domains of work, education and participation in political affairs, as well

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<sup>36</sup> See IACHR, *Report of the Inter-American Commission on the Status of Women in the Americas*, OAS/SER.L/V/II.98, doc. 17, rev., 13 October 1998.

<sup>37</sup> See Preambles of CEDAW and the Convention of Belém do Pará.

<sup>38</sup> See Preamble and Article 5 of CEDAW and Preamble and Article 6 of the Convention of Belém do Pará.

<sup>39</sup> The Presidential Advisory Office on Gender Equality (hereinafter "Presidential Office on Gender Equality"), the entity coordinating public policies for women in Colombia, has recognized that women are one of the population groups in Colombia most affected by inequality. It has confirmed that the highest unemployment rate applies to women, the percentage of women in leadership positions involving decision-making and positions filled by popular vote is significantly lower than for men, and they are the primary victims of domestic violence, trafficking in persons and forced displacement. The Presidential Office has verified how health services are insufficient to address the increase in teenage pregnancies, maternal mortality rates and cases of AIDS, and how school textbooks still contain sexist contents predisposing women to assume traditional roles. View *Mujeres Constructoras de Paz y Desarrollo*, Publication by the Presidential Office on Gender Equality in Colombia, November 2003, p. 7-9; the United Nations Development Fund for Women has recently stated that despite the increased inclusion of women in the labor market, their participation remains very low compared to that of their male counterparts. See United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, p. 28.

as the different forms of violence.<sup>40</sup> By 1998, the Committee overseeing compliance with CEDAW, in the context of reviewing the report presented by the State of Colombia, expressed its concern over the lack of a State policy aimed at eliminating cultural traditions and sexist stereotypes that encourage discrimination against women.<sup>41</sup> Despite this and the State's efforts to improve this situation, Colombian women continue to be victims of different forms of violence, such as domestic violence and trafficking, among other manifestations.<sup>42</sup>

45. The IACHR has repeatedly stated that both civilian men and women in Colombia have their rights violated during the Colombian armed conflict and suffer the worst consequences. However, although both suffer human rights violations and bear the burdens of this conflict, the effects are different for each. The source of this difference is that Colombian women have suffered situations of discrimination and violence because they are women since they were born, and the armed conflict has worsened and perpetuated this history. The violence and discrimination against women is not solely the product of the armed conflict—they are fixtures in the lives of women during times of peace that worsen and degenerate during the internal strife.

46. Within the armed conflict, all the circumstances that have historically exposed women to discrimination and to receive an inferior treatment, above all their bodily differences and their reproductive capacity, as well as the civil, political, economic and social consequences of this situation of disadvantage, are exploited and manipulated by the actors of the armed conflict in their struggle to control territory and economic resources. A variety of sources, including the United Nations, Amnesty International and civil society organizations in Colombia, have identified, described and documented multiple forms in which the rights of women are infringed upon in the context of the armed conflict, because of their condition as women.

### **III. MANIFESTATIONS OF VIOLENCE AGAINST WOMEN AGGRAVATED BY THE ARMED CONFLICT**

47. The investigations conducted show that 43 out of every 100 women affected by the internal armed conflict have been victims of different

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<sup>40</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter 1, para. 8.

<sup>41</sup> *Report of Session 20 of the Committee on the Elimination of Discrimination against Women*, 4 May 1999, para. 381.

<sup>42</sup> The National Institute of Legal Medicine reported during 2004 that, of the total cases recorded nationwide of partner abuse, 91.2% corresponded to females. Similarly, several State sources, the United Nations and civil-society organizations confirmed during the Rapporteur's visit, that the country has become a major site of child trafficking, especially in tourism centers, where there are packages offering sexual services with minors. See *Publication 2004 Forensis: Data for Life*, National Institute of Legal Medicine, Bogotá, May 2005, p. 139. In addition, representatives from the Office of the Attorney General confirmed to the Rapporteur during her visit that 80% of trafficking victims are women.

forms of violence based on their gender.<sup>43</sup> The Rapporteur ascertained during her visit to Colombia that violence against women is employed as a strategy of war by the actors of the armed conflict in their struggle to control territories and the communities they inhabit.

48. On the basis of firsthand observations and the testimonies received, the Rapporteur has identified four main manifestations of violence that especially affect women within the armed conflict. First, the actors in the armed conflict employ different forms of physical, psychological and sexual violence to “wound the enemy” by dehumanizing the victim, injuring her family circle and/or spreading terror in her community, with the objective of advancing in their control of territories and resources. In this kind of violence, women can be direct targets or collateral victims, as the result of their affective relationships as daughters, mothers, wives, partners or sisters. Second, there exists violence intended to cause the forced displacement of women from their territory and the consequent removal from their homes, daily lives, community and family. Third, sexual violence can be involved in the forced recruitment of women, destined to make them render sexual services to certain members of the guerrilla or paramilitary forces. Fourth, there is violence intended to constantly subject women to measures of social control imposed by the illegal armed groups in communities or territories under the control of these groups.

**A. Non-combatant women—daughters, sisters, mothers, partners, and wives of combatants—as direct targets or collateral victims of physical, psychological and sexual violence**

49. Different sources from the State, civil society and the United Nations<sup>44</sup>, as well as testimonies gathered during the visit and information obtained by the IACHR through different resources, coincide in corroborating and documenting a typology of war strategies that often include aggressions of a physical, psychological and sexual nature especially aimed at women. In fact, in Colombia’s armed conflict, violence against women, primarily that of a sexual nature, has the objective of wounding, terrorizing and weakening the enemy to advance in the control over territories and economic resources. Women can be direct or collateral victims of different forms of violence, as a

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<sup>43</sup> United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, p. 9.

<sup>44</sup> See United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005; United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002; Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004; United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005; *Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004; *Confederación de Redes, Red Nacional de Mujeres y la Red de Educación Popular Entre Mujeres, One Step Forward, Two Back, Shadow Report, Platform of International Conference, Fourth World Conference on Women*, 2004; *Report Enforcement, Protection and Violation of Women’s Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005.

result of their affective relationships as daughters, mothers, wives, partners or sisters.

50. Through acts of physical, psychological and sexual violence, the armed actors seek to intimidate, punish and control women for having affective relationships with members of the opposing faction, for disobeying the norms imposed by the armed actors or for participating in organizations perceived as the enemy. These acts, however, do not solely intend to dehumanize the victim as women. These aggressions additionally serve as a tactic to humiliate, terrorize, and wound the “enemy”, either in the family nucleus or community of the victim.

51. The United Nations Rapporteur has stressed that violence against women in Colombia, in particular the sexual violence perpetrated by the armed groups, has become customary amidst a conflict that is gradually degenerating in view of the non-observance of international humanitarian law, and describes the main objectives of violence in the sphere of the armed conflict as follows:

Perhaps more than the honor of the victim, it is the perceived honor 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.<sup>45</sup>

52. The sexual violence wounds the opposing faction in a special way because men are traditionally considered the protectors of the sexuality of women in their communities. Therefore, when the sexuality of women is abused and exploited, this aggression becomes an act of domination and power over men in the community or over the group under control.<sup>46</sup>

53. The *Mesa de Trabajo Mujer y Conflicto Armado*<sup>47</sup> has emphasized regarding violence against women in Colombia that: “the honor of

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<sup>45</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 42.

<sup>46</sup> See Contribution of Ms. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences of the United Nations in preparation of the *World Conference against Racism, Discrimination, Xenophobia and Intolerance* (27 July 2001), A/CONF.189/PC.3(5), para. 120; United Nations Development Fund for Women, *Women, War and Peace*, Assessment of Independent Experts about the Impact of the Armed Conflict on Women and their Role in Peace-Building, 2002, pp. 1-10.

<sup>47</sup> The *Mesa de Trabajo Mujer y Conflicto Armado* is a space of coordination and reflection composed of women’s and human rights organizations, social organizations, persons and national and international entities interested in giving visibility to the multiple forms of violence that affect women of all ages in the context of the Colombian armed conflict. The Roundtable has published a series of reports analyzing important themes related to impact of the armed conflict on women in Colombia.

women is linked to that of men and, for this reason, to rape women in the context of the armed conflict is considered an action against the honor of the enemy, a form of vengeance."<sup>48</sup> Therefore, in the context of the Colombian armed conflict, the threat of violence, particularly sexual, is employed by the armed actors "as a symbolic act against the opposing faction."<sup>49</sup> Furthermore, the *Mesa* has also indicated that: "some women have witnessed or know of violations, abuses and sexual bribes that are committed publicly as exemplary and retaliation acts."<sup>50</sup>

54. In regard to the relationship between different types of violence in the scheme of tactics of war, the interviews and testimonies gathered by the IACHR in Bogotá, Valledupar and Quibdó show that sexual violence against women is used as a strategy of war in itself or joins other forms of violence also employed against men, such as physical and psychological violence. In line with the principles in CEDAW and the Convention of Belém do Pará, rape has been classified in the Statute of the International Criminal Court and the jurisprudence of the International Criminal Tribunals of Rwanda and Yugoslavia as a war crime and a crime against humanity.<sup>51</sup> Article 7.1 (g) of the Rome Statute classifies as crimes against humanity: rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or other sexual abuses of comparable seriousness. It also recognizes that slavery includes trafficking of women. Furthermore, sexual violence has been identified by the Inter-American System as an infringement of human rights by the Convention of Belém do Pará and the American Convention, which may, in certain circumstances, be categorized as torture.<sup>52</sup>

55. Specifically, the actors of the conflict commit crimes of a sexual, physical or psychological nature against women and girls in the course of (1) attacks, massacres and murders committed against communities and their residents in the struggle to control resources and territories; (2) murders, acts of torture and threats against women who have some affective relationship with supporters or combatants or because they or their relatives are

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<sup>48</sup> *Mesa de Trabajo de Mujer y Conflicto Armado, Report about the Sociopolitical Violence against Women, Girls and the Youth in Colombia*, Bogotá, February 2003, p. 87.

<sup>49</sup> *Mesa de Trabajo de Mujer y Conflicto Armado, Report about the Sociopolitical Violence against Women, Girls and the Youth in Colombia*, Bogotá, February 2003, p. 87.

<sup>50</sup> *Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004.

<sup>51</sup> Rome Statute, International Criminal Court, Articles 7(1)(g), 8 (2)(b)(xxii) and 8(2)(e)(vi); ICTY, *Prosecutor v. Anto Furudzija*, ruling of 10 December 1998, para. 163; *Case Celebici* No. IT-96-21-T, Judgment, ICTY, 16 November 1998, para. 476.

<sup>52</sup> See IACHR, Merits Report, No. 53/01, *Ana, Beatriz and Cecilia González-Pérez* (Mexico), 4 April 2001; Report (Admissibility and Merits), No. 5/96, Case 10.970, *Raquel Martín de Mejía*, (Perú), 1 March 1996. In the case of Raquel Martín-Mejía, the IACHR established that rape could constitute a form of torture when it: "causes physical and mental suffering in the victim. In addition to the violence suffered at the time it is committed, the victims are commonly hurt or, in some cases, are even made pregnant. The fact of being made the subject of abuse of this nature also causes a psychological trauma that results, on the one hand, from having been humiliated and victimized, and on the other, from suffering the condemnation of the members of their community if they report what has been done to them", IACHR, Report 5/96, paras. 199 and 200.

involved in political activities; and (3) detentions, home searches and kidnappings intended to obtain information, terrorize, punish, intimidate or coerce.

56. The Rapporteur received information from a variety of sources indicating that attacks, massacres and murders against communities perpetrated by the illegal armed groups in the conflict can be joined by acts of rape, sexual abuse and mutilation of a sexual nature.<sup>53</sup> These aggressions may have various purposes, including: punishing or generating terror among communities and women accused of collaborating with the enemy and to force a displacement.<sup>54</sup> On many occasions, rape and sexual mutilation have preceded massacres and homicides. Nevertheless, State statistics do not record them as such, leaving them registered as tortures or homicides. Similarly, security forces, paramilitary and guerrilla groups may use sexual violence to obtain information, terrorize, punish, intimidate or coerce women when they are detained, during home searches and kidnappings.<sup>55</sup>

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<sup>53</sup> See United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, paras. 8, 14, 104, 106, 113; United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 42; United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, pp. 9-11; Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, pp. 9-11; *Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004, pp. 79-86; *Confederación de Redes, Red Nacional de Mujeres y la Red de Educación Popular Entre Mujeres, One Step Forward, Two Back, Shadow Report, Platform of International Conference, Fourth World Conference on Women*, 2004, pp. 29-39; *Report Enforcement, Protection and Violation of Women's Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005, section 4.2.

<sup>54</sup> See United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, paras. 8, 14, 104, 106, 113; United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 42; United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, pp. 9-11; Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, pp. 9-11; *Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004, pp. 79-86; *Confederación de Redes, Red Nacional de Mujeres y la Red de Educación Popular Entre Mujeres, One Step Forward, Two Back, Shadow Report, Platform of International Conference, Fourth World Conference on Women*, 2004, pp. 29-39; *Report Enforcement, Protection and Violation of Women's Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005, section 4.2.

<sup>55</sup> See United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005; United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002; United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005; Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004; *Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004; *Confederación de Redes, Red Nacional*

57. Sexual violence can also join murders, acts of torture and targeting against women for their affective relations with some actor in the conflict or for their involvement with certain political tendencies.<sup>56</sup> Concretely during the visit, the Rapporteur received information on incidents suffered by several women because they were part or were related to activities or members of the Patriotic Union (*Unión Patriótica*) and the Communist Party (*Partido Comunista*). The delegation received the following testimony from a resident of the Municipality of Castillo, Department of Meta:

When I was 19 I began activities in the Communist Party [...] In 2001, the paramilitary began to enter the Meta region and people were very afraid, because they began to murder people. I stood this for two years, and they murdered my wife [...] The day the paramilitary detained my wife, she was with our two-year-old daughter [...] During the detention, a member of the paramilitary told my wife: 'I am in an organization where, if I have to kill my mother I will kill her, because if I killed my brother why shouldn't I kill a son of a bitch who is not part of my family.' They beat her up and over ten of them raped her. They had her detained for three days, where they tortured her to death. They did nothing physically to the little girl, but she saw all her mother's suffering. They told me not to go denounce anything about what had happened, because they would find me wherever I went and kill me. No one wanted to go file a complaint [...] because they left her on a corner where the paramilitary base is.<sup>57</sup>

#### **1. The effects and consequences of violence against women on the victims**

58. The information received during the visit of the Rapporteur and the testimonies gathered in Bogotá, Valledupar and Quibdó reveal the physical and psychological consequences of the violence, particularly the sexual violence, exercised on the victims. In addition to the trauma accompanying the act of sexual violence, it may expose women to unwanted pregnancies, sexually transmitted infections and chronic pain, physical disability, drug and alcohol abuse and depression.

59. The Rapporteur received the following testimony during her visit to Valledupar, which illustrates the physical and psychological effects sexual violence can have in a victim:

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... continuation

*de Mujeres y la Red de Educación Popular Entre Mujeres, One Step Forward, Two Back, Shadow Report, Platform of International Conference, Fourth World Conference on Women, 2004; Report Enforcement, Protection and Violation of Women's Human Rights in a Country at War, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005.*

<sup>56</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 15.

<sup>57</sup> Declarations presented to the *Corporación para la Promoción y Defensa de los Derechos Humanos (REINICIAR)* submitted to the IACHR Rapporteur during her on-site visit to Colombia, dated 2 August 2004 and 4 November 2004, respectively.

I have a friend that she and her sister were raped, by two young men from the AUC. She was very much afraid, but they found out that she came home bleeding, and several days went by and she still bled. They took her to the doctor and she would not let the doctor examine her. She ran like a crazy woman and wouldn't let any man near her. A nurse had to examine her and they performed tests and learned that she had been raped and had been traumatized morally and psychologically.<sup>58</sup>

60. Victims are often rejected and stigmatized by their communities, families and partners. When the incident has occurred in zones controlled by the illegal armed groups, where norms and punishments are imposed when the rules of conduct are violated, the community may in turn blame the victim herself for having disobeyed the rules and having received a punishment.

61. Experience in the treatment of victims of physical and sexual violence has shown that it is vital to provide a specialized and multi-disciplinary support to mitigate the physical and psychological damage as a consequence of the social rejection.<sup>59</sup> The Pan-American Health Organization, in collaboration with a number of international agencies, has described the services required for victims of different forms of violence as follows:

To provide integral, inter-disciplinary care. This includes medical and psychological care and support through support or self-help groups. Additionally, providers must also know about other services and resources available in their community, to be able to refer the survivor to services that are not provided at the health center, or other services such as legal, economic support and protection, among others ... To have a guide of public and private sector resources providing assistance and free legal aid for women who want to submit a legal complaint.<sup>60</sup>

62. During the visit, the Rapporteur learned of a series of State services created by the Colombian State to support victims of sexual crimes.<sup>61</sup> Among the main ones are the creation of the Family Commissions, the Integral

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<sup>58</sup> Testimonies collected by the *Iniciativa de las Mujeres por la Paz* in the report *Violence against Women in the Framework of the Armed Conflict*, submitted to the IACHR Rapporteur during her on-site visit to Colombia.

<sup>59</sup> World Health Organization, *World Report on Violence and Health*, 2003, Chapter 6, *Sexual Violence*, pp. 176-179.

<sup>60</sup> Pan-American Health Organization (PAHO) in collaboration with the United Nations Population Fund (UNFPA), United Nations Development Fund for Women (UNIFEM), Inter-American Commission of Women of the Organization of American States (CIM/OAS), Inter-American Parliamentary Group on Population and Development (GPI), Center for Reproductive Rights (CRR), IPAS, ISIS International, Latin American and Caribbean Committee on the Defense of the Rights of Women (CLADEM), *Model Laws and Policies on Domestic Violence against Women*, Washington, DC, April 2004, p. 27.

<sup>61</sup> Report by the Colombian State on the Implementation of the Beijing Platform of Action (1995) and findings of the Twenty-Third Special Period of Sessions of the General Assembly (2000), Álvaro Uribe-Vélez, President of the Republic, Carolina Barco-Isackson, Minister of Foreign Affairs, Martha Lucia Vázquez-Zawadsky, Presidential Office on Gender Equality, Bogotá, May 2004, pp. 125-140.

Care Center for Victims of Sexual Crimes directed by the Office of the Attorney General, the Inter-Institutional Committees that have been created within the Office of the Ombudsman to serve victims and survivors of sexual crimes, and the territorial extension of the ICBF and the Social Solidarity Network centers, among others. The effectiveness and scope of these efforts will be discussed in Chapter V.

## 2. Violence in figures

63. Information provided by both State authorities and non-State entities, as well as testimonies gathered during the visit, confirm that there is underreporting of cases of violence perpetrated against women within the Colombian armed conflict. In addition, the official statistics available do not accurately reflect the magnitude of the problem.<sup>62</sup> The testimonies gathered and the stories of women that inhabit zones occupied by the armed actors and victims of forced displacement indicate that sexual violence is more frequent than it is believed, what the mass means of communication report and what the official statistics and records suggest.

64. Figures on sexual violence against women provided by the INML show that the phenomenon is alarming and tending to increase.<sup>63</sup> Concretely on 2004, there was a 25.8% overall increase in sexual crimes in Colombia.<sup>64</sup> This phenomenon affected women disproportionately, to which 14,369 cases corresponded, 84% of the total. The INML has stated that:

discussion continues on whether there is an increase in sexual crimes or in complaints. It has not been possible to measure these aspects because most of the time, the crime is not denounced for several reasons, including the serious psycho-social impact affecting the victim and her family.<sup>65</sup>

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<sup>62</sup> *Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004, p. 79; United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 99; *Corporación Sisma Mujer, Report on Gender Justice: From the Armed Conflict to Judicial Reforms*, Colombia 2001-2004, pp. 32-37; *Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004, p. 84; furthermore, the Colombian State manifests its awareness of this void, which led to the implementation of a general population census in Colombia on 2005, with the expectation that the results would help to identify disaggregated statistics to improve the focus of plans and programs developed by the National Government. Note DDH/OEA 25245/1210 of the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

<sup>63</sup> See figures for 2001-2004 available online: <http://www.medicinalegal.gov.co/>; National Institute of Legal Medicine, *Publication 2004 Forensis: Data for Life*, p. 164; see analysis of figures on *Corporación Sisma Mujer, Report on Gender Justice: From the Armed Conflict to Judicial Reforms, Colombia 2001-2004*, p. 46.

<sup>64</sup> The National Institute of Legal Medicine performed 17,912 legal medical procedures, direct and indirect, a major increase from the previous year, with 3,673 cases. View National Institute of Legal Medicine, *Publication 2004 Forensis: Data for Life*, p. 164.

<sup>65</sup> See National Institute of Legal Medicine, *Publication 2004 Forensis: Data for Life*, p. 172.

65. The problem of sexual violence is reflected in public statistics, both at the national and local level. In the locality of Quibdó, the Family Commission has reported that, between 2003 and 2004, 241 cases of sexual violence were reported, 153 involved girls and 62 involved adult women.<sup>66</sup>

66. However, there are basic factors showing that these statistics represent an under-registry of violent incidents. During the visit, testimonies and interviews conducted with the Office of the Ombudsman for the Rights of Children, Women and the Family and the Office of the Attorney General, show that fear of retaliation by aggressors, economic and affective dependence that women may have with their perpetrators, the social acceptance of violence against women, and the victim's lack of knowledge about her rights, are weighty factors, among others, that contribute to the underreporting of cases of violence against women.<sup>67</sup>

67. Moreover, the format used by the INML to gather information does not include armed actors as possible aggressors and does not show a complete picture of the situation in zones occupied by the actors involved in the conflict.<sup>68</sup> For example, the INML only indicates in its report for 2004 that a high percentage of aggressors were persons known by the victim or near the family nucleus.<sup>69</sup> Furthermore, the INML has identified deficiencies in the investigation of sexual crimes, including the reliance on laboratory tests, which can lead to an erroneous interpretation of what has happened, without any possibility of gathering other types of evidence from the aggressor or at the scene.<sup>70</sup> It has also been reported that many crimes are not reflected in State statistics because the authorities choose not to enter zones occupied by the actors involved in the armed conflict.<sup>71</sup> These concerns have also been addressed by the United Nations Rapporteur, where she indicates that the

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<sup>66</sup> Report by the Family Commission of the Municipality of Quibdó, cited by Report: *Chocó: Territory of Wealth and Survival*, prepared by the *Red de Mujeres Chocoanas*, submitted to the IACHR Rapporteur during her on-site visit to Colombia, p. 4.

<sup>67</sup> Presentation by Doctor Maria Cristina Hurtado-Sánchez, Office of the Ombudsman for the Rights of Children, Youth and the Family of Colombia at *Experts Meeting: Access to Justice in Andean Region Countries*, organized by the Rapporteurship on the Rights of Women of the IACHR, *Instituto de Defensa Legal*, Lima, Perú, August 1-2, 2005.

<sup>68</sup> See *Corporación Sisma Mujer, Report on Gender Justice: From the Armed Conflict to Judicial Reforms*, Colombia 2001-2004; the Colombian State informed the IACHR that the Information System for the Analysis of Violence and Accidents in Colombia contains the variable of alleged aggressor with 45 options of categories, which allegedly facilitate the identification of potential aggressors pertaining to the illegal groups. However, the State also notes that it is difficult to confirm this data, given that the information obtained during the interview with the victim related to the sexual aggression does not identify the condition of the aggressor. Note DDH/OEA 25245/1210 of the Direction of Human Rights of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

<sup>69</sup> National Institute of Legal Medicine, *Publication 2004 Forensis: Data for Life*, p. 149.

<sup>70</sup> National Institute of Legal Medicine, *Publication 2004 Forensis: Data for Life*, p. 167.

<sup>71</sup> *Corporación Sisma Mujer, Report on Gender Justice: From the Armed Conflict to Judicial Reforms, Colombia 2001-2004*, p. 36.

official statistics fail to reflect crimes of sexual aggression that may precede other acts of violence, such as murder or torture.<sup>72</sup>

68. The Rapporteur of the IACHR corroborated that the official figures are not disaggregated by factors such as race and ethnic background and therefore, do not reflect the magnitude of the problem of violence against women within indigenous and Afro-Colombian communities.

69. Another difficulty in documenting incidents of violence against women is the silence of victims about the aggression, particularly a sexual aggression, which is often caused by their own relatives, which can prolong for years.<sup>73</sup> Amnesty International has recently discussed the natural challenges impeding the investigation of cases of violence against women, such as difficulties in making direct contact with survivors of abuse who fear reprisals from their aggressors and the rejection of their families and/or communities.<sup>74</sup>

**B. Forced displacement,<sup>75</sup> the humanitarian crisis and female heads of household**

70. The Rapporteur and the IACHR have progressively received a variety of statistics about the percentage of displaced women in Colombia from both State and non-State entities. Despite their numerical variations, these figures confirm that displacement gravely affects women, who constitute about half of the displaced population. The State has recognized that four out of every ten displaced families are headed by women.<sup>76</sup> Yet more evident to the Rapporteur and the IACHR, has been the special impact of displacement on women, mostly in terms of the radical, traumatic and sudden change in their family structure and roles, geography, culture, community and socio-economic standing, and their exposure to threats, violence and discrimination based on

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<sup>72</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 45.

<sup>73</sup> *Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004, p. 90.

<sup>74</sup> Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, p. 14.

<sup>75</sup> According to the Guiding Principles on Internal Displacement, internally displaced persons are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border." Guiding Principles on Internal Displacements, attachment to the Report of the Representative of the Secretary-General, Mr. Francis S. Deng, submitted pursuant to Commission resolution 1997/39, E/CN.4/1998/53/Add.2, 11 February 1998 [hereinafter Guiding Principles].

<sup>76</sup> See United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, p. 18; Office of the United Nations High Commissioner for Refugees, *Assessment of Public Policy on Prevention, Protection and Attention for forced internal displacement in Colombia (Aug 2002 -2004)*, Bogotá, Colombia, December 2004, p. 110.

their gender, perpetrated by either the actors of the conflict that caused the displacement or the receiving populations.

71. The IACHR has stated that it considers the internal displacement phenomenon in Colombia as one of the most serious aspects of the human rights situation and has described the situation of displaced persons as a grave humanitarian crisis.<sup>77</sup> The IACHR has also identified women as a “sector disproportionately represented among the ranks of displaced persons”.<sup>78</sup> It has been said that Colombia faces one of the most serious internal displacement crises in the world.<sup>79</sup> The UNHCR has stressed that Colombia has the third-highest number of displaced persons in the world, only after Sudan and the Democratic Republic of the Congo.<sup>80</sup>

72. The IACHR, along with United Nations agencies and non-governmental organizations, such as Human Rights Watch and Amnesty International, have identified as some causes of internal displacement, threats, acts of violence and human rights abuses perpetrated by the armed actors to control territory and dominate the population throughout the country, military operations, selective murders, arbitrary detentions, counter-insurgency operations, reprisals by the guerrillas, conflicts over land and economic interests.<sup>81</sup> The Rapporteur received this testimony during the visit, which illustrates the motives that can cause a force displacement:

When I lived there I was quite comfortable. I owned an inter-city bus, a taxi and also had many items of value and even my house, with my crops; however, I had to leave it all because the paramilitary threatened

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<sup>77</sup> IACHR, *Third Report on the Human Rights Situation in Colombia*, (1999), Chapter VI, Forced Internal Displacement, para. 1, section C, para. 26.

<sup>78</sup> IACHR, *Third Report on the Human Rights Situation in Colombia*, (1999), Chapter VI, Forced Internal Displacement, para. 1, section C, para. 26.

<sup>79</sup> Human Rights Watch, *Report on the Internally Displaced in Colombia*, Chapter III, 2005; United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 59.

<sup>80</sup> See United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, p. 18, citing information provided by the UNHCR.

<sup>81</sup> See United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, paras. 42-44; *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, paras. 59-60; Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, pp. 52-53; United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, p.19; *CODHES Informs Bulletin 48: Consultancy for Human Rights and Displacement; Mesa de Trabajo de Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004, p. 34; *Confederación de Redes, Red Nacional de Mujeres y la Red de Educación Popular Entre Mujeres, One Step Forward, Two Back, Shadow Report*, Platform of International Conference, Fourth World Conference on Women, 2004; *Report Enforcement, Protection and Violation of Women's Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005.

me. They wanted me to give them my sons to be part of their group. They offered me the sun, the moon and the stars and they would pay for my children's studies and they would give me a house wherever I wanted [...] I said no! and that was when they threatened to kill me and gave me 24 hours to leave [...] But I didn't! They came back to me and asked why I hadn't left and I told them because I had a lot invested there and didn't want my children to be left penniless. I begged them and begged them and they told me I had looked for trouble. But before I left they stole my taxi and burned the city bus I had because I didn't pay protection money; these were the reasons and the threats that made me leave. It was so sudden, I wasn't able to take anything with me, not even my own documents or those of my children, or any kind of utensils. I took the small children out in their underwear and slippers.<sup>82</sup>

73. As previously mentioned, the Social Solidarity Network has stated that four out of every ten families displaced are female-headed, which is higher than the figure for the non-displaced population.<sup>83</sup> Official figures indicate that between 1995 and May 30 of 2005, approximately 1.6 million persons were forcibly displaced in Colombia.<sup>84</sup> The Social Solidarity Network and the ICBF communicated to the Rapporteur during her visit that approximately 50 to 52% of the displaced persons were women and, 30% of this number corresponds to women that have become heads of household due to the lost or abandonment of their husbands.<sup>85</sup>

74. In contrast, civil society sources, especially the *Consultoría para los Derechos Humanos y el Desplazamiento en Colombia* (hereinafter "CODHES"), claim that the number of internally displaced persons in Colombia doubles the figure published by the State. From 1985 to December 31, 2004, CODHES estimates and calculates approximately 3,410,041 displaced persons, of which 51% are women.<sup>86</sup> Amnesty International has also reported that,

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<sup>82</sup> Testimony from Bolívar, *Report on the Situation of Women on the Caribbean Coast*, submitted to the IACHR Rapporteur during her site on-site visit to Colombia.

<sup>83</sup> Assessment of Public Policy on Prevention, Protection and Attention for forced internal displacement in Colombia (*August 2002 – 2004*), UNHCR, Bogotá, Colombia, December 2004, p. 110.

<sup>84</sup> According to the Single Registry System of the Social Solidarity Network, as of 31 December 2004 the number of displaced persons ascended to 1,565,765 persons. See Social Solidarity Network, Single Registry System, cumulative to 31 December 2004, date of report 3 January 2005, available online: [www.red.gov.co](http://www.red.gov.co). As of 31 October 2005, the Single Registry System of the Social Solidarity Network includes the figure of 1,706,236 and a number of 383,486 households. See Social Solidarity Network, Single Registry System, Report of 31 October 2005, Cumulative yearly total: Population Displaced by Violence, available online: [www.red.gov.co](http://www.red.gov.co)

<sup>85</sup> The Rapporteur received information from non-governmental and United Nations entities indicating that the State has no information about the sex of about 19% of the displaced persons and the ages of 29%. See Report *Enforcement, Protection and Violation of Women's Human Rights in a Country at War*, Colombia 2005, submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005, section 4.1.

<sup>86</sup> See CODHES cumulative to 31 December 2004, available online: [www.codhes.org.co](http://www.codhes.org.co). Just between July 1 and September 30, 2005, some 99,338 persons, comprising 19,868 households, were displaced from their habitual living or workplaces by acts of violence and

since 1983, over three million Colombians have been forced to run from their homes seeking safety.<sup>87</sup>

75. The variation between official and non-official figures have been explained by the different criteria applied by State officials in registering displaced persons; the fear of the displaced of suffering reprisals by the armed groups if they denounce their situation; the non-inclusion in State data of displaced persons due to aerial fumigations; and the persecution of women who have sentimental bonds with actors in the conflict and in the armed forces.<sup>88</sup>

76. Among the most notable consequences for women who are victims of displacement are the changes in the dynamic of the family and spousal roles and responsibilities due to the death or loss of their husband or partner, the physical and psychological trauma caused by the acts and threats of violence, the need to adapt socially and economically to a new community, and the possible rejection of the latter. UNIFEM affirms that the changes in roles and responsibilities due to displacement are fundamentally associated with the need to provide for their families, and the opportunities they find to achieve this.<sup>89</sup> Using as a reference research by experts in this field, UNIFEM explains the impact of the change of roles and family structure on displaced women as follows:

Circumstances have forced displaced women to take responsibility for supporting their families economically, getting to know and learning to operate in the public sphere, where they have to visit different State and private agencies to arrange humanitarian assistance provided for under legislation on internal forced displacement, to participate in different organizations to claim their rights and to manage with different spatial and cultural referents that are more complex than in their places of origin. These factors often create new expectations for these women, discovering strengths and skills to begin processes

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... continuation

insecurity associated with the escalation of the domestic armed conflict, representing an increase of 32% over the same period in 2004. See CODHES, Bulletin 64: *Displaced persons – Do they have any rights?*, 26 October 2005.

<sup>87</sup> Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, p. 52.

<sup>88</sup> See United Nations Development Fund for Women, *Report about the Situation of Women in Colombia*, September 2005, p. 18; *Report Enforcement, Protection and Violation of Women's Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005, section 4.1; *Confluencia Nacional de Redes de Mujeres, Corporación Sisma Mujer and Atelier-IEPALA*, Observatory of the Human Rights of Women, *Displaced Women: Actions of the Colombian Government*, March 2004.

<sup>89</sup> See United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, p. 22; see also United Nations Development Fund for Women, *Colombian Women Searching for Peace: A Review of their Initiatives and Proposals*, 2004, paras. 23-24.

leading to a search for new life projects and to question gender roles amidst adversity.<sup>90</sup>

77. In other words, traditional behaviors of women and men may be forced to change in the socio-cultural, economic and political adaptation and reconstruction process the displacement experience involves. After displacement:

Women tend to play a primary role in the family by activating networks for income and support. Men tend to assume a secondary role due to the loss of relationships, autonomy, authority and power; male and female children and youth bear economic and emotional burdens and cognitive marks that are deepened by these changes and by the lack of insertion in the educational system.<sup>91</sup>

78. The Rapporteur received the following testimonies, that display the radical change in responsibilities and roles that displaced women may face when they suddenly become heads of household:

After my husband was murdered, as a consequence I was forcibly displaced, to come stay with my mother, work and take care of my children.... I began taking responsibility for my home, which was no longer traditional, because I became a female head of household. Everything changed because of the violent incidents.<sup>92</sup>

I am a black woman displaced from the Chocó ten years ago. I lost my brother, who disappeared when the paramilitary forces took him away, just because he took part in a peasant march. They forced us to leave our lands, they also took my husband away and three months passed with us knowing whether he was dead or alive. With the help of the priest in my town I arrived at Barranquilla with my 6 children. It was very challenging to support them, but we are making it ....<sup>93</sup>

One very lovely morning, just as we arrived from the town, we were bringing our purchases for the week from the market, my mother-in-law was in the house and my husband was in *La Rosa* working with his father and the workers, when the paramilitary arrived, shooting, and detonated a mine to blow up at the entrance to the farm. Then they came into our farm and took everything. They took my brother-in-law away and killed him. Because we denounced this they threatened us and gave us 12 hours to get out. We left without anything, just a suitcase and my children. We arrived at the city of Barranquilla, and no

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<sup>90</sup> United Nations Development Fund for Women, *Colombian Women Searching for Peace: A Review of their Initiatives and Proposals*, 2004, para. 24.

<sup>91</sup> CODHES, *The Women in the War: From Inequality to Political Autonomy*, Colombia, October 2004, p. 64, citing Henao Arcila, Diego Fernando, Suárez Morales, Harvey Danilo and others, *Family Structure, Children and Armed Conflict: A Study of Forced Displacement in Colombia*, National University of Colombia, 1997.

<sup>92</sup> Testimony collected by the *Iniciativa de Mujeres por la Paz*, submitted to the IACHR Rapporteur during her on-site visit to Colombia on 20 June 2005.

<sup>93</sup> Testimony collected by the *Iniciativa de Mujeres por la Paz*, submitted to the IACHR Rapporteur during her on-site visit to Colombia on 20 June 2005.

one gave us a hand. I had to live in a shelter for a year, working hard and putting up with hunger, which had never happened to me in my land ...<sup>94</sup>

The armed groups came, fighting for territory. They took students from the schools, they took women. When they came they would hold meetings in the community and set up rules, a schedule, they restricted inhabitants' coming and going, they killed many innocent people and left many victims, orphans, widows and families broken up. When they found out that I had a relationship with the police, because the father of my children was a policeman, they said that I was a frog, they insulted me and arrived at night and knocked on the door in the evening several times, and they told me that they knew all about me, even where my family was ... I had to leave everything because I had the opportunity, when the Red Cross helped me leave town, to go to Quibdó and there, since they had taken my house, I was forced to go to Barranquilla. My family and I were greatly affected, my daughter has more bad memories because she saw many armed men and every day and night we had to move to another house, where we would get together to spend the day and then rotate to another at night. Then they killed the father of my children in Medellín and this renewed our fear because we didn't know why he was killed (we used to receive a great deal of economic support from him). I notice that my children behave differently since their father died. We have had very difficult times, especially because I have had to play the role of mother and father. This is a very harsh challenge. I can't find any answer for what has happened, but I am eager to continue onward and try to be fine to protect the ones who are under my responsibility.<sup>95</sup>

79. The United Nations Rapporteur has also reported how threats to the safety and physical integrity of displaced women may even continue in the communities where they seek refuge.<sup>96</sup> Also, according to a recent study by the *Liga de Mujeres Desplazadas*, 34% of the women interviewed reported that, after the displacement, they continue to be victims of some form of threat or intimidation by the armed actors.<sup>97</sup> The High Commissioner for Human Rights reported during 2005 that 52% of displaced women report having suffered some type of physical abuse and 36% have been forced by strangers to have sexual intercourse.<sup>98</sup>

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<sup>94</sup> Testimony collected by the *Iniciativa de Mujeres por la Paz*, submitted to the IACHR Rapporteur during her on-site visit to Colombia on 20 June 2005.

<sup>95</sup> Testimony collected by the *Iniciativa de Mujeres por la Paz*, submitted to the IACHR Rapporteur during her on-site visit to Colombia on 20 June 2005.

<sup>96</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 63.

<sup>97</sup> *Liga de Mujeres Desplazadas*, Survey on the Prevalence of Gender-Based Violence, 2004; Report *Enforcement, Protection and Violation of Women's Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005.

<sup>98</sup> See United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, Attachment III, p. 62, para. 6.

80. In practice, displaced women and particularly, heads of household, face deprivation and social and economic difficulties in the receiving community, which prevent them from re-establishing their lives, such as the lack of employment, discriminatory treatment for their condition as displaced, and the need to adapt to a new culture. For example, according to the findings of research conducted by the Observatory of the Human Rights of Women,<sup>99</sup> who held 12 workshops and interviewed 1,096 displaced women in three departments (Valle, Bolívar and Santander), the interviewees described a series of needs and difficulties that limit their possibilities of rebuilding and re-establishing their lives after the displacement. Among the greatest challenges, there is the need to adapt to a new social and cultural setting, the need to find new sources of subsistence and their own low educational levels. The Observatory found that in 2000, 34.6% of displaced women had not completed primary education, and only 3.8% had completed secondary school.

81. The Rapporteur also received information about the results of a 2004 project implemented by the International Organization for Migration and the United States Agency for International Development called "Incorporating the Gender Perspective in the SNAIPD" which involved 289 displaced women from the municipalities of Buenaventura, Cali, Jamundí, and Tulúa, over half of which had been living in their new surroundings for one to three years.<sup>100</sup> According to the existing legal framework, it would be expected that at this point they would have overcome the emergency situation and be in a progress of consolidation and socio-economic stabilization, either back at their places of origin or in resettlement areas. However, the women interviewed revealed that their situation was far from stable and that, after the first year, the support from the State and the social services at their disposal were radically restricted. They perceived that after the completion of one year from their displacement, not even the emergency humanitarian action had been appropriately fulfilled.

82. The Rapporteur received testimonies about acts of discrimination and exploitation against displaced female heads of household. *CLADEM* shared with the Rapporteur information about the range of bureaucratic barriers faced by displaced women when they attempt to use public support services. For example, the registration process is delayed by the requirement of identity documents and information about their prior residence. They also said they had been mistreated by public officials when they registered as displaced persons, and expressed concern over the complex requirements to register as displaced persons and their fear of reprisals when they make statements about those who forced their displacement.

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<sup>99</sup> See *Confluencia Nacional de Redes de Mujeres, Corporacion Sisma Mujer y Ateleier-IEPALA*, Observatory of the Human Rights of Women, *Displaced Women: Actions of the Colombian Government*, March 2004.

<sup>100</sup> See results of investigation in publication: *Women in Situation of Displacement*, Cali, September 2005, with support from USAID and IOM.

83. In interviews with displaced women in Bogotá, Quibdó and Valledupar, the Rapporteur found that they were missing the psycho-social support and the health services needed to overcome the consequences of displacement. For women and girls, the displacement entails a radical, traumatic, and sudden change in family structure, geography, culture, community and socio-economic conditions, as well as possible exposure to threats, violence and discrimination perpetrated by either the armed actors who caused their displacement or the receiving communities. Regarding health services, United Nations agencies communicated to the Rapporteur their concern that approximately 63% of displacement victims have no identity documents, which prevents them from accessing the health system. The Observatory of the Human Rights of Women has described a practice that infringes on the rights of displaced women, which is to require them to apply for *tutela* (legal action to seek immediate relief for violation of a constitutional right) in order to access health services, which has been declared unconstitutional by the Sentence T-025 of the Constitutional Court.<sup>101</sup>

84. Among the displaced persons in Colombia, it is evident that there are a high number of persons requiring special care and services, such as pregnant women.<sup>102</sup> In fact, among other consequences of displacement associated with health, there is a high percentage of adolescent pregnancies among the displaced population, an increase in sexually transmitted diseases and in domestic violence. Both ICBF and *PROFAMILIA*, a non-governmental organization that works directly with displaced women, communicated to the Rapporteur the high percentage of adolescent pregnancies recorded among the displaced population, which may be as high as 19% according to ICBF. From the testimonies and the information gathered during the visit, the struggle for economic support and health and safety concerns that displaced girls face, forces them to have premature sexual relations and marriages. Young girls may trade sex for clothing, money or places to enroll in school. Both ICBF and *PROFAMILIA* have verified through their treatment and service-provision programs how domestic violence increases with displacement, due to the pressure and changes in the family dynamics that this phenomenon can cause at the social, cultural and economic levels.<sup>103</sup>

85. The IACHR has stated that according to the American Convention and other domestic and international norms, internally displaced persons are entitled to freely enjoy the same rights and freedoms as the rest of the citizenry.<sup>104</sup> However, in practice, they are seldom able to do so, because the displacement in itself essentially prevents them from enjoying their basic

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<sup>101</sup> *Confluencia Nacional de Redes de Mujeres, Corporación Sisma Mujer, Atelier-IEPALA, Observatory of the Human Rights of Women, Displaced Women: Actions of the Colombian Government*, March 2004, p. 16.

<sup>102</sup> See IACHR, *Report on the Human Rights Situation in Colombia* (1999).

<sup>103</sup> Gabriel Ojeda and Rocío Murad, *Sexual and Reproductive Health in Marginalized Zones: Situation of Displaced Women* (Santa Fé de Bogotá: PROFAMILIA, 2001), pág. 109.

<sup>104</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter VI, Forced Internal Displacement, para. 4.

human rights. Even in those cases in which persons are forced to abandon their homes for legitimate reasons, their displacement generally entails multiple violations of their human rights, especially during armed conflicts.<sup>105</sup>

86. Furthermore, the Guiding Principles on Internal Displacement ("the Guiding Principles"), offer important guidance to the Commission on how the law should be interpreted during all phases of the displacement.<sup>106</sup> For example, the Guiding Principles refer directly to the situation of women, stating that: "Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counseling for victims of sexual and other abuses."<sup>107</sup> Additionally, the Convention of Belém do Pará also mandates State Parties to offer special attention to the situation of vulnerability to violence that women may suffer because of their condition as displaced and for being affected by armed conflict situations.<sup>108</sup>

### **C. Forced and voluntary recruitment of women and girls**

87. The IACHR has received information from several sources about the recruitment of women and girls by the illegal armed actors, both forced and voluntary. State authorities such as the ICBF, the United Nations, Amnesty International and the civil society, manifested their concern over this problem. The United Nations Rapporteur described that women can perform different roles within the ranks as combatants, sexual slaves, informants, guides, messengers and the undertakers of domestic duties.<sup>109</sup> According to Amnesty International, the FARC-EP and the ELN continue recruiting minors, both boys and girls, with this objective.<sup>110</sup> From a gender perspective, it is particularly alarming the sexual abuse that can join this recruitment, either forced or voluntary, when those recruited are women or girls.

88. The magnitude of this problem cannot be accurately verified. During the interview of the delegation with the Governor of Valledupar, he communicated that State authorities know there are girls recruited by the armed groups, but they do not possess the necessary information to take

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<sup>105</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter VI, Forced Internal Displacement, para. 4.

<sup>106</sup> United Nations, *Guiding Principles on Internal Displacement*, attachment to the Report of the Representative of the Secretary-General, Mr. Francis S. Deng, submitted pursuant to Commission resolution 1997/39, E/CN.4/1998/53/Add.2, 11 February 1998.

<sup>107</sup> Guiding Principles, Number 19 (2).

<sup>108</sup> Convention of Belém do Pará, Art. 9.

<sup>109</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 50; Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/200, pp. 18-19.

<sup>110</sup> Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, p. 19.

action, especially in the case of indigenous families and communities. Several sources, including the ICBF, have confirmed the difficulty in distinguishing among the forced and non-forced recruitment and of quantifying the number of women and girls linked to the illegal armed groups, since these groups do not make the figures public. The ICBF, however, has established that since 1999, the number of girls formally severed from the armed groups through the mechanisms of individual and collective demobilization ascends to 718.

89. Several State entities, United Nations agencies and the civil society have reported that the recruitment of women and girls may be joined by sexual aggressions perpetrated by members of the armed group, imposition of forced abortions and the use of contraceptive methods, sexual slavery and harassment by their superiors and other members.<sup>111</sup> For example, the Rapporteur received information about the zone of Catatumbo, in northern Santander, indicating that one of the factors that has forced women to displace, aside from the death of their husbands or children, is the threat faced by their daughters over age 14 to be recruited by the ranks of the paramilitaries to become, not only combatants, but to also be sexually exploited by the armed actors.<sup>112</sup>

90. During the visit, groups of women from the Caribbean coast voiced their concern to the Rapporteur over the recruitment of girls by the AUC, especially in the neighborhoods of Montería, such as Santa Claro, Unión, El Dorado, Santa Fe, Robinson Pitalua, La Turbina, among others.<sup>113</sup>

91. The IACHR has received information indicating that women and girls are raped by members of the armed groups, are subjected to forced abortions and are forced to use contraceptives, information that has been confirmed by the High Commissioner for Human Rights.<sup>114</sup> The Office of the Ombudsman for the Rights of Children, Women and the Family has reported that girls severed from the armed groups have confirmed they were forced, within their groups, to place intrauterine devices, whether they were in

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<sup>111</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, paras. 14 and 51; Office of the Ombudsman for Children, Women and the Family, *Report on Children and Adolescents Linked to the Illegal Armed Groups that Participate in the Colombian Armed Conflict*, received by the Rapporteur during her on-site visit; Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, pp. 18-19; Report *Enforcement, Protection and Violation of Women's Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005, section 4.2.

<sup>112</sup> Report prepared by the *Iniciativa de Mujeres por la Paz* on the situation of women in the region of Northern Santander, received by the Rapporteur during her on-site visit.

<sup>113</sup> Report on the Situation of Women in the Caribbean Coast, received by the Rapporteur during her on-site visit.

<sup>114</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, paras. 14 and 51.

agreement or not, and to practice abortions.<sup>115</sup> Amnesty International in its report included testimonies from women and girls that abandoned the FARC-EP and the ELN showing that both guerrillas had forced their combatants, in some cases girls only 12 years old, to abort and use contraceptives.<sup>116</sup>

92. Additionally, the IACHR also gathered testimonies about women recruited by the AUC in the Cauca region, where paramilitary leaders of the zone “order the search” of girls between the ages of 12 and 14 to live with them, provide sexual services and perform domestic duties. Information was received about the case of a young pregnant woman that was murdered as a reprisal for having escaped. Her baby was removed and displayed as a symbol to discourage other girls in the same situation from escaping. Sometimes these girls are also required to participate in attacks and in intelligence operations. In other cases, members of these groups take women in bars, bring them to their camps at night and return them the next morning to the town battered.

93. During the visit to Quibdó, the IACHR obtained information from various sources, including the Diocese of Quibdó, about methods of recruitment used by the AUC of youth across the Atrato River banks. Young girls who “wander aimlessly” thinking that they have no other options fall in love with members of the AUC who search for them. Girls between 8 to 15 years old are sexually active even before their reproductive organs have developed which results in many unwanted pregnancies and State health institutions are not equipped to provide the necessary sexual and reproductive health services to address these social issues.

94. On the other hand, the IACHR received information indicating that women and girls are also recruited by the illegal armed actors to perform military tasks within these groups. For example, the IACHR has learned that in certain areas of the country, paramilitary leaders use women as their armed escorts. One testimony references the situation of a 17-year-old young girl who was sent to a farm outside the city of Medellín where she was forced to receive training as a sniper. She was able to escape, and had to remain in hiding for months to avoid being recaptured by members of the AUC who searched for her in various parts of the country. They only stopped persecuting her when one member of the paramilitary group agreed to present her as his partner.

95. In regards to the situation of girls recruited either forcibly or voluntarily before the collective demobilization process of the AUC, the Law 975 of 2005, better known as the Law of Justice and Peace, includes a mechanism of hand-over. Concretely, in the moment of demobilization, the armed group whose members pretend to access generous procedural benefits

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<sup>115</sup> Office of the Ombudsman for Children, Women and the Family, *Report on Children and Adolescents Linked to the Illegal Armed Groups that Participate in the Colombian Armed Conflict*, received by the Rapporteur during her on-site visit.

<sup>116</sup> Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, pp. 18-19.

available to those responsible for committing crimes should deliver to the ICBF authorities girls and boys that are linked to their ranks, in compliance with the requirements of the eligibility criteria established in the law. The experience of the ICBF during the last two years in the framework of the collective demobilization process indicates that many of the girls between 14 and 17 years old delivered to the authorities in these circumstances are pregnant and in some cases they later meet with demobilized members of the same group they inhabited with.

#### **D. The imposition of rules of conduct over women and girls**

96. During the visit, the Rapporteur received information and testimonies from State and non-State sources confirming that the actors in the conflict, in their struggle to control territories and resources and to become stronger as groups, tend to impose forms of social control over the living conditions of women. This control is manifested by the general imposition of daily behavioral standards and codes of conduct on communities, where the armed actors intervene in family and community conflicts and even in the lifestyles of community members, imposing punishments that can include murder, torture and forms of cruel and degrading treatment. In this context, the actors of the conflict regularly monitor the behavior and dress of women and adolescent girls and use sexual violence as a punishment and a general warning to the female population within the community under control.<sup>117</sup>

97. The illegal armed groups dictate standards of conduct, intervene in family and community conflicts, set schedules and apply punishments that can include murder, torture and other forms of cruel and degrading treatment, when the inhabitants do not comply with the codes of conduct imposed by force. This type of control has been preceded or joined in practice by what the paramilitary groups call “social cleansing” – homicide of small criminals, prostitutes, and other persons considered “socially undesirable” – conceived with the objective of showing their efficacy to safeguard the public order.

98. For example, in the Caribbean region, the Rapporteur received information indicating that in the case of Malambo, the neighborhoods of Villa Esperanza, Villa Campo, San Antonio, San Martín, Villa Rica, Villa Esther, la Bonga, Caimital, El Diamante and La Milagrosa are subject to a social control process where written communications signed by the AUC require residents to “get home no later than 10:00 pm”, also announcing that “persons caught smoking marijuana, jumping over walls, mugging and executing other criminal acts or vandalism will be executed on the spot.” Similarly, “we will capture undocumented people, with tattoos, with nightcaps, dyed hair and strange haircuts”. It additionally includes a complete and detailed listing of names of gang members, marijuana users and muggers who will soon be exterminated for the “social cleansing” of the Municipality of Soledad, and a warning is

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<sup>117</sup> Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, p. 43.

issued saying that “no one will respond for minors captured late at night or found in the mountain”.<sup>118</sup>

99. These forms of control promote culturally-rooted gender stereotypes and reaffirm conservative values.<sup>119</sup> This is displayed in the norms imposed that maintain a strict differentiation between men and women, such as, for example, norms regarding clothing and personal appearance. Men are forbidden to wear earrings, dye their hair or wear it long. Women are required to wear uniform female garments and those considered provocative or suggestive are prohibited. As indicated by Amnesty International: “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.”<sup>120</sup> Amnesty International has described how “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.”<sup>121</sup> Besides clothing restrictions, the United Nations Rapporteur has also described social cleansing activities specifically affecting women, performed by the paramilitary groups, such as:

Prostitutes and women accused of adultery have been paraded nude on trucks around the village with a sign around their neck saying that these women wreck homes. The police allegedly do not intervene and the local population has no recourse for justice. Furthermore, pregnant women who have been forced to remain in cocaine-growing areas under paramilitary control and who have been exposed to fumigation of the illicit crops reportedly have miscarriages, fetal malformations, skin problems and respiratory infections as a result.<sup>122</sup>

100. During the visit of the Rapporteur to Quibdó, women’s groups confirmed that when illegal groups occupy their territories, they decide how women must dress and to whom they can talk. The following two testimonies were received by the Rapporteur during her visit to Valledupar:

Seven years ago, the paramilitary groups took us out of Valencia and we went to Las Palomas, in the rural area of Montería, but the way

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<sup>118</sup> Document presented to the Rapporteur during her on-site visit by the *Red de Mujeres del Caribe, Iniciativa Colombiana de Mujeres por la Paz, Ruta Pacífica, Red Nacional de Mujeres, Red de Mujeres Afrocolombianas, Madres Comunitarias, Tribunal de Mujeres* and *DESC Región Caribe*.

<sup>119</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, p. 46.

<sup>120</sup> Amnesty International, *Amnesty International, Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, p. 44.

<sup>121</sup> Amnesty International, *Amnesty International, Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, p. 44.

<sup>122</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, p. 46.

things were going we had to go live downtown. There they dominated us even in sexual matters. Imagine, recently they threw some young ladies out of town because they had extramarital relations with other men, as if one has no right to choose who one lives with or goes to bed with ... We have also seen cases in which girls are obligated to practice prostitution, they are taken away at dawn and then they bring them back. This recently happened to a young girl. Recently one of the paramilitaries took a young man's wife away, just because he fancied her, saying 'I'm taking her because she appeals to me', and nothing happened.<sup>123</sup>

101. Therefore, another implication with specific consequences for women is the community stigma that they may suffer as victims of sexual violence. For example, when sexual violence occurs in zones where the groups impose norms and punishments, rather than recognizing and condemning the sexual abuse, the community can find that the crime was simply the well-deserved result of disobeying the norms.

#### **IV. MULTIPLE DISCRIMINATION AGAINST AFRO-COLOMBIAN AND INDIGENOUS WOMEN**

102. The IACHR corroborated that the situation of indigenous and Afro-Colombian women is particularly critical, as they are victims of multiple forms of discrimination on the basis of their race, ethnic background and their condition as women, a situation aggravated within the armed conflict. They face two layers of discrimination since they are born: firstly, as members of their racial and ethnic group and secondly, their sex. Being exposed to two forms of discrimination historically, they are doubly vulnerable to abuse and mistreatment by the armed groups in their struggle to control resources and territory. As previously stated, the armed groups exploit and manipulate social disadvantage factors in specific groups as a strategy of war. In the case of indigenous and Afro-Colombian women, there is more than one vulnerability factor they can abuse.

103. In this regard, the United Nations Rapporteur has stated that:

Women from the indigenous and Afro-Colombian population suffer multiple/intersectional discrimination on the basis of gender, race, color

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<sup>123</sup> Testimony documented by the *Iniciativa de las Mujeres por la Paz*, submitted to the IACHR Rapporteur during her on-site visit to Colombia. During the visit, the *Iniciativa* submitted to the Rapporteur documentation indicating the following:

Other aspect of the experience is the rupture of some households due to the loopholes that have emerged in their functionality and cohesion. There have been cases where some women cannot deny the pretensions of one or some armed men, who harass and intimidate them, and in certain occasions they have been obligated to have sexual relations with them. These facts are reflected in expressions such as "When a paraco is interested in a woman, he does not care whether she is married, whether she lives in a free union, whether she has children or not, he gets her some way". These patterns have resulted in the poor reporting of sexual abuse cases. The victims fear reporting abuses due to intimidation by their perpetrators.

and ethnic origin and as internally displaced persons.....The conflict reproduces and deepens discrimination between the different groups and women suffer intersectional discrimination on the basis of their gender, and their ethnic and cultural origin.<sup>124</sup>

104. Article 9 of the Convention of Belém do Pará stipulates that, in acting with due diligence, the State must take special account of the increased vulnerability to violence that women may suffer because of their race and ethnic background, among other risk factors. This provision was enacted because discrimination, in its different manifestations, does not always affect all women to the same degree: there are women who are more exposed to the infringement of their rights. Certain women confront various forms of discrimination, which increases their vulnerability and exposure to being abused on the basis of more than one factor.

105. Internationally, it has been recognized that discrimination, in its different manifestations, can be motivated by two or more factors. For example, the Committee overseeing compliance with CEDAW has stated in this regard that:

Certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional groups such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or in different ways than men. State parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.<sup>125</sup>

106. Additionally, the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, recognized that racial discrimination and racism manifest differently for women and girls and lead to the detriment of their living conditions, poverty, violence, multiple forms of discrimination, the limitation or denial of their human rights.<sup>126</sup> Furthermore, the United Nations Committee against Racial Discrimination has recognized the serious consequences and the unsafe situation of women who face multiple forms of discrimination. It has emphasized that racial discrimination does not always affect women and men the same way, and that there are circumstances

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<sup>124</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, paras. 28 and 42.

<sup>125</sup> United Nations, Committee on the Elimination of Discrimination against Women, *General Recommendation 25, Temporary Special Measures*, U.N. Doc./CEDAW/C/2004/II/WP.1/Rev.1 (2004), section II, para. 12.

<sup>126</sup> Declaration of the World Conference against Racism, Xenophobia and all Forms of Intolerance, Durban, 2002, p. 14.

in which racial discrimination only or mainly affects women.<sup>127</sup> Certain forms of racial discrimination may be directed specifically against women because of their gender, such as sexual violence during an armed conflict.<sup>128</sup>

#### **A. Afro-Colombian women**

107. The IACHR was able to verify that the situation of Afro-Colombian women living on the Pacific coast is particularly precarious and alarming. Both State authorities and non-State sources confirmed that the Afro-Colombian population has been subjected to a history of discrimination, exclusion, invisibility and social disadvantage, both economic and geographic. The armed conflict has worsened this situation, since the armed actors profit from these disadvantages in their struggle to control territories and resources. In the particular case of Afro-Colombian women, their condition as women adds another factor of discrimination and vulnerability to their lives and exposes them to greater abuses by the actors of the conflict:

We women have been trampled over in our territory and anywhere by the different groups, the legal and illegal armed groups, who kidnap us, kill, rape and humiliate us ... leaving as a consequence of these actions the deterioration of the social fabric around us. Therefore, there is no doubt that the armed conflict has harmed black women's feelings, their ancestral legitimacy, their creativity to form and generate life, their cultural identity and their love for their territory.<sup>129</sup>

108. The United Nations Rapporteur, the High Commissioner for Human Rights, and the *Mesa de Trabajo Mujer y Conflicto Armado* have identified Afro-Colombian women as a particularly vulnerable group to violence and the consequences of the conflict on the civilian population, such as forced displacement.<sup>130</sup> In its last report, the High Commissioner for Human Rights specifically stated that:

The security, particularly of rural, indigenous and Afro-Colombian women and girls and of those that are organized, displaced, confined or

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<sup>127</sup> United Nations, Committee on the Elimination of Racial Discrimination, *General Recommendation 25, Gender Related Dimensions of Racial Discrimination*, U.N. Doc. HRI/GEN/1/Rev.7 (2000).

<sup>128</sup> United Nations, Committee on the Elimination of Racial Discrimination, *General Recommendation 25, Gender Related Dimensions of Racial Discrimination*, U.N. Doc. HRI/GEN/1/Rev.7 (2000).

<sup>129</sup> Testimony submitted to the IACHR Rapporteur during her on-site visit to Colombia by the *Foro Interétnico de Solidaridad del Chocó*.

<sup>130</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, paras. 42 and 73; United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 122; *Mesa de Trabajo de Mujer y Conflicto Armado, Impact of the Armed Conflict on Afrocolombian Women*, February 2003, p. 23.

are returnees, has deteriorated as a result of the armed conflict and the use of sexual violence and social control by the illegal armed groups.<sup>131</sup>

109. The *Mesa de Trabajo Mujer y Conflicto Armado* has stated that the “racism that prevails in Colombian society is also present in the way the armed actors reproduce, in their relations with Afro-Colombian women, exclusionary and discriminatory practices that ignore their differences.”<sup>132</sup>

110. The ICBF confirmed with the Rapporteur that the Afro-Colombian population comprises approximately 20% of the Colombia’s population. The Rapporteur had the opportunity to interview a number of networks, groups and Afro-Colombian women who made reference to the “subtle racism” in Colombian society towards Afro-Colombians because of their race, which has meant for them, as a group, unequal access to the country’s economic, social and political development. They communicated that this racism limits their access to educational services, work, income and participation in national and local decision-making. For example, groups of women in Quibdó, where 85% of the population is Afro-descendent, indicated that most of the population lives in extreme poverty. Quibdó<sup>133</sup> is the locality with the least water supply coverage in the country, 81% of homes have no sewage, illiteracy is up to 19% and maternal mortality rates are high.<sup>134</sup> The State has estimated that 72% of the Afro-Colombian population is in the country’s two lowest socio-economic strata.<sup>135</sup>

111. All of these factors have limited the possibilities for this population to enjoy their particular worldview, traditions and culture and have promoted their invisibility in the public policies of the country. Local authorities of the government of Quibdó, confirmed to the Rapporteur that they felt like a territory forgotten by the national authorities in the social and economic spheres.

112. In the particular case of women, their sex has exposed them to discrimination not only because for their condition as Afro-Colombian, but also because they are women, both in and outside of their communities. Afro-Colombian women shared with the Rapporteur information about the discrimination and violence they suffer from inside their own communities because they are women. For example, they are left out of most organizational

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<sup>131</sup> United Nations, *Report of the High Commissioner on Human Rights on Colombia*, E/CN.4/2005/10, 28 February 2005, para. 124.

<sup>132</sup> *Mesa de Trabajo de Mujer y Conflicto Armado, Impact of the Armed Conflict on Afrocolombian Women*, February 2003, p. 27.

<sup>133</sup> Statistics from the Administrative Health Department of Chocó included in the report: *Chocó: Territory of Wealth and Survival: We Live to Resist, We Resist to Live*, presented to the Rapporteur during her on-site visit by women’s groups and networks from Quibdó.

<sup>134</sup> Report: *Chocó: Territory of Wealth and Survival: We Live to Resist, We Resist to Live*, presented to the Rapporteur during her on-site visit by women’s groups and networks from Quibdó.

<sup>135</sup> National Council of Economic and Social Policy, National Planning Department, Document CONPES 3310, *Affirmative Action Policy for the Black or Afro-Colombian Population*, Bogotá, D.C., 20 September 2004.

processes in their communities, either in the form of community councils, municipal councils, departmental assemblies, and other such models, and they are subject to cultural stereotypes based on their sexuality.<sup>136</sup>

113. The racism and marginalization of the Afro-Colombian groups, as well as them inhabiting territories with resources appealing to combatants, has resulted in their territories turning into scenarios of violence and death, making them one of the population groups with the highest rate of forced displacement, which can reach 30% according to CODHES and Human Rights Watch.<sup>137</sup> For example, Quibdó is an attractive territory for the armed actors because it has one of the world's highest biodiversity rates, coasts on both oceans, good conditions to grow coca and oil palm. For Afro-Colombians, this reality is particularly harsh because of their close connection with their territory, culture, identity and past. The aggressions by the armed actors are an attack against their culture and their worldview.

114. The Colombian State enacted Law 70 in 1993, which recognizes the Afro-Colombian population as an ethnic group and sets standards for the protection of their cultural identity and rights. Through this law the State recognizes that Afro-Colombians have the right to live according to their own worldview, are entitled to exist as an ethnic group with different needs, and to enjoy their collective property over areas they have occupied according to their traditional production practices. However, illegal armed groups do not respect the right of collective ownership of the Afro-Colombian groups.

115. One of the worst effects of the conflict on Afro-Colombian women is the forced displacement and its consequences. According to CODHES figures, women constitute approximately half of the displaced population and as much as 28% are reported to be Afro-Colombian women.<sup>138</sup> An analysis of different figures also leads us to conclude that women constitute about 50% of the Afro-Colombian displaced population and almost half are heads of household.<sup>139</sup> Within the percentage of displaced women who are

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<sup>136</sup> *Memories*, National Afro-Colombian Conference, Bogotá, September 13-16 2002, p. 102; *Impact of the Armed Conflict on Afrocolombian Women*, February 2003, p. 38.

<sup>137</sup> See CODHES figures available online: [www.codhes.org](http://www.codhes.org); *Report: Human Rights Watch, Report on the Internally Displaced in Colombia*, Chapter III, 2005, p. 18.

<sup>138</sup> *Mission to Observe the Situation of Afro-Descendent Communities in Colombia: Forced Internal Displacement, Violations of International Humanitarian Law and Situation of Afro-Colombian Persons in Jails*, June 2002, Bogotá, organized by *Asociación de Afrocolombianos Desplazados-AFRODES*, *Asociación de Mujeres Afrocolombianas-AMUAFROC*, *Centro de Estudios de Pastoral Afrocolombiana CEPAC*, *Espacio Aframericano (Suiza)*, *Huella Afrocolombiana*, *Movimiento Nacional por los Derechos de las Comunidades Negras-CIMARRON*, *Organización de Comunidades Negras-HORCONES*, *Organizaciones-Mundo AFRO (Uruguay)*, *Proceso de Comunidades Negras en Colombia PCN*, *Pueblo Negro de Colombia PNC*, *Fundación Afrocolombiana Las Mojarras* (Chocó), para. 88, citing figures from CODHES and the Social Solidarity Network.

<sup>139</sup> Information from women's networks, *Conflict, Displacement and Abandonment from Lands in: Points of Encounter, Documents on Democracy and Peace*, No. 26, Bogotá, March – April 2005.

heads of household, the highest rates are among Afro-Colombian women (47%) and indigenous women (49%).<sup>140</sup>

116. The impact of forced displacement on Afro-Colombian women is significant and manifests itself in various ways, due to their worldview, culture and traditions, identification with their territory and their condition as women. In addition to the effects on women discussed in previous sections, Afro-Colombian women lose the ability to carry out their cultural practices, for example, having wakes for their deceased, funeral rites, and in general, sharing community life.<sup>141</sup> For example, during the meeting that the Rapporteur held with networks of women in Quibdó, the delegation received the following testimony from an Afro-Colombian victim of forced displacement:

We cannot use the river as we always have ancestrally, as a sacred place. But not anymore, because of the occupation of the armed actors.<sup>142</sup>

117. The loss of territory is also crucial for them. From their perspective, it represents more than a physical space, integrating “neighbors, animals, nature, and social organization: elements that provided a feeling of belonging to a group and distinguishing them from the rest”.<sup>143</sup>

118. The change in roles and family structure faced by displaced women may be even more intense and radical in the case of Afro-Colombian women living in rural areas who move to urban zones, because of the community life that they used to lead, the traditional correlation of their activities with those of their husbands or fathers, and the uprooting of this social model. CODHES has described this change as follows:

For rural, indigenous and Afro-Colombian women, the change they experience because of displacement is very significant; generally, their movements in the past closely corresponded to the movements of their father or husband, their social setting was limited to household activities and production in the same area, as well as their relations

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<sup>140</sup> *Confluencia Nacional de Redes de Mujeres, Corporación Sisma Mujer and Atelier-IEPALA, Observatory of the Human Rights of Women, Displaced Women: Actions of the Colombian Government*, March 2004, p. 9, citing figures from CODHES. Figures also included in *Confederación de Redes, Red Nacional de Mujeres y la Red de Educación Popular Entre Mujeres, One Step Forward, Two Backwards, Shadow Report, Platform of International Conference, Fourth World Conference on Women*, 2004, p. 41; United Nations, Office of the United Nations High Commissioner for Refugees, *Assessment of Public Policy on the Prevention, Protection and Attention for forced internal displacement in Colombia* (August 2002 -2004), Bogotá, December 2004, p. 110.

<sup>141</sup> *Mesa de Trabajo de Mujer y Conflicto Armado, Impact of the Armed Conflict on Afrocolombian Women*, February 2003, p. 35.

<sup>142</sup> Testimonies received from Afro-Colombian women by the Rapporteur during her visit to Quibdó.

<sup>143</sup> Luz Maria Cabezas-Rincón, *The Organization of Displaced Women as a Possibility for Policy Action: The Case of Women in the Asociación Afrocolombiana de Desplazados – AFRODES*, National University of Colombia, School of Law, Political and Social Sciences, Political Science Department, Bogotá, 12 April 2004, p. 92 (provided by CODHES during the visit).

with organizations and other outsiders through their men ... This situation has molded their self-image and understanding of their environment, which clashes with the perspectives of the urban setting when they arrive in the city. They are exposed to complex cultural, affective, material and spatial losses, particularly when they attempt to symbolically and materially reaffirm their maternal role, which they have always played in their own culture, generating life and preserving family stability.<sup>144</sup>

119. The situation of Afro-Colombian women in the Pacific Coast reveals the relegation of Afro-Colombian women inhabiting rural zones to the domestic sphere as a historical fact.<sup>145</sup> They are the center of their family group and of the direct ties between their children and family members.

Afro-Colombian women subscribe to a social pattern that assigns them the role of care-givers, with domestic chores under their responsibility, and furthermore, male mobility as opposed to female lack of mobility is assumed as a form of complementing roles; the behavioral norms for men and women are different.<sup>146</sup>

They are also entrusted with transmitting beliefs, traditional norms and controls inside the community and to define elements of identification with their territory. These traditions and practices change with the displacement experience.<sup>147</sup>

120. Groups and networks of women interviewed by the delegation in Quibdó described the consequences of displacement for Afro-Colombian women and the change in family structure, roles and traditions they face, as follows:

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<sup>144</sup> Luz Maria Cabezas-Rincón, *The Organization of Displaced Women as a Possibility for Policy Action: The Case of Women in the Asociación Afrocolombiana de Desplazados–AFRODES*, National University of Colombia, School of Law, Political and Social Sciences, Political Science Department, Bogotá, 12 April 2004, p. 76 (provided by CODHES during the visit):

In the case of displaced Afro-Colombian women the context in which the socialization process took place becomes very important in the way they confront the detachment when they arrive to their new places of residency. Afro-Colombian women who live in rural areas maintain a complementary relationship with men, carrying out activities in the agricultural production process that involve more force than men develop. They handle the harvest, grind the sugar cane, raise the animals and in some cases handle fishing as well.

<sup>145</sup> Luz Maria Cabezas-Rincón, *The Organization of Displaced Women as a Possibility for Policy Action: The Case of Women in the Asociación Afrocolombiana de Desplazados–AFRODES*, National University of Colombia, School of Law, Political and Social Sciences, Political Science Department, Bogotá, 12 April 2004.

<sup>146</sup> Luz Maria Cabezas-Rincón, *The Organization of Displaced Women as a Possibility for Policy Action: The Case of Women in the Asociación Afrocolombiana de Desplazados–AFRODES*, National University of Colombia, School of Law, Political and Social Sciences, Political Science Department, Bogotá, 12 April 2004.

<sup>147</sup> Luz Maria Cabezas-Rincón, *The Organization of Displaced Women as a Possibility for Policy Action: The Case of Women in the Asociación Afrocolombiana de Desplazados–AFRODES*, National University of Colombia, School of Law, Political and Social Sciences, Political Science Department, Bogotá, 12 April 2004.

On their shoulders falls the reorganization, care, and daily hygiene tasks of the family and even the community. Generally, housework is done by women and under these conditions men feel unable to solve these problems and unable to do the work they ordinarily do in their fields. This generates an emotional overload for women, because this situation sometimes leads to family conflicts. Furthermore, women are generally obliged to take the responsibility of obtaining the economic resources to support the family, since the uprooted conditions make it more difficult for men to do work that would generate income, whereas women can work as maids, washing clothes or selling any product as street vendors. When the resettlement is in shelters, women's privacy is affected, because these places are usually not adapted to satisfying private hygiene needs, or privacy at all, and sometimes there is harassment and abuse of young girls by the males. In the case of displaced persons, there is no differentiated care for women. Their health needs regarding menstruation and family planning are not taken into account.<sup>148</sup>

121. According to the information and testimonies gathered, displacement leads Afro-Colombian women to suffer various forms of discrimination in addition to being women – because they are Afro-Colombian and because they are displaced. Testimonies that the Rapporteur received from displaced Afro-Colombian women indicate that they suffer acts of racism, ridicule and stigmatization by the receiving communities. The *Asociación de Afro-Colombianos Desplazados* (hereinafter “AFRODES”) has described the persistent belief of receiving communities that “black women are dirty, thieves, or if they come to work in a house they are only useful in bed”.<sup>149</sup> This situation is aggravated by the low levels of education and poverty of the displaced women, which along with their race challenge their adequate access to work and to different forms of economic subsistence.<sup>150</sup>

## **B. Indigenous Women**

122. The IACHR verified that the situation of indigenous women is especially critical due to the serious effects of the armed conflict and the history of discrimination and exclusion they have faced based on their condition of indigenous women.<sup>151</sup>

123. The Rapporteur had the opportunity of meeting in Bogotá and Valledupar with indigenous women pertaining to different groups and could

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<sup>148</sup> Report: *Chocó: Territory of Wealth and Survival: We Live to Resist, We Resist to Live*, presented to the Rapporteur during her on-site site visit by women's groups and networks from Quibdó.

<sup>149</sup> *We Forge Hope, First National Meeting of Displaced Afro-Colombians*, Publications ILSA, Editorial UNIBIBLOS, National University of Colombia, Bogotá, 2001.

<sup>150</sup> Testimonies received from Afro-Colombian women by the Rapporteur during her visit to Quibdó.

<sup>151</sup> IACHR, Press Release N° 27/05, *The Armed Conflict Aggravates the Discrimination and Violence suffered by Colombian women*, 25 July 2005.

verify through their testimonies, that the protection of their rights is directly linked to the real possibility of living freely in their ancestral lands. Therefore, while the ancestral lands of indigenous peoples are not protected and respected by the armed actors indigenous women will continue to gravely suffer the effects of the armed conflict.

124. From the varied and categorical testimonies received by the Rapporteur from indigenous women, it may be concluded that the armed conflict has meant for indigenous peoples massacres, murders, especially of their leaders and traditional authorities, kidnappings and massive displacements from their ancestral lands. The indigenous women communicated to the Rapporteur that the armed conflict has taken their husbands, their children, their families and even their land, and they said they were tired of suffering:<sup>152</sup>

We are tired; we have no tears left to cry for another loved one<sup>153</sup>

125. Indigenous women in Colombia are recognized as the reproducers of their culture, the guarantors of their peoples' survival. They have resisted centuries of repression and are now resisting the illegal armed groups who want to take their territories. They recognize that the deterioration is immense, but that they continue, because as they say, not only grief and sadness exist – “the important thing is that we are still alive.”

### **1. Indigenous women and their ancestral lands**

126. Indigenous women belong to societies where the ancestral land is an essential element of their existence and culture. This is the reason why any analysis of the human rights situation of indigenous women in Colombia must consider that they are part of peoples with a different culture, which have a close connection to their lands. It is important to note that the armed conflict has turned indigenous lands into scenarios of war and death.<sup>154</sup>

127. In Colombia, 84 indigenous peoples inhabit 31 of the 32 departments of the national territory, comprising 2% of the total population. Their cultural and social wealth is reflected in their diverse forms of life, generally closely linked to their ancestral lands, in the defense of their autonomy, their organizational structures and ways to resolve conflicts, all of which has enabled them to maintain their cultural identity.

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<sup>152</sup> “Our fair struggles to have our rights recognized have filled us with pain and sorrow. Thousands of our brothers have been murdered during the last four decades for daring to defend our territories; hundreds have been disappeared, kidnapped, massacred, confined and many more have been obligated to leave their communities for these same reasons. The guerrilla groups, self-defense groups and military and police forces of the Colombian State are responsible for this.” In *The Indigenous Peoples and their Territorial Issues*, National Consensus-Building Forum. Bogotá, 24 - 28 October 2005.

<sup>153</sup> Testimony by an indigenous woman collected in the Sierra Nevada of Santa Marta during the on-site visit of the IACHR Rapporteur.

<sup>154</sup> IACHR, Press Release N° 27/05, *The Armed Conflict Aggravates the Discrimination and Violence suffered by Colombian Women*, 25 July 2005.

128. The Colombian Constitution of 1991 is one of the most interesting and advanced in the Americas in regards to the rights of indigenous peoples. The State recognizes and protects the ethnic and cultural diversity of the Colombian Nation,<sup>155</sup> recognizes the right of indigenous authorities to exercise judicial functions within their land according to their own norms and procedures<sup>156</sup>, and grants indigenous lands the status of territorial entities, by virtue of which they are autonomous to manage their interests, within the limits of the Constitution and the law.<sup>157</sup> Accordingly, they have the following rights: 1) to be governed by their own authorities; 2) to exercise the corresponding competencies; 3) to administer their resources and establish the necessary taxes to enable them to perform their functions.<sup>158</sup>

129. Approximately 27% of the Colombian national territory has been recognized as property of the different indigenous peoples. This recognition has been granted by means of *resguardos*<sup>159</sup>, indigenous reserves with individual titles for the community or *parcialidades*.

130. In this context of constitutional and legal recognition of the rights of indigenous peoples in Colombia and the enforcement of their rights to ancestral lands, the internal armed conflict has been developing for decades. The Colombian State has been a pioneer in the recognition of the rights of indigenous peoples.

131. Nevertheless, only in 2005, approximately 19,000 have been forcibly displaced from their lands.<sup>160</sup> Even though indigenous peoples

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<sup>155</sup> Political Constitution, Article 7.

<sup>156</sup> Political Constitution, Article 246.

<sup>157</sup> Political Constitution, Articles 286 and 287.

<sup>158</sup> Additionally, by virtue of Law 21 of 1991, Convention 169 of the International Labor Organization (ILO) on Indigenous and Tribal Peoples in Independent Countries was enacted as a Law in Colombia. Similarly, there is extensive legislation that authorizes the implementation of the recognized rights both in the Political Constitution as in the ILO Convention 169. Accordingly, it is important to stress the jurisprudence issued by the Constitutional Court of Colombia, a body that has ruled on different issues involving the rights of indigenous peoples.

<sup>159</sup> Indigenous reservations are the collective property of indigenous communities in favor of which they are constituted. Pursuant to Articles 63 and 329 of the Political Constitution, they are inalienable, imprescriptible and non-attachable. Reservations are a legal and socio-political institution of a special nature, comprising one or more indigenous communities, who have a collective title of ownership and enjoy the guarantees of private property, own their territory and are governed in management thereof and their life within by an autonomous organization supported by indigenous jurisdiction and their own normative system. In Article 21 of Decree 2164 of 1995.

<sup>160</sup> United Nations, Press Release, Office of the United Nations High Commissioner for Refugees, 9 December 2005.

constitute about 2% of the total Colombian population,<sup>161</sup> 12% of the internally displaced persons are indigenous.<sup>162</sup>

132. The IACHR in its annual report for 2004 stated that, during the past few years, pressure by illegal armed groups on indigenous lands has intensified. This is due to their strategic importance, both military and economic, for growing and trafficking illegal drugs, and the extraction of natural resources, and for its use in road, mining and hydropower works.<sup>163</sup> Several peoples are at risk of disappearing.<sup>164</sup>

133. Furthermore, the IACHR expressed that in response to this war context, indigenous peoples had expressed publicly at the national and international level their categorical denial to be involved in the armed conflict.<sup>165</sup> They have demanded from all armed actors respect to their right of autonomy and neutrality, declaring their community resistance against the armed conflict actors and the State, in defense of their autonomy, their human rights and with the objective of safeguarding their collective survival.

134. The Rapporteur received testimonies from indigenous women from different peoples who described the serious challenges they face in their lands because of the persistent threats and harassment of the armed actors, and the pressures exercised by third parties sometimes associated with the armed actors, with the purpose of forcing them to abandon their lands, to occupy them strategically and/or exploit their natural resources. An alarming situation is that of the Wayúu women in the Media Guajira, who have denounced the presence of the AUC in a zone where there was no conflict. In that area, the members of the AUC have, for approximately three years, murdered, threatened and harassed members of the Wayúu people in order to wield political and military control over a zone that is considered strategic. Wayúu female leaders have also been threatened, which has required protection by the Inter-American Human Rights System.<sup>166</sup>

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<sup>161</sup> In its observations, the State indicates that the Indigenous population in Colombia ascends to 701,860 persons. Note DDH/OEA 25245/1210 from the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

<sup>162</sup> United Nations, *Considerations over the International Protection of Colombian Asylum Applicants and the Refugees*, United Nations High Commissioner for Refugees, 9 December 2005, para. 124.

<sup>163</sup> IACHR, *Annual Report 2004*, Chapter IV, N° 24.

<sup>164</sup> IACHR, *Annual Report 2004*, Chapter IV, N° 23; *Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of the Indigenous People*, Rodolfo Stavenhagen, E/CN.4/2005/88/Add.2/ 10 November 2004; United Nations, Press Release, UNHCR, 9 December 2005.

<sup>165</sup> See United Nations, *Considerations over the International Protection of Colombian Asylum Applicants and the Refugees*, United Nations High Commissioner for Refugees, March 2005.

<sup>166</sup> IACHR, *Annual Report 2004*, Chapter III, *Precautionary Measures granted by the IACHR during 2004*, N° 22. On 23 September 2004 the IACHR granted precautionary measures in favor of Mariana Epinayú, Carmen Cuadrado Fincé, Débora Barros, and Karmen Ramírez, leaders of the Wayúu indigenous people in the department of La Guajira. Available information indicates that, during the last three years, the Wayúu indigenous community has suffered acts of violence from

135. As the Rapporteur learned during her visit to Colombia, indigenous women view their lands as a fundamental part of their existence. They expressed that the armed conflict has worsened the situation of marginalization they face, but that they have suffered a history of discrimination and marginalization since strangers have desired their lands:

If the bullets don't kill us, the public policies will<sup>167</sup>

136. Despite the serious challenges indigenous women face by remaining in their lands, they have chosen to stay and resist the various methods the armed actors use to intimidate them. In indigenous lands, the murder of leaders, the kidnapping of children and the rape of women are part of the daily reality:

There have been many human rights violations affecting indigenous and Afro-Colombians, especially in terms of murders, forced disappearances, death threats and internal displacement in rural areas.<sup>168</sup>

According to official statistics, some 855 indigenous people were murdered between 1998 and September 2004 and the OACNUDH reported that "over 100 indigenous individuals and authorities were murdered". The UN Special Rapporteur on the Indigenous Peoples has stated that these actions constitute "genuine genocide and ethnocide". In the case of the Kankuamo people who live on the slopes of the Sierra Nevada in Santa Marta, some 166 of their members were murdered between 1993 and 2003. This led the Inter-American Court of Human Rights to issue provisional measures [for protection] in July 2004, ordering the State to safeguard the lives and personal well-being of the members of that community and to investigate and punish prior violations. Nevertheless, less than one month later, another Kankuamo leader was murdered.<sup>169</sup>

137. As members of thousand-year old communities, indigenous women communicated to the Rapporteur that their survival is linked to

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... continuation

paramilitary groups commanded by *Jorge 40*, with the collaboration or acquiescence of State agents.

<sup>167</sup> Testimony of an indigenous leader, submitted to the IACHR Rapporteur during her on-site visit to Colombia.

<sup>168</sup> United Nations, *Considerations over the International Protection of Colombian Asylum Applicants and the Refugees*, United Nations High Commissioner for Refugees, para. 124. In just over 11 months [2005], 84 selective murders were committed; nearly one traditional authority assassinated every four days. To date, six peoples have applied to the Inter-American Court of Human Rights to request provisional and/or precautionary protection measures, since neither the State nor the government have responded favorably to the genocide and the imminent extinction of over 12 indigenous peoples in the Amazon region. Press release 189, *ONIC Communications*, 10 December 2005.

<sup>169</sup> United Nations, *Considerations over the International Protection of Colombian Asylum Applicants and the Refugees*, United Nations High Commissioner for Refugees, para. 126.

preserving their lands, because that is where they can freely express their culture.

138. According to the National Human Rights Information System (SINDHO) of the *Organización Nacional de Indígenas de Colombia* (hereinafter “ONIC”), 21,711 persons have been banished from their reservations and communities. Between January 1st and December 9 of 2005, 63 indigenous people were forced per day to migrate from their ancestral lands; approximately over 12 families a day and nearly three persons per hour. Over 14 thousand indigenous members of the Nasa peoples (66%) and nearly 4,600 Awa indigenous people (21.3%) were the worst affected by the armed actors, who were forced, in both cases, to disperse outside of their communities.<sup>170</sup>

139. In addition to the pernicious effects provoked by the forced displacement on persons, indigenous women suffer the cultural impact resulting from leaving their territories:

If it is an internal displacement<sup>171</sup> there are problems because they are disrupting the balance of our ecosystems. If it is to urban centers, it is a bit more complicated, since most of our fellow indigenous women don't know Spanish very well, the immensity of the city frightens them, with its anonymity and lack of solidarity among the residents. The memory of our mountains and jungles and their sound kills us. We face new problems in raising our children and relating with our partners, because the city is not our customary environment. We are pursued by the images of the anguish when we had to leave, running with what little we had or could carry in order to outrun death and desolation. Amidst this anguish, we are in charge of our families, accepting activities that are not traditional in our cultures, such as getting jobs as domestic servants or, in the worst of cases, even selling our bodies”.<sup>172</sup>

140. In the visit, it was evident that, even though the State has implemented actions to address the situation of the displaced population, the indigenous population was not considered specifically, much less in a culturally relevant manner, up to a year ago. An UNHCR report from 2003 states: “Regarding the displaced indigenous population in Bogotá there is no accurate information on how many persons or families have come to the capital or what conditions they are living in because, when they register, there is no record of

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<sup>170</sup> Press release 189, *ONIC* Communications, 10 December 2005. In this regard, the Office of the United Nations High Commissioner for Human Rights in Colombia has reported that nearly 4,000 *Embera* indigenous people have been displaced from their territory and are highly endangered by the cross fire among illegal armed groups. United Nations System Press Release, 7 May 2005, Office in Colombia of the United Nations High Commissioner for Human Rights.

<sup>171</sup> Some indigenous communities have decided not to leave for the cities, preferring to move within their own territories or toward other indigenous communities. In these cases they have the opposite problem to displacement, which is, forced confinement because they cannot leave or move around freely, having to remain without protection and under precarious conditions in terms of survival.

<sup>172</sup> Document entitled *Uguerara Da Amba Giunu Tabua* submitted to the IACHR Rapporteur during her on-site visit to Colombia by the Women's Division of *ONIC*, 20 June 2005.

whether they are indigenous, much less what community or reservation they are from. This has contributed to making their problems invisible and, in consequence, they feel unattended.”<sup>173</sup>

Indigenous women have to fight to be recognized as displaced persons, fight to have access to health care and education even if it is not our own, prepare meals with food that is alien to our culture and bodies, struggle for our families not to break apart and our children not to lose our culture.<sup>174</sup>

141. The indigenous women who met with the Rapporteur were emphatic in expressing that the assistance they receive in their capacity as displaced persons is provisional and insufficient. In Valledupar, the Rapporteur received testimonies of the unprotected situation of hundreds of widows and orphans living in extreme poverty and precariousness, who were forced to abandon their lands where they used to live freely to become extremely poor people in the cities.<sup>175</sup> In Valledupar, the situation is especially critical because it is where most indigenous displaced people arrive from the Sierra Nevada of Santa Marta, where the Ijka or Arhuaco, Kogi, Wiwa Arzario and Kankuamo peoples live. In the case of the Kankuamo peoples, between 1998 and 2004, 189 of their members were murdered and most of the widows and orphans were displaced to Valledupar.<sup>176</sup>

142. Indigenous women are clear in explaining what they want and they communicated it as follows:

We don't want any more widowed women, more orphans, we want to return to our lands.<sup>177</sup>

## **2. Indigenous women, the armed conflict and sexual violence**

143. During her visit to Colombia, the Rapporteur received complaints about the use of indigenous women as “spoils of war” by the armed actors and verified that indigenous women have often been victims of sexual violence perpetrated by members of legal and illegal armed groups.

144. In fact, the Rapporteur received testimonies from indigenous women denouncing sexual aggressions perpetrated by the armed actors participating in the conflict, to the detriment of indigenous women. The same

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<sup>173</sup> See *The Displaced Population in Bogotá*, Office of the United Nations High Commissioner for Refugees, July 2003, p. 81.

<sup>174</sup> In the document *entitled Uguerara Da Amba Giunu Tabua* submitted to IACHR Rapporteur during her on-site visit to Colombia by the Women's Division of ONIC, 20 June 2005.

<sup>175</sup> IACHR, Press Release N° 27/05, *The Armed Conflict Aggravates the Discrimination and Violence suffered by Colombian Women*, 25 July 2005.

<sup>176</sup> In *Kankuamo Indigenous People: Human rights and mega-projects*. Jaime Enrique Arias, Governing Committee, Paris, 13 April 2005.

<sup>177</sup> Testimony of a female indigenous leader, collected during the on-site visit of the Rapporteur.

women who offered these testimonies indicated that the discriminatory attitude of the aggressor worsens this type of aggression, already alarmingly serious. They explained that patrols of the different armed groups occupying indigenous lands kidnap indigenous women, collectively use them sexually, and then abandon them, protecting themselves by the impunity of their acts.

145. *ONIC* denounced on November of 2005 that “only in Vaupes, in Carurú, approximately 20 indigenous women have been raped by the Security Forces, plus one adolescent from the Kokonuco peoples of Cauca”.<sup>178</sup>

146. The testimonies received reveal that indigenous women do not often denounce sexual aggressions for different reasons, including cultural. However, one of the main reasons is that the armed groups that perpetrated such crimes often have social and political control over the area where they commit their crimes. Then the women wonder, Where should we file the complaint? For what?

147. In regards to this situation, *ONIC* communicated how common are the cases of “young women harassed by the armed groups, both legal and illegal, who use them as emotional support, force them to perform domestic duties for them, which stigmatizes them for both groups, and thus forces them to abandon their land, increasing the rate of forced displacement to cities different from their environment, which also leads to begging, working as domestic servants and, worse yet, ending up in prostitution.”<sup>179</sup>

### **3. Conclusion**

148. Accordingly, the IACHR considers that the serious effects of the armed conflict on the lives of Colombian women and men acquire a special dimension for indigenous women. In fact, the pressure exercised by the armed groups over indigenous lands, whether for military strategy or economic reasons, impacts the lives of indigenous women especially seriously since they perceive their ancestral lands as essential places for their existence, culture, and family. The main demand of indigenous women is that their lands should be respected. To the extent indigenous lands are still subject to military or economic interests, the lives of indigenous women will remain threatened, as well as the cultural integrity and the very existence of the peoples they belong to.

## **V. THE RESPONSE OF THE COLOMBIAN STATE TO THE IMPACT OF THE ARMED CONFLICT ON WOMEN**

149. The Colombian State is obligated to exercise due diligence to prevent, sanction and eradicate the violence and discrimination against women aggravated by the armed conflict, even though the conflict poses complex challenges to this response. In the past, the IACHR has recommended to the

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<sup>178</sup> Press Release, *ONIC*, Saturday 26 November 2005.

<sup>179</sup> Press Release, *ONIC*, Saturday 26 November 2005.

Colombian State to guarantee the validity and enforcement of legislative, public policy and institutional measures to protect the rights of women to live free from violence and discrimination, as well as to ensure the assignment of necessary resources for its implementation.<sup>180</sup> The IACHR has also emphasized the obligation of the State to investigate and sanction those responsible for these acts, as well as its duty to offer reparations to the victims.<sup>181</sup> As mentioned previously, the obligation of the State to act with due diligence has four components: the prevention, investigation, punishment and reparation of human rights violations.

150. The IACHR has learned of key developments in the response of the Colombian State to generally protect the rights of women. These have been above all in the adoption of a legal and public policy framework, as well as the design of State programs. Furthermore, during the visit it was evident that State officials acknowledge and generally understand the scope of the existing challenges and express their willingness to find solutions both at the national and local level.

151. The IACHR also recognizes the efforts on public policies to address the specific needs of women in the armed conflict, such as the policy denominated, *Mujeres Constructoras de Paz y Seguridad*, as well as a series of institutions and mechanisms at the national and local level to enforce these laws. It is also important to highlight the efforts of the Colombian State to gather statistics about the violations of the rights of women, including the Observatory of Gender Issues, the work of the National Institute of Legal Medicine, and the incorporation of gender into the statistics of the Administrative Department of National Statistics (hereinafter "DANE") and the Social Solidarity Network. Moreover, the Constitutional Court has issued a series of notable court decisions over the last ten years, successfully invoking the recourses of *tutela* and *inconstitucionalidad* to protect the civil, political, social, cultural and economic rights of Colombian women.

152. Nonetheless, both State authorities and civil society representatives, expressed their concern at the lack of an integral State policy addressing the specific impact of the armed conflict on the human rights of women, applicable to both the national and local levels. This deficiency promotes a context of impunity that perpetuates the treatment of women as "spoils of war" by the armed actors. The Rapporteur also corroborated noticeable flaws in the diagnosis, prevention and early warning of different forms of discrimination and violence against women which are aggravated by

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<sup>180</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter XII: The Rights of Women; *International Experts on Women's Rights Express their Concern about the "Invisibility" of the Widespread Gender-Based Violence in Colombia*, Press Release IACHR, 2 March 2002.

<sup>181</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter XII: The Rights of Women; *International Experts on Women's Rights Express their Concern about the "Invisibility" of the Widespread Gender-Based Violence in Colombia*, Press Release IACHR, 2 March 2002.

the armed conflict, and gaps in the provision of humanitarian assistance and multidisciplinary support services for victims, especially to displaced women.

153. On the other hand, it is important to highlight the homogeneous view of women of the Colombian State as a target group of public policies and as victims of the armed conflict. Article 9 of the Convention of Belém do Pará obligates States to take special account in their legislation and public policies of the vulnerability of certain groups of women to violent acts on the basis of their race, ethnicity, refugee or displaced status, pregnancy and minor age, among other risk factors.<sup>182</sup> However, during the visit and interviews of the delegation with State authorities, civil society and international agency organizations it was evident that these vulnerability factors still need to be taken into account by the Colombian State in the development of public policies and attention programs destined to improve the situation of all women.

154. The IACHR observed specifically the absence at the national and local levels of the specific and different needs of indigenous and Afro-Colombian women in the programs and public policies geared towards protecting the rights of women. It is key that the State implements measures to eradicate discriminatory socio-cultural patterns on the basis of sex, race, ethnic background and social class and to take these differences into account, as well as the possibility of discrimination on the basis of more than one factor, in the development of public policies to mitigate the pernicious effect of the armed conflict on Colombian women.

155. On the other hand, the Rapporteur corroborated that the work of women's rights defenders and their organizations still does not have the support and legitimacy of the State. The need persists to protect their existence and safety throughout the national territory.

156. In this context, and even in the presence of certain progress, women still confront numerous legislative, institutional, cultural and geographic obstacles to effectively access justice. Among the most notable challenges are deficiencies in the investigation, judgment and sanction of acts of violence and discrimination, gaps in the collection of statistics, the mistrust of the administration of justice in the victims, the need for sustainable capacity-building programs for justice officials and programs to sensitize the population and promote the filing of complaints. Additionally, there is a lack of justice in the zones occupied by the actors of the armed conflict and alarming principles within the penal procedure code applicable to violence against women that can challenge the access of women to effective judicial protections and guarantees.

#### **B. Advances in the development of a legislative and public policy framework, and State programs to protect the rights of women**

157. The Rapporteur recognizes advances in the development of a legislative and public policy framework to address the discrimination and

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<sup>182</sup> Convention of Belém do Pará, Article 9.

violence against women produced by the armed conflict supported by the Colombian State. Colombia is a party to the American Convention<sup>183</sup> and between 1995 and 2004 the State has adopted a series of laws, decrees and policies to advance the rights of women. Among the most noteworthy developments are Laws 51 and 248 of 1985 and 1995, by which the CEDAW and Belém do Pará Conventions were adopted as part of the domestic legislation, and Articles 13 and 43 of the Colombian Constitution, which guarantee equality under the law and non-discrimination against women. There is also a legal framework in place to prevent and eradicate domestic violence pursuant to Law 294 of 1996 and its reform through Law 575 of 2000.

158. In regard to sexual violence, the Penal Procedural Code also typifies various behaviors as crimes that are part of the subject matter jurisdiction of the Rome Statute.<sup>184</sup> Under Law 360 of 1997, some norms of the Penal Code of 1980 were amended in the sphere of sexual crimes to strengthen the rights of victims. Among the rights included were to be treated with dignity, privacy and respect during any interview or action for medical, legal or social assistance purposes, to be informed about applicable legal procedures and services available, to access services such as testing for sexually transmitted diseases free of charge (including HIV/AIDS) and physical and emotional trauma, to collect legal and medical evidence and to access indemnity for damages resulting from the crime. This law also provided for the creation throughout the country of specialized units within the Office of the Attorney General to specialize in handling crimes against sexual freedom and human dignity. Each unit should have an on-site psychologist to advise officials in the management of the cases, and to interview and advise the victims.

159. It is also important to acknowledge key advances in the problem of trafficking, such as Law 7474 of 2002, which classifies trafficking persons as a crime and Law 800 of 2003, which ratifies the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children. It is also pertinent to especially recognize that through the Law 984 of June 8 of 2005, Congress approved the law through which the Optional Protocol of CEDAW was ratified.<sup>185</sup>

160. The Constitutional Court has also issued a series of rulings favoring women, by applying the actions of *tutela* and *inconstitucionalidad*. It is recognized by State and non-State authorities that the work of the Constitutional Court has been critical to protect, guarantee and develop the rights of women ingrained in the National Constitution and in international

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<sup>183</sup> Ratified by Colombia on 31 July 1973.

<sup>184</sup> The Colombian State ratified the Rome Statute through Law 742 in 2002. It should be noted that the State adhered to the statute conditionally, providing that the International Criminal Court would not have jurisdiction over war crimes during 7 years after 2002.

<sup>185</sup> Afterwards, the law was sanctioned by the President of the Republic and according to the principles of the National Constitution, the law has been sent to the Constitutional Court to conduct its previous assessment of constitutionality.

instruments ratified by the Colombian State.<sup>186</sup> The Court has issued a series of decisions declaring unconstitutional all those norms involving sex-based discriminatory treatment against women in civil, family, labor and public policy matters.<sup>187</sup> The most recent decisions include Sentence 453 of 2005, in which the Court protected the rights of a woman who had been a victim of sexual violence, establishing that victims of sexual violence have the constitutional right to be protected against proof that entails an unreasonable, unnecessary, and disproportionate intrusion into their private lives.

161. During the visit, the Rapporteur learned of public policy efforts to address the specific needs of women within the framework of the armed conflict. The Colombian State has established goals oriented to advance the social equity and the human development in the *Política de Seguridad Democrática y la Política de Reactivación Social* of the administration of President Uribe.<sup>188</sup> The State has also manifested publicly that within the National Development Plan of 2003-2006, *Haciendo un Estado Comunitario*, it is launching actions to promote the equity and the empowerment of women with an emphasis in the following areas: women and the economy, violence against women, women in the exercise of power and decision-making.<sup>189</sup>

162. As an example of positive actions, the Rapporteur learned of the adoption of the national policy known as *Mujeres Constructoras de Paz y Seguridad*, with the main purpose of gradually achieving equality between men and women in the political participation processes in social, economic, political and cultural life of the country. The policy includes several program areas, such as, employment and the entrepreneurial development of women, education and culture, sexual and reproductive health, violence against women and institution-strengthening.

163. The Colombian State has also created a series of institutions and mechanisms, nationally and locally, to enforce the legal framework described above. These include the Presidential Office on Gender Equality, which is the coordinating entity, the Office of the Ombudsman for the Rights of Children, Women and the Family, the Office of the Procurator for the Minor and the Family, the ICBF, the Ministry of the Interior and Justice, the Ministry of Foreign Affairs, the Family Commissions, the Office of the Attorney General, the Ministry of Social Protection, the Social Solidarity Network and the Vice-Presidency of the Republic.

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<sup>186</sup> *Corporación Sisma Mujer, Report on Gender Justice: From the Armed Conflict to Judicial Reforms*, Colombia 2001-2004, p. 16.

<sup>187</sup> See, for example, Sentences of the Constitutional Court: C 588 of 1992, C 622 of 1997, C710/96 – C470/97, C372 of 1998, C 098 of 1996, C 285 of 1997 and C 410 of 1994; C 481 of 1998, C 623 of 1998, C 507 of 1999, C 477 of 1997, C 112 of 2000, C 011 of 2002, C 092 of 2002, C 154 of 2002, C 157 of 2002, C 198 of 2002, C 578 of 2002, C 1033 of 2002, C 016 of 2004, C 102 of 2004, among others.

<sup>188</sup> Response of the Colombian State to the IACHR Questionnaire on the Situation of Access to Justice for Women in the Americas, 27 January 2006.

<sup>189</sup> Response of the Colombian State to the IACHR Questionnaire on the Situation of Access to Justice for Women in the Americas, 27 January 2006, p. 5.

164. As a result of the existing public policy framework, the Presidential Office on Gender Equality, as coordinating entity, has launched a series of programs aimed at addressing the specific needs of women. The Presidential Office is executing a plan of affirmative actions, in coordination with ministries and other public entities and in the framework of the *Programa Nacional de Desarrollo*, in order to incorporate the gender dimension in their programs, projects and budgets.<sup>190</sup> Among them are programs aimed at preventing and confronting domestic violence with an integral model of attention, named *Democracia Familiar* and the *Mesa Interinstitucional de Violencia Intrafamiliar*, the campaign *Rutas por la No Violencia* to increase the visibility of the violence problem as a human rights violation and to increase the legal training of women<sup>191</sup>, and the *Consejos Comunitarios de Mujeres*, which seek to create collaboration spaces between women and the State at the local level about themes such as political participation and violence.<sup>192</sup> Furthermore, the inter-institutional program *Haz Paz* has been created, as a product of the *Política Nacional de Construcción de Paz y Convivencia Familiar* to promote the prevention, detention, monitoring and attention of domestic violence at the municipal level.<sup>193</sup> Additionally, a series of State agencies have created programs to assist women victims of violence.<sup>194</sup>

165. It is also important to recognize a series of inter-institutional efforts and programs to combat different forms of violence against women aggravated by the armed conflict. For example, in the case of sexual crimes, an *Equipo Técnico Central* has been formed by the ICBF, the Office of the Ombudsman, the Office of the Attorney General, the National Police, the Ministry of Social Protection, UNFPA and the INML.<sup>195</sup> These agencies have

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<sup>190</sup> Note DDH/OEA 25245/1210 from the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

<sup>191</sup> The State informed the IACHR that the Presidential Office currently leads a program of education on gender and diversity to promote “the transformation of sexist imaginaries and practices,” Note DDH/OEA 25245/1210 from the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

<sup>192</sup> The State reported to the IACHR that the Community Councils for Women are comprised of leaders from different organizations and community groups who include the governor’s wife, the mayor or competent official, the delegate of the women’s sector at the Territorial Planning Council, representatives of groups of women that are Afro-Colombian, rural, academics or teachers, entrepreneurs, indigenous, representatives of the labor sector (public or private), women elected by popular vote, associations of women heads of households and youth organizations. Note DDH/OEA 25245/1210 of the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

<sup>193</sup> A series of State entities participate in the formulation and development of the program *Haz Paz* including the Ministries of Social Protection, Education, Communications, Culture, Interior and Justice, the National Department of Planning, the Presidential Advisory Offices on Special Programs, particularly on Gender Equality, the ICBF, INML, the Office of the Ombudsman, the National Police, the Office of the Attorney General and Office of the Procurator.

<sup>194</sup> Among the programs are: *Casas de Justicia*, *Programa Nacional de Promotores de Convivencia y Centros de Convivencia Ciudadana* (Ministry of Interior and Justice); *Modelos de Atención para la Prevención, Detección y Tratamiento de la Violencia Doméstica en Instituciones Educativas* (Ministry of National Education with the ICBF); *Proyecto de Autodeterminación Local* (Presidency of the Republic–Office of the High Commissioner for Peace).

<sup>195</sup> National Institute of Legal Medicine, *Publication 2004 Forensis: Data for Life*, p. 161.

signed an agreement to identify minimum non-negotiable criteria for care provided to victims of sexual crimes, which any official or private party treating the victims must implement. The model has been validated in five pilot municipalities and there is an expansion process coordinated by the ICBF that has progressed to 19 localities in Bogotá and there are activities under way to achieve its implementation in more than 30 municipalities.<sup>196</sup> In regards to the issue of trafficking, a *Mesa Interinstitucional contra la Trata de Personas* has been formed which is coordinated by the Ministry of the Interior and Justice and the Ministry of Foreign Affairs.

166. The State has also created a series of support services for victims.<sup>197</sup> Among the most notable ones are the creation of Family Commissions, the Center of Integral Support for Victims of Sexual Crimes, Inter-Institutional Committees that have been created under the Office of the Ombudsman to provide services for victims and survivors of sexual crimes and the territorial extension of centers of the ICBF and the Social Solidarity Network.

167. In the sphere of health, the Colombian State has publicly stated that the creation and diffusion of the *Política Nacional de Salud Sexual y Reproductiva* is included within the public health priority goals for the period 2002-2006.<sup>198</sup> The priorities of this policy include the promotion of safe motherhood, family planning for men and women, the reduction of adolescent fertility, the prevention and control of sexually transmitted diseases, HIV/AIDS, the detection of cervical cancer and the prevention and integral care for domestic and sexual violence.

**B. Absence of an integral State policy and of coordinated and multi-disciplinary programs to address the specific impact of the armed conflict on women**

168. Despite notable and significant advances, several State and non-State sources communicated their concern to the Rapporteur about the lack of an integral State policy to address the specific impact of the armed conflict on women with a coordinated and multidisciplinary approach that includes the specific needs of women throughout the national territory. The IACHR observes that the State seems to lack an integral vision and an effective

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<sup>196</sup> Response of the Colombian State to the IACHR Questionnaire on the Situation of Access to Justice for Women in the Americas, 27 January 2006.

<sup>197</sup> Report by the Colombian State on the Implementation of the Beijing Platform of Action (1995) and findings of the Twenty-Third Special Period of Sessions of the General Assembly (2000), Álvaro Uribe-Vélez, President of the Republic, Carolina Barco-Isackson, Minister of Foreign Affairs, Martha Lucia Vázquez-Zawadsky, Presidential Office on Gender Equality, Bogotá, May 2004, p. 125.

<sup>198</sup> Report by the Colombian State on the Implementation of the Beijing Platform of Action (1995) and findings of the Twenty-Third Special Period of Sessions of the General Assembly (2000), Álvaro Uribe-Vélez, President of the Republic, Carolina Barco-Isackson, Minister of Foreign Affairs, Martha Lucia Vázquez-Zawadsky, Presidential Office on Gender Equality, Bogotá, May 2004, p. 20.

preparation to address the consequences of violence and discrimination that the conflict imposes on women. The existing policy framework does not provide an adequate base for the implementation of integral programs and services for victims that include the justice, education and health sectors. The State has recognized publicly that between the years 1995 and 2004, an adequate policy framework, strategies and plans of action were absent to facilitate the systemic follow-up to commitments made to advance the rights of women and the scarcity of resources to implement these measures.<sup>199</sup>

169. Furthermore, the institutional mechanisms that presently execute programs destined to protect the rights of women lack sufficient influence, competency to coordinate, and the resources to effectively implement State policies destined to mitigate the impact of the armed conflict on women. Several State and non-State sources communicated their concern over the lack of resources and political will to execute the legislation, public policies, institutions and existing programs destined to address the rights of women and how the problems faced by women are secondary to national security needs. These loopholes and flaws weaken the effectiveness of any legislative and public policy and State programs created to protect the rights of women within the armed conflict.

170. The Rapporteur learned during the visit of the perception of the international community and of non-governmental organizations of the weak capacity of the Presidential Office on Gender Equality to act as coordinating entity of the inter-institutional efforts to address the specific needs of victims of discrimination and violence and of resources to sustain and create programs. Moreover, this entity does not seem to have as a priority addressing the impact of the armed conflict on women in regards to violence and discrimination.

171. During the meeting of the Rapporteur with the Presidential Office on Gender Equality, its actual director, Dr. Martha Lucia Vásquez, highlighted the implementation of programs oriented to advance the economic development of women and the eradication of poverty and not the violence and discrimination that is aggravated by the armed conflict. Additionally, its programs destined to address violence against women, such as *Democracia Familiar* and the creation of the *Consejos Comunitarios de las Mujeres*, do not focus on the impact of the armed conflict on women and the physical, psychological and sexual violence employed, but mostly address the problem of domestic violence. The Rapporteur recognizes that the budget and political will dedicated to the issue of the impact of the armed conflict on women cannot be evaluated solely by the actions and budget of the Presidential Office on Gender Equality. However, it considers the programs that are being currently implemented as a reflection of the priorities within the State, due to its

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<sup>199</sup> Report by the Colombian State on the Implementation of the Beijing Platform of Action (1995) and findings of the Twenty-Third Special Period of Sessions of the General Assembly (2000), Álvaro Uribe-Vélez, President of the Republic, Carolina Barco-Isackson, Minister of Foreign Affairs, Martha Lucia Vásquez-Zawadsky, Presidential Office on Gender Equality, Bogotá, May 2004, p. 9.

competency as coordinating entity of public policies to advance the rights of women.

172. The Rapporteur verified as well during the visit flaws in the coordination and communication between different State entities that execute programs and support services destined to victims of violence and discrimination produced by the conflict. The Colombian State has recognized that a deficiency in the public attention of violence against women is the: “lack of articulation among the different entities involved that challenges the attention and prevention of violence against women. It is necessary to improve the channels and mechanisms of coordination, in order for each of the relevant entities to develop, in the framework of its competencies, plans, actions, and programs for the protection, prevention, attention and sanction of violence.”<sup>200</sup>

173. As previously mentioned, the Rapporteur learned of a series of support services for victims of violence that are granted through the Family Commissions, the Center for Integral Attention for Victims of Sexual Violence of the Office of the Attorney General, the centers of the ICBF, as well as the Inter-Institutional Committees created by the Office of the Ombudsman. However, the Rapporteur received information through different channels that highlighted the absence of communication and coordination among these services, which results in a fragmentation of the attention to the victims.

174. Additionally, the deficiencies in the coordination between national and local services were evident during the visit of the Rapporteur to Valledupar and Quibdó. In Valledupar, several units of the Community Ombudsman shared their concern with the delegation over the weak communication between the local units of the Office of the Attorney General and the national unit, mostly when the crimes are committed by the armed actors in occupied zones. In the particular case of Quibdó, the State authorities shared with the Rapporteur their concern over the low coordination between the national and local services and how they felt “abandoned” and unsupported by the national authorities.

175. However, the Rapporteur was informed of good practices and local efforts to offer a coordinated and multidisciplinary attention to victims of violence and discrimination, above all to displaced women. For example, in Valledupar, the Social Solidarity Network and the ICBF are trying to offer a multidisciplinary team support to victims of displacements, including psychologists, nutritionists, and social workers. Nonetheless, these coordination efforts are limited by the lack of human and financial resources.

176. In regards to resources, several State sources, including the INML and the State authorities interviewed in Valledupar and Quibdó, manifested their concern over the scarcity of resources destined to attend the discrimination and violence against women in Colombia produced by the armed

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<sup>200</sup> Response of the Colombian State to the IACHR Questionnaire on the Situation of Access to Justice for Women in the Americas, 27 January 2006.

conflict and the provision of specialized services for victims. In regards to the investment to attend sexual violence, the INML has manifested that there is a “total gap between the social investment during 2004, in comparison with the resources destined for national defense and executed through the armed forces.”<sup>201</sup> To support this premise, the INML compared the budget assigned on 2004 to the National Defense, a total of 76 billion of Colombian pesos, in contrast to the budget of the Social Solidarity Network, a total of 150 thousand millions.<sup>202</sup>

177. Another concern highlighted by both State and non-State authorities about the public programs is their limited territorial presence, in particular, their notable absence in the zones occupied by the actors of the armed conflict. For example, the reform of the domestic violence law, through the Law 575 of 2000, transferred the competencies to dictate protection orders to the Family Commissions. However, several sources confirmed that there are not sufficient Commissions to cover the needs of all municipalities in the country. For example, the Rapporteur received information confirming that only 222 exist for the 1,080 municipalities in the country and only 82 have a multidisciplinary team.<sup>203</sup> The Office of the Ombudsman for the Rights of Children, Women and the Family in Colombia shared with the Rapporteur its concern over the closing of many of these Commissions, as well as the disincentive to create new ones, which decreases the existence of important avenues to access justice.

178. However, the Rapporteur learned in her interviews with State and non-State authorities of coordination efforts between the government, international agencies and the civil society to attend victims of the violence and discrimination produced by the armed conflict. For example, the Rapporteur received information from the Office of the Attorney General about its collaboration and articulation with the *ONF* to document cases in zones occupied by the armed actors. The Rapporteur was also informed about efforts on behalf of different State agencies to design collaboration programs with United Nations agencies, such as the program of the Office of the Procurator with UNIFEM to attend displaced women. Nevertheless, it is visible how these efforts are insufficient and how the initiatives undertaken, mostly by civil society organizations, to offer needed services for victims, such as those provided by PROFAMILIA in the area of sexual and reproductive rights, do not have sufficient recognition and support from the Colombian State.

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<sup>201</sup> National Institute of Legal Medicine, *Publication 2004 Forensis: Data for Life*, p. 181.

<sup>202</sup> National Institute of Legal Medicine, *Publication 2004 Forensis: Data for Life*, p. 181.

<sup>203</sup> *Confederación de Redes, Red Nacional de Mujeres y la Red de Educación Popular Entre Mujeres, One Step Forward, Two Backwards, Shadow Report, Platform of International Conference, Fourth World Conference on Women*, 2004, p. 9.

**C. Flaws in the diagnosis and prevention of the consequences of the armed conflict on women**

179. One of the major gaps the Rapporteur observed during her visit was in the area of prevention and diagnosis of the specific consequences of the armed conflict on all women, throughout its national territory, especially pertaining to the legislative and public policy framework and the collection of statistics. The IACHR highlights the key and positive efforts from the Colombian State to collect statistics about the existing gender inequalities and the situation of violence against women in Colombia, such as the Observatory of Gender Issues launched by the Presidential Office on Gender Equality and the efforts of the INML. Another recognizable achievement has been the incorporation of a gender perspective in the analysis of the statistics gathered by DANE. Furthermore, the Colombian State informed the IACHR about the National Information System for registering and consolidating national statistics on domestic violence, child abuse and sexual abuse.<sup>204</sup> The IACHR recognizes these initiatives as a good beginning to obtain an adequate diagnosis of the situation and to design adequate prevention and early warning systems.

180. However, several State authorities, including the Vice Minister of Multi-Lateral Affairs at the time, Jaime Girón, and non-State sources, communicated to the delegation the existence of serious problems to collect figures and statistics that accurately reflect the magnitude of the situation because there is no uniform, reliable statistics system. The Rapporteur also corroborated during the visit the lack of statistics disaggregated by risk factors faced by different groups of women, based on their race and ethnic background, among others. This deficiency contributes to keeping acts of violence and discrimination by the armed actors invisible and limits the scope and effectiveness of State actions oriented towards prevention and early warning.

181. Furthermore, it is noteworthy that most programs concentrate on statistics of acts occurring in urban and central areas rather than areas occupied by the armed actors. The Vice Ministry of Multi-Lateral Affairs and the Presidential Office on Gender Equality also communicated to the Rapporteur what they perceive as a challenge in collecting figures and statistics of acts of violence and control that occur in the zones occupied by the actors in the conflict. Furthermore, during the visit of the Rapporteur to Valledupar and Quibdó, different State and non-State sources expressed their concern at the scarcity of reliable figures on different forms of violence and discrimination perpetrated by actors of the armed conflict, especially in regards to the special effect of the conflict on Afro-Colombian and indigenous women.

182. The IACHR also verified the lack of a State policy incorporating prevention as a priority strategy, reflected both nationally and locally. The application of the present legislative and public policy framework is not

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<sup>204</sup> Note DDH/OEA 25245/1210 of the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

achieving the effective prevention of these problems, reflected in the information and testimonies received during the visit. Additionally, several non-State sources shared with the Rapporteur their concern over the fact that the State does not implement or invest sufficiently in activities to sensitize the population to eliminate discriminatory sociocultural patterns based on sex, race and ethnicity that promote that the actors of the armed conflict abuse women.

**D. Homogenous perspective and view of women as a target group benefiting from State protection and services destined to mitigate the impact of the armed conflict on them**

183. The Rapporteur and the IACHR corroborated during the visit the State's homogeneous view of women as a group benefiting from public policies, which has resulted in a response that fails to consider the particular needs of different groups, such as those of Afro-Colombian and indigenous women. This absence poses challenges to understand the magnitude of how the conflict affects these groups of women and the design of legislation and policies oriented to prevent, investigate, sanction and offer reparation to the human rights violations that affect them, pursuant to the obligation of the Colombian State to act with due diligence. In this regard, the High Commissioner for Human Rights manifested in its 2004 report the following:

The security, particularly of rural, indigenous and Afro-Colombian women and girls and of those who are organized, displaced, confined or are returnees, has deteriorated as a result of the armed conflict and the use of sexual violence and social control by the illegal armed groups. In spite of efforts by the State, weaknesses persist in gathering information on the specific situation of women; this affects its ability to respond appropriately to their needs.<sup>205</sup>

184. For example, the Rapporteur observed at the national and local level the failure to include the specific needs of indigenous and Afro-Colombian women in public programs and policies geared toward protecting the rights of women. Indigenous and Afro-Colombian women are conspicuously absent from the implementation of the policy for *Mujeres Constructoras de Paz y Seguridad*, the programs of the Presidential Office on Gender Equality and the initiatives to collect statistics on situations of violence confronted by women. The ICBF communicated to the delegation its concern that the State policy is mainly designed to address the needs of sectors, such as women, and not of population groups with different needs, such as indigenous peoples and Afro-Colombian groups.

185. Moreover, their needs are absent from the laws and public policies destined to mitigate the impact of the armed conflict in their racial and ethnic groups. For example, in the case of Afro-Colombian women, the groups and networks interviewed during the visit to Quibdó and Bogotá expressed their concern over the absence of the specific needs of women in Law 70 of 1993

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<sup>205</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 124.

and in decree CONPES 3310,<sup>206</sup> both intended to improve the civil, political, economic and social conditions of Afro-Colombian communities.

186. The 1991 Constitution establishes that Colombia is a multi-ethnic and multi-cultural country and recognizes the specific rights of the different ethnic groups that exist. This gave rise to the enactment of Law 70 of 1993, which recognizes the Afro-Colombian population as an ethnic group and sets guidelines to protect their cultural identity and rights. Therefore, the Law is a major achievement, as it brings this group out of obscurity nationwide and recognizes their differences. Among the most important principles for the Afro-Colombian community in this Law are that the State grants them collective ownership of the areas that they have been occupying, according to their traditional production practices. Furthermore, the Decree CONPES 3310 also provides for a number of affirmative actions to improve the condition of these groups. However, both policies address Afro-Colombians as a homogenous group, without considering the specific needs that Afro-Colombian women may have because of their sex.

187. The Rapporteur learned of some efforts and good practices that reflect future progress in incorporating these specific needs. For example, during the meeting between the delegation and the Governor's Office in Valledupar, the Rapporteur found that support for populations from different ethnic groups, such as indigenous communities, had been incorporated as a priority in their current development plan. Moreover, national entities such as the Social Solidarity Network communicated to the Rapporteur their intention to incorporate the specific needs of Afro-Colombian and indigenous women in initiatives to gather statistics, as well as programs designed to meet the needs of displaced women belonging to these groups. Furthermore, the IACHR has received information which confirms that the Presidential Office on Gender Equality is currently promoting the design of a *Plan de Acción para las Mujeres Indígenas* with the participation of indigenous women from across country, aimed at identifying the problems that have to be overcome in achieving the protection of their rights.<sup>207</sup> According to the State, the elaboration and validation of this Action Plan took place through three regional meetings of indigenous women which attempted to "generate space for dialogue and socialize the importance of the actions that indigenous women are working on in their communities."<sup>208</sup>

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<sup>206</sup> National Council on Economic and Social Policy, National Planning Department, Document CONPES 3310, *Affirmative Action Policy for the Black or Afro-Colombian Population*, Bogotá, D.C., 20 September 2004.

<sup>207</sup> Response of the Colombian State to the IACHR Questionnaire on the Situation of Access to Justice for Women in the Americas, 27 January 2006.

<sup>208</sup> Note DDH/OEA 25245 of the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006.

**E. Gaps in the humanitarian assistance and support services for victims: response to forced displacement**

188. During the visit, a series of advances and challenges were noted in the response of the Colombian State to the humanitarian crisis promoted and reproduced by the conflict, especially in regard to the phenomenon of displacement and its specific impact on women. The IACHR has reiterated in the past that the presence of displaced persons in the national territory means that the State itself must take primary responsibility for guaranteeing their safety and well-being.<sup>209</sup> As mentioned previously, the IACHR in its 1999 report highlighted principle 19(2) of the Guiding Principles on Internal Displacement, which refers directly to the situation of women, establishing that: "Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counseling for victims of sexual and other abuses."<sup>210</sup>

189. Among the advances is the presence of a legislative and public policy framework and State programs to address the psycho-affective, economic and social needs of the displaced population, including the System of Integral Attention for the Population Displaced by Violence (hereinafter "SNAIPD"), Law 387 of 1997 and the National Plan for the Integral Attention of the Displaced Population. It is also important to recognize the creation of the Social Solidarity Network as the entity specialized and responsible for the coordination of the SNAIPD. According to the State authorities interviewed, the integral assistance for the displaced population includes four components: development and consolidation of prevention and protection programs; provision of emergency humanitarian care; socio-economic stabilization; and the development and consolidation of the SNAIPD.

190. Advances have been noted in the improvement of the SNAIPD, a Registry for the Displaced Population has been launched, and there has been increased attention to the population throughout the territory with the establishment of field offices of the Social Solidarity Network.<sup>211</sup> The High Commissioner for Human Rights also reported that in 2004 the budget of the Social Solidarity Network increased considerably and the Network implemented major efforts in providing emergency humanitarian aid and strengthening care and orientation units.<sup>212</sup>

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<sup>209</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter VI, Forced Internal Displacement, para. 4.

<sup>210</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter VI, Forced Internal Displacement, para. 4.

<sup>211</sup> United Nations Development Fund for Women, *Report on the Situation of Women in Colombia*, September 2005, p. 10.

<sup>212</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, Annex III, p. 62, para. 5.

191. However, shortcomings in the support of the displaced population are evident, above all highlighted in the Sentence T-025, issued by the Constitutional Court on January 22 of 2004, which addresses a number of rights of the displaced population that are being infringed in Colombia, and the need for the State to ensure a minimum level of protection for these people. The decision identified the minimum level of protection that the displaced population should receive from the State, including a series of rights relevant to women, such as the right to be registered, to receive special protection, to receive immediate assistance for three months, to receive a document accrediting her registration in a health facility, to return in safe conditions and to identify specific circumstances in her personal situation to define how to generate income, among other rights.

192. For women, this decision is extremely important since the Court expressly establishes “the importance of consulting the opinion of women in the definition of humanitarian assistance programs, the need to overcome an assistance-driven perspective that reinforces and reproduces discriminatory practices against women and the relevance of formulating a public policy providing differentiated attention, in two key aspects: including sex as a suspect criteria of discrimination for the interpretation of Law 387 of 1997 and to adapt information systems to have updated data disaggregated by sex.”<sup>213</sup>

193. Moreover, the Court advised that “the registration systems are not sensitive to the identification of the specific needs of those displaced that pertain to groups with an increased level of vulnerability such as women heads of household and ethnic groups.”<sup>214</sup> The Court explicitly establishes that displaced women or heads of household that dedicate all of their time and efforts to care for minor children or older adults under their responsibility, have the right to receive humanitarian assistance until the “extraordinary urgency has ceased or until the subjects are capable of economically supporting themselves or are in conditions to do so.”<sup>215</sup>

194. As a follow-up to the principles included in this Sentence, the Colombian State adopted the new *Plan de Atención al Desplazamiento Forzado* and the Document CONPES 3400 of 2005, that set the goals and prioritization of resources to address the needs of the displaced population, assign a higher level of responsibility to territorial entities to ensure an integral response to the problem, and creates mechanisms that favor the participation of the displaced population in the design and evaluation of the public policies.

195. The IACHR highlights the need for public policies to address the specific needs of displaced women and the principles included in the Sentence T-025. In particular, it calls on the Colombian State to incorporate the participation of women in the formulation of public policies and in the adoption

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<sup>213</sup> Sentence T-025 of 2004, Annex N° 5, subsets 1.1, 1.4, 1.5, 1.12.

<sup>214</sup> Sentence T-025 of 2004, Annex N° 5, subset 6.3.1.3 ( c )

<sup>215</sup> Sentence T-025 of 2004, p. 77

of an adequate level of protection to the civil, political, economic, social and cultural rights of the displaced women and heads of household, in the short and long-term. Lastly, it is relevant to emphasize the need of the Colombian State to adopt the necessary measures to ensure the participation of organizations of women in the systemic follow-up of compliance with this Sentence.

196. A range of United Nations and non-State sources confirmed during the visit the non-inclusion of the specific needs of women in policies to attend the displaced population, above all in the spheres of health and economic subsistence. The Social Solidarity Network even recognizes that there are limits to a differentiated and specialized attention that they can provide to vulnerable population groups such as women, Afro-Colombians and indigenous peoples and the entire displaced population. Among the difficulties identified by the Network are the challenge of providing assistance to women in finding employment, which means that most perform domestic work and to provide psycho-social support to assist displaced women in handling the cultural changes and the effects of violence.

197. State and non-State authorities also highlighted the noticeable absence of institutional coordination that challenges the synergy among existing efforts and services and the absence of resources to provide a specialized attention for women. Even though there has been progress in consolidating an attention system, a better definition of policies and commitments by the relevant entities is needed, in particular the departments and municipalities. The Social Solidarity Network, for example, recognized that more coordination is needed with other State entities, such as the Presidential Office on Gender Equality and the National Service for Learning.

198. Representatives of State agencies in Valledupar and Quibdó also mentioned the lack of resources to provide an integral care for women, including psycho-social support and sexual and reproductive health services. The Sentence of the Constitutional Court T-025 stated that “resources assigned to the displaced population correspond to 0.04% of the total budget. This does not take into account the fact that, according to certain calculations, the number of displaced persons in Colombia is 4.3% of the total population.”<sup>216</sup> In addition, the Social Solidarity Network highlighted the need to design impact indicators to better understand the situation of displaced women and to disaggregate them by major variables such as race and ethnic group.

199. During the meeting of the Rapporteur with the Social Solidarity Network, the Network communicated to the delegation that they are working to provide an integral approach to the specific needs of women, pursuant to the Sentence T-025, especially for pregnant and breastfeeding women, in the form of food and “basic kits” and the program *Familias en Acción*. They are also participating in projects with international organizations such as the International Organization for Migration to identify the specific needs of

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<sup>216</sup> Sentence T-025 Constitutional Court, Annex N.5, Sub-section 1.1.

displaced women and they are preparing a program with ICBF to meet the specific needs of displaced women, including psycho-social support. Another major advance in achieving an integral and multi-disciplinary approach is a consensus-based questionnaire, agreed upon among different entities serving different sectors, namely the Social Solidarity Network, the United Nations High Commissioner for Refugees, CODHES, and the Catholic Church, to assess the institutional response to the displacement phenomenon.

200. Other difficulties in the provision of State services that were identified by non-State entities were, for example, deficiencies in emergency humanitarian care, which is provided late and is of a palliative nature, and the bureaucratic barriers displaced women face when registering, such as those displaced from fumigation zones because they have to travel long distances. An investigation of the Observatory of the Human Rights of Women also revealed that key problems in the assistance provided include a lack of policies for prevention, sustainable economic re-establishment, in line with the needs and expectations of the persons affected, and the access to adequate health services.<sup>217</sup>

201. One key problem with the emergency assistance discussed by the Observatory of the Human Rights of Women is its temporary nature, especially in regards to health. If the person remains affiliated with some health program at the time of the displacement, the contract remains in effect for one year, even if they cannot continue paying the fees. Once the emergency phase is over, the receiving territory must take over the assistance within the period during which the person is recognized as beneficiary, one year, according to the norms of the National Registry of the Displaced Population. Therefore, these timeframes fail to take into account the process of adaptation and socio-economic re-establishment of displacement victims.<sup>218</sup> In many cases, women also require more specialized treatment, with medicines not included in the *Plan Obligatorio de Salud* (hereinafter "POS"), especially in regard to sexual and reproductive health.<sup>219</sup> The Rapporteur received information regarding women's possible exposure to mistreatment in the few health centers where they can receive medical care, and the far distance of the health centers from their settlements.

202. The Rapporteur has also received information from the Social Solidarity Network and ICBF indicating that when the national registry was designed, racial and ethnic variables were not considered. Therefore, current support services and programs for women do not consider the specific needs of

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<sup>217</sup> *Confluencia Nacional de Redes de Mujeres, Corporación Sisma Mujer, Atelier-IEPALA, Observatory of the Human Rights of Women, Displaced Women: Actions of the Colombian Government, March 2004, p. 14.*

<sup>218</sup> *Confluencia Nacional de Redes de Mujeres, Corporación Sisma Mujer, Atelier-IEPALA, Observatory of the Human Rights of Women, Displaced Women: Actions of the Colombian Government, March 2004, pp. 17-18.*

<sup>219</sup> *Confluencia Nacional de Redes de Mujeres, Corporación Sisma Mujer, Atelier-IEPALA, Observatory of the Human Rights of Women, Displaced Women: Actions of the Colombian Government, March 2004, p. 18.*

indigenous and Afro-Colombian women, especially at the national level. However, the Rapporteur does recognize the political will of these agencies and their understanding that the needs of displaced women require specialized services from the Colombian State, especially in the area of sexual and reproductive health.

## **F. Obstacles to access justice**

203. A number of State and non-State sources manifested their concern to the Rapporteur over the main obstacles that women face to access justice when they are victims of violence and discrimination resulting from the armed conflict. The obstacles can be of a legislative, institutional, cultural and geographic nature. For example, the High Commissioner for Human Rights in its 2004 report about the situation in Colombia described the problem as follows:

The majority of violations of the rights of women and girls remain unpunished, due to a lack of official investigations, the low number of complaints because of shame, lack of credibility of the justice system, and underreporting in cases of death or sexual violence. Access to the courts and the manner in which such crimes are dealt with have also been affected by the absence of training programmes for court officials on gender issues, as well as by sexist practices in the justice system, especially in penal matters.<sup>220</sup>

204. The IACHR observed in general the lack of an integral vision and policy, sustained by adequate human and financial resources from the Colombian State, to investigate, sanction and offer reparation in the sphere of justice to acts of violence and discrimination that women suffer as a result of the armed conflict in all zones of the country. Among the most notable challenges are deficiencies in the investigation, judgment and sanction of acts of violence and discrimination, gaps in systems to gather statistics and the dearth of human and financial resources to address the persisting problems. Furthermore, the IACHR highlights the need to establish sustainable capacity-building programs for justice officials and to begin programs to sensitize the population and to promote an increase in the filing of complaints. Lastly, the IACHR observes the weaknesses of the administration of justice in the zones occupied by the actors in the armed conflict and the implementation of alarming principles and practices within the penal procedures applicable to violence against women that can challenge the access by women to effective judicial protection and guarantees.

### **1. Deficiencies in the legal framework**

205. Several State and non-State sources confirmed that, in practice, the legal framework to protect the rights of women is not implemented to their benefit and fails to address their specific needs within the armed conflict,

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<sup>220</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 99.

above all, in the criminal sphere. A number of sources, including the Office of the Ombudsman for the Rights of Children, Women and the Family, shared with the Rapporteur some principles incorporated within the system of criminal justice relevant to the rights of women, after the reforms of 2000 and 2004<sup>221</sup>, that have the potential of challenging the access of women to effective judicial protections and guarantees when they are victims of different forms of violence. The changes reflect the absence of sensibility and knowledge of the situation of vulnerability and lack of protection of victims of violence before their aggressors and victimizers. In regards to sexual violence particularly, there is a gap between the protections and objectives incorporated in the legal framework and an effective attention and control of the problem.

206. The most recent reform to the Penal Code adopted in 2004, which entered into force in 2005, establishes the parameters of application of the opportunity principle, in which the relevant Prosecutors can decide according to general criteria which crimes they investigate and which they do not in the area of violence against women. The degree of discretion granted to the relevant Prosecutors facilitates that in the decision whether to investigate a crime, their beliefs and personal attitudes play a crucial role. This principle ignores the situation of vulnerability and danger the victims of violence face, as well as the silence that can cloud these incidents, for fear of reprisals by the aggressor and the fear of the victim to be publicly stigmatized.

207. The Rapporteur also learned of alarming provisions regarding the “chain of custody”<sup>222</sup> in cases of violence, which were reaffirmed by the reform of 2004, for its major emphasis on physical evidence. The Rapporteur received information indicating that the procedures are designed only for physical evidence and ignore the key role of other types of proof to support cases of violence against women, such as psychological proof in cases of sexual violence.

208. In the specific sphere of domestic violence, a crime worsened by forced displacement, according to the reform of the Penal Procedure Code in the year 2000, women are obligated to personally file the complaint of the crime, which is referred to as *querella de parte* before the Office of the Attorney General. This reform does not consider that domestic violence victims are frequently incapable of demanding by themselves the protection and recognition of their rights, due to the threats they suffer by their partners, as well as the fear of stigmatization. The law also allows the person who commits the crime of domestic violence in violation of a protection order to return to the household where he committed the crimes, without taking into account the dangers this poses for the family group. On the other hand, the reform of 2004 additionally subjects domestic violence victims to a public and

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<sup>221</sup> Law 600, 2000 and Law 906, 2004.

<sup>222</sup> The “chain of custody” includes a series of procedures to be followed by officials that perform physical tests, which have as their objective to preserve the physical evidence that serves as probatory until the moment of its judicial assessment. Law 906 of 2004 conferred to the Office of the Attorney General the responsibility to completely regulate the requirements, duties, and responsibilities of the chain of custody.

oral trial to expose the aggressions they faced and to defend their rights before their aggressors.

209. The reform of 2000 also characterizes domestic violence as a crime that the victim can desist from, which does not consider the reasons that could motivate a victim to withdraw a complaint, including threats from the aggressor and the fear of stigmatization by her community. Additionally, the crime can be subject to a process of conciliation, in which it can be negotiated between the victim and the perpetrator. The conciliation option assumes that all parties involved are on equal grounds to negotiate, which is not the case in the sphere of domestic violence. It is recognized internationally that conciliation in cases of domestic violence is not advisable.<sup>223</sup> In several countries, it has been clear that agreements reached in the framework of mediation increase the emotional and physical risk of women, because of the inequality in power relations between the victim and the aggressor.<sup>224</sup> The aggressor usually does not comply with the agreements and these do not address the causes and consequences of the violence.<sup>225</sup>

210. The Rapporteur also learned of concerns regarding Law 882 of 2004, better known as the *Ley de Ojos Morados*, which excluded sexual violence from the crime of domestic violence, thus, considering that sexual abuse constitutes physical abuse that is already sanctioned without the need for specificity. This norm was denounced as unconstitutional by the Office of the Ombudsman, but the Constitutional Court dismissed the arguments and declared it constitutional. The High Commissioner for Human Rights has manifested that this disposition, in addition to be contrary to the international law designed to protect the rights of women and girls from violence, underestimates sexual violence as a specialized and serious problem, ignores its

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<sup>223</sup> Pan-American Health Organization (PAHO) in collaboration with the United Nations Population Fund (UNFPA), United Nations Development Fund for Women (UNIFEM), Inter-American Commission of Women of the Organization of American States (CIM/OAS), Inter-American Parliamentary Group on Population and Development (GPI), Center for Reproductive Rights (CRR), IPAS, ISIS International, Latin American and Caribbean Committee on the Defense of the Rights of Women (CLADEM), Washington, DC, April 2004, *Model Laws and Policies on Domestic Violence against Women*, p. 20.

<sup>224</sup> Pan-American Health Organization (PAHO) in collaboration with the United Nations Population Fund (UNFPA), United Nations Development Fund for Women (UNIFEM), Inter-American Commission of Women of the Organization of American States (CIM/OAS), Inter-American Parliamentary Group on Population and Development (GPI), Center for Reproductive Rights (CRR), IPAS, ISIS International, Latin American and Caribbean Committee on the Defense of the Rights of Women (CLADEM), Washington, DC, April 2004, *Model Laws and Policies on Domestic Violence against Women*.

<sup>225</sup> Pan-American Health Organization (PAHO) in collaboration with the United Nations Population Fund (UNFPA), United Nations Development Fund for Women (UNIFEM), Inter-American Commission of Women of the Organization of American States (CIM/OAS), Inter-American Parliamentary Group on Population and Development (GPI), Center for Reproductive Rights (CRR), IPAS, ISIS International, Latin American and Caribbean Committee on the Defense of the Rights of Women (CLADEM), Washington, DC, April 2004, *Model Laws and Policies on Domestic Violence against Women*.

systematic practice, and minimizes this gender-based violation, thereby fostering impunity.<sup>226</sup>

211. In regards to sexual violence, despite the State efforts to enact legislation, public policies and institutions, several State and non-State sources indicated that they do not perceive significant advances that facilitate an effective control of the problem. The Office of the Attorney General confirmed to the delegation of the Commission that on 2004 there were a total of 9,084 pending investigations for sexual crimes, of which 89.16% corresponded to female victims. Some of the challenges identified in the application and implementation of the existing legislative framework has been the scarce creation of the units to attend sexual violence throughout the national territory and of trained professionals to perform sexology exams, mostly in rural areas and in zones where the actors of the armed conflict exercise control.<sup>227</sup> Therefore, there is a gap between the protections and objectives included in the legislative framework to address sexual violence and an effective control of the problem.

## **2. Persistence of discriminatory socio-cultural patterns**

212. In information provided to the IACHR, the Colombian State has recognized that:

The most recurring challenge to prevent, protect and sanction violence is the persistence of sexist tendencies, where violence against women has a high degree of acceptance<sup>228</sup>

213. The IACHR has corroborated from the information and testimonies gathered that violence and discrimination against women are still accepted in Colombian society, which is reflected in the response of the officials of the administration of justice towards victims of violence against women and the treatment of these cases. The Rapporteur received information about the fear of the victims to be re-victimized by the system of justice and the mistrust that what they have suffered as a consequence of the conflict can be investigated, sanctioned or be subject to reparations. Other factors that impede women to denounce acts of violence include the fear of being stigmatized socially by making the crime public and the lack of knowledge of available judicial recourses. Consequently, it is evident that the Colombian State needs to create additional capacity-building programs for officials of the administration of justice and to implement campaigns to sensitize the general public about the gravity of these crimes and the importance of filing complaints.

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<sup>226</sup> United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, para. 99.

<sup>227</sup> *Corporación Sisma Mujer, Report on Gender Justice: From the Armed Conflict to Judicial Reforms*, Colombia 2001-2004, p. 52.

<sup>228</sup> Response of the Colombian State to the IACHR Questionnaire on the Situation of Access to Justice for Women in the Americas, 27 January 2006.

214. Non-governmental organizations such as *CLADEM* and *PROFAMILIA*, as well as representatives from United Nations agencies, communicated to the Rapporteur their concern over the mistrust that the judicial authorities have towards victims and what they relate as crimes against them or their families.<sup>229</sup> The following two testimonies were offered to the Rapporteur during the visit, which illustrate the treatment received by women, when they or their relatives have been victims of violence and they try to access justice:

The victims claim that they do not report for fear of being persecuted; moreover, they do not trust any organ or institution to file a complaint or to seek assistance of a psychological, economic or judicial nature.....Due to the patriarchal conception of justice and in the operators, who do not equally enforce due process guarantees to crimes such as sexual abuse and domestic violence, under the rubric of procedural doubt. Furthermore, there is a manipulation of the proof, because the Office of the Attorney General has no interest to collect and review proof before the crimes committed by the armed actors.<sup>230</sup>

Most evident has been the impunity of all situations of human rights violations faced by women in the region.....when women know where to seek help, they go to entities to request the required certifications to access subsidies they are entitled to due to the violent death of their loved ones as a result of the armed conflict. They receive from the Office of the Attorney General, organ entrusted with the investigation of violent deaths, responses such as "Throw Fire to That". *The women feel more mistreated by the institutions than by the same actors that harmed them.* Another factor that leads to impunity is the mistrust of the women in these institutions, in the case of the Office of the Attorney General concretely.....There was the case of a woman who submitted facts for the preparation of verbal portraits of the murderers of her husband and son and after the complaint was prepared, she was threatened that same afternoon. This was the only institution that had knowledge of the case in detail [emphasis added].<sup>231</sup>

215. Amnesty International recently described in detail how the fear of being revictimized by the system and the mistrust that the aggressor will be really sanctioned, discourages victims of sexual violence to present complaints before the justice system:

Sexual violence is rarely reported by the victim. In those cases in which survivors muster the strength to do so, the authorities often

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<sup>229</sup> See *Mesa de Trabajo de Mujer y Conflicto Armado, Report about the Sociopolitical Violence against Women, Girls and the Youth in Colombia*, Bogotá, February 2003, p. 87.

<sup>230</sup> Testimonies collected by the *Iniciativa de Mujeres Colombianas por la Paz* in report *Violence against Women in the Framework of the Armed Conflict*, prepared by the *Mesa Nacional de Incidencia por el Derecho a la Verdad, la Justicia y la Reparación con Perspectiva de Género*, submitted to the IACHR Rapporteur during her on-site visit to Colombia.

<sup>231</sup> Report from the *Iniciativa de Mujeres Colombianas por la Paz, Mesa Nacional de Incidencia, Región Norte de Santander* about the negotiation process between the Government and the AUC, submitted to the IACHR Rapporteur during her on-site visit to Colombia.

seek to dissuade the women from doing so.....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.<sup>232</sup>

216. The Rapporteur corroborated during her visit that the authorities entrusted with administering justice, at the national and local levels, tend to assume that when a victim withdraws a complaint this means that the crime has not occurred. This type of presumption and conclusion ignores the multiple motives that can lead a victim of violence not to report a crime, including mistrust in the administration of justice, the potential stigmatization of her family and community, and the fear that the aggressor may exercise reprisals against her or her family.

217. Additionally, non-State sources communicated to the Rapporteur their concern over the social stigma that can suffer a violence victim, above all from sexual violence, which discourages women to report abuses by the actors in the conflict. The victims can be rejected by their communities, families, partners and often receive death threats by the illegal armed actors when they report cases. When the sexual violence has been produced in zones where the armed actors impose norms and punishments, the community can find that what occurred is the fault of the victim for violating the rules. This factor contributes to a high level of under-reporting of cases of violence against women, reflected in the statistics. In the year 2000, the Office of the Attorney General conducted 21,189 investigations for sexual crimes, however, the State estimates that these only represent between 5 to 10% of the cases.<sup>233</sup>

218. The Rapporteur learned of valuable efforts from the Colombian State to train officials of the administration of justice. It is important to highlight the initiative of the *Consejo Superior de la Judicatura* and the *Escuela Judicial Rodrigo Lara Bonilla* in the creation of a Training and Capacity-Building Plan with a gender perspective that has as a goal to train 15,000 administration of justice officials between 2002 and 2006.<sup>234</sup> It is also important to highlight the organization of specialized workshops in the subject with the support of the Women, Gender and Justice Program of the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (hereinafter "ILANUD"), one of the entities in the region with extensive

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<sup>232</sup> Amnesty International, *Colombia, Scarred Bodies, Hidden Crimes: Sexual Violence against Women in the Armed Conflict*, AMR 23/040/2004, pp. 63-64.

<sup>233</sup> Response of the Colombian State to Questionnaire on the Implementation of the Beijing Platform of Action (1995) and findings of the Twenty-Third Special Period of Sessions of the General Assembly (2000), Álvaro Uribe-Vélez, President of the Republic, Carolina Barco-Isackson, Minister of Foreign Affairs, Martha Lucia Vázquez-Zawadsky, Presidential Office on Gender Equality, Bogotá, May 2004, p. 17.

<sup>234</sup> Response of the Colombian State to the IACHR Questionnaire on the Situation of Access to Justice for Women in the Americas, 27 January 2006.

capacity-building experience in these themes. These initiatives are a good start to develop effective capacity-building programs in the theme that are sustainable and can be institutionalized. Representatives from the Office of the Attorney General communicated to the Rapporteur the need to increase and strengthen capacity-building programs for administration of justice officials to effectively address cases of violence against women and discrimination and to treat victims with sensibility and respect.

219. The Rapporteur also recognizes the efforts of the Presidential Office on Gender Equality to implement sensitization campaigns to the general public about violence against women. However, the Rapporteur encourages the State to assign a larger amount of resources to increase the territorial coverage and the specificity of these awareness-raising actions. The Office of the Attorney General communicated to the Rapporteur the need on behalf of the State to strengthen the communications work to promote the social respect of the human rights of vulnerable populations such as women within the armed conflict.

220. Therefore, it is crucial that the Colombian State continues to implement concrete measures, such as capacity-building programs and awareness-raising campaigns, to eradicate discriminatory socio-cultural patterns on the basis of sex, race, ethnicity and social class to promote that women report acts of violence and discrimination and receive a humane and dignified treatment by judicial authorities.

### **3. Deficiencies in the investigation, judgment and sanction of acts of violence and discrimination on the basis of gender and in the creation of safe conditions for the reporting of crimes**

221. The IACHR in the past has recommended to the Colombian State the exercise of due diligence to ensure that all cases of violence and discrimination against women are subject to a prompt, complete and impartial investigation, as well as the adequate sanction of those responsible and the reparation of the victims.<sup>235</sup> However, during the visit, a variety of State and non-State sources voiced their concern over the inefficacy of the justice system to effectively investigate and sanction cases of violence against women that occur as a consequence of the armed conflict, especially those perpetrated by the actors of the conflict and in zones under their control. The United Nations Rapporteur after its visit highlighted that the failure to investigate, process and punish those responsible for violations and other forms of violence on the basis of gender, has contributed to creating in Colombia a climate of impunity that perpetuates violence against women and contributes to an increase of the violence in general.<sup>236</sup>

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<sup>235</sup> IACHR, *Third Report on the Human Rights Situation in Colombia* (1999), Chapter XII, Rights of Women, Recommendations 6 and 7.

<sup>236</sup> See United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002.

222. The Rapporteur learned of a series of challenges in the documentation and investigation of cases of violence and discrimination. For example, the Office of the Attorney General communicated to the Rapporteur its challenge in documenting cases of violence against women and abuses, especially in areas of the country where the victims fear reprisals when they report acts of violence and how the life of Prosecutors is endangered when they work in these zones. Moreover, the creation of safety conditions to facilitate that women report sexual violence acts and to prevent that crimes remain in impunity constitutes a challenge.<sup>237</sup>

223. Additionally, the scarcity of resources assigned to address cases of violence and discrimination against women limits the territorial scope of the existing programs of the administration of justice. For example, in Valledupar, the Community Ombudsman confirmed that they only have one Attorney for the Department of César and Guajira. They confirmed the existence of multiple attacks of illegal groups and forced displacements that are not registered and the challenge in providing permanent assistance to women in this limiting context.

224. However, the IACHR recognizes a series of efforts, especially by the Office of the Attorney General, to effectively address these cases. Representatives from the Office, for example, explained to the Rapporteur how the subject of gender has gained key importance in their work and how special units have been created, including a special unit for trafficking persons. A center to attend cases of domestic violence has also been created. The Office of the Attorney General is committed to offering effective services throughout the territory, despite the challenges mentioned and the danger faced by the Prosecutors when they perform their duties in zones occupied by the actors of the conflict. The Office of the Attorney General shared with the Rapporteur good examples of collaboration with non-governmental organizations such as the *OFP*, who supports their work in the areas of documentation and attention in areas particularly affected by the armed conflict such as Barrancabermeja. However, the Office of the Attorney General recognized the need to strengthen the actions of the administration of justice in mitigating the effects of the armed conflict on women, by developing an integral and specific response, as well as a larger assignment of resources.

#### **G. The need to protect and legitimize the work of women's rights defenders**

225. Colombia stands out for the organizational experiences of groups of women who wish to participate and influence the public agenda, both in areas traditionally linked to the specific needs of women as in issues related to the resolution of the armed conflict. However, as has been manifested in the past by the High Commissioner of Human Rights and the United Nations Rapporteur, this type of participation has become an extremely

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<sup>237</sup> *Mesa de Trabajo Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004, p. 81.

dangerous activity in which women's rights defenders and their loved ones are exposed to multiple violations of their human rights.<sup>238</sup> In fact, armed actors find that the leadership exercised by women's rights organizations challenges the extent of their social and territorial control, which – the IACHR believes – has led to the systematic intimidation, persecution, kidnapping, torture and sexual abuse of representatives of organizations that work to protect the rights of women and their families, among other crimes.

226. The *Mesa de Trabajo Mujer y Conflicto Armado* has identified as a form of violence when national and regional organizations of women, especially those acting in war zones, are subjected to harassment and threats, affecting both their members and the community work they conduct.<sup>239</sup> Armed actors find that the leadership exercised by women's rights organizations limits the extent of their increasing social and territorial control in certain areas of the country.<sup>240</sup> The following testimony illustrates the situations of violence that representatives of the organizations defending the rights of women face and the impact on their relatives and communities:

I am the daughter of a member from [.....] in the municipality of Viota Cundinamarca and now, because of what has happened, I am working directly in the office of the Association in Bogotá, who despite the difficulties, have supported me at all times..... When the paramilitary invasion began by the Rural Self-Defense Groups of Casanare, in the municipality where my mother, little sister and I lived, on March 8, 2003, my mother was in the fields when a group of unidentified men came to the neighborhood, asking about "la paísa", referring to my mother. When she was identified, these men – two of them wearing hoods – handcuffed her and took her to the pickup truck of death, which was what they called it in our town, and took her away. My little sister, who saw everything, was threatened with a rifle and forced to shut up. She saw them take my mother away. From that time on, I started to search for her, but we have not learned anything about her to this day. Since then, and without any experience, I have become the head of household for my sisters, since my mother was separated and she was our sole breadwinner. We were obligated to move to Bogotá to save our lives, but lost everything. In Bogotá, the Organization has helped us, because the threats continue [...] We need protection, but we know that the State is not going to give us any.<sup>241</sup>

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<sup>238</sup> See United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 52; United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 93.

<sup>239</sup> *Mesa de Trabajo Mujer y Conflicto Armado, Report on Socio-Political Violence against Women, Youth and Girls in Colombia: Women and the Armed Conflict*, October 2004, p. 91-102.

<sup>240</sup> *Confederación de Redes, Red Nacional de Mujeres y la Red de Educación Popular Entre Mujeres, One Step Forward, Two Backwards, Shadow Report, Platform of International Conference, Fourth World Conference on Women*, 2004, p. 38.

<sup>241</sup> Testimony received by the Rapporteur during her on-site visit to Colombia.

227. In view of this unsafe context, the High Commissioner for Human Rights has recommended to the Colombian State:

To strengthen programs for protection of human rights advocates with the Ministry of the Interior and to search, jointly with other State institutions, new mechanisms to reduce risk factors and act preventively to eliminate them... Accordingly, it is fundamental for programs and mechanisms to respond adequately to the needs of organizations that defend the rights of women and the needs of their members, so they may continue working to promote and defend their rights.<sup>242</sup>

228. Among the organizations most severely affected and threatened are those conformed by rural, indigenous, Afro-Colombian and displaced women: the *OFP* and *ANMUCIC*, both beneficiaries of precautionary measures granted by the IACHR, the *Liga de Mujeres Desplazadas* and the *Casa de la Mujer*. Just the *OFP* has suffered nearly 120 incidents, including attacks, threats, and disappearances. The members of these organizations and their families have been subjected to systematic acts of intimidation, persecution, kidnapping, torture and sexual abuse, among other crimes. The representatives of these organizations and their relatives have been obligated to abandon their regions, quit their organizational work and even leave the country. Women who belong to certain political parties or movements, such as the Patriotic Union have also been victims of persecution and selective assassinations because of their political views.

229. In addition to working to protect the civil, political, economic, social and cultural rights of women, these organizations perform a crucial role in the areas of services and case documentation. In zones where the armed actors are present, these organizations provide assistance to victims of violence and reproductive health services. Some of the organizations carrying out these activities are the *Iniciativa de las Mujeres por la Paz*, the *Liga de Mujeres Desplazadas*, the *OFP*, *ANMUCIC* and *PROFAMILIA*, among other entities. The UNDP communicated to the Rapporteur during her visit that this important work does not receive the social recognition it deserves.

230. Moreover, phenomena such as forced displacement pose major challenges to the activities and organizational processes of women. For example, the groups and networks of women interviewed by the Rapporteur in Quibdó described as follows the impact of forced displacement on their organizational efforts:

The organizational processes that women have begun implementing in their communities tend to disappear, because they focus their attention on how to survive; and it would seem that the idea of organization

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<sup>242</sup> United Nations, Office of the High Commissioner for Human Rights in Colombia, speech by Mr. Michael Frühling, 2004, p. 14.

makes no more sense, because it is not viewed as a useful strategy to resolve the problems they face in these circumstances.<sup>243</sup>

231. The IACHR reiterates the need to legitimize and protect the actions of these groups, whose existence and work is threatened by the actors of the armed conflict. The State does not sufficiently acknowledge the importance of the work of these organizations, who represent the interests of women in the public life, and who provide key services within the zones occupied by the actors of the armed conflict.<sup>244</sup> The Rapporteur reiterates the observations of the United Nations Rapporteur regarding this situation:

The State should provide greater support and protection for human rights that work with women and on women's human rights issues. The work currently underway in the areas of research and the production of materials on women's rights, and the documentation of women's experiences of conflict, is seen by certain actors as contentious and adequate thought needs to be given to addressing the risks to the people who conduct this work and to providing them with appropriate support. Much valuable work is done in remote areas by women's organizations at the grass-roots level and they deserve appropriate protection measures and support systems. Tackling impunity and prosecuting gender-based violations will send a message that these crimes will be taken seriously. Serious priority and commitment must be devoted to understanding the risks, implementing preventive measures and providing protection.<sup>245</sup>

## **H. Perspectives of truth, justice and reparation**

232. The IACHR has publicly stated that "establishing the truth about what happened during the conflict, searching seriously for justice through the determination of the responsibility of the perpetrators *vis-a-vis* the victims, and the reparation of the damage cause—far from generating obstacles for the agreements that can lead to peace building—constitute basic pillars of its strength."<sup>246</sup>

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<sup>243</sup> Report: *Chocó: Territory of Wealth and Survival: We Live to Resist, We Resist to Live*, presented to the IACHR Rapporteur during her on-site visit by women's groups and networks of Quibdó, p. 7.

<sup>244</sup> The Colombian State presented to the IACHR information indicating that it is developing mass media campaigns called: "Defend the Human Rights Defender" and "Human Rights, the Best Plan, Do it For You, Do it for All". The purpose of these campaigns is to sensitize the public on the importance of the legal, legitimate and necessary work of human rights defenders. It also informed the IACHR of an increase on the human rights program resources oriented towards the protection of persons, which includes organizations of women. Note CCH/OEA 25245/1210 of the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006. Nevertheless, several sources confirmed during the visit that these types of initiatives are not sufficient to effectively protect these groups.

<sup>245</sup> United Nations, *Report submitted by Mrs. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences: Mission to Colombia* (1-7 November 2001), E/CN.4/2002/83/Add. 3, 11 March 2002, para. 117.

<sup>246</sup> IACHR, *Report on the Demobilization Process in Colombia*, OAS/Ser.L/V/II.120, Doc. 60, 13 December 2004, p. 10-20; IACHR, Press Release, *IACHR issues Statement regarding the*

233. In the case of Colombian women, it is crucial that any process oriented towards peace contemplates the clarification and reparation of the acts of violence and discrimination they have suffered as part of the armed conflict. Resolution 1325 of the United Nations Security Council underscores "the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes including those relating to sexual violence against women and girls, and in this regard, stresses the need to exclude these crimes, where feasible from amnesty provisions."<sup>247</sup> Similarly, the Convention of Belém do Pará urges States to establish the judicial and administrative measures necessary to ensure that women who have been subjected to violence will have effective access to restitution, reparation of the damage, or other just, effective means of compensation.

234. The IACHR has ascertained that for Colombian women truth, justice and reparations are indispensable prerequisites for any negotiation process destined to resolve the Colombian armed conflict.<sup>248</sup> This need has been described by Colombian women's groups before the IACHR as follows:

the recovery of dissident memories in the official history and to rebuild the circumstances of past acts from all viewpoints. Consciously making the memory of a particular group invisible is done to ignore those traces of the past that can prevent the past from being idealized in the future.

genuine punishments must be applied to those guilty of serious human rights violations, to avoid impunity. For this purpose, three rules must be respected: 1) society must know that the actions committed are serious crimes and that the persons condemned are responsible for committing them; 2) it is indispensable for non-combatants who suffered the effects of these crimes to have rights that society is obligated to protect; and 3) it is essential for recognition of responsibility for crimes to have a just consequence, through proportional punishment.<sup>249</sup>

235. The IACHR has publicly stated its observations and concerns regarding the named Law of Justice and Peace, which establishes the legal framework for the access to procedural benefits by members of illegal armed groups which have been involved in the perpetration of serious crimes against

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... continuation

*Adoption of the "Law of Justice and Peace"* in Colombia, Washington DC, N° 26/05, July 15, 2005.

<sup>247</sup> See Resolution 1325 of the United Nations Security Council, S/RES/1325/2000.

<sup>248</sup> IACHR, Thematic Hearing, *Colombian Women under the Armed Conflict: Justice for Women*, 28 February 2005, 122<sup>nd</sup> Period of Sessions, presented by the *Red Nacional de Mujeres* and others.

<sup>249</sup> Report *Enforcement, Protection and Violation of Women's Human Rights in a Country at War*, Colombia 2005, report submitted to the IACHR Rapporteur during her on-site visit to Colombia by platforms, organizations and groups of women, June 2005.

the civil population in the context of the armed conflict.<sup>250</sup> The State, on the other hand, states that the demobilization process which is part of the peace-building effort constitutes *per se* a manifestation of the fulfillment of its international obligations regarding human rights.<sup>251</sup>

236. The IACHR recognizes the challenges confronted by the State to find a negotiated solution to the Colombian armed conflict. In this context, it is indispensable that the State respects the rights of women, as well as those of other vulnerable groups in the clarification and sanction of acts of violence and discrimination that have occurred, as well as the adequate reparation of the harm done, through individual measures of restitution, indemnity and rehabilitation.

## VI. CONCLUSIONS AND RECOMMENDATIONS

237. Through this report, the IACHR conveys and reiterates its grave concern over the suffering of Colombian women due to the violence and discrimination worsened by the armed conflict and the importance of considering their specific needs in the public response to the problem. Under the current circumstances, Colombian women and girls affected by the armed conflict cannot enjoy or exercise their rights set forth in the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, in the American Convention on Human Rights, and in other international instruments protecting human rights.

238. The IACHR reaffirms its commitment to collaborate with the Colombian State in seeking solutions to the problems identified. Some steps adopted to address this situation display an understanding of the gravity of the existing problems and the commitment of the State and non-State sectors in

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<sup>250</sup> IACHR, Press Release, *IACHR issues statement regarding the Adoption of the "Law of Justice and Peace"* in Colombia. Washington, D.C., N° 26/05, July 15, 2005. Among the concerns stated by the IACHR are: "The adopted bill concentrates upon the mechanisms to establish individual criminal responsibility in individual cases and involves demobilized members of illegal armed groups receiving procedural benefits. However, its provisions fail to establish incentives for a full confession of the truth as to their responsibility in exchange for the generous judicial benefits received. Consequently, the established mechanism does not guarantee that the crimes perpetrated will be duly clarified, and therefore in many cases the facts may not be revealed and the perpetrators will remain unpunished. The provisions of the law might favor the concealment of other conduct that, once brought to light at a future date, could benefit from the same alternative penalties. These procedural benefits not only reach conduct directly related to the armed conflict, but also can be invoked regarding the commission of ordinary crimes such as drug trafficking. [...] In terms of the reparation of the damage caused by those responsible for the commission of heinous crimes, the law places special emphasis on the restitution of unlawfully acquired property rather than on the mechanisms that might serve the full reparation of the victims. Particularly, it does not provide for specific mechanisms to repair the damage caused to the social fabric of the indigenous peoples, the afro-descendant communities, or the displaced women, often heads of household, who rank among the groups more vulnerable to violence by the participants in the armed conflict. The law fails to provide as part of the reparation owed to the victims, measures directed to preventing the repetition of the crimes committed, such as disqualification or separation from official functions of state agents involved by action or omission."

<sup>251</sup> Note DDH/OEA 25245/1210 of the Human Rights Direction of the Ministry of Foreign Affairs of the Colombian Republic, 24 May 2006, p. 32.

considering the specific needs of women in public policies designed to sanction, prevent and eradicate acts of violence and discrimination against women and to understand the gravity of the problems.

239. As the IACHR has stated in the past, the problem of violence in Colombia is lengthy and extremely complex, requiring comprehensive solutions that cannot be postponed and this applies to the specific situation of women. Pursuant to its obligations under international law, the Colombian State is obligated to act with due diligence to prevent, punish and eradicate the violence and discrimination against women, worsened by the armed conflict, even when the conflict poses structural challenges to this response.

240. The recommendations issued in the report are geared towards the design of an integral State policy that takes into account the manifestations of discrimination and violence affecting women that are aggravated by the armed conflict, in order to make progress in the diagnosis, prevention and response to these problems, and in the incorporation of women's specific needs into the public agenda. They are also intended to motivate the State to implement measures to eradicate discriminatory socio-cultural patterns based on sex, race, ethnicity and social class and to account for these differences in the development of public policies to mitigate the pernicious effect of the armed conflict on Colombian women throughout the national territory. The recommendations formulated herein are of a dual nature: general recommendations and recommendations by category of attention and response, covering legislation, public policies, State institutions and programs, diagnosis and prevention, public services for displaced women, administration of justice, civic and political participation, and truth, justice and reparations.

241. The IACHR wishes to especially recognize the extraordinary efforts by Colombian women to cope with the adversity of the internal armed conflict. It also highlights their work against the discrimination, exclusion and violence and to achieve full enjoyment of all their human rights. This capacity to associate and make an impact has achieved major legal developments and promoted the adoption of progressive policies and institutions for women in Colombia. Colombian women are not only victims of structural discrimination and violence, which is exacerbated by the internal armed conflict, they are also the bearers of initiatives of inclusion, democratization and authentic peace-making for the Colombian State and society.

### ***General recommendations***

1. To adopt an integral State policy to address the specific impact of the armed conflict on women in the areas of justice, health and education, among others. These policies should be guided by the logic of protecting the rights of women and should tend to guarantee their autonomy.
2. To implement and strengthen measures to comply with the duty to act with due diligence to prevent, sanction and eradicate violence and discrimination against women, exacerbated by the

armed conflict, including concrete efforts to fulfill its four obligations: prevention, investigation, sanction and reparation of the human rights violations of women.

3. To implement measures to eradicate discriminatory socio-cultural patterns based on sex, race, and ethnic background, and to take these differences and conditions of vulnerability into account in the development of public policies to mitigate the pernicious effect of the armed conflict on Colombian women.
4. To publicly recognize that the different manifestations of gender-based violence and discrimination are closely related to the human rights and humanitarian crisis that Colombia is facing, that they are serious violations of international and national law, and that it is necessary to assign adequate State resources to achieve their prevention, eradication and sanction.
5. To duly apply the recommendations previously issued by the Inter-American Commission on Human Rights, and United Nations follow-up mechanisms, such as the United Nations Rapporteurs, the United Nations Committee on the Elimination of Discrimination against Women, the Committee Against Torture, the Human Rights Committee, and the High Commissioner for Human Rights.

### ***Specific recommendations***

#### **Legislation, public policies, State institutions and programs**

6. To adequately enforce the national legislation and the existing public policies designed to protect women from acts of violence and discrimination and their consequences in civil, political, economic, social and health matters, and to allocate sufficient resources to make this enforcement effective at the national and local level.
7. To incorporate the voices and specific needs of women affected by the armed conflict and the organizations representing them in the design of legislation and public policies geared toward ameliorating the impact of the consequences of the armed conflict on them.
8. To adopt and amend existing legislation in order to ensure compliance with decisions and recommendations by supra-national bodies designed to protect the rights of women within the internal armed conflict.
9. To implement dissemination measures and campaigns for the general public regarding the duty to respect the civil, political, economic, social, cultural, sexual and reproductive rights of

women; the available services and resources for women who have experienced violations of their rights; and the judicial consequences for perpetrators.

10. To identify and institutionalize new forms of capacity-building for public servants in all sectors (justice, security, health and education) with an integral approach that addresses the right of women to live free from violence and discrimination, and to respect their physical and psychological well-being when they receive public services.
11. To identify and create indicators and inter-institutional monitoring systems on the implementation of legislation and policies destined to mitigate the impact of the armed conflict on Colombian women.
12. To create coordination and communication mechanisms among national and local programs and services for women who are victims of violence and discrimination aggravated by the armed conflict. These mechanisms must favor coordination among all programs at the national level and among programs implemented on the national and local levels.
13. To strengthen and institutionalize the work of the Presidential Office on Gender Equality as the coordinating entity for public policies for women, with adequate financial and human resources.
14. To implement a greater number of State resources allocated to entities responsible for providing services and implementing programs to mitigate the effects of the armed conflict on women.
15. To implement measures to address the violence and discrimination suffered by women in zones occupied by the actors of the armed conflict.
16. To set up inter-institutional teams to determine the exact dimension of the problem and identify comprehensive strategies to address it in these zones.
17. To create spaces where inter-institutional dialogue and greater collaboration can occur to mitigate the effects of the armed conflict on women.
18. To design public policies in the area of citizen protection which incorporate the specific needs of women.

19. To adopt the steps required to complete the ratification and implementation of the Protocol of the Convention on the Elimination of All Forms of Discrimination against Women.

### **Assessment and Prevention**

20. To create and improve statistical and qualitative information systems and records on incidents of violence and discrimination against women.
21. To create mechanisms to achieve uniformity among these information systems.
22. To implement measures in order for these information systems to adequately reflect the national and local situation, including incidents of violence and discrimination taking place in zones occupied by the actors of the armed conflict.
23. To adopt measures in order for these and future programs to disaggregate information by sex, age, race, ethnic group among other factors.
24. To maintain reliable and updated statistics including the armed actors as possible aggressors.
25. To incorporate problems such as sexual violence, already reflected in existing official statistics, in the design of public policies destined to mitigate the effects of the armed conflict on women.
26. To promote that the information collected by State entities about incidents of violence and discrimination is processed with a gender perspective.
27. To launch the design of a single questionnaire to collect information about incidents of violence and discrimination that can be used by all sectors – government, administration of justice, health, international agencies, the academic sector and civil society – among others, and to promote pilot experiences to evaluate its effectiveness.

### **Public Services for Displaced Women**

28. To design and implement a policy including positive actions to recognize and make effective the rights of women in terms of an integral and multidisciplinary attention and support in the areas of health, justice, education and economy of the displaced women, that adequately address their needs in the short and long-term.

29. To address in public policies and State programs, the specific needs of displaced women and their civil, political, economic, social and cultural rights. Especially, to adopt measures to guarantee the protection of their sexual and reproductive rights.
30. To effectively implement the principles included in the Sentence of the Constitutional Court T-025 in regards to the participation of women in the formulation of public policies and the adoption of an adequate level of protection of the civil, political, economic, social and cultural rights of displaced women heads of household, in the short and long-term. Furthermore, to adopt the necessary measures to give participation to organizations of women in the periodic follow-up of this Sentence.
31. To design impact indicators to measure the effectiveness and scope of State support measures and services to mitigate the impact of forced displacement on women of different races, ethnic backgrounds and ages.
32. To strengthen official statistics collection systems on the displaced population and to disaggregate information by race, ethnicity, and sex, among other conditions of vulnerability.
33. To create the conditions and eliminate bureaucratic, inefficient obstacles in order to facilitate the access of displaced women to the registry and the national health system. To create effective safety measures so that women can register and obtain health-care services.
34. To adopt measures to ensure that State entities, particularly those providing services to displaced women, respect and protect their rights and health needs, including those within the sphere of reproductive health, and adequate services and information are granted.
35. In the sphere of access to education, to grant school spaces and offer technical training programs for women and girl children who are displaced so that they can have more opportunities to re-establish themselves socio-economically after the displacement.
36. To develop training programs so that indigenous and Afro-Colombian women can offer psycho-social support to displacement victims belonging to their same race and ethnic groups.

#### **Afro-Colombian and Indigenous Women**

37. To design and adopt policies taking into account the specific needs of indigenous and Afro-Colombian women within the

armed conflict in regard to health, education, justice and livelihoods. National policies designed to promote the rights of all women must consider the specific needs of indigenous and Afro-Colombian women and have an integral vision of how to address important issues such as health, education, and justice. National policies geared toward improving the situation of indigenous and Afro-Colombian groups must also include the specific needs of women.

38. To reinforce the social investment in indigenous and Afro-Colombian women in the justice, health and education sectors to mitigate the effects of the armed conflict and to render effective the rights of displaced women and heads of household.
39. To adopt measures and dissemination campaigns targeting indigenous and Afro-Colombian communities, the State and society at large, regarding the problems that these women confront, especially displaced women, in order to generate action commitments to solve them and achieve complete respect for their human rights.
40. To develop initiatives to collect information, statistics, research and studies reflecting the specific situation of indigenous and Afro-Colombian women that will provide the foundation to develop public policies geared toward prevention, punishment and eradication of acts of violence and discrimination perpetrated against them.
41. To design and adopt culturally relevant policies, with the participation of indigenous and Afro-Colombian women, to protect displaced women from these groups.
42. To design and adopt policies, with the participation of indigenous and Afro-Colombian women, considering respect for their culture, with the purpose of ameliorating the effects of the armed conflict. In particular, to carry out actions to reduce the negative effects in terms of health, education, and justice caused by the armed conflict.
43. To create mechanisms and spaces to strengthen the leadership, organization and citizen participation of indigenous and Afro-Colombian women in order to incorporate their role and voice in decision-making, according to their own culture and traditions.
44. To achieve the full respect of the rights of indigenous women to live free from violence, discrimination and the forced displacement worsened by the armed conflict, it is essential for the State to respect and protect effectively the ancestral lands of their peoples, from both military and economic interests.

45. To design and implement policies to promote and protect the human rights of indigenous women, including special directives for the armed forces and the National Police in order to facilitate the respect of their right to live free from sexual violence and other forms of discrimination.

#### **Administration of Justice**

46. To design an integral, coordinated State policy, supported by adequate public resources, to guarantee that victims of violence and discrimination adequately access justice and that acts of violence are adequately investigated, sanctioned and repaired.
47. To adopt the necessary measures to prevent, sanction and eradicate acts of rape, sexual abuse and other forms of violence, torture and inhumane treatment by all combatants in the armed conflict.
48. To ensure that due diligence is exercised to guarantee that gender-based violence cases are promptly, completely and impartially investigated, those responsible are adequately punished and victims receive reparations.
49. To strengthen the institutional capacity to confront the pattern of impunity for cases of violence against women through effective criminal investigations, with consistent judicial follow-up, in order to guarantee adequate sanction and reparations.
50. To implement measures to reinforce the resources and capacity for investigation processes, in order for violations of human rights with gender-specific causes and their consequences to be investigated and sanctioned according to their gravity.
51. To increase access to legal representation free of charge for victims of violence and discrimination against women.
52. To prepare and disseminate information to ensure that victims of violence and discrimination against women know their rights within the judicial system.
53. To gather and systematize decisions by regional and international bodies designed to protect the rights of women and to make this information accessible to public officials at the national and local level.
54. To adopt effective guarantees to facilitate that victims denounce acts of violence, such as the adoption of effective measures to protect those filing complaints, survivors and witnesses.

- 55. To adopt immediate measures to guarantee effective training in women's rights for officials responsible for processing crimes, administering justice and supervising the actions of public officials, in order for them to adequately apply national and international norms to bring sexual crimes to justice.
- 56. To create conditions so that the INML continues training and increasing the awareness of judicial authorities who handle cases of different types of violence so they can adequately and thoroughly evaluate all available evidence in resolving cases of sexual violence, including the legal-medical examination, physical and psychological findings, and laboratory tests, among others. It is important to encourage the multi-disciplinary investigation of such crimes.

#### **Civic and political participation**

- 57. To apply United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security, which requires women to be involved in the decision-making in order to resolve Colombia's armed conflict and mitigate its consequences. The Colombian State should take this Resolution as a guideline and ensure the right of women to participate in all levels of decision-making related to the conflict and its consequences in their daily lives.
- 58. To legitimize and effectively protect the work of women's human rights defenders and their organizations throughout the national territory.
- 59. To continue implementing measures to increase the participation of women in the country's social, political and economic life, nationally and locally.
- 60. To ensure that organizations defending the human rights of women and their members actively participate in formulating programs, services and instruments destined to protect them.
- 61. To create spaces for coordination and collaboration between non-governmental organizations and State agencies entrusted with providing services to victims of violence.

#### **Truth, justice and reparations**

- 62. To adopt, under the legal framework governing negotiations with the illegal armed groups, measures to guarantee the rights of women who have been victims of violence and discrimination, to truth, justice and reparations. The State must take particular account of the measures set forth by the

Convention of Belém do Pará, United Nations Security Council Resolution 1325 and the Rome Statute.

63. The State should create spaces for victims to be actively involved in and influence the ways in which their rights to truth, justice and reparations are fulfilled and protected by the State. The enforcement of these rights should reflect the perspective and specific needs of victims and granted in a non-discriminatory fashion.
64. To ensure that the legal framework and the demobilization programs are compatible with the international principles and norms about the rights of victims to truth, justice and reparation and, as such, address the specific needs of women.
65. To guarantee that women directly affected by the conflict and its consequences are incorporated in the decision-making bodies working towards the resolution of the causes and consequences of the conflict.

## ANNEXES

### A. The Special Rapporteurship on the Rights of Women of the IACHR and its mandate

1. The Special Rapporteurship on the Rights of Women of the IACHR was created in 1994 with the initial mandate to review the extent to which Member State legislation and practice that affect the rights of women comply with the general obligations of regional human rights instruments such as the American Convention on Human Rights ("American Convention") and the American Declaration of the Rights and Duties of Man ("American Declaration"). By creating the Rapporteurship, the IACHR reaffirmed its commitment to guarantee the full respect of the rights of women and the corresponding guarantees within each Member State.

2. Since its creation, the Rapporteurship has collaborated in the daily work of the Commission by publishing thematic studies, contributing to the formulation of new jurisprudence within the individual case-system, and by supporting the investigation of themes affecting the rights of women in specific countries in the region through on-site visits and country reports.

3. After an intensive study conducted by the Special Rapporteurship, the IACHR published its *Report on the Status of Women in the Americas* to provide an overview of the situation and formulate recommendations to assist Member States to eradicate discrimination from their legislation and practice, and establish priorities for future measures by the Special Rapporteurship and the IACHR. The obligations in regards to equality and non-discrimination are still the guiding points in selecting the topics to be addressed by the Special Rapporteurship. The IACHR and its Special Rapporteurship also place specific emphasis on the problem of violence against women, which in itself is a manifestation of gender-based discrimination, as recognized by the Convention of Belém do Pará.

4. The Rapporteurship facilitates the clear understanding of which additional measures are needed to enable women to fully exercise their basic rights and issues special recommendations geared toward reinforcing compliance by Member States with their priority obligations regarding equality and non-discrimination. The Rapporteurship also promotes the mechanisms—for example, submission of individual complaints claiming human rights violations—pursuant to the Inter-American Human Rights System, in order to protect the rights of women; conducts specialized studies and prepares reports on these issues; and helps the Inter-American Commission respond to petitions and other reports on violations of these rights in the region.<sup>252</sup>

5. The priority granted by the IACHR and by its Special Rapporteurship on the Rights of Women also reflects the importance granted to these issues by the OAS Member States. In particular, the Action Plan adopted

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<sup>252</sup> Thematic studies, case study reports and reports on countries in question may be viewed at the IACHR Website: [www.IACHR.org](http://www.IACHR.org) (which has search mechanisms).

by the Heads of State and Government during the Third Summit of the Americas recognizes the importance of empowering women and fully and equally involving women in the development, political life and decision-making at all levels. To this effect, the Action Plan underpins the Inter-American Program to Promote Women's Human Rights and Gender Equity and Equality, as well as other regional initiatives geared toward implementing the commitments stipulated in the Declaration of Beijing and its Action Platform.