



**Submission on the combined seventh and eighth periodic report of Colombia to the United Nations Committee on the Elimination of Discrimination Against Women  
October 2, 2013**

We write in advance of the Committee on the Elimination of Discrimination Against Women's upcoming review of Colombia to highlight areas of concern regarding the Colombian government's compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This submission focuses specifically on Articles 2, 3, 12 and 15 of the Convention.

This submission is based on the Human Rights Watch report [\*Rights Out of Reach: Obstacles to Health, Justice, and Protection for Displaced Victims of Gender-Based Violence in Colombia\*](#), a 101-page report documenting serious obstacles displaced victims of gender-based violence face when seeking healthcare, justice, and protection services. The report is based on interviews in 2012 with more than 80 displaced women and girls living in four different departments,<sup>1</sup> nearly all of whom had been victims of gender-based violence, ranging from individual and gang rape by members of armed groups to violence and rape by spouses or intimate partners. Almost a third of the women interviewed were Afro-Colombian or indigenous. We also interviewed 46 government officials and health care practitioners, 65 rights advocates, service providers, and other civil society representatives who have worked extensively with victims.

Below, we would like to highlight some of the key findings detailed in the report, which we further developed in follow-up research conducted in Colombia in 2013.<sup>2</sup>

**Articles 2, 3 and 12: Attention for Victims of Gender-based violence**

Access to timely and quality health services is essential after gender-based violence, both for the wellbeing of the victims and for the collection of forensic evidence necessary to bring perpetrators to justice. Yet, Human Rights Watch interviews with women, health providers, advocates, and officials revealed a daunting array of obstacles to medical services for displaced victims of gender-based violence.

These obstacles include the failure of health facilities to properly implement the relevant laws and policies, resulting in inadequate screening for signs of gender-based violence, mistreatment of victims, and arbitrary denial or delays in providing essential services. In some cases, rape victims said they were able to secure doctors' appointments only well past when time-bound

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<sup>1</sup> Antioquia, Bolívar, Cundinamarca, and Valle del Cauca.

<sup>2</sup> In 2013, Human Rights Watch interviewed displaced women leaders from Antioquia, Bolívar, Cesar, Córdoba, Cundinamarca, and Valle del Cauca.

treatments to prevent pregnancy or HIV infection would be effective. In others, forensic testing occurred so late that no physical evidence of the crimes remained.

Another major obstacle to medical services is a widespread lack of knowledge regarding the full range of requisite services, both among the women and girls who are entitled to them and among the health officials and practitioners responsible for providing them. It is precisely this lack of knowledge among victims of gender-based violence that the “referral pathway”—an explanation of what services are available through which institutions—was designed to overcome. Yet the lack of knowledge among officials and practitioners prevents the pathway from functioning as it should. The failure to provide health workers with proper training on handling cases of gender-based violence—as mandated by law—results in them failing to provide victims with the referrals they need.

For many displaced women and girls, these obstacles are compounded by the precarious circumstances in which they live. Compared to the general population, they often have less familiarity with the health institutions and service providers in the places where they have settled, less money to cover transportation costs, and greater fear of retribution from their attackers if they seek care.

Access to psycho-social services is particularly important for victims of gender-based violence. Many of the displaced women and girls with whom Human Rights Watch spoke said they never received psycho-social services. And in the small number of cases reviewed by Human Rights Watch where victims did access these services, women and girls told Human Rights Watch that inconsistent provision of services and changing approach to victim support reduced the positive impact of these interventions.

Women and girls with physical disabilities face additional barriers to comprehensive post-violence services. Human Rights Watch in 2012 visited facilities in four cities specifically designed to provide services to victims of gender-based violence and found that at least two of these were not physically accessible to women with physical disabilities. For example, the center for attention of victims of sexual violence in Bogotá, which provides comprehensive post-rape services, requires victims to climb several flights of stairs to reach available services.

### **Articles 2 and 15: Investigations and Prosecutions of Crimes of Gender-based Violence**

Our interviews also revealed a wide range of obstacles that displaced women and girls face when seeking justice for sexual violence, including mistreatment by authorities, evidentiary challenges, and fear of retribution.

Some women reported to Human Rights Watch that police and prosecutors failed to take their cases seriously. Others reported being told that there could be no criminal prosecution of their cases unless they could produce physical evidence of the abuse, which in some instances was impossible due to delays in accessing forensic testing. While Colombian law does in fact allow criminal investigations to be pursued on the basis of non-physical evidence, justice officials and rights advocates who work with victims of gender-based violence reported that prosecutors commonly decline to pursue such cases, a practice which leads women and girls to give up on justice.

We spoke to some women who claimed that government officials would not pursue investigations in their cases. For example, Alejandra (pseudonym) was raped by two men in 2009. She filed a criminal complaint and she gave the police her statement. She was not called back for questioning, and did not receive any information about the investigation until she learned it had

been archived in 2011. In the time period between her rape in 2009 and the end of 2011, she filed three separate criminal complaints as a result of harassment and threats that she received, she believes, because she had denounced the rape. In one instance, she was physically assaulted, her computer was broken and her hard drive stolen. These additional criminal cases were also archived on grounds that there were “difficulties identifying an active suspect.” The Defensoria del Pueblo intervened on her behalf in early 2012, and the Attorney General’s office reopened her cases and consolidate the investigations. As of July 2013, she does not have further information on progress in the investigation.

The Attorney General’s office, in a March 2012 meeting with Human Rights Watch, explained that many investigations of sexual violence in the conflict were difficult to conduct because too much time had passed, the abuse took place in an active war zone where investigation would be difficult, or cases lacked witnesses. However, it is not universally true that older cases lack evidence. For example, María (pseudonym), a woman in Medellín, reported that she had been a victim of repeated rape and sexual slavery by guerrillas in Antioquia in February 1998. María told Human Rights Watch that she was in guerrillas’ custody for over 6 months, and suffered lasting injuries as a result of ill-treatment. She escaped in November 1998. After years of silence, she filed a criminal complaint around September 2011. María was able to provide the prosecutor with the name, address, and identification number (cedula) of another guerrilla captive who had also escaped and had witnessed many of the crimes she suffered. As of May 2012, investigators or prosecutors had not contacted the witness, María said.

## **Article 2: Protection**

The most essential protection measure is the effective prosecution of crimes of sexual violence. If the criminal justice system does not work to identify, prosecute, and punish perpetrators of sexual violence, impunity will prevail, leaving women at risk of abuse. Nevertheless, in addition to a robust and rigorous criminal justice response, other measures of assistance and protection should be available to victims of sexual violence.

Human Rights Watch is pleased to hear that the National Protection Unit is working closely with civil society to develop new protection measures for displaced women leaders, some of whom are participating in the process of designing them. We believe these protection measures should address the current lack of safe meeting places for some grassroots organizations providing direct support to victims of sexual violence in the conflict. These groups play a key role in identifying cases of rape related to the conflict and internal displacement, and are often the impetus for women filing criminal complaints. However, some must meet with victims in public spaces and other places where they lack privacy, exposing both the leaders and victims to potential harm.

There are many displaced victims of sexual violence who are not leaders or activists, yet still face a high risk of further abuse. Human Rights Watch interviewed some such individuals who said they were at-risk, but had not benefited from protection measures under any government program. Some were unaware that protection measures existed, and therefore had not applied for them. Others did not apply because they had told police that they feared for their safety, and the police told them that there was nothing to be done.

Without protection measures women felt particularly vulnerable to retaliation for reporting the crimes. In a couple of cases, the lack of protection led victims to withdraw their criminal complaints, contributing to the impunity of these crimes. For example, one woman in Antioquia told Human Rights Watch that she was raped in early 2012 by armed men she identified as paramilitaries. She told us that she called the police, who advised her against filing a criminal

complaint because of safety concerns. She believed she did not qualify for any protection measures and did not file a criminal complaint.

### **Suggested Questions**

In your upcoming Committee review of Colombia, Human Rights Watch urges you to question the government of Colombia about the following key issues, which at present threaten the rights of women and girls:

- *What steps has Colombia taken to ensure that women and girls have access to quality medical care after gender-based violence? What efforts has the government taken to remove barriers that victims of sexual violence encounter when seeking legal abortion or emergency contraception after sexual violence? Has it taken specific steps to ensure access to quality medical care for displaced women and girls<sup>3</sup>?*
- *What steps has Colombia taken to ensure that women and girls have access to timely and gender-sensitive forensic exams after acts of violence? Has it taken specific steps to ensure access for displaced women and girls?*
- *What steps has Colombia taken to ensure that women and girls have access to information regarding reproductive health services available after sexual violence, including access to legal abortion? Has it taken specific steps to ensure access for displaced women and girls?*
- *What steps has Colombia taken to ensure that victims of gender-based have access to quality psycho-social support? Has it taken specific steps to ensure access for displaced women and girls?*
- *How has Colombia ensured access to justice for victims of gender-based violence? What steps have been taken specifically to remove barriers to justice for displaced women?*
- *Can the government of Colombia provide the number of criminal complaints of gender-based violence it received in the past 12 months; the number of open investigations; the number of cases that have gone to trial; and the number of convictions in cases of gender-based violence?*
- *What effort is the government taking to ensure there is not impunity for sexual violence in the conflict, especially in light of the Legal Framework for Peace constitutional amendment enacted in 2012?*
- *What protection measures exist for victims of gender-based violence who fear retaliation for seeking justice but who do not qualify for protection measures provided by the National Protection Unit? Do these measures address the specific needs of displaced women and girls?*

We hope you will find these comments relevant to your examination of the Colombian government's compliance with the Convention, and would welcome an opportunity to discuss them further with you.

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<sup>3</sup> "Displaced women and girls" refers to women and girls displaced in the context of Colombia's internal armed conflict.