



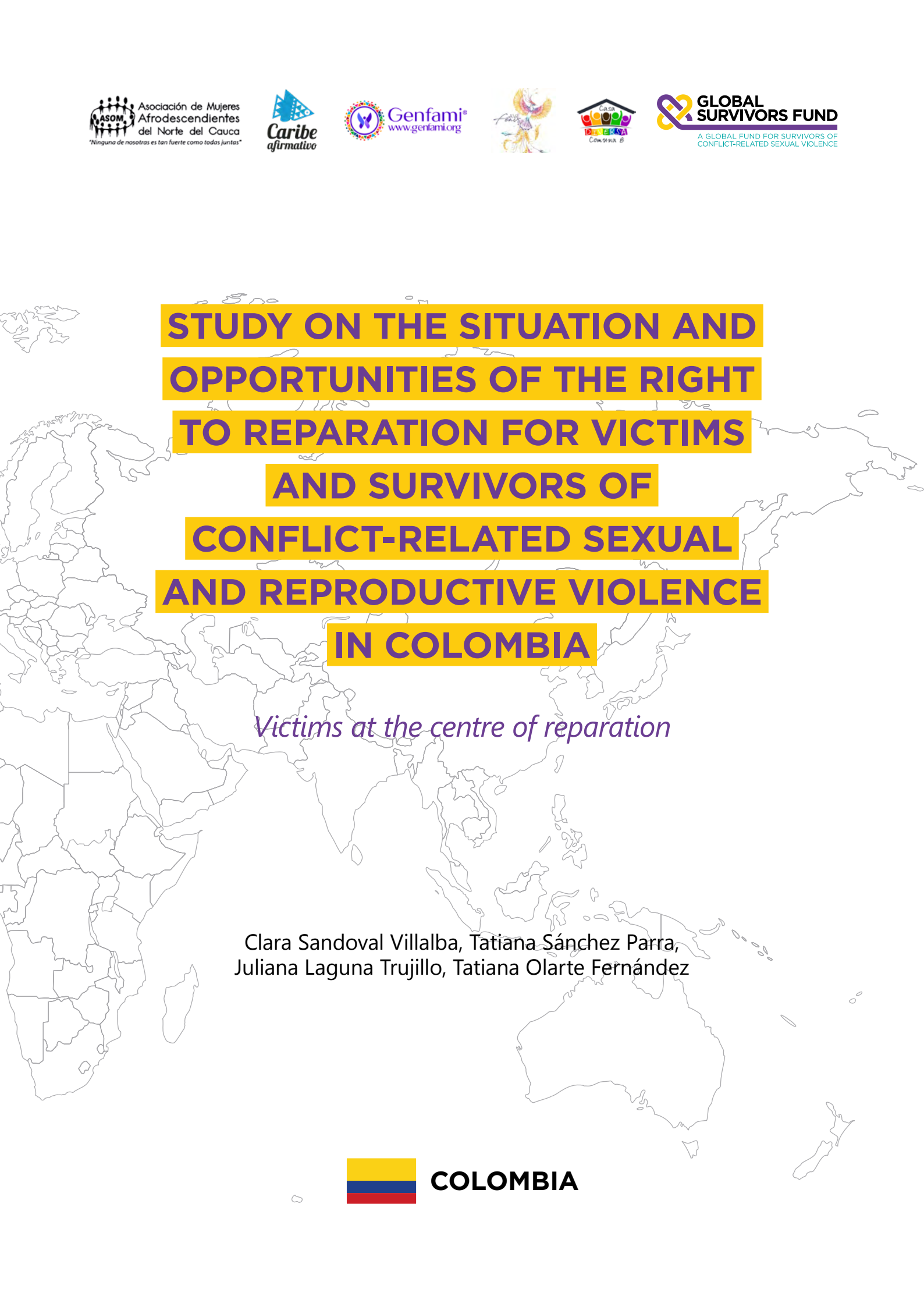
STUDY ON THE SITUATION AND OPPORTUNITIES OF THE RIGHT TO REPARATION FOR VICTIMS AND SURVIVORS OF CONFLICT-RELATED SEXUAL AND REPRODUCTIVE VIOLENCE IN COLOMBIA

Victims at the centre of reparation



COLOMBIA





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COLOMBIA

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Imposing view of the Cauca River, its valley, and the green mountains of the Cordillera Occidental in the Andes, which traverses Colombia

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EXECUTIVE SUMMARY

Over the six decades of internal armed conflict in Colombia, all armed actors have systematically committed multiple types of sexual and reproductive violence. This includes rape, various acts of a sexual nature, sexual harassment, sexual slavery, forced sterilisation, forced contraception, forced pregnancy, forced abortion, trafficking for sexual exploitation, forcing a person to witness acts of a sexual nature, forcing a person to perform acts of a sexual nature or allowing a third party to perform them, sexual torture, forced maternities, forced nudity, mutilation of sexual organs, and forced changes to a person's bodily or performative gender.

Conflict-related sexual and reproductive violence (CRSRV) has been used to silence, intimidate, and/or punish survivors, human rights defenders, journalists, and social leaders, to exercise territorial control, and in militarised environments. Additionally, it has been used alongside other forms of violence in the armed conflict such as forced displacement, land dispossession, massacres, and forced recruitment.

CRSRV has been used against the civilian population in general. However, women, girls, and people of diverse sexual orientation, gender identity, and gender expression have been disproportionately affected. Women combatants, as well as girls and adolescents who have experienced forced recruitment, have also suffered different forms of CRSRV. Similarly, rural and peasant communities, as well as indigenous and Afro-descendant peoples, face higher risks of suffering CRSRV due to the presence of armed actors in their territories, combined with factors such as their ethnic identity, gender, age, and social class. Documentation of CRSRV against men and boys is scarce and tends to be invisible.

The impacts of CRSRV are complex and varied. They are permeated by structural factors related to social power relations associated with ethno-racial identity, class, gender identity, and sexual orientation. CRSRV has compounded the harms faced by survivors caused by social exclusion, economic precariousness, and historical discrimination. Victims have suffered physical, mental, moral, spiritual, material, and intergenerational impacts, some of which have

affected their children, partners, families, and communities. In addition, for victims belonging to indigenous, Afro-descendant, Raizal, and Palenquera peoples, whose worldviews and ways of life are based on ancestral relationships with their territories, CRSRV has had spiritual and disharmonious impacts on the life cycles of their territories and ecosystems.

Victims express their expectations regarding reparations in line with their current needs related to access to holistic physical and mental health services, job opportunities, education, and/or housing. They also recognise that the CRSRV they have experienced has in part occurred due to the contexts of conflict-related structural, daily, and continuous violence. Accordingly, for the victims, reparations must respond to their needs on at least two levels. On the one hand, they should aim to transform the contexts of violence that have enabled, promoted, normalised, and legitimised CRSRV. On the other hand, reparations should contribute to the development of victims' individual, family, collective, and community life projects.

Various remedies exist in Colombia to access reparations in the context of the armed conflict. In judicial terms, those responsible for the commission of a crime must make reparations to victims through ordinary criminal justice proceedings within the reparations framework. In the contentious-administrative jurisdiction, the State has an obligation to make reparations for harms caused by actions of its public officials, including human rights violations that occurred in the context of the armed conflict. The Constitutional Court (CC) has been a key actor in ordering measures aimed at guaranteeing the right to reparation for victims of armed conflict, within the framework of its function of reviewing protection actions (*acciones de tutela*).

In terms of remedies with a transitional character, Law 975 of 2005 (Justice and Peace Law) created a process for the investigation, prosecution, and punishment of members of demobilised paramilitary groups. It also provides for reparation to victims accredited in the process using assets of the defendants jointly and subsidiarily with the State.

A domestic reparations programme established by Law 1448 of 2011 also exists in Colombia, known as the Victims and Land Restitution Law. This administrative and transitional form of reparation establishes access to individual and collective reparation measures for persons recognised as victims under the Law and who are registered in the Unique Register of Victims (Registro Único de Víctimas – RUV). This Law recognises the five forms of reparation recognised under international law: restitution, compensation, satisfaction, rehabilitation, and guarantees of non-repetition. Law 1448 of 2011 establishes specific measures for survivors of victimising events related to CRSRV and recognises persons born of war as victims entitled to reparation.

Finally, the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace (Acuerdo Final para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera – FPA) was signed between the national government and the defunct guerrilla of the Armed Revolutionary Forces of Colombia (Fuerzas Revolucionarias Armadas de Colombia – Ejército del Pueblo – FARC-EP). The FPA incorporates pre-existing reparation measures established by Law 1448 of 2011 (the domestic reparation programme), but also created new forms and sources of reparation to be provided by the State, FARC-EP guerrilla members, and other actors, such as civilian third parties. These measures include anticipated reparation actions as well as access to judicial benefits for perpetrators conditional on their contribution to reparation, truth, and non-repetition within the macro-cases of the Special Jurisdiction for Peace (*Jurisdicción Especial para la Paz* – SJP).

In practice, the available remedies face many obstacles in being effective and enabling victims to access reparation. Each procedure has its own regulatory,

bureaucratic, and budgetary infrastructure that is not always coordinated with others. In judicial matters, there is little implementation of the measures ordered by the courts and reaching a decision for reparations orders can take a considerable amount of time. This is in addition to the access to justice barriers faced by victims of this type of crimes. This means that the mechanisms are not effective in achieving their intended purpose. In the domestic reparations programme, implementation and victims' access to reparations measures is fragmented and the processes are unjustifiably protracted. In addition, victims face complex administrative and bureaucratic barriers in navigating the system and accessing reparations.

More than five years after the creation of the Comprehensive System for Truth, Justice, Reparation and Non-Repetition (*Sistema Integral de Verdad, Justicia, Reparación y No Repetición* – SIVJRN) created by the FPA, there are still no conclusive results in terms of justice, reparation, and non-repetition for CRSRV. It should also be highlighted that, despite the systematisation of this practice within the armed conflict, the SJP has not opened a specific macro-case to investigate CRSRV, although it has included it within other (thematic or territorial) cases under its study.

A further challenge faced by victims in accessing reparation is the presence of risk factors that expose them, as well as their families and communities, to new forms of violence, including CRSRV. The protraction of the armed conflict in Colombia, the reconfiguration of its dynamics and actors, the general situation of insecurity, and the lack of protection guarantees from the State are factors that generate fear among victims that acts of violence, including CRSRV, will continue to be repeated. These risk conditions have been exacerbated by the COVID-19 pandemic.

| This Study includes key recommendations to relevant actors on reparations

1. To the national government, to ensure the effective implementation of the FPA and the effective allocation of resources so that key institutions created by the FPA are able to continue their work. Furthermore, to guarantee that the National System for Comprehensive Victim Support and Reparation (*Sistema Nacional de Atención y Reparación Integral a las Víctimas* – SNARIV) and the Unit for Comprehensive Victim Support and Reparation (*Unidad para la Atención y Reparación Integral a las Víctimas* – UARIV) have the necessary financial and human resources to ensure prompt and effective reparation for victims of CRSRV.
2. To the UARIV, to simplify the institutional requirements for registration and access to reparation measures for victims. This includes having effective communication strategies and access to information for the beneficiaries of the Law that enables them to know the status of their registration process in the Unique Register of Victims (RUV) and/or reparations. Additionally, to review its policy on collective reparations to ensure progress in its implementation, in partnership with affected communities and peoples.
3. To the Ministry of Health and health entities at the departmental and municipal levels, to articulate and coordinate their functions within the framework of the SNARIV in order to prioritise the holistic physical and mental health rehabilitation of victims from an intersectional perspective. This support should be provided taking into account criteria such as rurality, gender identity, sexual orientation, ethnic-racial affiliation, social class, disability, and age.
4. To the SJP, to further the investigation, prosecution, and punishment of CRSRV by opening a national macro-case on sexual, reproductive, and other forms of violence linked to the gender identity, ethnic, and sexual orientation of the victims. Similarly, to ensure that sanctions are developed with victims of CRSRV at the centre of focus, using a gender and intersectional approach.





LIST OF ACRONYMS

ANMUCIC	National Association of Peasant, Black, and Indigenous Women of Colombia (<i>Asociación Nacional de Mujeres Campesinas, Negras e Indígenas de Colombia</i>)	LGBTIQ+	Lesbian, gay, bisexual, trans, intersex, and other queer constructs
ASOM	Association of Afro-descendant Women of Northern Cauca (<i>Asociación de Mujeres Afrodescendientes del Norte del Cauca</i>)	MAPP OEA	Mission to Support the Peace Process in Colombia (<i>Misión de Apoyo al Proceso de Paz en Colombia</i>)
CC	Constitutional Court	OAS	Organisation of American States
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	OCHA	United Nations Office for the Coordination of Humanitarian Affairs
CEV	Commission for the Clarification of the Truth, Coexistence, and Non-Repetition (<i>Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición</i>)	OPF	Popular Women's Organisation (<i>Organización Femenina Popular</i>)
CNMH	National Centre for Historical Memory (<i>Centro Nacional de Memoria Histórica</i>)	OHCHR	Office of the United Nations High Commissioner for Human Rights
CNRR	National Commission for Reparation and Reconciliation (<i>Comisión Nacional de Reparación y Reconciliación</i>)	OMC	Memory and Conflict Observatory of the National Centre of Historical Memory (<i>Observatorio de Memoria y Conflicto del Centro Nacional de Memoria Histórica</i>)
CODHES	Consulting Group on Human Rights and Displacement (<i>Consultoría para los Derechos Humanos y el Desplazamiento</i>)	PAPSIVI	Programme for Victim Psychosocial Support and Holistic Health Care (<i>Programa de Atención Psicosocial y Salud Integral a Víctimas</i>)
CRSRV	Conflict-Related Sexual and Reproductive Violence	PIRC	Comprehensive Collective Reparation Plan (<i>Plan Integral de Reparación Colectiva</i>)
CSMLV	Victims' Law Supervisory and Monitoring Commission (<i>Comisión de Seguimiento y Monitoreo de la Ley de Víctimas</i>)	RMVP	Network of Women Victims and Professionals (<i>Red de Mujeres Víctimas y Profesionales</i>)
FARC-EP	Revolutionary Armed Forces of Colombia – People's Army (<i>Fuerzas Armadas Revolucionarias de Colombia Ejército del Pueblo</i>)	RUV	Unique Register of Victims (<i>Registro Único de Víctimas</i>)
FPA	Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace of 2016 between the Colombian Government and the FARC-EP guerrillas (<i>Acuerdo Final para la Terminación del Conflicto y la Construcción de una Paz Estable de 2016 entre el gobierno de Colombia y la guerrilla de las FARC-EP</i>)	SENA	National Apprenticeship Service (<i>Servicio Nacional de Aprendizaje</i>)
GBV	Gender-based violence	SIVJNRN	Comprehensive System for Truth, Justice, Reparation, and Non-Repetition (<i>Sistema Integral de Verdad, Justicia, Reparación y no Repetición</i>)
GENFAMI	Gender and Family Development Foundation (<i>Fundación para el Desarrollo en Género y Familia</i>)	SJP	Special Jurisdiction for Peace (<i>Jurisdicción Especial para la Paz</i>)
GSF	Global Survivors Fund	SNARIV	National System for Comprehensive Victim Support and Reparation (<i>Sistema Nacional de Atención y Reparación Integral a las Víctimas</i>)
HCT	Humanitarian Country Team	STIs	Sexually Transmitted Infections
IACommHR	Inter-American Commission on Human Rights	UARIV	Special Administrative Unit for Comprehensive Victim Support and Reparation (<i>Unidad Administrativa Especial para la Atención y Reparación Integral a las Víctimas</i>)
IACtHR	Inter-American Court of Human Rights	UN	United Nations
IOM	International Organisation for Migration	UNDP	United Nations Development Programme
		UNHCR	United Nations High Commissioner for Refugees
		USAID	United States Agency for International Development



I. BACKGROUND AND METHODOLOGY

| 1. About the project

As part of the Global Reparations Study, the Global Survivors Fund (GSF), together with the Association of Afro-descendant Women of Northern Cauca (*Asociación de Mujeres Afrodescendientes del Norte del Cauca* – ASOM), Caribe Afirmativo, who worked hand in hand with Casa Diversa and Ave Fénix, and the Gender and Family Development Foundation (*Fundación para el Desarrollo en Género y Familia* – GENFAMI), have conducted a study to identify the reparations needs of CRSRV victims in Colombia, as well as the opportunities for delivering reparations to survivors through judicial and administrative processes.

This Study presents and analyses victims' perceptions and expectations for reparations. It also offers practical, concrete, and context specific recommendations to elaborate public policies for those responsible for fulfilling the obligation to provide reparations to victims of CRSRV in Colombia, and to inform the design and delivery of victim-centred reparations in Colombia to other relevant actors at national and global levels. This Study also seeks to establish whether survivors of sexual and reproductive violence have already received any form of assistance and/or reparation through government programmes or from civil society initiatives and, if so, what lessons can be learned from those experiences to inform the design and delivery of comprehensive reparations in the future, including the potential delivery of interim reparations measures by GSF. As an objective in itself, the Colombia Reparations Study process further aims to increase the understanding and awareness of victims' right to reparations for both the victims and key actors who can make reparations possible, and to create greater momentum for the delivery of meaningful survivor-centred reparations to CRSRV victims in Colombia.

The Colombia Study is part of the Global Reparations Study launched by GSF in 2020, which seeks to understand the situation and reparations opportunities that exist for survivors of CRSRV in over 20 countries

around the world. The Global Reparations Study is an unprecedented, multi-actor effort led by GSF in collaboration with over 40 local and international partners, including victims' networks, groups, and organisations. It seeks to make recommendations for further action based on the needs and aspirations of victims and to identify potential support available among key actors and concrete action to enhance access to reparations for survivors of conflict-related sexual and reproductive violence around the world.

In Colombia, the organisations that participated in this Study have reclaimed the use of the term "victim" given its legal connotation and political agency, which is part of the social movements' historical struggles. For these reasons, although the term "survivor" is sometimes used in this study, the term "victim" is predominately used. The term survivor, on the other hand, will be used based on the diversity of experiences and identities of the participants. Thus, by survivor we mean survivors, including cis heterosexual women and men, and people with non-heteronormative sexual orientations, gender identities, and gender expressions.

Similarly, in the case of children born as a result of CRSRV, we refer to them in this report as persons born of CRSRV. Although the literature refers to the term as children born of war, which refers to the link with the victims who lived through the experiences of CRSRV rather than to their biological age, in this report we include two current discussions regarding work with these persons. On the one hand, the reference to children generates a static perception of these individuals, which can hinder the conceptualisation of the most appropriate ways to approach their experiences and design appropriate processes of justice, truth, and reparation. On the other hand, as will be seen in this report, in Colombia these persons born of war have been legally recognised as victims since 2011, with the right to full reparation. Today, victims of CRSRV who have given birth are calling for their children to be understood as human beings who go through different stages throughout their life and require reparation accordingly.

| 2. Methodology

This research was conducted using mixed methods, with both quantitative and qualitative research. It included a participatory and co-creative approach with victim and civil society organisations working on justice issues for CRSRV victims in Colombia. It also included extensive desk research.

The Study was carried out in different stages. The first stage of the research focused on recognising the progress and status of the conversations on CRSRV, justice, and reparations in the country. This was based on the recognition of the political work carried out by women's and feminist movements on CRSRV in Colombia since at least the 1980s. Thus, in this first phase we conducted desk research, mapping of key actors, and semi-structured interviews with organisations of CRSRV victims, government agencies, and civil society organisations at a regional and national level. The desk research focused on interdisciplinary academic literature in Spanish and English as well as legislation, rulings, and reports on CRSRV in Colombia produced by various sectors, including victims' organisations.

The mapping of actors included the identification of individuals, victims' organisations, government agencies, and civil society organisations who were working or had been part of processes associated with the visibility of CRSRV and the search for justice, truth, and reparations in the country at national or regional levels. Organisational and advocacy processes have been created in recognition of diverse sexual orientations, gender identities and expressions, and from different geographical areas in Colombia. However, it is the organisations and institutions in the country's capital which have had the greatest presence on the public agenda, mainly focused on the experiences of cis women. Because of this, in our mapping we sought to identify processes in Bogotá as well as in other urban and rural areas of Colombia. Furthermore, one of our priorities for the mapping included the recognition of diverse experiences of CRSRV, which are intersected with power relations related to gender, ethnicity, social class, age, and disability. Our mapping included 18 victims' and civil society organisations working at the national level, 25 peasant, indigenous, black, and Afro-descendant organisations working in different parts of the country, and 14 government agencies. From this mapping, we contacted the different parties we had identified and conducted 32 semi-structured interviews in one or two sessions.



18 VICTIMS' AND CIVIL SOCIETY ORGANISATIONS



25 PEASANT, INDIGENOUS, BLACK, AND AFRO-DESCENDANT ORGANISATIONS



14 GOVERNMENT AGENCIES

This first phase enabled us to identify the context of the structural, daily, and conflict-related violence in which CRSRV has occurred in Colombia. We were also able to recognise the organisational and advocacy progress surrounding CRSRV in the country, the developments within the legal frameworks for promoting processes of truth, justice, and reparation for victims of this violence, and to identify a first level of gaps in both the implementation of legal frameworks and the areas of work in which no further work has been done to date. In this first phase, we also placed emphasis on identifying good and bad methodology practices when working with victims of CRSRV.

Following this first phase, we contacted partner organisations to carry out the direct work with victims of CRSRV. The decision to contact these organisations was made according to several criteria. First, the organisations needed to be actively working with victims of CRSRV, and we would need to be able to link to and strengthen the continuity of their ongoing work. The timing of our project, as well as the limitations on mobility and personal contact due to the COVID-19 pandemic, the reconfiguration of the war in Colombia, and the national strike throughout the country during 2021, highlighted the importance of not starting new processes with CRSRV victims. Starting new processes in these contexts could put ourselves and other people at risk, and could be re-victimising and exploitative given that they would not have been based on relationships of trust, and would have lacked continuity. Based on the principles of care, it was a priority for us that the partner organisations had previously been working with victims of CRSRV and that our research would enable them to strengthen and enhance this work. Accordingly, we built partnerships based on the way in which the direct work with the CRSRV victims would be carried out.

A second criterion for deciding to contact partner organisations was attention to diversity. This was to be able to learn from the experiences of CRSRV victims from their ethno-racial and social class affiliation and identity, and from the diversity of sexual orientations and gender identities and expressions, but also to learn from the diversity of urban and rural geographical areas in Colombia. Our diversity criteria also included recognising different types of CRSRV and perpetrators, as well as organisations that would enable us to approach both individual and collective reparations processes for CRSRV victims. Throughout these conversations, we reached agreements with the Network of Women Victims and Professionals (*Red de Mujeres Víctimas y Profesionales* – RMVP), the Association of Afro-descendant Women of Northern Cauca (*Asociación de Mujeres Afrodescendientes del Norte del Cauca* – ASOM), and Caribe Afirmativo, all organisations with extensive experience in organisational work, advocacy, and the search for justice for and with CRSRV victims from the aforementioned diverse groups.

The above-mentioned limitations related to the timing of our research, the pandemic, the intensification of the war in the country, and the national strike meant that it was not possible to carry out the work with some of the organisations of indigenous, black, and Afro-descendant peoples with whom we had had several conversations. Furthermore, we identified at least three key areas of work to improve reparations issues for victims of CRSRV that we were unable to explore in depth in this research: collective reparations, the experiences of persons born of CRSRV, and the *Proceso Fénix*, which is a mental and physical health rehabilitation experience that has been developing in Valle del Cauca with important impact for victims. All these conversations, however, are still open and will be the foundation for future work.

Once we reached initial agreements with the three organisations, we held several meetings with each of them to work on the data collection tools. These tools were designed by GSF and include a demographic profile, a confidentiality form, guides for semi-structured interviews and focus groups, and a guide for observation of the work sessions. Based on the work experience of each organisation, we reached agreements on the most appropriate ways to work with victims. This implied some adjustments

so that each tool would make sense from the victim's perspectives. During these meetings, both the GSF team and the teams from each organisation stressed the importance of working with CRSRV victims following strict ethical principles of "Do No Harm". Furthermore, each organisation suggested practices and research tools from their own experience that would allow for careful, respectful, and ethical work with rural and urban victims, and that would recognise the particularities of working with people from indigenous, black, and Afro-descendant communities, as well as with cis men and people with non-heteronormative sexual orientation and gender identity and expression.

Likewise, for the GSF team and the three organisations, it was important that the meetings used to collect information should also promote healing reflections and experiences for the victims. We therefore designed working sessions based on care, trust, and recognition of the ancestral knowledge of the indigenous and Afro-Colombian people who participated. This included the exploration of alternative techniques such as body mapping and creative writing sessions for healing. As part of this care work, we forged a strategic alliance with the organisation GENFAMI, to provide psychosocial support to the organisations and victims before, during, and after the period of data collection. Through this work, we sought both to strengthen the organisations' knowledge and tools to provide psychosocial support, and to guarantee such support for the victims and for those who were in charge of collecting the information.

Throughout the time working with victims, measures were taken to protect the health, privacy, and confidentiality of those who participated in the process. This included the implementation of biosecurity protocols for COVID-19, the anonymisation or use of pseudonyms, and the identification and use of sites that were safe and offered privacy as well as adequate ventilation and distancing. Given the context of both the pandemic and the armed conflict, this often involved transporting people to other cities or to farms where they were in a bubble and safe, out of the sight of armed groups and of their own communities. Throughout this process, 72 victims participated through 11 focus groups and 22 semi-structured interviews. Of the 72 victims, 64 were women including transgender women, 6 were men including transgender men, and 2 did not answer the question.

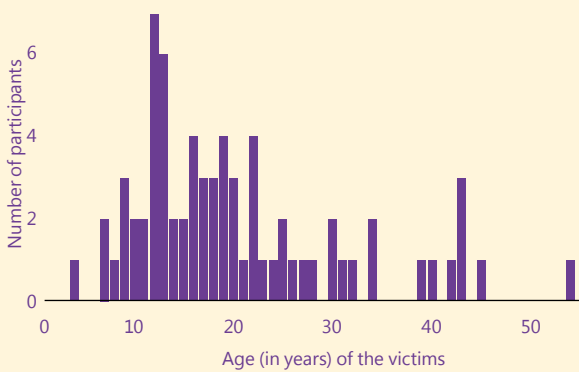
All data collected by partner organisations in interviews and focus groups was transcribed and uploaded to a secure server. The information was analysed using NVivo to identify the most common words and themes. This enabled identification of the most relevant CRSRV impacts on survivors, their concerns, perceptions, needs, risks, and demands in relation to reparations, as well as victims' political agency and leadership strategies.

The demographic profile information was processed through KoBO. It was used to understand the sample of survivors who participated in this Study, and to generate graphs and analyse patterns between survivor profiles,

needs, and expectations. RStudio was used to create graphs with the demographic information.

Each of the organisations involved in the project produced a short report in which they reflected on their work with victims and included their approach to perceptions of reparations for the people they worked with. These reports were also coded and analysed and fed into the findings of this report. For security reasons and to respect the informed consent of those who participated, the verbatim citation of survivors' testimonies is based on the code assigned during the transcription, coding, and analysis of the information.

AGE AT WHICH CRSRV OCCURRED

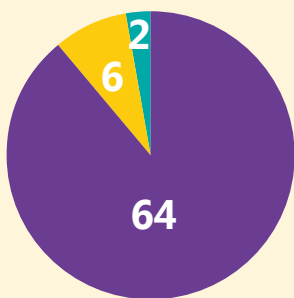


Source: GSF Study

AGE DISTRIBUTION OF PARTICIPATING VICTIMS



DISTRIBUTION BY GENDER



- Women (including trans women)
- Men (including trans men)
- No Information



11
Focus groups



22
Semi-structured interviews

3. About the project partner organisations



Global Survivors Fund (GSF) was established in October 2019 by Dr. Denis Mukwege and Ms. Nadia Murad, 2018 Nobel Peace Laureates. Its mission is to enhance access to reparations for survivors of conflict-related sexual and reproductive violence around the world, thus seeking to fill a gap long identified by survivors. GSF acts to provide interim reparative measures with survivors and their support networks in situations where States or other parties are unable or unwilling to meet their responsibilities. GSF advocates for duty bearers, as well as the international community, to develop reparations programmes. It also builds knowledge and provides technical support to guide States and civil society in the design of reparations programmes. A survivor-centred approach is the cornerstone of its work. For more information, visit <https://www.globalsurvivorsfund.org/>



The Association of Afro-descendant Women of Northern Cauca (Asociación de Mujeres Afrodescendientes del Norte del Cauca – ASOM) is an organisation founded 25 years ago that brings together 232 rural Afro-descendant women between the ages of 17 and 84,¹ located in 10 villages in the municipalities of Buenos Aires (9) and Santander de Quilichao (1). Based on their knowledge and life experiences, these women have committed by choice and to an organisational dynamic to generate solidarity actions for change. Their aim is for the organisation to promote comprehensive individual and community development, building conditions of dignity and respect based on the visibility and recognition of Afro-descendant women as active participants in social change and community development. ASOM works for the defence of human and ethnic rights, the elimination and prevention of gender violence – especially against black women in the territory of Northern Cauca –,

the promotion of sustainable development, and the education and training of its members. For more information, visit <https://asomcauca.org>



Caribe Afirmativo is a civil society organisation that has been accompanying LGBTIQ+ citizens through community and peace-building processes in different parts of Colombia since 2009. The organisation seeks the recognition of LGBTIQ+ rights, as well as the activation of a citizen culture which is respectful of sexual and gender diversity. It also demands transformative reparation actions from the State, which should take responsibility for concrete and real commitments to address the root causes of structural prejudices and promote comprehensive actions for their full citizenship in all sub-regions of the country, in urban and rural spaces, taking into account intersectionality, collective actions, and social mobilisation; as well as the good practices of coexistence and resistance that LGBTIQ+ people have been promoting from their lives on the margins where they have been forced to live, due to society's naturalised contempt which has been exacerbated by the armed conflict. For more information, visit <https://caribeafirmativo.lgbt>



One of the mission objectives of the **Gender and Family Development Foundation (Fundación para el Desarrollo en Género y Familia – GENFAMI)** is to strengthen the capacity of entities and professionals to respond to gender-based violence. It seeks to provide professionals, social organisations, and entities that work with at-risk populations with key tools for the prevention and holistic care of those who are victims of different forms of gender-based violence. GENFAMI supports the strengthening of institutions to develop their own internal response protocols for the prevention of harassment, abuse, and exploitation; the adaptation of processes and procedures to ensure protocols and guidelines for intervention; and the coordination processes for intersectoral action with other entities. For more information, visit www.genfami.org

¹ According to a characterisation process carried out in 2018, 72% of its members are between the ages of 27 and 60 years old, 17% are between 61 and 84 years old, and 10% are between 17 and 26 years old.

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Tatiana’s research is situated at the intersection between feminist studies, anthropology of violence, and Latin American studies. She works on issues related to feminist peacebuilding and sexual and reproductive violence in contexts of war and political transitions. Her latest research considers persons born as a result of sexual violence committed in the context of the armed conflict in Colombia, forced maternity, and reproductive justice. Her work has been published in English and Spanish and has appeared in journals such as *Bulletin of Latin American Research*, *International Journal of Crime, Justice and Social Democracy*, *Crime, Media, Culture and the International Journal of Transitional Justice*. Her first book, *Born of War in Colombia: Reproductive Violence and Memories of Absence*, will be published by Rutgers University Press in Spring 2023.

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Woman gazing at the horizon, Cauca (2021)
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II. INTRODUCTION

Over half a century of armed conflict in Colombia, sexual and reproductive violence has been systematically used to silence, intimidate, and/or punish civilian victims, survivors who fulfil a social leadership role, journalists, human rights defenders, and combatants and children and adolescents in intra-party violence, as well as to exercise territorial control and ensure militarisation in different regions.

Sexual and reproductive violence has serious physical, psychological, socio-economic, spiritual, cultural, and intergenerational repercussions for survivors, their children, families, and other members of their communities. Colombia is one of the few countries in the world where a variety of judicial and non-judicial remedies exist to provide reparations to victims of the armed conflict, including victims of some forms of sexual and reproductive violence, including children born of war. However, despite the ambitious theoretical commitment that has been made in Colombia, the implementation and effectiveness of these remedies continues to be a significant challenge, leading to little progress in providing reparation or mitigating the harms. For judicial remedies, established jurisprudence determines the rules that the UARIV and other institutions must apply within the national administrative reparations programme. Furthermore, as noted below in this report, landmark decisions have been issued ordering State institutions to provide CRSRV victims access to comprehensive reparation measures, although in practice these decisions have not yet been implemented. Additionally, the implementation of the national administrative reparations programme is fragmented and does not ensure access to comprehensive reparations for survivors of such violence.

This Study seeks to identify the challenges and opportunities that exist in Colombia to provide reparations to victims of sexual and reproductive violence. By listening directly to victims, the Study also seeks to identify the impacts of such violence, the needs and harms that have occurred, and how they could be redressed.

The Study is divided into six main sections, the first of which provides an overview of CRSRV perpetrated in Colombia, focusing on the profile of victims and perpetrators. The second section examines the impact that CRSRV has had on both victims and the wider community, and presents survivors' perceptions, needs, and priorities for reparations, as well as the associated challenges in addressing these priorities. The third section explores current access to assistance measures and, in particular, examines the impact of the administrative reparations programme run by the UARIV. The fourth section analyses the normative frameworks for reparations under international, regional, and national law that are relevant to reparations in Colombia. The fifth section examines the state of implementation of such programmes, identifying gaps in law and practice that result in the lack of implementation of reparations measures for victims. The sixth and final section explores both the opportunities and potential challenges to accessing reparations in Colombia and concludes with a series of recommendations to ensure that victims are able to realise their right to prompt, adequate, and effective reparations.

To facilitate the understanding of this report and the terms used in it, it is recommended to consult the Glossary that has been prepared and can be found at the end of the report.



Source: UARIV data, as detailed in Section 2.1 of this Study.



III. CONFLICT-RELATED SEXUAL AND REPRODUCTIVE VIOLENCE

1. Context

Throughout almost seven decades of armed conflict in Colombia, sexual and reproductive violence has been perpetrated by all armed groups in the country, including paramilitaries, guerrillas, government forces, and foreign troops. Since the 1980s, however, sexual violence began to be used more systematically,² and the first half of the 21st century was the period with the highest recurrence of sexual and reproductive violence.³ CRSRV has been used as a power practice with the aim of silencing, intimidating and punishing the population, exercising social and territorial control, and consolidating the militarisation of regions of the country disputed by armed groups.⁴ These disputes respond to the interests of the armed groups and their economic and political allies. Regions with great biodiversity and located in mountains, valleys, jungles, and close to the Pacific and Atlantic oceans are sought after for national and international extractivism projects,⁵ the expansion of agro-industrial projects,⁶ and to serve as strategic corridors for the arms trade and the production chain of drugs such as cocaine.⁷ In this context, CRSRV has been used by armed groups as a means both to advance their armed, economic, and political interests, as well as in militarised situations

where gender, ethnic-racial, and class power relations are perpetuated, particularly against women, girls, and people with non-normative sexual orientation and gender identity and expression.

CRSRV has been committed by armed groups in association with other forms of violence such as forced displacement, detention, land dispossession, forced recruitment, and massacres.⁸ Furthermore, CRSRV must also be understood relationally and within the history of extractivist, racist, patriarchal, colonial, and State violence that has been imposed on women and other bodies that have historically been feminised, racialised, and oppressed.⁹ This implies that there is a continuation and normalisation of sexual violence as a form of domination against these bodies, and that, in many cases, it is not possible to speak of a single episode of sexual violence, but of several episodes in a person's life, as well as that of their family members and their support networks. In these contexts, usually militarised settings, victims have often experienced sexual violence committed by members of armed groups associated with the armed conflict, but also by civilians (family members, acquaintances, and strangers), and by members of armed groups not necessarily related to the armed conflict.¹⁰

2 Grupo de Memoria Histórica (GMH), *¡Basta ya! Colombia: Memorias de guerra y dignidad* (Imprenta nacional 2013) 77.

3 Mesa de Seguimiento a la Situación de Impunidad en Violencia Sexual (MSSIVS), 'Acceso a la Justicia para Mujeres Víctimas de Violencia Sexual. Sexto Informe de Seguimiento al Auto 092 y Primer Informe de Seguimiento al Auto 009 de la Corte Constitucional' (March 2016).

4 Centro Nacional de Memoria Histórica (CNMH), *'La guerra inscrita en el cuerpo. Informe nacional de violencia sexual en el conflicto armado'* (CNMH 2017).

5 Bill McClanahan, Tatiana Sanchez Parra, and Avi Brisman, 'Conflict, environment and transition: Colombia, ecology and tourism after demobilisation' (2019) 8(3) *International Journal of Crime, Justice and Social Democracy* 74.

6 Diana Ojeda, 'Los paisajes del despojo: propuestas para un análisis desde las reconfiguraciones socioespaciales' (2017) 52(2) *Revista Colombiana de Antropología* 19.

7 Estefanía Ciro Rodríguez, *Levantados de la selva: Vidas y legitimidades en los territorios cocaleros del Caquetá* (Ediciones Uniandes-Universidad de los Andes 2019).

8 CNMH 'La guerra inscrita en el cuerpo' (n 4).

9 Mara Viveros, 'La interseccionalidad: una aproximación situada a la dominación' (2016) 52 *Debate Feminista* 1.

10 Casa de la Mujer et al., 'Primera encuesta de prevalencia "Violencia sexual en contra de las mujeres en el contexto del conflicto armado colombiano". Colombia 2001-2009'. Campaña 'Violaciones y otras violencias. Saquen mi cuerpo de la guerra' (9 December 2010) <https://saquenmicuerpodelaguerra.files.wordpress.com/2013/03/1er-informe-de-prevalencia3.pdf> accessed 23 April 2021.

2. Characteristics and scope

2.1. Scale, scope, types, and patterns of crime

According to figures from the UARIV, the government agency in charge of implementing the national reparations programme, the Unique Register of Victims (*Registro Único de Víctimas* – RUV) reports 9,250,453 people as victims of the armed conflict as of 28 February 2022. Of these, 34,769¹¹ are registered as victims of “crimes against sexual freedom and integrity in the armed conflict”,¹² of which approximately 31,303 are women, 559 are people who identify as lesbian, gay, bisexual, trans, intersex or other queer constructs (LGBTIQ+), and 2,906 are men.¹³ Although the systematisation of CRSRV can be identified from the 1980s, these practices increased from the 1990s and reached their highest levels between 2000 and 2005.¹⁴ For example, the Constitutional Court has monitored 627 cases of sexual violence associated with the armed conflict, of which 331, or 59.8%, occurred between 2000 and 2006, with 2004 being the year with the highest number of cases (66).¹⁵ The OMC, part of the CNHM, has identified that of the 15,760 persons registered in its CRSRV database, 45.65% of the cases occurred between 2000 and 2005, with 2002 being the year with the most cases (1,490).¹⁶

The Commission for the Clarification of Truth, Coexistence and Non-Repetition (*Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No*

Repetición – CEV), a mechanism created by the Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace between the government of Colombia and the FARC-EP in 2016, has identified the following CRSRV practices committed in armed conflict as a guide for its investigations: rape, threat of rape and/or sexual violence, sexual harassment, forced contraception and/or sterilisation, forced pregnancy, forced abortion, human trafficking for sexual exploitation, sexual slavery, forcing the witness of sexual acts, forcing to perform or receive sexual acts of any kind, torture during pregnancy, forced motherhood or parenting, forced nudity, mutilation of sexual organs, and forced changes in gender corporeality and performativity.¹⁷

As can be seen in this categorisation, in the context of the Colombian armed conflict some practices of sexual violence are directly associated with forms of reproductive violence such as forced pregnancy, difficulties in conceiving after rape, and forced motherhood. However, there are also reproductive violence practices outside of sexual violence. An example of this is the abortions caused by the use of glyphosate, which began to be used by the Colombian Government in 1978 for the eradication of illicit crops. Within guerrilla and paramilitary groups, practices of forced contraception and forced abortions have come to light which may have had long-term effects on women’s reproductive systems. It has also been discovered that peasant families have been forced by the FARC-EP to raise children born within their ranks.

11 To put into context, as of January 2022, the most common victimising event registered in the RUV was forced displacement with 8,219,403 people registered, followed by homicide with 1,074,389 people, 544,301 for threats, 188,354 for forced disappearance, 31,989 for abandonment and/or forced dispossession of property, and 37,496 for kidnapping. See: Unidad Administrativa Especial para la Atención y Reparación Integral a las Víctimas (UARIV), Red Nacional de Información <https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394> accessed 3 March 2022.

12 Ibid. Within the category of victimising acts relating to crimes against sexual freedom and integrity, the UARIV includes “forced abortion, forced contraception, forced exploitation, trafficking of persons, sexual abuse, forced pregnancy, child pornography, violent sexual intercourse, sexual slavery, sexual mutilation, forced prostitution, sexual harassment, servile marriage, forced domestic services, commercial sexual exploitation of children and adolescents”. The RUV does not consider a category of “reproductive violence” so that acts constituting violations of reproductive autonomy, which fall outside the sphere of sexual autonomy, are also included in the category of “Crimes against sexual freedom and integrity”. See: UARIV, ‘Estrategia de reparación integral a las mujeres víctimas de violencia sexual’ (January 2018) <https://www.minjusticia.gov.co/Sala-de-prensa/PublicacionesMinJusticia/Mujeres%20Victimas.pdf> accessed 7 April 2022.

13 UARIV, ‘Día Nacional por la Dignidad de las Mujeres Víctimas de Violencia Sexual en el Marco del Conflicto. Infograma’ (May 2021) <https://www.unidadvictimas.gov.co/especiales/mujertuozesdignidad/index.html> accessed 17 January 2022; UARIV, ‘Red Nacional de Información’ (n 11).

14 GMH ‘¡Basta ya!’ (n 2); CNMH ‘La guerra inscrita en el cuerpo’ (n 4).

15 MSSIVS ‘Acceso a la Justicia para Mujeres Víctimas de Violencia Sexual’ (n 3). Relevant information on the role of the Constitutional Court in relation to these cases and its Autos 092 of 2008 and 009 of 2015 can be found in Chapter VI, section 2.1 of this Study.

16 Observatorio de Memoria y Conflicto (OMC), ‘El conflicto en cifras: Violencia sexual’ <http://micrositios.centrodememoriahistorica.gov.co/observatorio/portal-de-datos/el-conflicto-en-cifras/violencia-sexual/> accessed 12 July 2021.

17 Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No repetición (CEV), ‘Guía para el abordaje de las violencias sexuales en la Comisión de la Verdad’ (2019) 102-107.

In cases where victims of CRSRV give birth, the transgenerational impact is reflected not only in the person who is born but also in the older women in the family. Because of the many physical, psychological, and emotional impacts on survivors, it is often other women in their family or community who take on responsibility for raising and caring for both the children who are born and the women and girls who gave birth, even though these women have also often suffered various experiences of violence, including sexual violence.¹⁸ The serious health effects for people who have experienced sexual violence are worsened by the lack of access to timely care that could respond to the impacts on their reproductive autonomy and health, which has implications for their life projects.

Although sexual and reproductive violence by armed groups has been perpetrated against the entire population, it has been directed to a greater extent against women and girls, and people with non-normative sexual orientation and gender identity. In these cases, CRSRV has been committed within the logic and practices of prejudice-based violence. In scenarios outside of war, society in general has normalised discrimination and violence against people who do not conform to heteronormative gender and sexuality norms, branding them as transgressors of the dominant moral order. Thus, in contexts of war, violence against these people is legitimised, even understood as teaching them a lesson.¹⁹ This legitimisation of violence reinforces the dynamics of silence and impunity, as victims often do not report incidents because of their past experience showing that institutions, social groups, and even families tend to blame them for the violence they have experienced.²⁰

Although discrimination and prejudice-based violence is widespread, women and LGBTIQ+ people face different levels of risk from violence perpetrated by armed groups related to aspects such as their family's socio-economic position and their ethno-racial identity.²¹ Sexual and reproductive violence committed by armed groups against these people is often accompanied by other forms of violence such as forced displacement and threats, and tends to seek not only to humiliate and teach a lesson to the individual, but also to wipe out social and political leadership and send messages to the LGBTIQ+ community for not responding to dominant gender and sexuality norms.²²

2.2. Profiles and mapping of victims

Sexual violence has had an especially high impact on women and girls,²³ as well as people with non-heteronormative sexual orientation and gender identity.²⁴ However, the militarisation of the country within the war dynamics as explained above has further increased the risk of CRSRV in rural communities with agricultural lifestyles and where the ancestral territories of indigenous peoples and black, Afro-descendant, Raizal, and Palenquera people are located. CRSRV has also been used by armed groups as strategies to silence and intimidate political leaders, defenders of human rights, life, and territory,²⁵ and journalists.²⁶

The UARIV indicates that as of January 2022, of the 31,147 women included as victims of sexual violence committed by armed groups in the RUV, 73% did not include information on their ethnicity. Of the 27%

18 Corporación Humanas, *Violencia sexual contra mujeres en Tumaco. Documentación y reflexión sobre los daños en mujeres racializadas*. (Ediciones Ántropos 2018); Taiana Sánchez Parra, Teresa Fernández Paredes, 'Maternidades forzadas: Realidades ocultas de violencia reproductiva en el conflicto armado colombiano' Informe presentado a la Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición (Instituto de Estudios Sociales y Culturales Pensar, 13 October 2020).

19 Corporación Caribe Afirmativo, 'Juguemos en el bosque mientras el lobo no está. Violencias en el marco del conflicto armado contra niñas, niños y adolescentes con orientaciones sexuales, identidades y/o expresiones de género diversas en Colombia' Informe entregado a la Comisión para el Esclarecimiento, la Verdad, la Convivencia y la No Repetición (Corporación Caribe Afirmativo 2020).

20 CNMH, *Aniquilar la diferencia. Lesbianas, gays, bisexuales y transgeneristas en el marco del conflicto armado colombiano* (CNMH, UARIV, USAID, IOM 2015).

21 Ibid.

22 Corporación Caribe Afirmativo, *Resistimos Callando, Re-existimos gritando. Memorias y experiencias de sujetos colectivos LGBT en el marco el conflicto armado en Colombia, Informe entregado a la Comisión para el Esclarecimiento, la Verdad, la Convivencia y la No Repetición* (Corporación Caribe Afirmativo 2020).

23 CNMH 'La guerra inscrita en el cuerpo' (n 4).

24 CNMH 'Aniquilar la diferencia' (n 20).

25 Julia Zulver, 'The endurance of women's mobilization during "patriarchal backlash": a case from Colombia's reconfiguring armed conflict' [2021] *International Feminist Journal of Politics* 1.

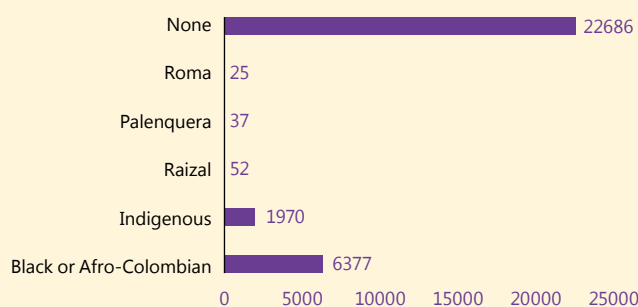
26 Corporación Sisma Mujer, 'Boletín nº 26. 25 May 2021. Día Nacional por la Dignidad de las Víctimas de Violencia Sexual (2021) <https://www.sismamujer.org/wp-content/uploads/2021/08/Boletin-25M-2021.pdf> accessed 17 April 2021.

who did report their ethno-racial identity, 20% are black or Afro-Colombian.²⁷ The Memory and Conflict Observatory (*Observatorio de Memoria y Conflicto – OMC*)²⁸ indicates that of the 15,886 people registered in its database for sexual violence in the context of the war as of 21 December 2012, 1,227 are Afro-descendants, 184 are indigenous, 0.29% Palenquera, and 0.14% Raizal. Of the 31,147 women registered in the RUV, 472 were between 12 and 17 years old (1.5%), 3,682 between 18 and 28 years old (12%) and 25,514 between 29 and 60 years old (82%).²⁹ In the case of people with diverse sexual orientation and gender identity, it has observed that armed groups have mainly attacked young people and adolescents³⁰

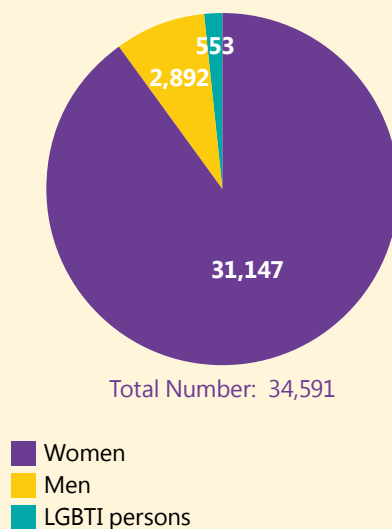
between 18 and 26 years of age.³¹ 13% of women in the RUV registered as having a disability.³²

In terms of reproductive violence, particularly in relation to persons born of CRSRV, Colombia was the first country in the world to recognise children born as a result of sexual violence in the context of war as victims of the armed conflict, through its Law 1448 of 2011 (explained in detail below).³³ However, there is today a huge under-recording of these people, as well as an important shortage of knowledge about their situation and experiences. For example, as of July 2016, the RUV had only registered 533 persons born of war, compared to 19,684 persons registered as victims of

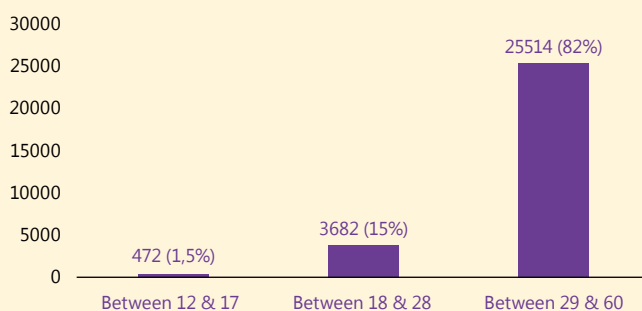
ETHNIC IDENTITY



SEXUAL ORIENTATION AND GENDER IDENTITY



AGE OF VICTIMS AT THE TIME OF INCIDENTS



Source: Red Nacional de Información RUV, as of 31 January 2022

A total of 31,147 women registered in the RUV for crimes against sexual integrity and freedom. Source: Red Nacional de Información RUV, as of 31 January 2022

27 UARIV (n 13).

28 WTO (n 16).

29 UARIV 'Red Nacional de Información' (n 11).

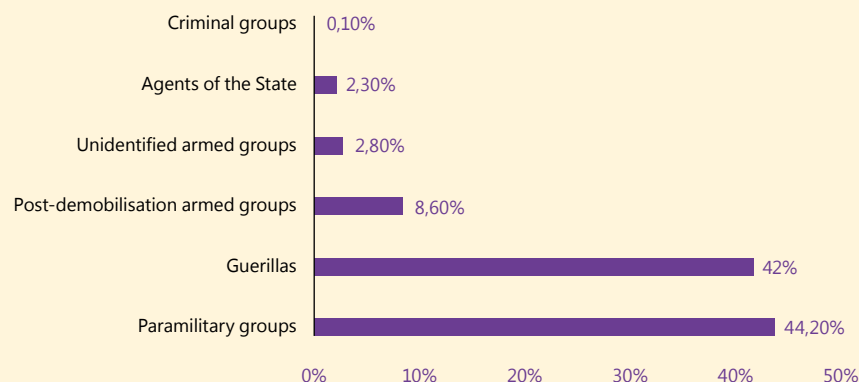
30 Corporación Caribe Afirmativo 'Juguemos en el bosque mientras el lobo no está' (n 19).

31 CNMH 'Aniquilar la diferencia' (n 20).

32 UARIV (n 13).

33 Tatiana Sanchez Parra, 'The Hollow Shell: Children Born of War and the Realities of the Armed Conflict in Colombia' [2018] International Journal of Transitional Justice 45.

PERPETRATORS



Source: Observatorio de Memoria y Conflicto del Centro Nacional de Memoria Histórica

sexual violence.³⁴ By October 2020, the register had increased to 965, a figure that has been maintained since the end of 2019.³⁵ In the case of the former FARC-EP guerrillas, these forms of reproductive violence were part of the organisation’s policies, and the Office of the Attorney General estimates that they carried out at least 1,000 forced abortions a year.³⁶

2.3. Profiles of perpetrators

As already indicated, sexual violence has been perpetrated by all legal and illegal armed groups, with both right-wing and left-wing political affiliation, within their ranks and against civil society.³⁷ Although quantitative information is scarce, the main perpetrators have been respectively identified as paramilitary groups, guerrillas, and the armed forces, although some variations exist in different databases. The OMC, for example, indicates that the perpetrators of sexual violence recorded for the 15,886 persons in its database are: 44.2% paramilitary groups, 42.0% guerrillas, 8.6% post-demobilisation

armed groups, 2.8% unidentified armed groups, 2.3% State agents, 0.1% criminal gangs. On the other hand, of the 331 cases monitored by the Constitutional Court regarding sexual violence associated with the armed conflict between 2000 and 2006, 96 were perpetrated by paramilitaries, 33 by security forces, 29 by guerrillas, 6 by security forces and paramilitaries, 17 by unidentified armed groups, 8 by civilians, 4 by criminal gangs, and 138 have no information.³⁸

Although CRSRV has been perpetrated by all armed groups, some forms of CRSRV have been more directly associated with the practices of specific groups. In paramilitary groups, for example, patterns of sexual violence associated with eradicating political leadership have been more frequently identified, including reports by women human rights defenders and journalists.³⁹ Sexual violence has also been used more systematically alongside other forms of violence such as massacres, forced displacement, land dispossession, and detention.⁴⁰ Paramilitary groups are also most frequently associated with sexual violence against people of diverse sexual orientation and gender

34 Ibid.

35 Interview with UARIV official (Zoom, June 2021).

36 Women’s Link Worldwide, ‘Una violencia sin nombre: Violencia reproductiva en el conflicto armado colombiano’ (2020) <https://www.womenslinkworldwide.org/files/3163/informe-completo-una-violencia-sin-nombre-violencia-reproductiva-en-el-conflicto-armado-colombiano.pdf> accessed 7 April 2021.

37 GMH ‘¡Basta ya!’ (n 2).

38 MSSIVS ‘Acceso a la Justicia para Mujeres Víctimas de Violencia Sexual’ (n 3).

39 GMH ‘¡Basta ya!’ (n 2).

40 CNMH ‘La guerra inscrita en el cuerpo’ (n 4).

identity, followed by guerrillas and security forces.⁴¹ The violence committed against these people is part of military projects that seek to reinforce moral values, radicalising a discourse of hatred against groups of people who are believed to threaten the values of the dominant social order. In this way, violence against people with non-normative sexual orientation and gender identity has been identified more frequently in paramilitary groups alongside violence against other people such as sex workers, street dwellers, and people who consume psychoactive substances.⁴²

In guerrilla groups, on the other hand, recurrent associations have been observed between sexual

and reproductive violence and forced and child recruitment, both prior to recruitment and within the ranks. Reproductive violence, particularly forced abortions and forced contraception, has also been identified in such contexts.⁴³ In the armed forces, for example, a frequent form of sexual harassment known as “falling in love” with women and girls from indigenous peoples⁴⁴ and Afro-descendants⁴⁵ has been identified. In these cases, armed actors seek to obtain information from these women and girls, deceiving them, often impregnating them, and putting them and their communities at risk as this exposes them to accusations and violence from other armed groups.

41 CNMH ‘Aniquilar la diferencia’ (n 20).

42 Ibid.

43 Women’s Link Worldwide ‘Una violencia sin nombre’ (n 36).

44 Centro Nacional de Memoria Histórica and Organización Nacional Indígena de Colombia (CNMH, ONIC), *Tiempos de vida y muerte: memorias y luchas de los Pueblos Indígenas en Colombia* (Bogotá, CNMH-ONIC, 2019).

45 Corporación Humanas ‘Violencia sexual contra mujeres en Tumaco’ (n 18).



IV. SURVIVORS' PERCEPTIONS, NEEDS, PRIORITIES AND RISKS

This section of the report is written with the voices and perceptions of victims. It provides a space for the reader to listen to their experiences and to understand more closely what is at stake for them. These experiences, as indicated in the methodological section of this report, were collected during meetings in which semi-structured interviews and focus groups were used among other tools. This section builds on what they said in these spaces and is structured around four main themes: individual, family, and community impacts; victims' needs and perceptions of reparation; risks and security; and victims' agency.

1. Impacts of conflict-related sexual and reproductive violence on victims, their families, and communities

The impacts of CRSRV have short, medium, and long-term individual and collective effects on the physical, emotional, and mental health of each victim, their families, and their communities. At the same time, for victims who belong to indigenous, black, Afro-descendant, Raizal, and Palenquera peoples, whose worldviews are based on harmonious ancestral relationships with their territories, CRSRV also has spiritual impacts, and impacts that break the harmony of their ecosystem's life cycles. Furthermore, CRSRV has effects on the continuity of communal ways of life for ethnic peoples and peasant communities. As these ways of life are based on the collectivisation of social relations, such as economic and spiritual relations, the serious individual effects on the victims limit their participation in this collective life. This worsens the living conditions of these communities, which are often impoverished, and increases the marginalisation of the people who have experienced

CRSRV by weakening or destroying their livelihoods and support networks.

1.1. Impacts of CRSRV within a continuum of violence

“What happened to us happened because we were a forgotten community. We can't count on the State, can't count on the police. For the national strike, the president ordered the militarisation of the country, but they didn't send anyone to us.”⁴⁶

Survivors do not narrate the impacts that CRSRV has had on their lives, their families, and communities in isolation. They narrate them in a relational way, within a continuum of structural, daily, and conflict-related violence. For example, they are described in association with discrimination and aggressions related to their gender identity, sexual orientation, ethno-racial, and class identity, or other forms of conflict-related generalised violence such as forced displacement. As indicated by one victim:

Because the armed groups come and then that's what happens, I mean, one violence leads to another, from being recruited, to not being able to continue my studies, to my body having to go through so many things, to feeling like an object, because from then on, I feel that I am an object.⁴⁷

“What hurts me most is my heart.”

46 LACOLASOB01, San Miguel, Cauca, Colombia (20 August 2021).

47 LACOLCAFGT01, Betania, Antioquia, Colombia (21-22 August 2021).

Within the continuum of gender-based violence, for some victims, sexual violence committed by armed groups is only one of the forms of sexual violence they have experienced throughout their lives. These survivors narrate how at different times in their lives they have experienced sexual violence committed by family members, members of their communities, or strangers in contexts unrelated to the armed conflict.⁴⁸ Victims describe how each of these experiences has left different physical, mental, emotional, and social impacts, and in some cases it is the sexual violence committed outside of the war context that has left the deepest marks on their lives.⁴⁹ For example, this can be the case with experiences of sexual violence during childhood committed by family members or close family members whom the girls trusted. However, the aggregate of these experiences throughout life, including those committed by armed groups, also has its own implications for survivors' lives. This can be seen, for example, in the normalisation of sexual violence against themselves as well as against other women and girls, and in the normalisation of impunity for sexual violence. As explained by the victims:

"(...) at that moment I tried to make myself blind, not to focus on what had happened, but on what could happen, and I decided to keep going, to ignore it many times. Because finding out what sexual violence is, I understood that many times I was a victim of sexual violence; when without my asking for it, men would show me their penis on a bus and masturbate in front of me. And, obviously, I was afraid because I was very little, I didn't know what to do or what to say, so I kept quiet because I was a child."⁵⁰

"They took me to file the lawsuit and I was all bloody and in pain, and they told me that I couldn't file the lawsuit because I was a minor, that it had to be with an adult. I said 'no, not my mum... I mean, I didn't

want my family to find out'. I went to my mother's stepmother and I asked her if she could do me a favour, to file the lawsuit, because I couldn't do it because I was underage. 'No, no, call her mum, her mum has to find out, well come on, if she was raped, she has to find out'. After all that convincing, they called my mother. My mum was shouting (...). What hurts me most is my heart. Because the mistreatment, the marks on my neck, and the mistreatment of my vagina are forgotten. What hurts me most are, I don't know... [crying]. I had to get over it alone, all by myself, because my mother's words were: 'I didn't send you, if you were raped it was because you wanted it, I didn't send you to go there.'⁵¹

"Because of what we are experiencing, girls and teenagers (...) begin to be more afraid. From the time they are little girls, they start to change the way they live. Because the truth is that there are places where this is happening: 'if this happened to my mother, you should be afraid'. And that's how it happens in the homes, the girls, the teenagers start to be afraid. And they don't let them speak, because from an early age they are already silenced."⁵²

Prejudice-based violence due to sexual orientation, gender identity, and gender expression has intersected the lives of LGBTIQ+ victims. These victims have historically been singled out, discriminated against, and assaulted by mainstream society for not conforming to the binary roles and criteria of the heteronormative regime.⁵³ For these victims, the impacts of CRSRV on their bodies and lives are part of a history of violence that has sought to annihilate them and deny their existence.⁵⁴ Victims narrate how CRSRV has been used against them to eliminate, discipline, and punish bodies and lives that have been branded as "sick", "deviant" and "an attack on morality". They explain:

48 LACOLASFGT03, San Miguel, Cauca, Colombia (20-21 August 2021).

49 Ibid; Interview Adriana Benjumea, Executive Director of *Corporación Humanas* (Zoom, 15 February 2021).

50 LACOLCAINT03, Betania, Antioquia, Colombia (22 August 2021).

51 LACOLCAINT05, Betania, Antioquia, Colombia (22 August 2021).

52 LACOLASFGT01, Caloto, Cauca (30 and 31 August 2021).

53 LACOLCAFGT01, Betania, Antioquia, Colombia (21 August 2021).

54 Ibid.



Group of survivors of sexual violence (2021)
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This is done (...) by society itself. It is society that has immersed us in misery, immersed us in discrimination. (...) I would like to arrive (...) and for them not to say: "here comes the transvestite, here comes the faggot, here comes the 'roscón'". No, they should say: "here comes (victim's name)", no more. Explain it to me as a human being.⁵⁵

It would be nice one day not to live in a commune but in a quieter part of town, to have a house, and that no one knows you or threatens you, or that they are not shouting at you and treating you badly, or disrespecting you. In a village they also treat you very badly: "dirty, faggot", in many ways. There are people who look at you as if you were a devil.⁵⁶

55 LACOLREDFGT08, Bogotá, Colombia (13-15 August 2021).

56 LACOLCAINT04, Betania, Antioquia, Colombia (22 August 2021).

In these contexts of discrimination and exclusion, LGBTIQ+ victims have described how, on the one hand, society at large has legitimised all kinds of violence against them, including sexual violence, by labelling them as “deviant from moral norms”. Indeed, victims point out, it has often been assumed that they have sought, encouraged, and even enjoyed the sexual violence to which they have been subjected.⁵⁷ On the other hand, victims remark that in many cases it is the communities themselves that have encouraged armed groups to violate LGBTIQ+ persons, because they consider them to be a risk to the moral values of conservative, heteronormative, and patriarchal societies.⁵⁸ This is how the victims perceive it:

“In our LGBTI population we have been a very vulnerable population, very singled out, because we are always singled out and even more so when a case like this [of sexual violence] happens to us. The first thing they do is to label us and say: ‘that happened to him because he is a faggot, and may it continue to happen to him and may it happen to him more.’”⁵⁹

Because obviously trans women sex workers, street dwellers, and prisoners are exposed to this type of sexual violence; in a prison a trans woman is raped by up to nine, ten, fourteen men a day and nothing happens.⁶⁰

When I was forcibly displaced from there, I had been starting a hairdressing salon and all that we... we practically had to give it away, because I ran away (...), because they told me: “go away, they’re going to kill you all, that they had already killed two gay men, and I was next”.⁶¹

On the other hand, CRSRV has often been committed in conjunction with other forms of conflict-related violence, especially forced displacement and land dispossession. CRSRV has been used both to force the displacement of survivors and their communities from their places of housing, work, and political activities, but is also committed during displacement and in the places of arrival. Survivors highlight how the contexts of forced displacement have put them at risk of further experiences of sexual violence by armed actors and other people. Victims also indicate that these contexts exacerbate the physical, mental, and emotional impacts of CRSRV. This is because the security, socio-economic, and mobility conditions related to forced displacement make it difficult for survivors to have access to fundamental resources for their recovery, such as justice, holistic health care, and support networks. As expressed by the victims:

I fled the countryside, and there were no support networks or you didn't know about them. The silence you have to have in these situations because if you talk they can kill you (...). I tried to commit suicide because I didn't have my mother, I didn't have anyone. So I came to live with a man who was an abuser, I had my children, I put down the plastic dolls, I picked up a rifle and then I picked up the meat dolls.⁶²

57 LACOLCAINT05 (n 51).

58 LACOLCAINT05 (n 51); LACOLREFGT01, Bogotá, Colombia (23-25 July 2021); LACOLREDFGT07, Bogotá, Colombia (13-15 August 2021).

59 LACOLREDFGT08 (n 55).

60 LACOLCAINT03, Betania, Antioquia, Colombia (22 August 2021).

61 LACOLCAINT04 (n 56).

62 LACOLCAFGT01 (n 53).

If I go back and think about what would have become of me if they hadn't made me come from the village, if they hadn't threatened me, I think I would have been fine economically, I would have perhaps been the best hairdresser in the village. And I would never have thought to come here to put myself in the communes, to the first neighbourhood that welcomed me, to a house where my sister lived with her husband, to lock myself up with a lot of fear. They induced me, after two months of crying and crying, because I saw no other option but to go into prostitution (...) to bring something to the house. I felt like a burden.⁶³

For members of the peasant communities, the uprooting that comes with forced displacement has implied a radical rupture of their agricultural way of life, which includes being part of supportive and collective economic relations. These dynamics have forced them to leave their familiar contexts, transforming the ways in which they see themselves and their community roles. For survivors belonging to Afro-descendant communities, for example, the traditional subsistence farm system ensures not only the production of food and products to sustain the nuclear family, but also the reproduction of cultural expressions of Afro-descendant peoples. In this sense, the loss of the link with this economic and cultural system has caused precariousness in the living conditions of the survivors and their communities, infringement of their territorial and ethnic rights, and profound detrimental effects on food independence and security. The victims explain:

Because imagine being old, and what am I going to live on? I have nothing to live on. Then I would look for something to live on. What am I going to eat? I don't have to think about food, I don't have to think about anything, about a change of clothes, all that. So that's what is missing. When I was in my land I didn't suffer from this, because every three months we went to the village with the harvest to sell it, we bought what we needed.⁶⁴

And with what the government now can give you as reparations, that is not enough for anything because in any case what you lost, the crops you had and all those things that were lost when they [the paramilitary groups] didn't let you go to your farm to pick up your livelihood. So with that they are not going to repair all the harm that was caused, one having to leave everything behind while they were in this territory.⁶⁵

Displacement has forced survivors and their families to live in marginalised areas of cities in impoverished conditions and often without support networks. Survivors describe that this worsens the impacts of CRSRV in the short term and generates new impacts, amidst much uncertainty due to the impossibility of return, which makes the process of individual holistic healing more difficult in the long term. As demonstrated in the following testimonies:

There was also a disintegration of the family because at least my cousins and brothers had to go to other places for fear of being recruited.⁶⁶

I am a country person in that way, where we are all doing well, because we are doing well in the country, aren't we? The land gives us everything. We are humble there, but we have everything until some wretched people come along and make us leave.⁶⁷

In these contexts of forced displacement, survivors from both rural and urban contexts are forced to seek means of subsistence that put their physical security at risk and threaten their mental and emotional health. They are also more likely to enter into sexual, affective, and work relationships which are based on economic dependencies, where they are constantly exposed to violence of different kinds, including sexual violence. For example, several of the survivors indicated that displacement and the loss of their own modes of production led them to domestic work in the cities or to sex work as their main economic outlet, where they are exposed to continuous racist, classist, and sexist experiences in contexts of precarious employment.

63 LACOLCAINT04 (n 56).

64 LACOLREINT01, Bogotá, Colombia (15 September 2021).

65 LACOLASFGT02, Lomitas, Cauca, Colombia (12-13 August 2021).

66 Ibid.

67 LACOLREDFGT08 (n 55).



Body mapping activity with survivors (2021)

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They pointed out:

Before, I worked the mine, the harvest, my father was a cattle rancher and had a lot of cattle. And after, when I arrived here in Bogotá I started to work in construction, I cleaned flats in certain buildings and they gave me the contract to clean a flat, to hand it back over to the owners, and well. And that's how my life has been.⁶⁸

I had to become a prostitute (...) I think it is a super horrible consequence, how after that happened to you, there were no tools or anything, so many women had to prostitute ourselves, because there was nothing to do, there was nothing else to do. (...) So I also said, well fuck it, I'm going to do it. So it's also a consequence, doing things that you don't like doing, you have to, to be drunk in order to ... get drunk to the point of, of not feeling, to depersonalise yourself, to get out of your body.⁶⁹

⁶⁸ Ibid.

⁶⁹ LACOLCAFGT01 (n 47).

Within the continuum of structural violence historically experienced by rural communities and ethnic peoples in Colombia, CRSRV has exacerbated the community impoverishment conditions and has threatened the continuation of the peasant and ancestral indigenous and Afro-descendant ways of life. CRSRV, and its constant threat in militarised rural contexts, has interrupted the transmission of cultural and agro-ecological knowledge essential for community social reproduction, either because survivors have been displaced or because they have been unable to continue the collective practices where knowledge was traditionally transmitted. These practices include, for example, bathing and washing clothes in the river, midwifery meetings, social gatherings, traditional festivals, mining, and collective agriculture. As told by the victims:

“All that started to disappear because we didn’t meet anymore, we lost trust and they sowed terror and a lot of fear.”⁷⁰

In terms of education, the school was closed, everything ended, the football tournaments were lost. We couldn’t hold the traditional festivals anymore because of the fear we had because they [the armed actors] lived in our community, they kept themselves armed. You couldn’t go out to work, and I remember that the women who were at that time working in Cali or living outside the community, they had to present an HIV test to reassure them, and then the women could enter the community.⁷¹

“The community became a ghost town. The women could not return to the farm. Most of them had worked on the farms that they [armed groups] occupied.”⁷²

Well, I say that the community (...) was singled out, stigmatised. Because (...) we were singled out for being from the community. (...) And the community was never the same again, because there were many traditions that were lost, a lot of culture, many typical foods (...). Because, for example, vori used to be grown here, and because of all this people didn’t go back to the hill, they didn’t go back to the farm to cultivate it. And this crop was lost, and it was an endangered crop.⁷³

In terms of the relationship between CRSRV and other forms of conflict-related violence, survivors who engaged in sex work, forced prostitution, and survivors from the LGBTIQ+ population highlight the relationship between CRSRV, enforced disappearance, and impunity.⁷⁴ In the case of the LGBTIQ+ population, the historical structural violence they have experienced has made it common for them not to remain in the same place in the long term. They move in search of spaces where they can live free from the constant accusations and exclusion they experience as a result of their non-heteronormative sexual orientation, gender identity, and gender expression. This has meant that communities do not question the absence of LGBTIQ+ people, or even celebrate its absence. Victims point out that these contexts have obscured the CRSRV experiences of those who have been forcibly displaced and those who have been disappeared by armed groups.

70 LACOLASINT07, San Miguel, Cauca, Colombia (15 August 2021).

71 LACOLASOB01 (n 46).

72 LACOLASFGT02 (n 65).

73 LACOLASINT03, San Miguel, Cauca, Colombia (20 August 2021).

74 LACOLCAFGT01 (n 47).

For biological families, and families built throughout their lives, this creates many challenges in the search for those who have been disappeared. The situation is similar for survivors who were engaged in sex work or those who experienced forced prostitution. These victims indicated that:

"I lived through the violence working in prostitution. The paramilitaries cut off my hand, they forced me to be with other women, I saw my companions disappear."⁷⁵

"And I ask myself who has dared to stand up in front of the institutions, to expose their life and their body, to expose their story, that I was a whore, because I was ashamed to tell it, so that other people will join us and other people will speak and say to me "why are you asking and protesting for them [disappeared comrades]?" and I will say "ah, why am I protesting? Because I lived it, because it hurt me, it happened to me. Because they matter to me, because in many territories in Colombia there must be bodies of these women and they must give us the truth, there must be a report, there must be investigations and there is almost nothing, there is no data, there is almost nothing about this type of population, both trans and cis, so that is why, for me it would be a way of providing reparation for these women."⁷⁶

In intra-party contexts, the survivors of sexual and reproductive violence in armed groups who participated in this research narrate the occurrence of these events in relation to other violence, particularly related to forced recruitment and kidnapping by armed groups. They indicated the following:

In the armed group and so on, well I lost my right leg in clashes we had. Yes. Well, because of that I was affected, because I have never been able to get a prosthesis or anything. And a process for my prosthesis can take four or five years, and I still have the same damaged prosthesis. That would be the biggest need.⁷⁷

Various guerrilla members went this way, well for this figure to represent the guerrilla members, that, for a long time, for 9 months and 15 days, I was kidnapped for a long time, very abused, beaten, mistreated and even at the time of my rape, first the leader abused me and then they said: "Who wants to eat". This had a big impact on me because it is not easy, knowing that you are a victim of sexual violence at the time by so many men.⁷⁸

1.2. Impacts on victims' physical, mental, and emotional health

Within the continuous intertwining of structural, daily, and conflict-related violence experienced by survivors, the impacts of CRSRV can cause changes in their bodies and personalities with short, medium, and long-term consequences. In terms of the impact on their holistic health, survivors highlighted the direct effects that CRSRV has had on their reproductive health. They also explained how the lack of adequate and timely health care resulted in the worsening of the initial impacts and the emergence of new health consequences. In this regard, they stated, for example, that:

One of the conclusions we have come to in many events, in many conversations with women victims of sexual violence, men and boys and girls, is that illness that remains. In other words, all that pain is somatised in bodily illnesses, so you look and most of the women with ovarian cancer, uterine cancer. It is all that pain, one somatises it as in that part of the uterus, of the genital organs because they were the ones that were hurt.⁷⁹

75 Ibid.

76 Ibid.

77 LACOLREINT03, Bogotá, Colombia (15 September 2021).

78 LACOLREDFGT06, Bogotá, Colombia (23-25 July 2021).

79 LACOLCAINT01, Betania, Antioquia (22 August 2021).

In addition, victims have reiterated that the spread of sexually transmitted infections (STIs) has had a profound impact on their physical, mental, and spiritual well-being. In their words:

“They are the diseases that we got, venereal diseases, the fracture of our belly. When, because of that fracture of our belly, many of us women are suffering from the uterus and we always have to wear towels, it’s all of that [...]. That sacred part that was trampled underfoot, and that even today there are those painful roots in our physical being.”⁸⁰

In several cases, survivors described how the spread of STIs led to chronic illnesses due to a lack of adequate, timely, and quality care to treat the primary infection. This situation also has an impact on the mental and emotional health of survivors, who describe feeling powerless, angry, and frustrated as they watch their bodies gradually deteriorate.

For example, in the case of sexual violence, one impact can be urinary incontinence in the case of women, but there are impacts that may not be so directly related to the act itself, but that are generated by poor care. So I arrived with a sexually transmitted infection, but because they didn't treat it in time, it became a chronic illness, a permanent illness that even made them have to operate on my bladder.⁸¹

What the doctor says about poor care can also happen with trans women who were raped by the guerrillas, and who also got syphilis. So, the impact there is not only the rape, because we know that syphilis is a disease that you may not know you have, but it reaches the brain, it can give you neurosyphilis. Because it's not just saying they raped her and that's it, from there onwards there's more.⁸²

Along with STIs, survivors also emphasise the impacts that CRSRV has had on their mental health at different points in their lives. Survivors describe that aspects such as anxiety, fear, anger, and deep sadness over time and when they do not receive adequate and timely care, have worsened their holistic health. This can be, for example, because it creates other mental and emotional health consequences, leading them to self-medicate or to use substances such as alcohol, as mentioned earlier in this section. They shared with us that:

I would think that the psychological issue is strong, not to mention another sexually transmitted disease that affected me and that affects me all the time.⁸³

That will never be forgotten because it will always be there, and it will hurt us when it has to hurt. Because it will always hurt. (...). Because the pain has passed a lot but the pain still is there. And many times there is a, um, a thing in the deep unconscious that comes back and comes out at night when you are asleep. So many times at night, uh, that deep unconscious brings up all those kinds of things that make you wake up and that's why I'm, uh, on psychiatric medication, with the psychiatrist.⁸⁴

80 LACOLREDFGT06 (n 78).

81 LACOLREDFGT09, Bogotá, Colombia (13-15 August 2021).

82 Ibid.

83 LACOLREINT05, Bogotá, Colombia (11 August 2021).

84 LACOLCAINT04 (n 56).

In the medium and long term, these impacts of CRSRV on the mental, emotional, and physical health of survivors contribute to the creation of dynamics of isolation, detrimental to their wellbeing, economic independence, and holistic recovery. Victims report that these impacts lead to transformations in their bodies and personalities that negatively affect both their perceptions of themselves and the ways in which the people around them perceive them.

I wanted to walk away, I wanted to die on several occasions. I tried to commit suicide because I thought that life had no value and that why continue living after suffering such a painful event and living for so many years carrying this burden with this torture which continues to torture us day and night. (...) After what happened to me, I started to withdraw into myself, very pensive. Not wanting to talk, not wanting to share with anyone. I started to be worried, let's say, unsure about everything that was happening and moving, very scared, terrified.⁸⁵

These changes, say the survivors, tend to limit their physical, mental, and emotional capacities to establish and maintain different types of relationships such as work, social, and erotic-affective relationships in the short, medium, and long term. This is what they shared:

"The last thing (...) was the impalement, and that still haunts me. It still haunts me because after that, for me, a penetrative sexual relationship, never, no."

"(...) All this changed my ability to relate to others as well. Well, socially, I always mistrust, I approach others with mistrust."⁸⁶

"I was left on my own to carry on with my two children, but I was going from here to there because I wasn't doing well in work. They threw me out of where I was, 'throw me out if you want', but all I could think about was my anger and hatred. I made fun of men. I became a totally tough woman and that was it."⁸⁷

In this way, victims highlighted that not having timely and quality care to respond to the impacts of CRSRV on their holistic health interferes with other aspects of their lives. As described throughout this section, receiving health care that responds to the immediate impacts of the CRSRV and to the various complications in their physical, mental, and emotional health due to not having received timely and/or adequate care has an impact on various aspects of victims' lives. Their health conditions often interfere with their ability to, for example, continue their education, seek and maintain jobs, establish affective, erotic, and sexual relationships, or participate in the demand for justice and reparation. This is what one victim notes:

I did say (...) that it was very important to have psychosocial support throughout, not just twelve sessions that were given to you, but for life. (...). In some sessions they talk about one event [of sexual violence], right? They focus on just one event. No, we have lived through many things that need to be healed and that remain there. (...) How mental health is still affected. Because yes, for me psychiatrists provide a lot of help, but psychosocial work is super important, as well as the legal work.⁸⁸

1.3. Impacts on the educational processes and life projects of survivors

Victims point out that one of the long-term impacts of CRSRV has to do with the disruption of their life projects. In this regard, survivors from both rural and urban contexts highlight that CRSRV, and its constant threat in militarised settings, affected their educational processes. For example, they indicated that after having lived through CRSRV, they were unable to finish schooling or access higher education.

85 LACOLREDFGT08 (n 55).

86 LACOLCAINT02, Betania, Antioquia, Colombia (22 August 2021).

87 LACOLREDFGT03, Bogotá, Colombia (23-25 July 2021).

88 LACOLCAFGT01 (n 47).

In their voices:

(...) many people who were studying we could no longer study. I mean, let's say that's as far as the studying went. There was no more studying. Many of us we became illiterate [laughs]. Yes. And, well, you lose the love of studying.⁸⁹

They changed my life economically because I had it, supposedly I had it sorted out. I was going to start studying, which was what I wanted to do, to study. I was deciding between design and social work.⁹⁰

I wanted to be a policeman. Since they raped me, I hate them all. The army, the military. They are all covered with the same blanket.⁹¹

Aspects such as sexual harassment and the militarisation of roads to and from educational institutions, or the militarisation of the educational institutions themselves, were also reported as contributing to school dropouts, as indicated in the following testimonies:

I was afraid of meeting the people again or of meeting the guerrillas on the road, because I was studying an hour's walk away. So well the problem was very strong, because it changed a lot the matter of studying.⁹²

I could have met them on the roads. I stopped going to school. Suddenly, if other children from other farms were passing by and going to school, I would join them and I felt accompanied. But I didn't go alone.⁹³

Similarly, the victims also highlight the impossibility of finishing or starting their studies as one of the CRSRV impacts associated with forced displacement:

“My dreams were cut short because I wanted to be a professional, I wanted to study at that time, I wanted to be a journalist. I really liked social work, but unfortunately because of that displacement I couldn't achieve that dream.”⁹⁴

1.4. Impacts of CRSRV associated with reproductive violence

Along with the impacts on reproductive health described above, CRSRV creates other impacts associated with survivors' reproductive life. In this regard, forced abortions, forced pregnancies, and childbearing resulting from CRSRV were identified by victims as aspects that had profound impacts on their life projects. On the one hand, survivors describe these abortions, pregnancies, and maternities as fractures in their reproductive present and futures. For example, survivors who lost their wanted pregnancies as a result of CRSRV indicated that:

I remember I was telling them “I'm pregnant, my baby, my baby”. (...). The commander arrived, threw me on the bed, he didn't rape me, he didn't enter me. He groped me all over and told the group to do whatever they wanted to me. What happened then? They found me on the floor, lying there, passed out, full of blood. When they finished doing everything, they put the rifle in me, I felt like they were bombing me. They pulled it out and they put it in my belly, in my vagina. My child was destroyed. I was going to give birth.⁹⁵

89 LACOLASINT11, San Miguel, Cauca, Colombia (16 August 2022).

90 LACOLCAINT02 (n 86).

91 LACOLASOB01 (n 46).

92 LACOLREINT05 (n 83).

93 Ibid.

94 LACOLREINT04, Bogotá, Colombia (15 September 2021).

95 LAREDFGT08 (n 55).

In addition, some survivors recounted how the CRSRV that resulted in pregnancies worsened their various mental and emotional health conditions. This was partly because they had to question whether or not to have an abortion, amidst various moral, religious, cultural, and social pressures. Thus, they indicated:

"(...) As a result of these rapes I became pregnant. It was very hard for me to know that I had to make a very big decision. Why? Because this for us as women, it is not easy to make a decision at this moment in a circumstance like this. To say I'll have it, I'll leave it, I'll throw it away. So to think about it, to make that decision you have to think about it well, it was a lot of work, because I was really alone, I had no support. But what happened? Well, I made the decision to have my son. I have him, thank God."⁹⁶

"(...) because when I got pregnant, they already wanted, one of my cousins already wanted me to have an abortion and I told her no."⁹⁷

Some victims also referred to the impact on their lives of having become pregnant as a result of CRSRV, including lack of access to reproductive health services such as voluntary termination of pregnancy. In many cases, these pregnancies affected the mental, physical, and emotional health of survivors, not only because they had to come to terms with the experience of an unwanted pregnancy, but also because it was associated with the experiences of CRSRV that were imposed on them. Thus, they commented:

"I became pregnant, it was a terrible thing for me, an unwanted child and the result of something so painful."⁹⁸

"(...) when these situations of sexual abuse happen, some women become pregnant, and we should also have the right to abortion, because there are things that you are not taught. This becomes a danger for you, because not wanting to accept those things that happened to you, becomes a danger for you, because you hurt yourself, you attack yourself."⁹⁹

"Because socially we also don't want to hurt the sons, the daughters who came after these events. Or even those who were born as a result of sexual violence. We don't want to keep on telling them all the time how they came into this world, and so we prefer to keep quiet and let things happen."¹⁰⁰

In a similar way, many of the victims reported that these pregnancies and subsequent parenting also affected the development of their lives. For some, for example, it prevented them from continuing or resuming their studies, and forced them to take on caring responsibilities for which they were not physically, mentally, emotionally, or financially prepared. This situation, together with the complex relationships of ambiguity that many women feel towards these sons and daughters, has negative repercussions on the mental health of both survivors and persons born of the war. This is noted in the following testimonies:

"I stopped being a teenager and became a mother. At that time many people who were studying we could no longer study."

96 LACOLREDFGT06 (n 78).

97 LACOLASINT25, Lomitas, Cauca, Colombia (11 August 2021).

98 LACOLASOB01 (n 46).

99 LACOLASFGT01 (n 52).

100 Ibid.

The truth is that I was a teenager at the time. I stopped being a teenager and became a mother. At that time many people who were studying we could no longer study. That was as far as the studying went. There was no more studying. [...] I know that if I hadn't had to become a single mother when I was a child, I would have been able to study. I mean, all that time I spent raising children, I could have studied. My studies wouldn't have stopped where they did. I could be someone today. I could have prepared myself to get a job. And if I hadn't also had this fear of everything I went through, this mistrust, and I would be a different person.¹⁰¹

Well many of us women were not able to continue with our daily lives because we were very young when this happened to us. Our childhood and adolescence were very difficult because some of us were raped and some of us had children from this, so we had to stop living our childhood and start raising another child.¹⁰²

Survivors of reproductive violence in intra-party contexts emphasise the impacts on their physical and mental wellbeing as a consequence of the violence suffered. Forced use of contraceptives was done “without consideration of age, state of health and possible risks and/or side effects of the use of contraceptive methods for the physical and mental health of women and girls”.¹⁰³ The accounts of women and girls within the ranks of armed groups point to impacts on their physical and mental health as evidenced by abrupt changes in weight, skin conditions, mental health problems, infections in their reproductive system, hormonal problems, and irregular bleeding, among others.¹⁰⁴ Additionally, the victims of forced abortions reported complications in their physical health as a result of the procedures being carried out in precarious hygienic conditions and without trained professionals. They indicated that:

I had a problem there with an abortion, too, because for me none of the contraceptive methods worked for me. It was very hard for me, and I had haemorrhages, I lasted up to fifteen days, twenty days, a month with that, and I almost died. So then I got sick, but maybe I was only a few days pregnant.¹⁰⁵

The practice of forced abortions causes mental health impacts that can include symptoms of post-traumatic stress disorder, anxiety, depression, sleep disorders, difficulty relating to other people, and which can affect the survivors' ability to resume their life projects.¹⁰⁶ One victim recounted:

“(...) I did meet many women who had to have abortions, because that was the order there. But it was very hard for the women, because a woman who is not forced, but who wants to be with her partner and gets pregnant, well, of course it is hard for her, especially if she loves her partner (...). I still remember, so many years later, even though I have my little baby, and it makes me sad, you never forget that.”¹⁰⁷

101 LACOLASINT11 (n 89).

102 LACOLASFGT02 (n 65).

103 Tribunal Superior de Medellín Sala de Justicia y Paz, ‘Ejército Revolucionario Guevarista (ERG), Caso Olimpo de Jesús Sánchez Caro y Otros’ (16 December 2015) para. 295.

104 Women’s Link Worldwide ‘Una violencia sin nombre’ (n 36).

105 Centro Nacional de Memoria Histórica, ‘Crímenes que no prescriben: La violencia sexual del Bloque Vencedores de Arauca’ (CNMH 2015) 138.

106 Tribunal Superior de Medellín Sala de Justicia y Paz (n 103) 590.

107 Ibid.



Body mapping of a survivor (2021)

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In terms of persons who were born as a result of CRSRV, the work carried out in this research identifies a significant gap in the information available. In the meetings held, survivors did mention their sons and daughters, and the sons and daughters of other victims. However, during the research work for this report, it was not possible to go into sufficient depth on this topic, as it would require a methodological design and psychosocial assistance to allow adequate

access to this information and to the persons born of CRSRV, many of whom do not always know what happened. However, from the academic literature and previous research, including that carried out by the authors of this report, it is possible to say that persons born of CRSRV in Colombia are not always discriminated against or excluded, unlike in other contexts of war, because of being understood as an extension of the perpetrator's ethnic group or armed

group.¹⁰⁸ However, many victims stated that at various points in their lives, their children have experienced other forms of victimisation in their communities because they do not know who their biological father is or because their biological father was a paramilitary member. Thus, some survivors indicated that:

*There are many children, there are many children. Some with other people's surnames, some without surnames.*¹⁰⁹

“And those children who were born were wrongly called ‘paraquitos’. And it is also a way of exercising violence against them and sometimes we don’t focus on them, and I do believe that there is a great debt owed to them and that it is important that plans, strategies, care programmes, and reparation programmes are designed for them.”¹¹⁰

The intergenerational impacts of CRSRV associated with persons born of war also involve older family members, particularly women. Some survivors recount how other women in the family such as their mothers, aunts, and grandmothers, who have often themselves experienced various forms of violence including CRSRV, take on some of the child rearing. This occurs particularly in situations where CRSRV has impacted on the physical, mental, and emotional health of the victims and prevents them from taking on caring responsibilities, especially for the children born out of their experiences of CRSRV. Likewise, when there is a lack of sources of income and in precarious rural economies, many survivors must leave their sons and daughters with their families and travel in search of work, for example, as domestic workers. At the family level, these dynamics affect the well-being and life plans of people who take on the responsibilities of raising children, including the financial responsibilities, regardless of their age, health, or economic situation. These situations exacerbate the impoverished conditions of families and affect the opportunities of persons born of CRSRV.

*No, well, imagine, she had to go home to her mother's house, with her two children. And I also had to go to my mother's house with my four children and, and we were together but separated.*¹¹¹

108 In some communities, persons born of CRSRV have been referred to by names that associate them with the armed group to which the perpetrator belongs. For example, “paraquitos” in the case of sexual violence committed by paramilitaries, or “children of the green people” in indigenous communities referring to sexual violence committed by the armed forces. However, the use of these names has not been sustained over time, nor has it imposed the identity of the perpetrators on persons born of war. This is unlike in contexts such as Nigeria or northern Uganda, where persons born of CRSRV have been branded as belonging to Boko Haram or the Lord’s Resistance Army, and excluded, shunned, and assaulted accordingly. See: International Alert and UNICEF, “Bad Blood”. Perceptions of children born of conflict-related sexual violence and women and girls associated with Boko Haram in Northeast Nigeria’ (2016) <https://www.international-alert.org/wp-content/uploads/2021/08/Nigeria-Bad-Blood-EN-2016.pdf> accessed 3 December 2021; Myriam Denov and Atim Angela Lakor, ‘When war is better than peace: The post-conflict realities of children born of wartime rape in northern Uganda’ (2017) 65 255.

109 LACOLASINT11 (n 89).

110 LACOLASFGT01 (n 52).

111 LACOLCAINT05 (n 51).



A woman fishing (2021)
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1.5. Impacts related to organisational and leadership processes

CRSRV has had a serious impact on the organisational processes and political struggles of social movements and human rights defenders in Colombia. In particular, they have been used to punish and eliminate the leadership of women and people of diverse sexual orientation and gender identity and expression. Survivors from the LGBTIQ+ community

state that CRSRV has sought to dismantle their organisational processes, which are oriented towards their experiences of the war and the very recognition of their ability to exist, live, and express themselves freely.¹¹² The women survivors state that armed groups have used the CRSRV against them and their families, mainly their daughters, as a way of punishing their leadership roles.¹¹³ Using this violence as a means, they have sought to silence them and dismantle the organisational processes they lead.

¹¹² LACOLCAFGT01 (n 53).

¹¹³ Red de Mujeres Víctimas y Profesionales, 'Informe Colombia' Internal GSF document (27 October 2021); LACOLREFGT01 (n 58); LACOLREFGT07 (n 58); ASOM 'Percepción y experiencias sobre reparación, de mujeres afrocolombianas víctimas de violencia sexual y de género, en el marco del conflicto armado' Internal GSF document (18 September 2021); LACOLASOB01 (n 46).

These processes include the defence of life and territories, for example, against extractivism projects, the defence of human rights, and the demand for justice, truth, and reparation for survivors of CRSRV.¹¹⁴

2. Current needs of victims and perceptions regarding forms of reparation

Many victims live in contexts of impoverishment, exclusion, and historical discrimination. Thus, their lives and those of their communities have been intertwined with various forms of State, economic, cultural, and colonial violence related to aspects such as gender identity, sexual orientation, ethnicity, age, and social class. For victims, these contexts of violence are exacerbated by the dynamics of the armed conflict, and especially by the needs that have arisen from the direct impacts of the CRSRV as well as from the harm caused to their holistic health and lives because they have not received timely and adequate responses to the impacts of the CRSRV. Because of this, victims convey their current needs alongside their perceptions regarding reparation. This is in part because they recognise that the CRSRV they have experienced has to a large extent occurred precisely because of the contexts of structural, daily, and conflict-related violence in which they have lived.

For victims, reparations must respond to their needs on at least two levels. First, they must transform the contexts of interconnected violence in which CRSRV has been enabled, promoted, normalised, and legitimised. At the same time, they must also contribute to the victims' ability to develop their lives fully and with dignity in the community and family contexts where they want to develop their present and future. For this reason, in this section we address these two major issues – needs and forms of reparation – together.

2.1. Social justice for victims and their families

In the contexts of structural, daily, and conflict-related violence in which survivors live and in which CRSRV has occurred, reparations are perceived as a right that creates opportunities for victims to build dignified, autonomous, and fulfilling lives. This is because victims emphasise the needs that result from the conditions of inequity and exclusion they live in and which have been worsened by the impacts of the CRSRV, and they see reparations as a way of contributing to the transformation of these contexts. Reparations are considered particularly urgent in relation to access to proper and decent housing, access to education, and access to work in fair labour conditions. This could be achieved, for example, through financial compensation to enable them to buy their own home, pay for their studies or start their own business, or through housing and education programmes. The victims highlighted the importance of these reparations being comprehensive and allowing them to build autonomous and transformative life projects for themselves and their families. For example, education and work programmes should not be focused on training them as cheap labour for the cities, but should recognise their interests and knowledge, and/or allow them to recover agricultural ways of working and living with strategies for the sustainability of agricultural work. Thus, the victims report:

(...) it's that we are also dreaming that they would have suggestions for economic empowerment, they have empowerment and economic autonomy that would not be just one-off, but that would really be a process.¹¹⁵

Some SENA programmes and offers for victims are not suitable, because they always offer us cooking classes.¹¹⁶

114 Red de Mujeres Víctimas y Profesionales (n 113); ASOM (n 115); LACOLASOB01 (n 46); LACOLREFGT01 (n 58).

115 LACOLREFGT03 (n 87).

116 LACOLASOB01 (n 46).

“I mean, that they come to me and say (...) ‘what do you like?’ and I say, ‘I love handicrafts’ (...), and they would have advised me, they would have told me: ‘ready, you can set up a business with this, rent a place that is worth this, you manage it like this. Go, get the money and do this’ but they didn’t do that.”¹¹⁷

Housing is one of the main priorities highlighted by victims. In this regard, they emphasised that comprehensive reparations should include programmes for access to housing in urban and rural areas of their choice.¹¹⁸ This, the victims indicated, would provide them with autonomy with regard to the context in which they want to project their lives and those of their families. Additionally, it would allow them to think about investing the financial compensation in other areas of their lives rather than in the direct purchase of the house, for which they would most likely have to give the entire sum received and seek loans from banks or usurious third party lenders to supplement the amount. In their words:

“[...] When I talk about decent housing, I mean housing that is not like the projects that perhaps the government or certain entities bring, where they give us a wall still under construction. But rather decent housing where we can say I just take my clothes, what I have. And I don’t have to think about what to put in it anymore. Because if we had the money to build it, we could do it. But we don’t have the money and, really, the women who have received reparations, the money they have been given is not enough for that.”¹¹⁹

“The first need is money. My grandmother says that having a house does not equal riches, but not having one does equal poverty. Most of us women are waiting for compensation to have a house. And those who have one, to fix it up.”¹²⁰

“But if they gave us housing before that, we could use that compensation money for other things.”¹²¹

Victims point out that the transformation of the contexts of violence in which they live would have an impact on the transformation of the cycles of violence for their families. Thus, they associate their access to reparations not only with their present but also with their future, particularly with the future of their children. In this way, they highlight the need to create conditions so that their sons and daughters do not live in the contexts of impoverishment, exclusion, and war that they have experienced. Thus, several victims shared:

“(...) I get the compensation and the first thing I do is the house for my daughters.”¹²²

“Well, I think I should be given reparation because in reality I was going to build the house for my children. I had a piece of land below where I live, and I was already going to build a house for them and because of that I couldn’t give it to them. I was thinking of making it for them, putting a business so that I could support them, but it didn’t work out that way.”¹²³

“But also they must guarantee that it will not happen again, that our children, our grandchildren, will not have to go through the same situation that we went through. And to be going through all this situation that we have already had to live through.”¹²⁴

“Here almost all of us are mothers, heads of household, we are responsible for three, four or five children who are not well cared for, struggling to raise them, to give them an education.”¹²⁵

117 LACOLCAINT01 (n 79).

118 LACOLASOB01 (n 46).

119 LACOLASFGT02 (n 65).

120 LACOLASOB01 (n 46).

121 Ibid.

122 LACOLASINT25 (n 97).

123 LACOLASINT18, Lomitas, Cauca, Colombia (9 August 2021).

124 LACOLASFGT01 (n 52).

125 LACOLASINT11 (n 89).



Body mapping (2021)

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"In the case of my children, what I would like, let's say, is for my children to be able to have a career in the future. Because let's say you can give them (...) let's say the bachiller [high school diploma], so they can be high school graduates. But from there onwards for a career, because right now that's worth a lot, and if you don't have one, then they're stuck there."¹²⁶

"It would also be good to create universities for these children who were born as a result of rape, to study, first and foremost. That they can prepare themselves to be able to help their mothers to get ahead."¹²⁷

126 LACOLREINT02, Bogotá, Colombia (7 September 2021).

127 LACOLREINT04 (n 94).

Similarly, for women, it is essential that their children have options outside the economies of the armed conflict. Urban or rural regions of the country have had to deal with neoliberal policies that have made agricultural economies precarious, and for many the main sources of income are linked to a legal or illegal armed group, or to economies such as coca cultivation.¹²⁸ This situation not only makes it impossible to think about ending the war, but also exposes the victims, their children, families, and communities to different forms of violence, including sexual violence. This is what they said:

“[We want] guaranteed comprehensive education. We don’t want the young people of our community to go into military service so that they do not become instruments of war.”¹²⁹

Well, there should be no more of these armed groups, but these armed groups, they are here because there are people who have a lot of money, from the big farms, and I have heard that they are the ones who bring them here. So there must be other possibilities. And there have also been some children of some of our neighbours who have gone to these groups because they didn’t have work, because they were going hungry at home. So, they were told that they were going to give them work, and that they were going to pay them, because they had tried the factories, and because there are very few of them here. And the boys had no schooling, so well they had nothing else to do, so they went there with those games.¹³⁰

Similarly, some of the survivors whose children were born as a result of CRSRV expressed extreme concern about recruitment. Persons born of war, being officially recognised as victims of the armed conflict in Law 1448 of 2011, are exempted from having to do military service, which is compulsory in Colombia for men when they reach the age of majority (18 years old). However, some children born of CRSRV have joined the national army. The sons have explained this decision to their mothers on the grounds that it provides a stable source of income and that, unlike illegal armed groups, if they are killed in combat, the army is obliged to return the body to the family.¹³¹

2.2. Access to holistic health care

Victims also highlight the need to have access to physical, mental, and emotional health care, and for such care to be holistic, timely, of high quality, and intersectional, namely that it must take into account aspects such as gender identity, age, sexual orientation, ethnicity, and disability. The failure to take these criteria into account means that even in cases where survivors have had access to physical and mental health rehabilitation measures through judicial or administrative remedies, they do not recognise these measures as reparations and continue to wait. Survivors also point to the need for access routes to physical and mental health reparations to be clear, without administrative barriers, and without requiring multiple, lengthy, and costly journeys for survivors.

128 LACOLASOB01 (n 46).

129 Ibid.

130 LACOLASINT40, Caloto, Cauca, Colombia (3 September 2021).

131 LACOLASOB01 (n 46).



Survivors of sexual violence (2021)
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In terms of health, they indicate that:

"You go to the doctor and it takes a bit of time, sometimes they don't even see you. Sometimes you have to leave at least at three or four in the morning and you arrive and queue up, and at one or two in the afternoon they see you for nothing: they prescribe you two pills and that's it, you're done. [...] They should have a greater sense of responsibility to the victims, because they tend to forget us. Because starting in Santander, they are expensive over there, so I ask for an appointment: 'there aren't any, they are not seeing anyone'. If you go, you have to come back the next day, if you go, you have to queue a bit and wait. If they give you an appointment, you have to wait, they arrive at two o'clock, and they see you at three o'clock."¹³²

*"[...] I started with a psychologist called *Connie* but she left. When they brought another psychologist 'oh no, there are a lot of appointments on hold, you have to wait, wait and wait' and I kept waiting."¹³³*

132 LACOLASFGT01 (n 54).

133 LACOLCAINT02 (n 86).

For indigenous survivors, health/disease processes must be understood in an interconnected way with regard to their physical, mental, emotional, and spiritual dimensions. The health/disease processes of each survivor exist within the collective relationships and territories of each ethnic people, and survivors highlight the importance of having access to collective reparations. Their collective nature, however, should not mean doing group sessions in which decontextualised scripts are replicated. Rather, it means engaging in dialogue with indigenous peoples and their own knowledge in order to design healing processes that recognise survivors as part of ecosystems and relationships that include spirituality, ancestry, and relationships between living humans and other past generations with nature and with non-human beings.

"[...] we are already spiritually with traditional pairs, traditional doctors, because as indigenous people we don't look for psychologists, nurses or doctors. We don't use that. We have always been with our traditional medicines, which are with our wise men and women, our elders. Through this, everything comes back to our body. And then we start all over again, how we are going to live, or how we want to support the other women."¹³⁴

"We say that in the short or medium term we need medical care, we need to continue with our academic aspirations. But we also need to build our holistic life projects. Through professional medical care, but also through life projects where we have the spiritual care of our traditional doctors, the spiritual knowledge of the people. Because everything has to work in this way, in a comprehensive way. This would allow us to reclaim our dignity as women, as persons, as peoples, as families. In the long term, what we want is to regain the dignity that we were made to lose. To regain balance and tranquillity. But also to regain sustainable economic development and the time to improve the quality of life of the women who have been sexually violated, because it is necessary that our lives regain that balance, spirituality, and the integrity of us as people."¹³⁵

"Us, as peoples, it is always important to provide differential attention from a collective point of view. (...) They have been taking many actions to be able to work with us, with indigenous peoples, because it is very complicated. It is very difficult because we are diverse, we are different, we are distinct, but above all we are human. We are people who need that support, that help, that psychosocial support. But also to accompany us in building our life projects, which also restore us spiritually, psychologically, but also economically. To strengthen us again from our diversity. In this way, we will be able to smile again, we will be back in balance with nature, with the environment. At peace with our family."¹³⁶

For survivors in general, not only from indigenous peoples, the proposals for collective reparation processes for mental health care must recognise the specific characteristics of the people, the stage of the process in which they find themselves, their communities, and the regional conditions in which they live. In this regard, survivors highlighted the importance of being part of collective processes for their own healing processes, in which they were able to relate to other survivors and establish support networks. However, they observed that collective processes cannot replace timely, reliable, and specialised individual attention. They also noted that collective processes tend to be more enriching when they are able to partner with other survivors who are not part of their communities.¹³⁷ This is because in their own contexts they can often feel singled out, judged, and discriminated against even by other survivors. Likewise, in contexts where armed groups are active, being part of collective processes may arouse suspicion and attention that puts their lives and safety at risk.

134 LACOLREDFGT06 (n 78).

135 LACOLREDFGT05, Bogotá, Colombia (13-15 August 2021).

136 LACOLREDFGT06 (n 78).

137 LACOLASOB01 (n 46); LACOLREFGT01 (n 58).

Victims indicate:

In the psychological aspect they tell you "see, there is going to be a psychological reparation workshop in such and such a place", and then we go and there are methods, then let's play this, let's play that, let's play the other. Playing doesn't repair anyone. It dissipates the pain and for a little while, and I'm calm for a little while, but what it does is move and you get home and then you're even more unsettled.¹³⁸

It seems very contradictory to me when they talk to us about reparation. Because I have been waiting for this reparation for three years (...) but I know that in reality there is no reparation, because reparation is a process of its own. I think that more than reparation from the State, reparation also comes from us, in a process of support, of listening, in a process like this one, for example. Where they really take you away from that real world, to try to heal and change that bad moment with all the rest of the good. Because of all the nice things they are putting in front of you, because it is a very nice opportunity to be able to share with such wonderful people, such beautiful women.¹³⁹

Furthermore, according to survivors, individual and group mental health care should be provided by professionals with extensive experience and specialised training in working with CRSRV survivors. They must be able to build trusting relationships with survivors and have decent working conditions. This implies that the people in charge are not recent graduates, have permanent employment contracts that allow them to give continuity to the processes with each survivor, and have balanced workloads that allow them to do their work with self-care and care for the victims. In the cases of rural or small communities, survivors highlighted that they do not feel comfortable when the people in charge of mental health care are from the same area. This is because they feel that there is less confidentiality and their experiences can become sources of gossip.¹⁴⁰ Victims commented:

More than anything else, like in mental health, I feel very worn out. Because, for example, with the psychologist, you start a process and it takes six months, as if in six months you are ready, you are going to be healed and all that. Or one month comes and they change the psychologist, her contract is over, and the next appointment there is a new psychologist, then the whole process comes back and starts again, and then this one's contract is over and so on. And I reached a point where I said no more.¹⁴¹

"Many people said 'you are becoming rude, you are becoming hard' why have we become hard? Because they have played with our feelings, we are tired and fed up (...) of being used by the guys at the university 'Ha' 'Tell your story, tell your story, tell your story' (...). Let's see, what happened? They use us as they please."¹⁴²

138 LACOLCAINT02 (n 86).

139 LACOLCAINT03 (n 60).

140 LACOLASOB01 (n 46).

141 LACOLCAINT02 (n 86).

142 LACOLCAFGT01 (n 53).



Mandala created by women survivors (2021)
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Quality [health care], without discrimination because we are black women. Specialised professionals, they come as trainees, as interns. A friendlier health service. That gives us confidence. Knowing that the person who is going to care for us is not going to go out and say what they have seen or heard.¹⁴³

Similarly, survivors identify the need for specialised health centres that are easily accessible and where they do not feel singled out because of their CRSRV experiences, nor do they feel discriminated against based on classist, sexist, racist, or heteronormative logics. According to survivors, specialised health centres could themselves be spaces where survivors with diverse experiences and backgrounds could work with and support other survivors.

143 LACOLASOB01 (n 46).

In their own voices:

"Why is it that it is difficult to understand that a victim of sexual violence arrives and needs not only a doctor who is a general practitioner, but also a urologist, a gynaecologist. She needs the psychologist, but she also needs a series of other things. They need to understand that it is no longer a piecemeal approach, but that it has to be holistic. (...) They had raped a girl between 3 and 4 years old, I don't remember now. She was in very bad shape, she had been violently penetrated, and they were looking for a doctor, but the problem was that they needed a paediatric anaesthesiologist and a gynaecologist in the same place, so we couldn't get one, we were looking in nearby municipalities. The next day they had to remove all her reproductive organs, because they could not be saved. That should not have happened. And so there are many stories of sexual violence against children, so we are aware that the crime is not going to end overnight, and that's why we believe that it is important to have a centre that provides good care, and that asks for these things. And that way at least we can guarantee that there will be no repetition of bad care."¹⁴⁴

"The specialised centre. It should be solely and exclusively for these women and for these children, and I hope that priority is given to them in terms of employment. Because among us there are nurses, psychologists, social workers and lawyers. So it would be nice if this specialised centre could give priority in terms of employment to all victims of sexual violence."¹⁴⁵

Survivors identified the need for holistic and specialised care to reach their families as well. Survivors with children born of CRSRV highlight the importance of having individual, trusted, and specialised psychosocial support for their children, both in cases where they are aware of how they were conceived and in cases where they are not. In

cases where persons born of war do not know of their status, the mothers suggested the possibility of psychosocial care being provided in a broad manner, not focused on the CRSRV experienced by the mothers or fathers in the case of transgender men. This would at least give them the opportunity to talk to a specialised person about aspects of their lives that may affect their mental and emotional health, such as tense and ambivalent relationships with their mothers or fathers, uncertainty about who their biological father is, or emotions of powerlessness and anger about discrimination they have experienced and cannot understand.¹⁴⁶ Survivors stress the importance of these reparations being extremely confidential, so that the processes are not public in the communities.¹⁴⁷ In this regard, victims ask that:

For example, I would like more psychosocial support, because many of our children were born as a result of the conflict-related sexual aggression.¹⁴⁸

(...) it would be good if a health centre could be set up to care for the victims of sexual violence and their children who are the product of this violation. It would also be good to have a decent and adequate housing project for them. But above all, the health system.¹⁴⁹

(...) there have been many requests for psychosocial support for these young people. To this day there has not even been any psychosocial support, a notebook, there is nothing.¹⁵⁰

Similarly, survivors highlighted that their partners and other family members also require support to respond to the impacts on their mental, emotional, and physical health. Survivors convey that their families need support for their holistic health which may have been affected in different ways. Initially, when the CRSRV events occur, they feel guilt, helplessness, and anger about what happened to the survivors. Subsequently, the responsibilities for

144 LACOLREFGT03 (n 87).

145 LACOLREINT04 (n 94).

146 LACOLASOB01 (n 46).

147 Ibid.

148 Ibid.

149 LACOLREINT04 (n 94).

150 LACOLASINT11 (n 89).

the care and emotional and financial support that many families have taken on for survivors can have consequences for their own health. Some survivors report that their families have taken on these roles for them and all their children, not only those born of CRSRV, supporting them in their day-to-day lives but also in the long and complex journey to access justice and reparations.

“The impact is not only on one person, but also on the individual, the family, and the collective level.”

“[...] Apart from the financial aid that is required, it is also necessary to be supported by professionals, by psychologists who help in the process of forgiveness and of recovering and healing all the wounds left by this violence. And also (...) that this support is not only for the victim as such, but also for her or his family. Because, as we have already seen, the impact is not only on one person, but also on the individual, the family, and the collective level.”¹⁵¹

“And not only to the people who had that happen to them. I would say that the family should also be taken care of. Because at least in my case, my family was psychologically affected; not only for the person, but also psychological support for the whole family.”¹⁵²

“(...) my mother, from so much suffering, from so much suffering, she died in Medellín, she died in Medellín. So when my mum died, she was like my engine, because my dad had already died.”¹⁵³

“(...) I have spoken to some mothers who are victims of sexual violence in the armed conflict and no, they don't really know of any line that says that for the children of victims there will be a line of education, of entrepreneurship (...). Because children are also impacted by the violence suffered by the family. Often it affects the mental health of the mothers so much that the children are also affected by it and because of it. So they don't know each other, and I call on all the organisations and the Victims' Unit to provide this support, which is urgent, because children are the future of our country and it depends on them to have an impact and change our country's course.”¹⁵⁴

“(...) what we long for most as victims is reparation. A dignified reparation, not a crumb, as we hear (...). You got as far as a certain point and there they go: “we'll call you back later” or “wait there”, and then we are re-victimised, we are being re-victimised again.”¹⁵⁵

151 LACOLASFGT02 (n 65).

152 LACOLASFGT01 (n 52).

153 LACOLREINT05 (n 83).

154 LACOLREDFGT04, Bogotá, Colombia (23-25 July 2021).

155 LACOLASINT07 (n 70).



Interview with a survivor (2021)
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2.3. Reparations with empathy, respect, and solidarity

Victims identify access to reparations as a necessity in and of itself. This is true for both the material and symbolic dimensions of reparations. For survivors, the direct needs that arise from the impacts of CRSRV such as those described above exist alongside the need to know that they have been heard out of solidarity and empathy, that their experiences of CRSRV are

recognised, and that there are concrete strategies and actions to provide reparation for the impacts of such violence that do not generate new violence.

In this regard, survivors identify at least two problematic dimensions of their relationship with the State and its institutions. One has to do with the fragmented implementation of forms of reparation under Law 1448 of 2011, which is explained in detail in the next section of this report. The other dimension

relates to the intense bureaucratic and administrative processes that mediate the relationship between the State and victims. Survivors often describe their processes of accessing reparations as re-victimising and, as such, the opportunity for the process in itself to have reparative and recognition value is lost. The following testimonies clearly reflect this:

I want to call for the Victims' Unit to be something more serious. Because that unit, not even the mobile phone number is of use, because you call, not even that one is of use. With the victims, everything is half-done. So a plea for that, to please respect the victims.¹⁵⁶

(...) for the women, we must not be re-victimised, even in the sense that sometimes there are officials who are dehumanising. There are also officials who are victimising us again. Because when you go to present, let's say, a complaint, an incident, a testimony, you hear phrases like: "that's not how it was, you're making it up, it's not important enough". And these are also forms of re-victimisation, so tell the government that it is necessary that the type of person or the type of officials as well that are sent to the areas, to the regions, that they be humanised and sensitised officials, and that they have a focus on what they are going to do, with which communities they are going to deal with.¹⁵⁷

[I would like] to be able to carry out these processes without discrimination, without fear of... of being mocked or of being re-victimised. Because many times when we arrive at these [institutional] spaces we are immediately re-victimised. So I think the most important thing would be that, a judicious work so that there is no re-victimisation within the institution itself.¹⁵⁸

Regarding the fragmented implementation of reparations, victims highlight both the lack of coordination between State entities to guarantee comprehensive reparations, and the lack of clarity as to which actor or institution is responsible for the

implementation of reparations. As such, victims report that they have received reparations in an isolated and uncoordinated manner. For example, survivors may participate in group psychosocial workshops spaced out over time but have no clarity on how to receive individual support to address their physical and mental health. Or they may receive compensation, but are unclear as to whether they will have access to other measures, such as measures enabling them to access housing and education. Thus, they report that:

Yes, that the Victims' Unit truly helps in a comprehensive way, in a real way. Because we are tired of being told that we are on standby, that we are waiting, and we have been waiting for how many years. Already the events that we have experienced, that we have reported, that we have declared for more than 20 years, 17 years, 15 years. And it is not fair that every time the victims are the poorest.¹⁵⁹

Well, for the care programmes, first of all, in order to be able to evaluate them, we would have to know about them, and we don't know about them; they have not reached the territory. And when they do arrive, they are isolated actions. That is to say, suddenly, through the community action boards or something like that, they schedule a workshop, a meeting, a conversation where they introduce the subject, they agree that they will continue to attend, that they will be present in the territory, but they never come back, nor do we get to know the programme, nor what it is about, nor what the guarantees are, nor what the advantages are. As women and as women victims, we feel that it is more like going to tick the attendance list and to take the photo as if to arrive and report higher up, and say that things have been done in the territories. But we don't know the programmes themselves.¹⁶⁰

Victims suggest that reparations would achieve improved outcomes if different types of reparations were offered together, as part of a process designed in an interconnected manner in which one type of

156 LACOLASFGT01 (n 52).

157 Ibid.

158 LACOLCAINT03 (n 60).

159 LACOLASFGT02 (n 65).

160 LACOLASFGT01 (n 52).

measure complements the others. For example, a survivor could access prompt and quality rehabilitation measures that take into account her physical, emotional, mental, and spiritual dimensions, while also being able to access reparation measures that respond to her material needs such as compensation, access to housing programmes, income generation, and humanitarian assistance to survive on a day-to-day basis. Moreover, they should receive clear advice on how to achieve justice, and clear evidence regarding the State's progress on transforming the structural causes of CRSRV. Victims report that:

"It's just like they delivered the remedy, but they didn't take care that my body and soul were healed as they should be. For me that is a very big risk. Because if before you feel the loneliness and negligence of the State, well, I can't imagine after receiving the remedy, I think they cross you off the list and you don't exist again, not at all."¹⁶¹

"I know someone who has received reparation. Well, to tell you the truth, for me that wasn't enough. Because let's say that person didn't have a house of their own and she built a little house and that's it. In other words, at least she has her little house. But it all went into only the little house: to put up the walls, the roof and that's it. So you get discouraged, you get sad. Because you say "all the process that it took or that was done in order to achieve only this. And then they forgot she existed; they gave her the money and it's like they wiped her off the map."¹⁶²

"Let's suppose they give you (...) the house but they don't give you psychological care; it doesn't help you either! I mean, it should go hand in hand: a victim of sexual violence, displaced, with children, the most important thing is psychological care and monetary care because you need to survive."¹⁶³

In terms of who should be in charge of reparation processes, survivors mention the government, armed groups, and non-governmental organisations. However, survivors say that in their experience, many of the activities they see as part of their reparative and transformative process have been implemented by non-governmental organisations or by victims' organisations with whom they have formed support networks. In their view,

(...) it is not their obligation but, but for example the (...) NGOs can provide reparation, the people can provide reparation to themselves, right? (...). So they can contribute to reparation, yes, the international organisations, the families themselves.¹⁶⁴

That these little stars are also all the people who have cared for each other, for each one of us. They are the institutions. They are the organisations that have made it possible for us to gradually recognise what happened to us. That we are not ashamed or afraid to talk about it. And that it is important to continue with this process.¹⁶⁵

Although survivors highlight the positive effects of the support, especially the psychosocial and emotional support they have received from non-governmental organisations, these tend to be short-term and fragmented processes which can also be re-victimising insofar as survivors often feel instrumentalised. For example, this can happen when they feel that they are only invited to workshops to sign attendance lists for non-governmental organisations to show to their funders or to have their photos taken, or when they do not feel that there is transparency in the processes to which they are invited.¹⁶⁶

Victims also highlighted that relations with the State and its institutions during the process of accessing their right to reparation can deepen the impacts of the CRSRV and create new forms of violence.

161 Ibid.

162 LACOLASINT13, San Miguel, Cauca, Colombia (16 August 2021).

163 LACOLCAINT01 (n 79).

164 Ibid.

165 LACOLREDFGT06 (n 78).

166 LACOLASOB01 (n 46).



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In this regard, they highlighted four elements that they identified as detrimental to a dignified and transformative reparation:

1. Lack of clarity about what to expect from the process of accessing reparations once they are registered in the Unique Register of Victims;
2. The long waiting times for access to concrete remedial measures;

3. Bureaucratic and administrative requirements throughout the process; and

4. The lack of clear channels of communication with the institutions in charge of implementing reparations.

These factors create significant uncertainty for victims about when they can expect reparation and what reparation they will have access to. This uncertainty means that the reparation process itself is not reparative.

Likewise, the inconsistent delivery of reparation can create tensions within communities, between those who have been able to access some forms of reparation and those who have not. Thus:

*"(...) you go and make a statement and like: 'I went and made a statement. I don't even know what happened with that'. I mean, they leave you like: 'if you found out, fine, and if you didn't, well, that's fine too'. So I would say that it would also be a form of support if they told you: 'Look, your reparation process goes to this point, it goes to the point where you need psychological help, it goes to the point where if you want to study, we are going to help you study, or it goes to the point where you have a piece of land over there, and we are going to help you return to that tradition of recovering the crops that were lost'."*¹⁶⁷

*"Demand that the State pay as it should. They gave me less than half of what I should have been paid. I already have an expectation, and when the cheque arrives, it arrives for half. You take the money, because what else can you do?"*¹⁶⁸

*"That they take us, the victims, into account. Equally. Some receive and others do not. Others quickly and others never. Equally."*¹⁶⁹

*"(...) in this uncertainty in which they [the Victims' Unit] keep us, any little light that shines out of there we must go to."*¹⁷⁰

In terms of timing, survivors describe how the long years waiting to access different reparation measures weaken the restorative and transformative effect of such measures. After long, arduous, and confusing administrative and bureaucratic processes, by the time each measure is implemented, survivors have

been institutionally violated and their relationship of distrust with the State has worsened.

*"(...) I think the State needs to be more serious, it needs to also speed up the process. Because I think that what they are looking for is for you as a victim to get bored and finally give up, and to leave things as if nothing had happened. So they can take out their documents and say: 'No, there are no victims here, because we have already made reparations' or something like that. But it turns out that you get tired of going around, knocking on doors, and standing in line and absolutely nothing happens. I think that in this case the State owes a lot to the victims."*¹⁷¹

*"And if you send a letter to the Victims' Unit, they take a long time to respond, up until the following year. I have papers that they have told me from 2017/2018, I have a protection action (tutela). The verdict was given to me. Up until now they have not given me anything. They don't even tell me 'Yes we are going to give it to you'. Since 2018 they were supposed to answer me about this, we are in 2021. And I'm still fighting for the same thing, it's like they're playing with people a lot."*¹⁷²

*"(...) mainly the fact that I have been re-victimised by the State for three years makes me feel more and more vulnerable. Because I've been... it's going to be three years that I'm living in a room which, yes, is a room and has a bed, a television, but where I have not been able to have a life."*¹⁷³

*"I would say to them that justice should be done for the victims, that we should not be re-victimised. Because that is what the unit does. When you call and they say that in fifteen working days you will have an answer, fifteen, twenty, thirty working days go by, no one has an answer."*¹⁷⁴

167 LACOLASINT03 (n 73).

168 LACOLASOB01 (n 46).

169 Ibid.

170 LACOLASINT03 (n 73).

171 LACOLASFGT01 (n 52).

172 Ibid.

173 LACOLASINT03 (n 73).

174 Ibid.

The uncertainty generated by the delay in the process is compounded by the lack of clarity about the channels of communication with the State institutions in charge of reparations, as well as the lack of knowledge about which institutions to turn to in order to understand the processes. This situation is made worse by the weak communication infrastructure that characterises many rural areas of the country, and the lack of presence of non-military State actors in these areas.

"You call, and they tell you it's your turn. But you don't know when it's your turn. [...] They call once, but here the signal is very bad. And if you miss the call, there are many cases where you don't even find out it's your turn."¹⁷⁵

"Well, I come back and say: this is a community that has been forgotten by the State. Because if you don't go, the closest place for someone to tell you more or less what's going on, it's the local control body for society (personería). And if you don't go, they don't notice anything. And for you to communicate with the Unit, it's a problem. Or if they communicate with you via chat, you take a while to write and they hang up on you, it's like they don't have enough patience for you. I understand that there are millions of victims in the country, but I don't know, sometimes the Unit doesn't seem to move the process forward, it moves it backwards."¹⁷⁶

2.4. Recognition of CRSRV and memory building

Survivors conveyed the need for their experiences to be acknowledged by both perpetrators and society at large. With regard to perpetrators, victims demand that they acknowledge their responsibility for CRSRV, as well as ask for forgiveness through good faith processes that truly generate non-repetition. This implies the recognition of the different scenarios in

which armed groups have committed CRSRV, as well as individual perpetrators. The unwillingness of members of armed groups, the delays in investigations, and the high levels of impunity are seen by survivors as new forms of violence. Victims' testimonies reveal their deep-rooted perceptions regarding lack of recognition and impunity. Thus, they have reported that:

"No, you know what the sad thing is? That you go to Justice and Peace, you know what? I went the year before last and you know what the sad thing is? I went to find out about my case and guess what I got? With the Metro Bloc, 'madam, what a shame for you, but the Metro Bloc case has been shelved for lack of evidence.'¹⁷⁷

"(...) we have seen that in the statements made by [paramilitaries] in the Justice and Peace case, in the statements they continue to make, they have declared many things, parts of the truth. But the truth about the abuses and violence against women is something that they have not yet declared. (...). And it seems that there is no interest in asking them, even in asking and pressuring them to talk about this truth. The government has been satisfied with the little that they have said and within the questions or counter-questions that they ask, these issues are never there. And when they are there, it is because there are women's groups and lawyers in general, putting pressure on this issue, but it is something external. (...). But if they don't even ask how they are going to get to the truth, then what the truth brings, is to be able to arrive at a process of reparation. It is a truth that is there and it is a truth that is shouted out loud, but it is not a truth that is taken on by the State as a necessity. Therefore, conflict-related sexual violence against women must be at the centre of the process of truth, justice, and reparation, just as other truths that seem to be more convenient for them to put forward are at the centre."¹⁷⁸

175 LACOLASOB01 (n 46).

176 LACOLASINT03 (n 73).

177 LACOLCAFGT01 (n 47).

178 LACOLASFGT01 (n 52).

(...) there is a very special unit which is the Special Jurisdiction for Peace, which is in charge of investigating sexual violence and we would feel that we have received reparation in justice when the macro case of sexual violence is opened. That would be a form of judicial reparation, because, through the ordinary justice system, the cases end in impunity. Because for me it is true that, at the moment, it is the entity that is most committed to these cases.¹⁷⁹

Regarding society more generally, victims constantly call to not only be heard, but also to be believed, and for empathy with regard to their experiences of violence and resistance. Survivors point out that the construction of diverse memories is a fundamental reparation measure. However, they emphasise that for this construction of memories to be reparative it must not reproduce patriarchal logics in which women are presented as passive victims of CRSRV, men as perpetrators or protectors of women, and where the experiences of people with diverse sexual orientations and gender identities are rendered invisible. Furthermore, these memories should not reproduce stereotypes of "ideal victims", but should include the diversity of CRSRV experiences, their complex relationships with other forms of violence, and the diverse ways in which survivors have lived through and survived them.

It is that society itself can be this form of reparation. For example, in the case of Colombia, it was the obligation of all Colombians to vote "Yes" for the agreements (...) They were saying to Colombia "sorry, we have a debt, sorry for what, what we have allowed to happen". Because in a certain way we Colombians have also been guilty of this war. Why? Because we gave power to those who gave money, who bet on this war with money. (...). Colombia was also responsible, therefore Colombia should also have made reparations, (...), to society itself.¹⁸⁰

3. Risks and assessment of the security situation

One significant issue when addressing victims' perceptions of their right to reparation and the needs they have is that of security and the risks they experience on a daily basis. This section focuses on these issues. Following the signing of the peace agreements between the Colombian Government and the FARC-EP in 2016, the country witnessed a reconfiguration of the war, eventually leading, in 2021, to the highest number of massacres and forced displacements in the country since the signing of the agreements.¹⁸¹ The lack of political will to implement the peace agreements has been accompanied by the emergence of new armed groups and the strengthening of others,¹⁸² disputing territorial control in line with their economic and political interests.

"It is very sad how violence has intensified in our territories. The fact that there are new groups outside the law (...), it's scary again and you feel all that pain again, you feel again all that tragedy that at some point we lived through, and that you know that unfortunately it can happen again."

This reconfiguration of the war is evident, for example, in areas of the country where armed groups have imposed coca economies.¹⁸³ In the context of neoliberal policies which have led to agricultural precariousness and impoverishment of peasant families, as is the case in many areas where survivors live, coca crops have become a main source of

179 LACOLREDFGT04 (n 154).

180 LACOLCAINT01 (n 79).

181 Jurisdicción Especial para la Paz (JEP), Unidad de Investigación y Acusación (UIA), 'Comunicado 013 de 2022 (18 February 2022) <https://www.jep.gov.co/Sala-de-Prensa/Paginas/En-2021-el-conflicto-armado-se-reactiv%C3%B3-en-12-zonas-del-pa%C3%ADs.-dio-a-conocer-la-UIA-de-la-JEP.aspx> accessed 25 February 2022.

182 Ibid.

183 Camilo González Posso, 'Colombia: Transición a la Paz o Recomposición de Violencias Mafiosas y Totalitarias' (Indepaz 18 September 2021) <https://indepaz.org.co/cinco-anos-de-acuerdos-de-paz-transicion-a-la-paz-o-recomposicion-de-violencias/> accessed 25 February 2022.

income.¹⁸⁴ Their forced expansion, however, has left these communities caught in the crossfire between armed groups disputing control of the cocaine production and distribution chain.¹⁸⁵ Moreover, measures to control the COVID-19 pandemic such as prolonged lockdowns have created conditions for the strengthening of armed groups' actions.¹⁸⁶ Victims emphasised these issues in their testimonies:

And that it will not only happen again to me, it will happen again to my relatives, to my cousins, to my children, to everyone. So it is very sad to see how the State has simply washed its hands of the situation. And they left us alone again in the territories. They

*allowed these groups to enter again, to come back and violate us, to come back and attack us. That soon we will be victims again and nothing will happen again. Let it stay like this, as always, and let it be like a vicious circle, in which, unfortunately, the victims will always be victims, and we will always be worse off.*¹⁸⁷

*Armed actors have forced us not to go out after 9pm now. They are from illicit crops. From January [2021] until now (...). We can't take it anymore, that we don't suffer again what we went through in 2000. The way things are going, it looks like we are going to suffer it again.*¹⁸⁸

“The fact that there are new groups outside the law (...), it's scary again and you feel all that pain again, you feel again all that tragedy that at some point we lived through, and that you know that unfortunately it can happen again. And that it will not only happen again to me, it will happen again to my relatives, to my cousins, to my children, to everyone. So it is very sad to see how the State has simply washed its hands of the situation. And they left us alone again in the territories. They allowed these groups to enter again, to come back and violate us, to come back and attack us. That soon we will be victims again and nothing will happen again.”¹⁸⁹

Most of the victims who took part in this research live in contexts such as those described above, where they face multiple risks and threats to their lives and those of their families. At the collective level, many live in urban and rural areas of the country where these violent processes of reconfiguration with new and old armed groups are taking place. At the individual level, many of them are receiving threats from armed

groups, threatening their lives and physical integrity and that of their families. An example of this is that the organisations we worked with in this research, ASOM, RMVP, Caribe Afirmativo, Casa Diversa and Ave Fénix, all have their own security protocols, or survivors who have been assigned security measures by the government and international cooperation for their protection.

184 LACOLASOB01, San Miguel, Cauca, Colombia, 20-21 August 2021; LACOLREFGT01, Bogotá, Colombia, 23-25 July 2021.

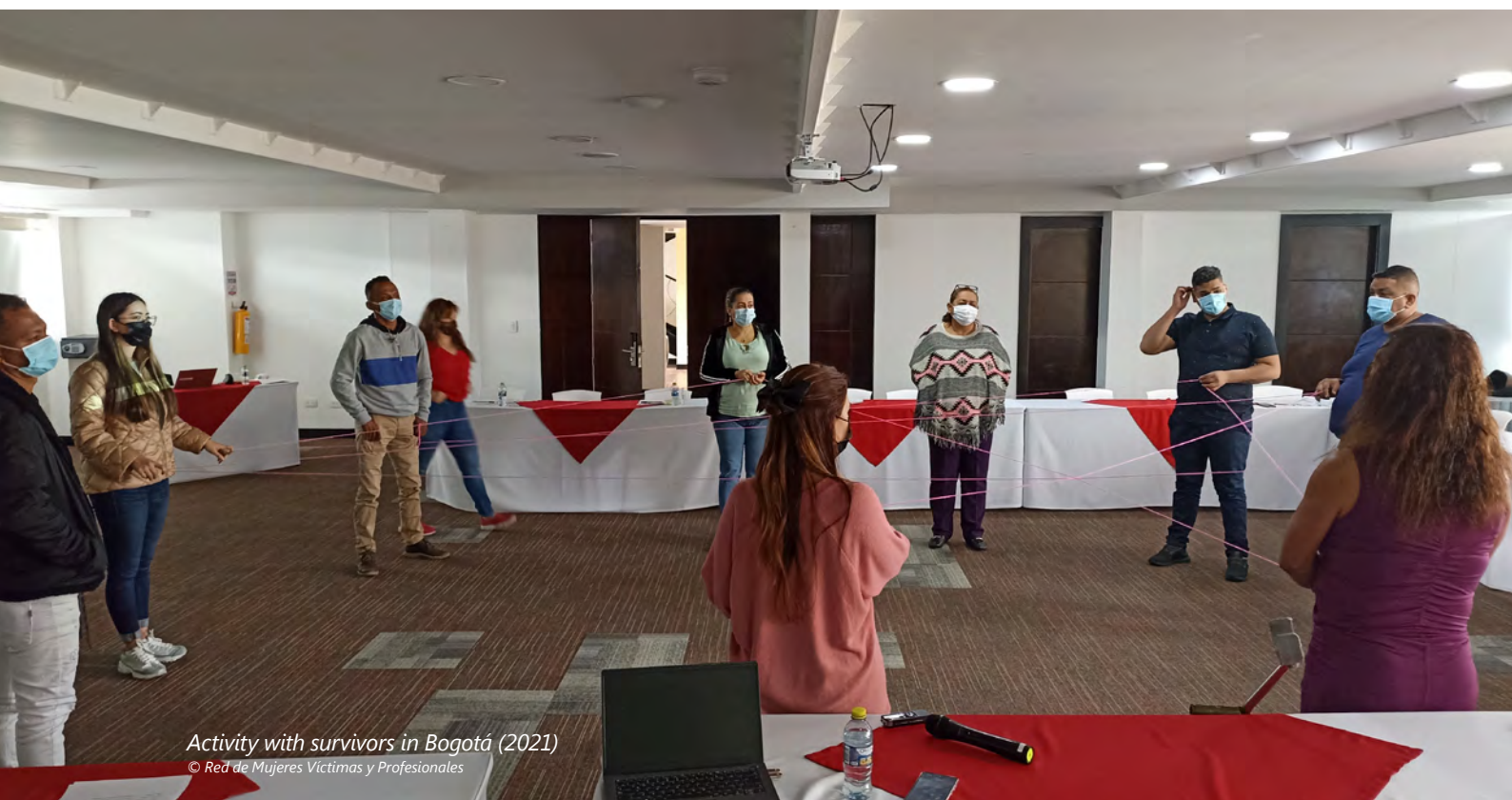
185 LACOLASOB01 (n 46); LACOLASFGT01 (n 52); LACOLASFGT02 (n 65); LACOLREFGT01 (n 58).

186 Tatiana Sánchez Parra, 'What's killing them: Violence beyond COVID-19 in Colombia' (2021) 17 *Crime, Media, Culture: An International Journal* 11; Julia Zulver, 'In Colombia, pandemic heightens risk for women social leaders. Carnegie Endowment for International Peace' (7 May 2020) <https://carnegieendowment.org/2020/05/07/in-colombia-pandemic-heightens-risks-for-women-social-leaders-pub-81736> accessed 16 February 2022.

187 LACOLASFGT01 (n 52).

188 LACOLASOB01 (n 46).

189 LACOLASFGT01 (n 52).



Activity with survivors in Bogotá (2021)

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Similarly, the intensification of the war has increased the recruitment of both children and young people by illegal armed groups and the government. For many women survivors, the recruitment of their children by any armed group aggravates their emotional harms, not least because they see the continuation of the armed conflict.¹⁹⁰ Some women with children born to CRSRV expressed fear that armed groups may know who their children's biological fathers are and want to recruit or harm them, even when they had no relationship with the biological father.¹⁹¹

3.1. Reparations in the midst of war

In these complex scenarios, which are also characterised by high levels of impunity and delays in the processes of justice, truth, and reparation, victims express mixed feelings about reparations. On the one hand, they are pessimistic when it comes to guarantees of non-repetition, as they point out that as long as the legal and illegal armed groups are active, the threat of CRSRV will continue to be present.

“Guarantees of non-repetition only exist on paper, neither the [Victims’] Unit nor anyone else is in a position to do that.”¹⁹²

190 LACOLASOB01 (n 46); LACOLASFGT01 (n 52); LACOLASFGT02 (n 65); LACOLREFGT01 (n 58).

191 LACOLASOB01 (n 46).

192 Ibid.

It sounds nice, but it is not like that. Because talking about guarantees of [non] repetition in a municipality that is pure armed conflict is difficult. Because they killed my mother, but no one can guarantee to me that they won't kill more people; they just buried a cousin of mine. On my father's side, they have killed cousins of mine. So you live there, it's like your life is being choked all the time. There is no guarantee that there won't be a repetition, because there is still a repetition, and you keep seeing people burying their children.¹⁹³

"Well, I think it's that no one should know, because if you received something for you, you don't have to announce it, or put it on lists, or anything. Nobody has to know about it. They have to call you and tell you what you have to do and where you have to go to receive the money. And if they are going to support you, why is it that they also come to the territories with these suits and then everyone knows that you were at the meeting of such and such a suit. So that's where you give a lot to talk about."¹⁹⁷

On the other hand, when presented with the opportunity to receive individual reparations, particularly compensation, survivors fear that this will make them targets for theft and insecurity. Although this situation may be found in most countries where victims of armed conflict receive reparations, the contexts of insecurity in Colombia, increased by the impoverishment and inequality caused by the Covid-19 pandemic, increase the risk and insecurity to which survivors are exposed.¹⁹⁴ In these contexts, victims express concern about others finding out that they have received compensation measures. Mainly, say survivors, because there are misconceptions in communities that reparations consist of a lot of money and come with many benefits.

This is not to say that victims consider that reparations are not possible in the midst of war or pandemic. Rather, the risks to which they are exposed are exacerbated, and they therefore require the State to take clear measures to counteract them. For example, survivors consider that in order to move towards guarantees of non-repetition, it is essential to have a non-militarised State presence, a true implementation of the 2016 peace accords, and access to education, housing, and decent work for their children.

4. Agency of the survivors: non-instrumentalised participation and organisational processes

"(...) let's say they tell you that you are going to receive some money, and this is going to stay between two people. No, that person is going to tell someone else. Then the whole community will know about it. And then you run the risk of being harmed by someone."¹⁹⁵

"Because when you are going to receive money, you live quietly, you don't tell anyone. Because when you go and start telling people "I'm going to receive such and such money," that's where the mistakes start. They show up, or they send thieves to you. Such a thing may not be from the community, but from other places."¹⁹⁶

Survivors, particularly women, have created and strengthened organisational processes that include the demand for truth, justice, and reparation for CRSRV. These organisational processes are interconnected with other issues that are part of the women and feminist movement's agenda in Colombia. These include the opposition to economies of extractivism, the demilitarisation of territories, and the implementation of the 2016 Peace Accords. These scenarios of organisation and collective action have been a platform for connecting with other survivors, particularly those from the LGBTIQ+ population.

193 LACOLASFGT01 (n 52).

194 Departamento Administrativo Nacional de Estadística (DANE), 'Encuesta pulso social. Información décima octava ronda (diciembre 2021)' (25 January 2022) <https://www.dane.gov.co/index.php/estadisticas-por-tema/encuesta-pulso-social> accessed 16 February 2022.

195 LACOLASINT03 (n 73).

196 LACOLASINT18 (n 123).

197 LACOLASINT40 (n 130).

One victim stated:

Today I do a lot of social work with collectives and organisations, precisely in the defence and protection of human rights. But more than these organisations and the work that I have been able to do with them, this is what [I have] done: [Name of survivor] after she was raped and displaced she has never had a hundred pesos for a bag of water, but to this day (...) I have not lacked anything. But because I decided that all that damage, all that evil, I had to use it to build this, and I couldn't build it badly. I could not continue to build pain, hatred, resentment, misery, poverty, precariousness. Because that is what the economic model of death of the Colombian State has given me, and that is what the poor political bases of this country have given me.¹⁹⁸

In addition, victims highlight the importance of developing victim-centred transitional processes. They indicated that:

“Women victims of sexual violence must be put at the centre of the discussions, but also of the plans, programmes, and projects that are designed at the national level, in the framework of what they call reparation.”¹⁹⁹

However, they warn of the violence involved in creating so-called participatory processes, but which in reality only expect a passive and instrumentalised presence from the victims. Survivors' political processes have opened forums in the different transitional justice mechanisms and institutions in Colombia, which currently take into account

participatory, ethnic, and gender perspectives throughout the various transitional justice processes, as highlighted in this report. For example, the right to victim participation is clearly recognised within Law 1448 of 2011.²⁰⁰ It is also embodied in the National Committee for Effective Victim Participation, as well as in the municipal, district, and departmental committees, and their CRSRV committees, which are part of the National System for Comprehensive Victim Support and Reparation. Likewise, within the new mechanisms established by the FPA such as the SJP, the right to victim participation has been recognised as a fundamental part of enabling justice and providing satisfaction for other rights,²⁰¹ so much so that the SJP adopted the Manual for Victim Participation before the Special Jurisdiction for Peace, with the aim of regulating and enabling the comprehensive participation of victims and their centrality in the Jurisdiction processes.²⁰²

The forums for participation achieved by social movements can be seen both in interactions with the State, such as the National Committee, and in the design of opportunities for victim participation in the different transitional justice mechanisms. Although these are achievements won through the political struggles of victims' organisations, the high level of bureaucratisation of the processes, budget cuts to transitional justice bodies, and the lack of institutional political will (beyond some dedicated workers) to implement policies, has generated exhaustion, re-victimisation, and new forms of violence against survivors and certainly reduces the transformative power of victim participation in these processes. This translates into the following type of perceptions for victims:

And that of bringing lawsuits, of reporting, well I've heard that it doesn't do any good. The few that have tried have spent years and years and nothing has changed. So well the truth is that sometimes I feel that I would like to, but then I think that I don't, because I think that nothing is going to happen and what they are going to do is force me to tell and tell things again.²⁰³

198 LACOLCAINT03 (n 60).

199 LACOLASFGT01 (n 52).

200 Law 1448 de 2011, art. 4, 14, 28 and 29, among others.

201 JEP Sección de Apelación, 'Sentencia Interpretativa TO-SA-SENIT 1 de 2019' (3 April 2019) paras 64-71.

202 JEP, 'Manual para la Participación de las Víctimas ante la Jurisdicción Especial para la Paz' (JEP 2019).

203 LACOLASINT40 (n 130).

I need you to do me a favour and pull the ears of the State, not only of the Victims' Unit, but of the State. So that the State takes care of these forgotten communities, so that the people can progress. (...). In Colombia there are women who are victims, and they have not been listened to.²⁰⁴

Victims, however, highlight the transformative power of organisational processes and collective action, which do not tend to go through institutionalised forums. Survivors, including cisgender men, expressed that their participation in collective processes in which they have met other victims and created networks of support, solidarity, and friendship, has been transformative. They express the importance of recognising themselves as agents and in a holistic manner, beyond the facts of CRSRV. It is also important to know that they have been truly listened to, and to learn to listen to other survivors. In this regard, the victims highlight:

*"I felt alone and we came to the *emotional healing* group and they were all laughing. And I felt like I was bursting with anger, *I said* "they are telling lies, that didn't happen to them, because they can laugh, well, it's impossible for a woman to have that happen to her and come out laughing". And it was because I didn't understand that they had already gone through a process of healing (...). That support network is really very, very important. (...) About two years ago a girl who had been raped and everything committed suicide, and I said well, I mean, why did she commit suicide? because she didn't have that support network, she didn't have anyone to turn to, many are afraid to tell their family (...). I hope to be, I hope to be emotionally really healthy, strong and to be able to rebuild like that little place of refuge."²⁰⁵*

"I began to meet victims from all these spaces and [name of a woman] took me to the women's home and there I began a process in which I began to change the role of that bitter woman, with that pain, with that life, and I began a process with them and from there I began to grow."²⁰⁶

204 LACOLASINT03 (n 73).

205 LACOLCAINT01 (n 79).

206 LACOLREDFGT07 (n 58).



V. ACCESS TO HUMANITARIAN ASSISTANCE MEASURES

1. Humanitarian assistance measures available to victims of sexual and reproductive violence

Understanding humanitarian assistance for victims in Colombia requires understanding the matter of forced displacement. In Colombia, forced displacement has been the most widespread violation of human rights and international humanitarian law. According to RUV data, 8,231,887 people have been displaced in Colombia as of February 2022. The Office of the United Nations High Commissioner for Refugees (UNHCR) reported in its 2021 mid-year report that it has provided humanitarian assistance to 8.1 million victims of forced displacement.²⁰⁷ Colombia is therefore one of the countries with the largest number of displaced people in the world and currently has the second largest population of migrants and refugees in the world, with 1.7 million Venezuelans.²⁰⁸

Displacement has been a major challenge for the Colombian State, aggravated now by migration from Venezuela. Therefore, in 1995, the National Plan for the Support of Displaced Persons was created with the aim of generating public policy on the issue. It is within this framework that Law 387 of 1997 was passed, which adopts measures for the prevention of forced displacement, as well as for the care, protection, consolidation, and socio-economic stabilisation of those internally displaced by violence in Colombia.

Although Law 387 of 1997 did not explicitly include a differential approach, one of its objectives was to provide special attention to women and children,²⁰⁹ and to enable access to social care in matters of health, education, and urban and rural housing for children and women.²¹⁰

Likewise, the Constitutional Court, in its Judgement T-025 of 2004,²¹¹ in which it heard the multiple violations suffered by 1,150 displaced families in Colombia, including women heads of household, minors, and the elderly, declared that the State response, including humanitarian aid, constituted an unconstitutional state of affairs. It ordered the Colombian State to take various structural measures aimed at overcoming the state of affairs, and to provide support to the displaced population in the country. This ruling is part of a series of CC decisions and implementation orders to the Colombian State regarding public policy for displaced persons, including humanitarian aid.²¹²

The Constitutional Court has established that humanitarian assistance is “the way to satisfy the minimum guarantees of a victim of violence in order to overcome the immediate and mid-term consequences of the act that violates their rights in the context of the armed conflict”.²¹³ The Court has considered that humanitarian aid is of a temporary nature,²¹⁴ and its effectiveness is linked to “the adequate interconnection that exists between humanitarian aid and the mechanisms of access to socio-economic stabilisation”.²¹⁵

207 UNHCR, ‘Mid-Year Trends’ (2021) 11 <https://www.unhcr.org/statistics/unhcrstats/618ae4694/mid-year-trends-2021.html> accessed 8 February 2022.

208 Ibid 6.

209 Ley 387 de 1997, Article 10.7.

210 Ibid Article 17.

211 Corte Constitucional, ‘Sentencia T-025-04’ (22 January 2004) Magistrado Ponente: Manuel José Cepeda Espinosa.

212 Corte Constitucional, ‘Sentencia SU-1150 de 2000’ (30 August 2000) Magistrado Ponente: Eduardo Cifuentes Muñoz; ‘Sentencia T-327 de 2001’ (26 March 2001) Magistrado Ponente: Marco Gerardo Monroy Cabra; ‘Sentencia T-268 de 2003’ (27 March 2003) Magistrado Ponente: Marco Gerardo Monroy Cabra; ‘Auto 008 de 2009’ (26 January 2009) Magistrado Ponente: Manuel José Cepeda Espinosa; ‘Auto 219 de 2011’ (13 October 2011) Magistrado Ponente: Luis Ernesto Vargas Silva.

213 Corte Constitucional, ‘Sentencia C-914 de 2010’ (16 November 2010) Magistrado Ponente: Juan Carlos Henao Pérez; *Sentencia C-438 de 2013* (10 July 2013) Magistrado Ponente: Alberto Rojas Ríos.

214 Corte Constitucional ‘Sentencia C-438 2013’ (n 213); Corte Constitucional ‘Sentencia T-690A de 2009’ (1 October 2009) Magistrado Ponente: Luis Ernesto Vargas Silva.

215 Corte Constitucional, ‘Sentencia C-438 2013’ (n 213).

In the framework of the duty to protect fundamental rights, the CC has been monitoring the implementation of the orders of Judgment T-025 of 2004 through hearings and judicial acts. The Court has noted the importance of adopting and effectively implementing a differential approach that responds to the vulnerabilities, needs, and opportunities for reconstructing the lives of displaced persons.²¹⁶ Thus, in Judicial Act 092 of 2008, the Court identified sexual violence, sexual exploitation, and sexual abuse as some of the risks to which women victims of displacement are exposed in the context of armed conflict. It also clarified that there is a “constitutional presumption of automatic extension of emergency humanitarian aid in favour of displaced women, which implies that such aid must be provided in a comprehensive, complete, and uninterrupted manner, (...) assuming that these are people in a situation of extreme vulnerability that justifies the granting of the extension”.²¹⁷

In the implementation orders to Judgement T-025 of 2004, the Court has identified the obstacles to access to humanitarian aid that make effective, complete, and timely delivery impossible in practice:²¹⁸

- I. The absence of adequate procedures for delivering aid; the lack of political will, and the non-execution of remedies by territorial entities.
- II. The absence of support by departmental and national entities that must support municipalities when they do not have the resources to deliver aid.
- III. Excessive centralisation in the processing of requests and the delivery of humanitarian aid, which subjects the population to a complex institutional pilgrimage.

In response to the lack of coordination between territories and central State entities on displacement and lack of ownership and clear distribution of responsibilities, Law 1190 of 2008 was issued.

Law 1448 of 2011, known as the Victims and Land Restitution Law, which created the domestic

reparation programme in Colombia, not only sought to create an administrative remedy for accessing reparation, but also to integrate displaced persons into the transitional justice processes. Assistance and reparation measures were established through this law,²¹⁹ aimed at victims of the armed conflict covered by the Law, including displaced persons and victims of CRSRV. Article 47 of the Victims’ Law states that:

“The victims referred to in Article 3 of this law shall receive humanitarian aid according to the needs related to the victimising event, with the aim of providing relief, assistance, protection and attention to their needs for food, personal hygiene, management of supplies, kitchen utensils, emergency medical and psychological care, emergency transport, and temporary accommodation in dignified conditions, and with a differential approach, at the time of the violation of rights or at the time when the authorities become aware of the violation.”

Victims of crimes against sexual freedom and development shall receive specialised emergency medical and psychological assistance.”

Law 1448 of 2011 regulates humanitarian support measures for displaced persons and humanitarian aid measures for other victims, including victims of CRSRV. Humanitarian support for displaced persons is of three types: immediate support, which covers food, toiletries, supplies, cooking utensils, and temporary shelter; emergency support, to cover minimum subsistence items within the first year of displacement; and transitional support to cover temporary shelter and food issues after one year of displacement.

Humanitarian aid for those who are not displaced is regulated by Resolution 2349 of 2012 of the UARIV, which provides that any victim who has medical, psychological, or physical harm that causes incapacity for at least 30 days and/or is considered within the injuries foreseen in articles 137, 138, and 139 of the Penal Code that establish the penalties for acts of torture, rape, and violent sexual acts, may receive a sum equivalent to twice the current legal minimum monthly wage for

216 Corte Constitucional, ‘Auto 218 de 2006’ (11 August 2006) Magistrado Ponente: Manuel José Cepeda Espinosa.

217 Corte Constitucional, ‘Auto 092 de 2008’ (14 April 2008) Magistrado Ponente: Manuel José Cepeda Espinosa.

218 Corte Constitucional, ‘Auto 099 de 2013’ (21 May 2013) Magistrado Ponente: Luis Ernesto Vargas Silva.

219 Ley 1448 de 2011, Article 25.



Interview with a survivor (2021)

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one time only.²²⁰ Figures from the UARIV regarding the delivery of humanitarian aid for acts other than forced displacement indicate that during the first 10 years of the Victims' Law, more than 51,000 payments have been made as of August 2021, to the value of 64,000 million pesos.²²¹ Between 2020 and 2021, the UARIV granted humanitarian aid to 147 victims included in the RUV for crimes against sexual freedom, integrity, and development and whose victimising event occurred in the three months prior to their registration.²²²

Law 1448 created the National Plan for Comprehensive Victim Support and Reparation, which gave rise to the Programme for Victim Psychosocial Support and Holistic Health Care (*Programa de Atención Psicosocial y Salud Integral a Víctimas* – PAPSIVI). PAPSIVI's objective is to provide health assistance as well as physical, mental, and/or psychosocial rehabilitation

to all victims, including victims of CRSRV, who are registered in the RUV. This programme covers both assistance and health reparation measures.

The CC has reiterated that registration in the RUV is not required to access humanitarian aid measures and emergency health care, measures that can be accessed from the moment of victimisation.²²³ However, the UARIV established that victims requesting humanitarian aid for events other than forced displacement must be included in the RUV.²²⁴ Similarly, it established that no more than one year can have elapsed between the date of the events and the declaration.²²⁵ The requirement that victims be registered in the RUV constitutes a measure that goes against constitutional jurisprudence on the subject of registration in the RUV,²²⁶ and may end up affecting access to these emergency measures.

220 In 2012 the legal minimum monthly wage in Colombia was 566,700 pesos. As of March 2022, it was 1,000,000 pesos, or approximately 266.24 USD.

221 UARIV, 'Unidad para las Víctimas se solidariza con las personas afectadas por las crisis humanitarias' (18 August 2021) <https://www.unidadvictimas.gov.co/es/asistencia-y-atencion-humanitaria/unidad-para-las-victimas-se-solidariza-con-las-personas-afectadas> accessed 7 February 2022.

222 Comisión de Seguimiento y Monitoreo a la Implementación de la Ley 1448 de 2011 "Ley de Víctimas y Restitución de Tierras", 'Octavo Informe de Seguimiento al Congreso de la República 2020 – 2021' (2021).

223 Corte Constitucional, 'Sentencia T-169 de 2019' (24 April 2019) Magistrado Ponente: José Fernando Reyes Cuartas; 'Sentencia SU-599 de 2019' (11 December 2019) Magistrada Ponente: Cristina Pardo Schlesinger; 'Sentencia T-018-2021' (25 January 2021) Magistrada Ponente: Cristina Pardo Schlesinger.

224 UARIV, 'Ayuda Humanitaria' <https://www.unidadvictimas.gov.co/es/ayuda-humanitaria/54344> accessed 2 March 2022.

225 Ibid.

226 Corte Constitucional, 'Sentencia SU-599 de 2019' (n 223); Corte Constitucional, 'Sentencia T-478 de 2017' (24 July 2017) Magistrada Ponente: Gloria Stella Ortiz Delgado.

Furthermore, the Constitutional Court has observed that despite the fact that Laws 387 of 1997 and 1448 of 2011 do not impose conditions other than being displaced or being registered in the RUV, victims are “forced to file petition rights, protection actions (*acciones de tutela*) and even incidents of contempt of court in order to finally obtain emergency assistance”.²²⁷

In addition to the above, several national and international humanitarian organisations and international agencies provide humanitarian assistance in Colombia. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) has been present in the country since 2003 and one of the priorities of its mission includes the complementary humanitarian response to emergencies caused by the armed conflict.²²⁸ OCHA coordinates the humanitarian response of more than 90 humanitarian organisations that are part of the Humanitarian Country Team (HCT), a cluster of humanitarian organisations in Colombia with operational presence in 32 departments of the country.²²⁹ OCHA has identified that of the humanitarian organisations that are part of the HCT, 52% are international non-governmental organisations, 31% national organisations, and

13% agencies of the United Nations. 6% are public institutions and 1% is participation of the church.²³⁰

In its 2021 humanitarian response report on Colombia, OCHA observed that “the deterioration of humanitarian and protection needs in the context of COVID-19 has generated an increase in security risks and sexual violence for women and girls”.²³¹ Illegal armed actors have taken advantage of the lockdown measures to “strengthen their strategies of control and coercion over communities where State presence is limited”.²³² By 2021, OCHA identified 1,493,270 people in need of urgent humanitarian response due to gender-based violence.²³³ In this context, humanitarian response includes “health care, clinical management of rape and psychosocial care, and access to protection measures”.²³⁴

Finally, the Victims’ Law Supervisory and Monitoring Commission (*Comisión de Seguimiento y Monitoreo de la Ley de Víctimas – CSMLV*) in its latest monitoring report (2020–2021) observes with regard to the delivery of humanitarian aid that there is no account of “the adequate management by officials of the support given to these cases from a gender perspective in intersection with other differential approaches.”²³⁵

227 Corte Constitucional, ‘Sentencia C-438 de 2013’ (n 213); Corte Constitucional, ‘Sentencia T-702 de 2012’ (4 September 2012) Magistrado Ponente: Luis Ernesto Vargas Silva.

228 OCHA, ‘Presencia Operacional Equipo Humanitario País. Infografía’ (8 June 2020) <https://www.humanitarianresponse.info/en/operations/colombia/infographic/presencia-operacional-humanitaria-equipo-humanitario-pa%C3%ADs-ehp-3w> accessed 2 March 2022; Cancillería de Colombia, ‘Oficina para la Coordinación de Asuntos Humanitarios – OCHA’ <https://ginebra-onu.mision.gov.co/asistencia-humanitaria> accessed 2 March 2022.

229 Ibid.

230 Ibid.

231 OCHA, ‘Plan de respuesta Humanitario. Colombia’ (April 2021) https://reliefweb.int/sites/reliefweb.int/files/resources/hrp_colombia_2021_vf.pdf accessed 2 March 2022: 54.

232 Ibid.

233 Ibid 59.

234 Ibid 60.

235 Comisión de Seguimiento y Monitoreo a la Implementación de la Ley 1448 de 2011 (n 222) 419.



VI. REMEDIES AVAILABLE IN COLOMBIA FOR ACCESSING REPARATION

1. Colombia's international human rights obligations, normative and public policy frameworks on the right to reparation

Colombia is a democratic and social State governed by the rule of law, whose Constitution recognises human dignity as a fundamental principle of the State. The Constitution also recognises the effectiveness of the rights recognised within as an essential aim of the State,²³⁶ which include civil and political rights, economic, social, and cultural rights, and collective and environmental rights.²³⁷

The 1991 Political Constitution establishes that international treaties and conventions ratified by Colombia, which recognise non-derogable human rights, prevail in domestic law, making them part of what the CC has called the “Constitutional Corpus” (“*Bloque de Constitucionalidad*”), namely that they are part of the Constitution itself.²³⁸ Similarly, Article 93 of the Constitution recognises that the “rights and duties enshrined in this Charter shall be interpreted in accordance with international human rights treaties ratified by Colombia”. Article 94 establishes that “the enunciation of the rights and guarantees contained in the constitution and in the international agreements in force shall not be understood as a denial of others which, being inherent to the human person, do not expressly appear in them”. Finally, the Constitution regulates states of emergency, establishing in Article 214.2 that “human rights and fundamental freedoms may not be suspended. In any event, the rules of International Humanitarian Law shall be respected”. Thus, the Colombian Constitution is a Constitution that guarantees human rights.



Survivors who participated in a workshop (2021)
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Similarly, as Table I shows, Colombia has ratified most human rights, international humanitarian law, and international criminal law treaties of relevance to armed conflict and the right to reparations.²³⁹

236 Constitución Política de Colombia (1991), Articles 1 and 2.

237 Ibid Articles 11-82.

238 Ibid Articles 93, 94 and 214.2; Corte Constitucional, ‘Sentencia C-225 de 1995’ (18 May 1995) Magistrado Ponente: Alejandro Martínez Caballero.

239 A comprehensive list of international treaties ratified by Colombia can be found at https://www.hchr.org.co/acnudh/EPU/A_HRC_WG.6.16_COL_1_Colombia_Annex%20III_S.pdf accessed 23 January 2022.

TABLE I – RELEVANT TREATIES RATIFIED BY COLOMBIA

TREATY	ENTRY INTO FORCE	IMPLEMENTING LAW
International Covenant on Civil and Political Rights (1966)	23 March 1976	Law 74 of 1968
Optional Protocol to the International Covenant on Civil and Political Rights (1966)	23 March 1976	Law 74 of 1968
International Covenant on Economic, Social and Cultural Rights	3 January 1976	Law 74 of 1968
American Convention on Human Rights. "Pact of San José".	18 July 1978	Law 16 of 1972
Convention on the Elimination of All Forms of Discrimination Against Women	3 September 1981	Law 51 of 1981
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	26 June 1987	Law 70 of 1986
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. "Convention of Belem do Para"	03 May 1994	Law 248 of 1995
Inter-American Convention to Prevent and Punish Torture	28 February 1987	Law 409 of 1997
Rome Statute of the International Criminal Court	15 November 2000	Law 742 of 2002
Convention on the Prevention and Punishment of the Crime of Genocide	12 January 1951	Law 28 of 1959
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	22 December 2002	Law 984 of 2005
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. "Protocol of San Salvador"	16 November 1999	Law 319 of 1996
Four Geneva Conventions of 1949	21 October 1950	Law 5 of 1960
Additional Protocol (Protocol II) relating to the Protection of Victims of Non-International Armed Conflicts (1977)	7 December 1978	Law 171 of 1994
Convention (N. 169) concerning Indigenous and Tribal Peoples in Independent Countries		Law 21 of 1991
Convention on the Rights of the Child	2 September 1990	Law 12 of 1991

It should be noted that the Covenant on Civil and Political Rights and the American Convention on Human Rights, as well as the treaties on economic, social, and cultural rights, and the existing monitoring bodies of these instruments, have emphasised that these treaties include the right to reparation for victims of violations of the human rights covered by them.²⁴⁰ This is the case either as a primary right resulting from the obligation of State parties to guarantee and provide effective remedies, or as a secondary obligation arising from the violation of a right, as indicated, for example, in Article 63(1) of the American Convention on Human Rights.

In addition, in the Americas, the Inter-American Human Rights System – both the Inter-American Commission on Human Rights (IACCommHR) and the Inter-American Court of Human Rights (IACtHR) – have played a fundamental role at the global level in determining the scope and content of the right to reparation for victims of human rights violations. The IACtHR has recognised since its first judgment in the case of *Velásquez Rodríguez vs Honduras*²⁴¹ that: *“Reparation for harms caused by a violation of an international obligation requires, whenever possible, full restitution (restitutio in integrum), which is to reinstate the situation that existed prior to the commission of the violation. If this is not feasible, as occurs in most cases of human rights violations, the Court will determine measures to safeguard the violated rights and redress the consequences that the violations engendered. Therefore, the Court has considered the need to grant various measures of reparation, in order to compensate for the harms in a comprehensive manner, so that, in addition to monetary compensation, the measures of restitution, rehabilitation, satisfaction and guarantees of non-repetition have special relevance for the harms caused.”*²⁴²

This approach, as noted in the next section, is followed by the Colombian legal system. In fact, the CC in Colombia has issued extensive jurisprudence recognising the right to reparation, as well as other rights of victims of the armed conflict, and has observed that this right is not only recognised by international norms that are part of the constitutional corpus, but is also expressly incorporated in the Constitution in articles 1, 2, and 250.²⁴³

2. Relevant regulatory and public policy frameworks in Colombia on CRSRV

This broad framework of fundamental rights enshrined in the 1991 Constitution has enabled the women’s movement and State institutions to promote and issue a series of laws, public policies, and jurisprudence to protect and recognise the right to a life free of gender-based violence, including sexual and reproductive violence. Thus, in development of the abovementioned Constitutional Corpus, norms of international treaties relating to sexual violence both in and outside of conflict, such as the Rome Statute,²⁴⁴ the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women – Convention of Belem do Para²⁴⁵ – or the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²⁴⁶ are also part of the Constitution. Similarly, the Constitutional Court has produced extensive jurisprudence on the rights of CRSRV survivors. Examples include Judicial Acts 092 of 2008 and 009 of 2015, which will be further explored in the following section.²⁴⁷

240 Human Rights Committee, ‘General Comment No. 31’ (24 March 2004) CCPR/C/21/Rev.1/Add.13 para. 16.

241 *Case of Velásquez Rodríguez v. Honduras* (Merits, Reparations and Costs) IACtHR Series C No. 7 (21 July 1989) paras. 25–27.

242 *Cantoral Benavides v. Peru* (Merits, Reparations and Costs) IACtHR Series C No. 88 (3 December 2001) paras. 79–81; *López Soto et al. v. Venezuela* (Merits, Reparations and Costs) IACtHR Series C No. 362 (26 September 2018) para. 269.

243 Corte Constitucional, ‘Sentencia C-805 de 2002’ (1 October 2002) Presiding Judges: Manuel José Cepeda Espinosa and Eduardo Montealegre Lynett; ‘Sentencia C-570 de 2003’ (15 July 2003) Magistrado Ponente: Marco Gerardo Monroy Cabra; ‘Sentencia C-899 de 2003’ (7 October 2003) Magistrado Ponente: Marco Gerardo Monroy Cabra ‘Sentencia C-210 de 2007’ (21 March 2007) Magistrado Ponente: Marco Gerardo Monroy Cabra.

244 Ratified and approved by Law 742 of 2002.

245 Ratified and approved by Law 248 of 1995.

246 Ratified and approved by Law 51 of 1981.

247 These are two follow-up Judicial Acts to Judgment T-025 of 2004 (n 213) which declared the state of unconstitutionality with regard to the situation of forced displacement in Colombia. The judicial acts are an integral part of the judgement they monitor and compliance with them is mandatory.

2.1. Constitutional jurisprudence on the rights of victims of conflict-related sexual and reproductive violence

The CC has monitored compliance with these orders through various means, and it is in this framework that the Court has issued two particularly important Judicial Acts to combat sexual and gender-based violence. Judicial Act 092 of 2008²⁴⁸ seeks to protect the fundamental rights of women displaced by armed conflict in the country and to prevent them from suffering a disproportionate gender impact due to the armed conflict. The Court identified ten (10) gender-related risks and eighteen (18) gender-specific aspects related to the armed conflict. Among those related to sexual violence are sexual violence and abuse, including forced prostitution, sexual slavery, and trafficking for sexual exploitation. In addition, the Judicial Act gave two (2) related orders: it ordered the creation of a programme for the prevention of sexual violence against displaced women, and transferred 183 cases of sexual violence committed in the context of the armed conflict to the Office of the Attorney General. This list of cases of sexual crimes is the Confidential Annex to Judicial Act 092 of 2008.

Judicial Act 009 of 2015²⁴⁹ specifically monitors the two abovementioned orders of Judicial Act 092 on the creation of the Programme and the transfer of cases to the Office of the Attorney General. In this Judicial Act, the Court establishes new sexual violence risks associated with the illegal exploitation of mining resources, and the risk of sexual violence against women of diverse sexual orientation. The Court also clarifies that since the issuance of Judicial Act 092, it has received information on four hundred and fifty (450) more cases of sexual violence in the context of the internal armed conflict, which it referred to the Office of the Attorney General and the Office of the Inspector General as part of the Annex. With regard to the 183 cases previously referred by Judicial Act 092, the Court found that there are persistent obstacles and serious failures in the assistance, protection, and access to justice for victims, and therefore ordered the creation of coordination mechanisms between

the judicial and administrative entities responsible for guaranteeing an effective judicial remedy.

In relation to the programme for the prevention of sexual violence, the 2015 Judicial Act determined that there also continues to be non-compliance in this order, despite developments such as the Protocols for health care for victims of sexual violence developed by the Ministry of Social Protection. It identified the absence of information regarding the content and responsibility for humanitarian aid, as well as the lack of differentiated attention to victims and the lack of quantitative results with regard to the support provided. In conclusion, it identified isolated and uncoordinated actions with no concrete impact on the effective enjoyment of the rights of women survivors of sexual violence.

It is important to note that the Constitutional Court has produced a great deal of jurisprudence that directly or indirectly develops the rights of persons affected by the armed conflict in Colombia, including victims of sexual and reproductive violence,²⁵⁰ jurisprudence that is not possible to consider in its entirety in this study.

2.2. Laws and public policies on the rights of survivors of conflict-related sexual and reproductive violence

This section of the report refers to laws and public policy measures that address the rights of victims of the conflict, excluding the right to reparation which is analysed in detail in the following section.

To begin with, Law 1719 of 2014 amended some articles of Laws 599 of 2000, 906 of 2004 and adopts measures to guarantee access to justice for victims of sexual violence, especially conflict-related sexual violence, and enacts other provisions.²⁵¹ Its main objective is the adoption of measures to guarantee the right of access to justice for victims of sexual violence, especially CRSRV. Importantly, among other measures, the Law placed the burden of proof of this crime on the

248 Corte Constitucional, 'Auto 092 de 2008' (n 217).

249 Corte Constitucional, 'Auto 009 de 2015' (27 January 2015) Magistrado Ponente: Luis Ernesto Vargas.

250 In this regard, some examples: Corte Constitucional, 'Sentencia SU-599 de 2019' (n 223); Corte Constitucional, 'Sentencia T-718 de 2017' (11 December 2017) Magistrado Ponente: Alejandro Linares Cantillo; 'Sentencia T-299 de 2018' (24 July 2018) Magistrado Ponente: Alejandro Linares Cantillo.

251 Ley 1719 de 2014.

State (and not on the victims) and established harsher penalties to punish sexual violence (in its different forms) when it is committed by any perpetrator in the context of the conflict. Likewise, the Law created criminal offences related to different forms of CRSRV, for example, related to forced prostitution, sexual slavery, forced pregnancy, and forced nudity.

The Law also developed a series of additional guarantees and rights for victims of CRSRV, including regarding investigation and prosecution. The Law defined acts of sexual violence as a crime against humanity²⁵² when committed as part of a widespread or systematic attack against the civilian population and with knowledge of such an attack, in accordance with the definitions in Article 7 of the Rome Statute and the elements of crimes developed from that Statute. These crimes can therefore be prosecuted at any time. It also prohibits the military criminal justice system from investigating these crimes if they were committed by members of the security forces.²⁵³

Among many other important provisions, Law 1719 established that women victims of CRSRV must be informed of the possibility of having a voluntary termination of pregnancy.²⁵⁴ The law also has an entire chapter dedicated to the comprehensive judicial reparations to which survivors of CRSRV are entitled.²⁵⁵ Thus, in the framework of judicial proceedings, reparation measures must include restitution, compensation, satisfaction, rehabilitation, and guarantees of non-repetition by the person responsible for the crime, and guarantee the participation of the victims in the definition of the measures. Similarly, specific rules are established for the exercise and promotion of comprehensive reparations in the judicial process in a way that prioritises the interests of the victims.

Furthermore, Law 1719 ordered State entities to strengthen policy on sexual and reproductive rights, sexual and reproductive health, and equity and gender-based violence, with several specific measures to prevent and address sexual violence in the armed

forces. It also ordered the incorporation of a single information component into the current information system on gender-based violence, which would enable it to assess the scale of sexual violence, monitor its risk factors, and provide analysis indicators to evaluate the prevention, care, and protection measures adopted.

2.3. Additional legislation, jurisprudence, and public policy relating to sexual violence that applies both in and outside of the armed conflict.

There are further laws, public policy developments, and constitutional jurisprudence that establish more generally rights for survivors of sexual violence in Colombia. The following such measures may be highlighted: Law 1257 of 2008, the Protocol and Model of Holistic Health Care for Victims of Sexual Violence, the Protocol of Investigation in Sexual Violence, constitutional jurisprudence on the right to voluntary termination of pregnancy, and the text of the FPA.

Law 1257 of 2008 established norms for awareness, prevention, and punishment of violence and discrimination against women, amended the Criminal Code, the Criminal Procedure Code, and Law 294 of 1996, and sets out other provisions.²⁵⁶ In Colombia, it is this law which is envisaged to develop the legal understanding of the different types of violence against women, including sexual violence, as well as the harm it causes. The law established a broad catalogue of measures for access to justice (including the extension and modification of criminal offences related to types of sexual violence) and measures to prevent, treat, and punish sexual violence in the contexts of health, work, and education. Articles 9.6 and 9.8 formulated, albeit in a generalised manner, the obligations of the national government to prevent gender-based violence in the context of the armed conflict.²⁵⁷ The law possesses regulatory decrees which define relevant procedures for the health, justice, and education systems.

252 Ibid Article 15.

253 Ibid Article 20.

254 Ibid Article 23.

255 Ibid Articles 25-29.

256 Ley 1257 de 2008.

257 The Law contains regulatory decrees defining procedures in health, justice, and education, such as the Decree 2734 of 2012 which regulates the measures for the support of women victims of violence.



Survivors of sexual violence (2021)
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The Protocol and Model of Holistic Health Care for Victims of Sexual Violence (Ministry of Health Resolution 459 of 2012)²⁵⁸ is currently being updated by the Ministry.²⁵⁹ Its general objective is to provide the country's health teams with a methodological and conceptual tool containing basic and essential criteria for a holistic approach to victims of sexual violence that guarantees quality care and the restoration of victims' rights. It is noteworthy that, in terms of health care for survivors of CRSRV, this is the protocol that health institutions must apply as established by the PAPSIVI.

The Protocol for the Investigation of Sexual Violence,²⁶⁰ aims to "provide all officials of the Office of the Attorney General responsible for the

different stages of investigation and prosecution of crimes of sexual violence with tools to comply with due diligence standards, to strengthen institutional capacities, and overcome investigative and technical-criminal obstacles as well as those that impede adequate support to victims both within and outside the framework of the armed conflict."

While this Protocol arises under a provision of the Victims' Law,²⁶¹ which is explained in detail below, it applies to all cases of sexual violence in the country. The Protocol is extensive and detailed, and it addresses, among other issues, the detailed legal definition of "sexual violence,"²⁶² the effects it has, the behaviours that constitute it, and some of the contexts in which it can occur. It also introduces guidelines for the receipt and registration of cases and the activation of counselling, legal representation, health care, and protection mechanisms. In addition, the Protocol provides guidelines for the development of investigative acts that would guarantee the adequate collection of evidence, and for the prosecution of sexual violence based on a victim-centred approach.

In terms of sexual and reproductive rights, the CC decriminalised abortion up to 24 weeks of gestation in its Judgement C-055 of February 2022. In cases in which the pregnancy exceeds 24 weeks, pregnant women may access legal and safe abortion services according to the three grounds defined in Judgement C-355 of 2006²⁶³ of the CC: danger to the life or health of the pregnant woman; malformations of the foetus incompatible with life; and/or non-consensual sexual intercourse or sexual acts, abusive or non-consensual artificial insemination or transfer of a fertilised ovum, or incest. In these latter cases, a copy of the criminal complaint is required, except in the case of girls under 14 years of age because it is to be legally presumed that the girl or adolescent was a victim of some type of sexual violence, or in the case of women victims of CRSRV, to whom Article 23 of Law 1719 of 2014 gives the right to obtain holistic and free health care

258 Ministerio de Salud y Protección Social, 'Resolución 459 de 2012, Protocolo y Modelo de Atención Integral en Salud para Víctimas de Violencia Sexual' (6 March 2012).

259 As of December 2021, the Ministry is still in the process of updating the Protocol. See: 'MinSalud actualizará el Protocolo de Atención en salud para Víctimas de Violencia Sexual' (Fenalco 2021) <https://fenalco.odoo.com/blog/juridico-2/minsalud-actualizara-el-protocolo-de-atencion-en-salud-para-victimas-de-violencia-sexual-193> accessed 23 January 2022.

260 Fiscalía General de la Nación (FGN), 'Protocolo de Investigación de Violencia Sexual' Resolución 1774 de 2016.

261 Ley 1448 de 2011, Article 38.

262 FGN FGN 'Protocolo de Investigación de Violencia Sexual' (n 260) Capítulo I, numeral 15.

263 Corte Constitucional, 'Sentencia C-355 de 2006' (10 May 2006) Magistrados Ponentes: Jaime Araujo Rentería y Clara Inés Vargas Hernández.

regardless of the existence of a criminal complaint. In any case, the voluntary termination of pregnancy in these three cases must be carried out within the health institutions of Colombia's Compulsory Subsidised Health Plan (*Plan Obligatorio de Salud – POS*).

There is also a National Policy on Sexual and Reproductive Rights in Colombia, updated in 2014, which develops a number of rights, including access to sexual and reproductive health services, including contraception.²⁶⁴

2.4. Remedies available in Colombia to access reparation measures for sexual and reproductive violence

Although Colombia has lived through more than half a century of armed conflict, which persists despite the signing of the 2016 FPA,²⁶⁵ it was only in 2011 that a domestic reparation programme was created which guaranteed the right to reparation for victims of the Colombian armed conflict, including victims of sexual and reproductive violence. This programme was established by Law 1448 of 2011, to which reference has already been made.

Prior to 2011, the only remedies available were judicial remedies. Article 90 of the Constitution enables the State to be sued for wrongful harm caused by the actions and omissions of its agents. Thus, in Colombia it is possible to go to the administrative dispute tribunals (*contencioso administrativo*) to seek redress through action for direct reparation.²⁶⁶ Additionally, it is possible to become a civil party in criminal proceedings against the perpetrator of these crimes in order to seek compensation for the harms caused. In Colombia this is regulated through the comprehensive reparation process in criminal proceedings, through which the victim, the

Office of the Attorney General, or the Public Ministry (*Ministerio Público*) can seek compensation and/or other forms of reparation from the perpetrator or a third party.²⁶⁷

The Victims' Law was created following many trials and errors. It began to materialise with the country's first notable transitional justice experience through Law 975 of 2005, known as the Justice and Peace Law, which sought specifically to demobilise paramilitary groups. After this law, negotiations with the FARC-EP took place which led to the signing of the FPA. This in turn created the Comprehensive System for Truth, Justice, Reparation and Non-Repetition, in which the right to reparation took on new dimensions, as did the remedies available to enforce this right. Some of these measures go beyond those contained within the Victims' Law, as will be explained in the following sections.

2.4.1. Law 975 of 2005

The Justice and Peace Law was the first legal effort to provide a legal framework for a transitional justice process in Colombia. The Law regulates the criminal procedure concerning the investigation, prosecution, punishment and judicial benefits for crimes committed by members of illegal armed groups who have decided to demobilise and contribute to peace.²⁶⁸ The Justice and Peace system allowed members of paramilitary groups who had demobilised, and some members of guerrilla groups, to benefit from reduced prison sentences for the serious crimes they committed, from 5 to 8 years of imprisonment,²⁶⁹ in exchange for full contributions to truth and reparation for the victims.²⁷⁰

Article 8 of Law 975 defines the right to reparation for victims as "actions that seek restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition". The law also establishes that collective

264 Ministerio de Salud, 'Política Nacional de Sexualidad, Derechos Sexuales y Derechos Reproductivos' (2014).

265 At the time of writing, the Colombian State is engaged in a non-international armed conflict involving the National Liberation Army (ELN), FARC-EP dissidents, and other paramilitary groups. See: Geneva Academy of International Humanitarian Law and Human Rights RULAC, 'Colombia' <https://www.rulac.org/browse/countries/colombia> accessed 2 March 2022.

266 Ley 1437 de 2011, Article 86.

267 Ley 906 de 2004, Chapter IV.

268 Ley 975 de 2005, Article 2, modified by Article 1 of Ley 1592 de 2012.

269 Ibid Articles 3, 24, 29 and 44.

270 Ibid. Articles 10 and 11 of Law 975 of 2005 establish the eligibility requirements for access to the benefits of the Justice and Peace system for members of an organised illegal armed group, including the handing over of assets resulting from illegal activities, the handing over of all recruited minors to the ICBF, the non-participation in drug trafficking or illicit enrichment, the release of hostages in their possession, collaboration in the dismantling of the group to which they belonged, the cessation of any illegal activity, reparation to victims, and the signing of a commitment agreement with the national government.

reparation constitutes a mechanism for communities affected by the occurrence of systematic violence and should be oriented towards the psychosocial recovery of these populations. Finally, the article indicates that it is the competent judicial authorities who will determine the appropriate individual, collective, or symbolic reparations in accordance with the provisions of the law. Thus, access to reparation in the framework of the Justice and Peace system is provided through judicial decisions by Justice and Peace judges.

Law 975 also created the National Commission for Reparation and Reconciliation (CNRR), an entity in charge of guaranteeing victims their right to participate in judicial inquiries, monitoring, periodically evaluating the reparation established in the Law, and recommending criteria for reparations to victims, among other responsibilities. With the enactment of Law 1448, the functions and attributions of the CNRR were taken over by the UARIV.²⁷¹

Law 975 did not include a cross-cutting gender and differential approach to the judicial process to which the defendants had to submit and in which victims participated, including access to reparation measures.²⁷² It was the CNRR, with the creation of the Gender and Specific Populations Area in 2006, which was responsible for ensuring that the needs of women, ethnic-racial and ethnic-cultural groups, children and adolescents, older adults, and people with disabilities were addressed in relation to comprehensive reparation measures.²⁷³

Despite efforts to adopt differential approaches by the CNRR, more than 15 years after the entry into force of Law 975 reparations for victims of gender-based violence remain limited given that the Justice and Peace system's commitment to reparation was eminently judicial. As of April 2022, 111,194 cases have been presented before the Justice and Peace Magistrates, at different procedural stages. Of these, 65,489 cases are in the investigation phase, namely they have not yet been presented to the Magistrates. Of all the cases, to date only 72 convictions have been handed down,²⁷⁴ including only 25 convictions for crimes of sexual violence and related offences.²⁷⁵

The judicial process under the Justice and Peace Law allowed for victim participation primarily during the hearings of the comprehensive reparation process.²⁷⁶ During this process, the victim could intervene and convey the form of reparation he or she was seeking, by presenting the evidence required to support such requests.²⁷⁷ This request was subject to conciliation with the defendant. If a conciliation agreement could not be reached, the Chamber made the decision regarding the requested reparation on the basis of the evidence that had been submitted.

However, once Law 1448 of 2011 was adopted, the high cost of reparations, the inequity generated by various reparation resources (some judicial and others not), as well as the lack of implementation of the reparation orders given by the Justice and Peace, led to the reform of the reparation process through Law 1592 of 2012.²⁷⁸ This law refocused the process on the identification of

271 Ley 1448 de 2011, Article 171.

272 Procuraduría General de la República, 'Balance Ley 1448 de 2011. Recomendaciones para garantizar los derechos de las víctimas del conflicto armado. Componente enfoque diferencial y de género' (2021) 21.

273 Comisión Nacional de Reparación y Reconciliación, 'Las mujeres y la reparación colectiva en Colombia. Aprendizajes de las experiencias de la Comisión Nacional de Reparación y Reconciliación' (2012) <https://reflexionesacademicas.uao.edu.co/wp-content/uploads/2014/07/las-mujeres-y-la-reparacion-colectiva-en-colombia.pdf> accessed 23 July 2021.

274 This information was obtained through a right of petition sent to the Transitional Justice Directorate of the Office of the Attorney General (Radicado No. 2022580009441, 19 April 2022). See also: UARIV, 'Sentencias-Justicia y Paz. Sentencias Sin Ejecutorias' <https://www.unidadvictimas.gov.co/en/sentencias-justicia-y-paz/28199> accessed 23 July 2021.

275 Ibid.

276 Ley 975 de 2005, Article 23 as amended by Ley 1592 de 2012, Article 23.

277 In the first instance decision in the proceedings against the defendants of the Bloque Vencedores Arauca, the Court drew the attention of the representatives regarding irregularities in the mandate to represent the victims. It began by recalling the principle of evidentiary flexibility for the purpose of demonstrating the amount of compensation (see para. 410 onwards), while noting the "precariousness of the evidence" with which they attended the proceedings. Thus, in estimating the amounts of compensation for some victims of sexual violence, the Chamber expressed "its concern at the insufficient requests for rehabilitation and satisfaction measures, especially given the individual and collective impact of crimes of a sexual nature" (para. 625). The Chamber's considerations in this case regarding some failures in victim representation is a small sample of the impact of a judicial process for victims in which they are the ones who have the burden of proving the harm in order to access reparation measures. The obstacles and impacts of the burden of proof on victims is not a phenomenon specifically studied for the writing of this Study. See: Tribunal Superior del Distrito Judicial de Bogotá Sala de Justicia y Paz, 'Bloque Vencedores Arauca, José Rubén Peña Tobón y otros' (1 December 2011).

278 Ley 1592 de 2012.



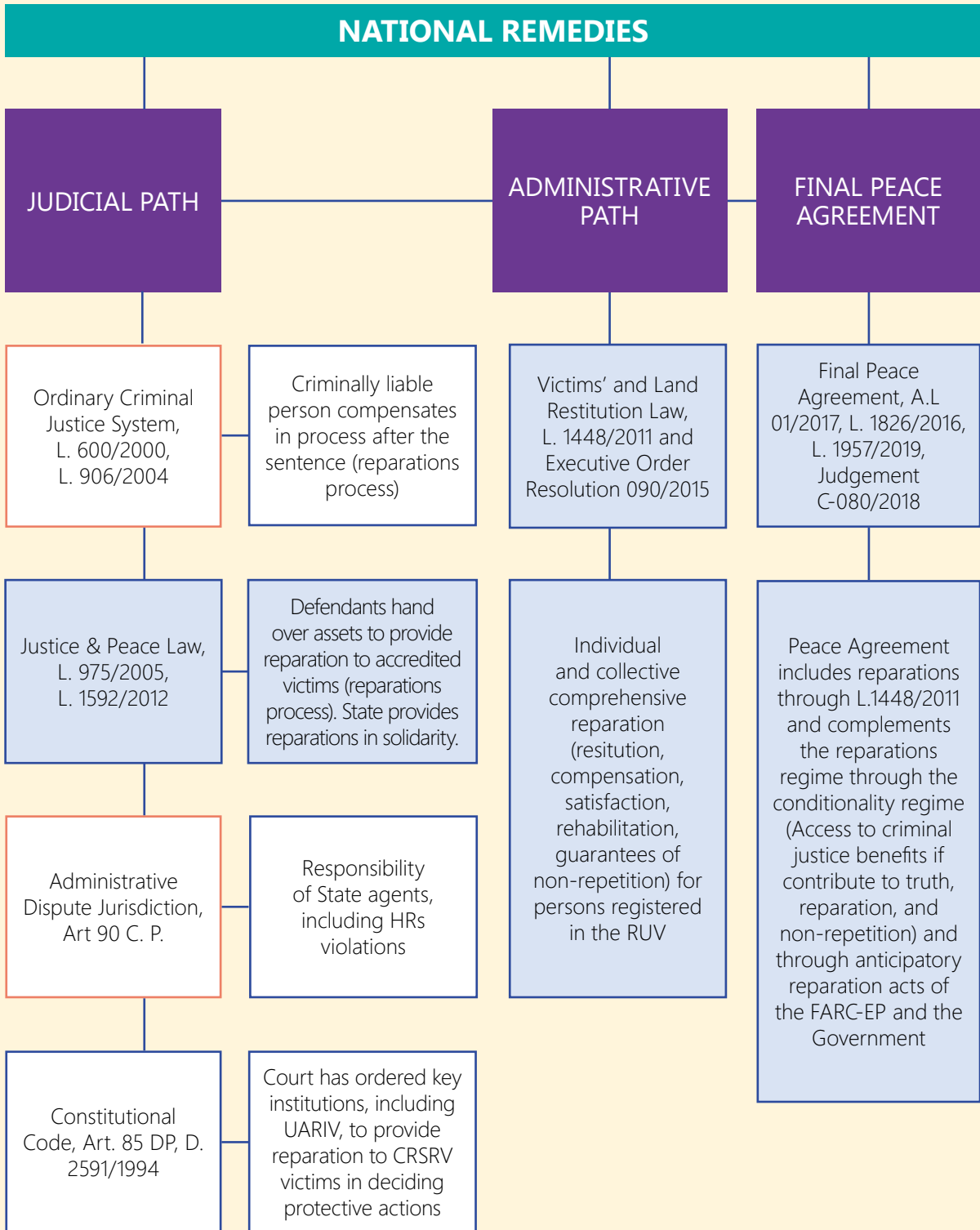
"Memories" exhibition (2021)
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the harms suffered and on providing compensation according to the standards of Law 1448 and not according to the assessment made by the judge in a court of law. The aim was therefore for reparations to be decided more promptly by referring the victim to the indications contained within Law 1448, and especially, in terms of compensation, to the application of the claim limitations as indicated in Article 10 of Law 1448.

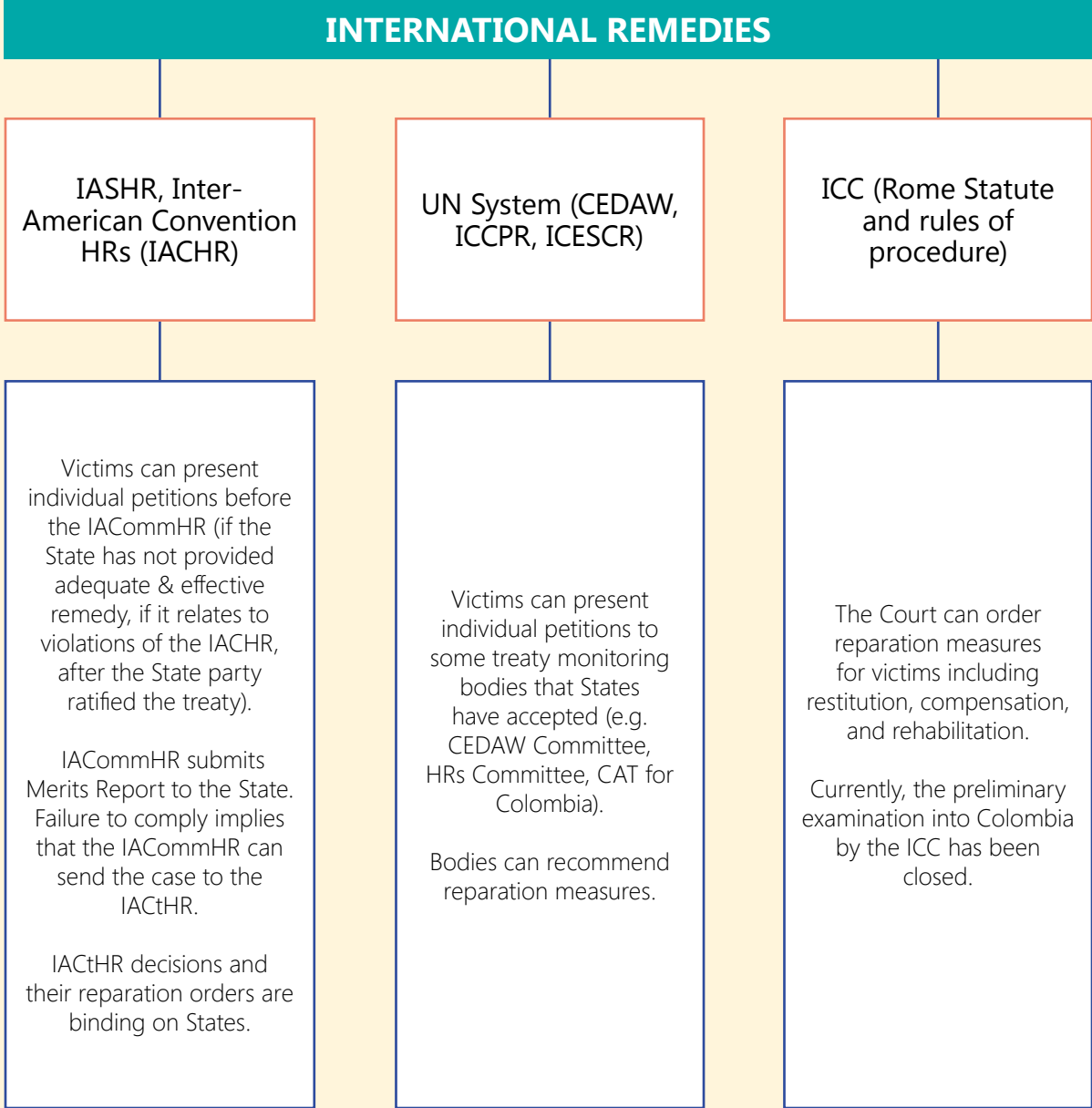
The relevant articles of Law 1592 that enabled this were declared unconstitutional by the CC, which considered that standardising judicial reparations

to the reparation process under Law 1448 of 2011 invalidated the right of victims to an effective remedy and to pursue the assets of the defendants in terms of comprehensive reparation. The Court therefore ordered the continuation of the reparation process.²⁷⁹ The difference is that if the perpetrator has assets, reparation in court is to be paid from those assets. However, if the defendant does not have assets, as is often the case, and if the State must respond in solidarity for reparation, it will provide compensation only up to the amounts indicated in Law 1448 of 2011.

279 Corte Constitucional, 'Sentencia C-180 de 2014' (27 March 2014) Magistrado Ponente: Alberto Rojas Ríos; 'Sentencia C-286 de 2014' (20 May 2014) Magistrado Ponente: Luis Ernesto Vargas Silva.



ONS IN COLOMBIA



Remedies that are part of transitional justice measures

Article 54 of Law 975 created the Fund for the Victims' Reparation²⁸⁰ which is made up of the assets and resources of illegal armed groups or individuals who are covered by this law. In this respect, the Constitutional Court, when analysing the constitutionality of Article 54, recognised that:

[...] the first to be obliged to make reparation are the perpetrators of the crimes, and subsidiarily and by virtue of the principle of solidarity, the specific group to which the perpetrators belong. The State holds only a residual role in this sequence in order to address the rights of victims, especially those who have not received a judicial decision fixing the amount of compensation to which they are entitled, and in the event that the perpetrators' resources are insufficient.²⁸¹

The judicial approach to reparation that predominated in Law 975 led to the adoption of Law 1448,²⁸² and its executive orders and regulatory decrees,²⁸³ which establish measures of support, assistance, and comprehensive reparation for victims of the internal armed conflict, including women and victims of CRSRV. This law was originally created for 10 years, but was extended for another 10 years through Law 2078 of 2021. Law 1448, as mentioned above, creates the National System for Comprehensive Victim Support and Reparation, within which there is a Domestic Reparation Programme led by the UARIV.

If Law 1592 of 2012 sought to regulate the coexistence of Law 975 with Law 1448, a similar coexistence was foreseen between the reparations ordered by the Council of State and that of the Victims' Law. Thus, if a victim has obtained reparation through the domestic reparation programme and seeks reparation from the State for wrongful harms through the Administrative Dispute Tribunal (*Contencioso Administrativo*), the reparation received under Law 1448 should be discounted from that ordered by the Dispute Tribunal.²⁸⁴

2.4.2. Law 1448 of 2011, domestic reparation programme

According to Article 3 of Law 1448, victims are considered as "those who have individually or collectively suffered harm as a result of events that occurred on or after 1 January 1985, as a consequence of violations of International Humanitarian Law or serious and manifest violations of International Human Rights norms, which occurred during the internal armed conflict". Persons born as a result of CRSRV are victims under the terms of the Law.

The violations subject to reparation under Law 1448 are forced disappearances, forced displacement, homicides, crimes against sexual freedom and integrity such as rape, torture, kidnapping, and physical and psychological personal injuries. Although the Law recognises that persons other than direct victims are also victims in relation to disappearances and homicides, such as fathers, mothers, sons, daughters, permanent partners, or same-sex couples, such status is not granted to relatives of victims of sexual or reproductive violence.

The Victims' Law contains general and specific norms that enshrine a gender and ethnic differential approach²⁸⁵ and that refer explicitly to sexual violence and reparations. In this sense, the Law establishes that women are subjects to special protection and determines several specific rights such as the right to equality and to live a life free of violence. It also contains several specific measures with a gender focus, for example, in the implementation of the Law, women must be guaranteed that they will not have to confront their aggressors and must be provided with safe and confidential spaces to give their testimonies.²⁸⁶

In Article 25, the Law recognises the five forms of reparation included in the Basic Principles and Guidelines on the Right to a Remedy and Reparation

280 Decreto 4760 de 2005, Articles 13, 17.

281 Corte Constitucional, 'Sentencia C-370 de 2006' (18 May 2006) Magistrados Ponentes: Manuel José Cepeda Espinosa, Jaime Córdoba Triviño, Rodrigo Escobar Gil, Marco Gerardo Monroy Cabra, Álvaro Tafur Galvis, Clara Inés Vargas Hernández.

282 Before the creation of Law 1448, Decree 1290 of 2008 was adopted, which created a first reparation programme, which was not sufficient. In parallel to Law 1448 of 2011 there are 3 Decree-Laws, the Decrees 4633, 4634 and 4635 of 2011 through which measures are dictated for the assistance, support, comprehensive reparation, and restitution for indigenous groups, for Roma groups, and for black, Afro-Colombian, Raizal, and Palenquera communities.

283 Ibid.

284 Ley 1448 de 2011, Article 9.

285 Ibid Article 13.

286 Ibid Articles 38, 41.

for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, namely restitution, compensation, satisfaction, rehabilitation, and guarantees of non-repetition. In addition, this Article indicates that victims will receive comprehensive, adequate, differentiated, transformative, and effective reparations.

Law 1448 establishes that personnel supporting women victims of sexual violence must be specially trained and that the woman victim must be able to choose the sex of the person supporting her. It also includes important principles of evidence applicable to cases of sexual violence and prioritises humanitarian support for its victims. The executive orders on matters of ethnicity of Law 1448 also include several provisions that specifically address the needs of indigenous and Afro-Colombian women victims of sexual violence, including differentiated support for these survivors and multidisciplinary health services for women victims of rape from ethnic populations.

Law 1448 establishes that members of armed groups will not be considered victims unless they left the armed group when they were minors.²⁸⁷ However, the CC changed this rule in relation to women victims of sexual and reproductive violence who are ex-combatants.²⁸⁸ This occurred following the case of Helena, a female ex-combatant who tried to access reparations under Law 1448, and who was denied registration as a victim of the FARC-EP by the UARIV, despite having suffered forced recruitment, abortion, and forced displacement.²⁸⁹ The UARIV denied the registration on the grounds that it exceeded the time limitation period. According to Law 1448, persons who were victimised before the Law came into force were required to register within four years of the Law's enactment. For those who were victimised after the Law came into force,²⁹⁰ the Law provides for the exception of force majeure as an impediment to submitting a timely application.

The Victims' Law created, as mentioned above, the National System for Comprehensive Victim Support and Reparation (*Sistema Nacional de Atención y Reparación Integral a las Víctimas* – SNARIV).²⁹¹ This System is made up of more than 30 State institutions, including various ministries, administrative agencies, institutions of the judicial system, the Office of the Attorney General, various institutes, as well as departments, districts and municipalities, the victims' participation committee (national, departmental, district, and municipal), and other representatives.²⁹² The Victims' Unit and the Land Restitution Unit are part of SNARIV, which, according to the Law, is to be coordinated by the UARIV.²⁹³ SNARIV's functions range from the design of the reparation policy to implementation of the measures.²⁹⁴

2.4.3. The 2016 Final Peace Agreement

The FPA signed between the government of the then President Santos and the FARC-EP created the Comprehensive System for Truth, Justice, Reparation, and Non-Repetition in its point 5. Within this system, various mechanisms and measures are included to provide reparation to victims of the armed conflict, including victims of sexual violence. The System includes the Special Jurisdiction for Peace, the Commission for the Clarification of Truth, Coexistence, and Non-Repetition (*Comisión de Esclarecimiento de la Verdad, la Convivencia y la No Repetición*), the Special Unit for the Search for Persons Reported Missing in the Context of and as a Result of the Armed Conflict (*Unidad Especial para la Búsqueda de Personas dadas por Desaparecidas en el Contexto y en Razón del Conflicto Armado*), comprehensive reparation measures (of the SNARIV) and others, as well as guarantees of non-repetition. The System was created recognising that while each pillar/mechanism/process is weak, fragile, and incapable of providing full truth, justice, and reparation on its own, the various elements complement each other and can maximise the impact of their contributions to each of the victims' rights through working together as a System.

287 Ibid Article 3, paragraph 2.

288 Corte Constitucional, 'Sentencia SU-599 de 2019' (n 223).

289 Ibid.

290 Ley 1448 de 2011, Articles 61, 155. Article 61 regulates the timing of registration with respect to displaced persons. Thus, the statement to the Public Ministry must be made within two years of the occurrence of the displacement, if the person is not already registered in the Unique Register of Displaced Population.

291 Ibid Article 159.

292 Ibid Article 160.

293 Ibid Article 168.

294 Ibid Article 161.



Workshop with women survivors in the department of Cauca (2021)
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Regarding comprehensive reparation measures,²⁹⁵ the Agreement incorporates the pre-existing reparation measures, namely the domestic reparation programme of Law 1448 and its SNARIV.²⁹⁶ However, the FPA adds new forms and sources of reparation to those included in the SNARIV, some of which are provided by the State, others by the FARC-EP, and others by other actors, such as civilian third parties who may be responsible for crimes committed during the conflict.

The principle of the Agreement is that “all those who have caused harm as a result of the conflict must contribute to reparations”.²⁹⁷ Thus, the FARC-EP will contribute to material reparation²⁹⁸ through its war assets, but also to the immaterial reparation of victims in various ways such as through “participation in infrastructure reconstruction in the territories most affected by the conflict.”²⁹⁹ The Agreement calls on all those who are responsible to contribute to the reparation of victims.

295 Ley 1448 de 2011, Article 25.

296 Decretos-Ley (n 282).

297 Gobierno Nacional y FARC-EP, ‘Acuerdo Final para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera (AFP)’ (24 November 2016) 178.

298 Ibid 186.

299 Ibid 179.

The centrality of victims and their rights are given new life in the mandates given to the various mechanisms of the SIVJNR. For example, in order to obtain any benefit from the SJP, the interested parties must comply with certain conditions, including contributing to reparation for the victims.³⁰⁰ The reparative and restorative dimensions of the sanctions that can be applied by the SJP also stand out.³⁰¹ These sanctions do not deprive persons of their liberty as through imprisonment, but they do seek to effectively restrict the liberty of those most responsible, who recognise the truth and effectively contribute to justice, reparation, and non-repetition. These sanctions, as a general rule, will range from 5 to 8 years and should have a reparative and restorative component.³⁰² At the time of finalising this report, the SJP has not yet ordered any of its own sanctions. It is expected to do so in the coming months.

2.4.4. International remedies

Colombia has ratified multiple international treaties and accepted the jurisdiction of various international bodies in a subsidiary and complementary manner to the remedies available at the national level. It has accepted the jurisdiction of both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, and has recognised the jurisdiction of the International Criminal Court and UN treaty bodies such as the Committee on Civil and Political Rights. However, despite the systematisation of CRSRV in Colombia, few cases have reached the international level.

The case of *Jineth Bedoya Lima and Another v. Colombia*, decided by the IACtHR in 2021, is emblematic of the challenges faced by victims of sexual violence in accessing justice and full reparation through administrative channels. Although the IACtHR has heard other cases against Colombia involving allegations of sexual violence, such as

Caballero Delgado v. Colombia, it is in the Bedoya case that the Court made its first pronouncement on conflict-related sexual violence and established landmark jurisprudence on reparations, despite the existence of a domestic reparation programme.

Jineth Bedoya is a Colombian journalist who was kidnapped on 25 May 2000, tortured, and raped by self-defence groups in Colombia. This was because of her work as a human rights defender covering serious human rights violations by paramilitary groups in the La Modelo prison in Bogotá.³⁰³ In the case of Jineth, the Colombian State failed in its obligation to investigate with due diligence and to protect Jineth and her mother from threats. Colombia accepted partial responsibility in the case, especially for its failure to investigate with due diligence as well with regards to the threats received.³⁰⁴ However, Colombia disputed, among other things, the allegations regarding reparation, arguing, in the words of the IACtHR, that Law 1448 “provides for a complete system to protect, assist, support and provide redress to the victims of the armed conflict”.³⁰⁵

Despite Colombia’s claims, the IACtHR considered that gender-based violence has spread throughout the armed conflict in Colombia and that there is generalised context of serious threats to human rights defenders, including journalists.³⁰⁶ Similarly, although the Court did not refer directly to Law 1448 and the corresponding measures received by Jineth, the Court considered it necessary to order various measures of reparation for the victim and her mother including compensation for material and non-material harms,³⁰⁷ and rehabilitation through the payment of 30,000 USD for Jineth and 30,000 USD for her mother³⁰⁸ due to the “lack of access for victims of sexual violence to rehabilitation, at least in terms of mental and physical health”.³⁰⁹ The Court’s conclusion reflects the findings of this report on rehabilitation through Law 1448.

300 Ibid 145, 146.

301 Ibid 164.

302 Ibid Point 5, para. 59–60. In this regard, see: Clara Sandoval et al, *TOAR Anticipados y Sanciones Propias: Reflexión Informada para la Jurisdicción Especial para la Paz (ETJN/Dejusticia 2021)*.

303 *Case of Bedoya Lima et al. v. Colombia* (Merits, Reparation and Costs) IACtHR Series C No. 432 (26 August 2021) para. 48 and following.

304 Ibid para. 19–21.

305 Ibid para. 187.

306 Ibid para. 188.

307 Ibid, paras. 202 and 209.

308 Ibid, para. 183.

309 Ibid.

The Court also ordered various measures of non-repetition, including the implementation of training and awareness-raising programmes, the creation of a centre for the memory and dignification of women victims of sexual violence and investigative journalism, which should have an annual budget allocation of USD 200,000 for its operation,³¹⁰ the publication of disaggregated data on gender-based violence and on threats and violence against journalists and human rights defenders in Colombia, and the creation of a Fund for the prevention, protection, and assistance of

women journalists who are victims of gender-based violence with USD 500,000 for its constitution, among other measures.

This judgement opens new avenues at both the national and international level to enhance the protection of the right to reparation for victims of CRSRV. It also provides a unique opportunity for the Colombian State to respond to some of the collective harm done to women human rights defenders, such as Jineth, who have been victims of sexual violence as a result of their work.

³¹⁰ Ibid, para. 191.



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VII. STATUS OF IMPLEMENTATION OF REPARATIONS

1. Position of the government and other responsible actors

As demonstrated in the previous sections, Colombia and its various leaders have repeatedly recognised victims' rights, including the right to reparation, especially since the passing of Law 975 in 2005. Law 1448 and the FPA are further examples of this. It is also clear that Colombia considers transitional justice to be a key tool for peace, the fulfilment of victims' rights, reconciliation, and development.

The judicial branch of government has played a key role in access to reparation and in protecting the rights of victims of the armed conflict in the country. The most tangible example is the CC's repeated work to guarantee and protect the right to reparation for victims, including victims of CRSRV. As seen throughout this report, the government and Congress, among others, have taken measures or adopted norms that contravene this right. The CC has placed constitutional limits on such policies. This protective work is maintained, to a greater or lesser extent, by other judges such as those of the Justice and Peace, by the Special Jurisdiction for Peace, and by the Council of State, head of the Administrative Dispute Tribunal (*Contencioso Administrativo*), which has developed important jurisprudence on State reparation, although its jurisprudence on CRSRV is regrettably scarce.

Similarly, the institutions of the SNARIV (including the UARIV) and the SIVJRN, reiterate the existence and importance of this right despite the multiple challenges they face in fulfilling it. This leads to the conclusion that the problem in Colombia in guaranteeing this right for victims of CRSRV is not so much a problem of

recognition as it is a tension over the scope of the right and its implementation. In other words, in Colombia there are various remedies available to provide reparation to victims of CRSRV, but these remedies are either inadequate and/or ineffective.

2. Access to reparation measures

2.1. Law 1448 of 2011 – Victims' Law

The Victims' Law is extremely ambitious and is, at least in spirit, in line with international law. However, after a decade of implementation, the results are not as expected.³¹¹ As explained below, the main problem with this law is its lack of effectiveness. The most perfect and ambitious law in the world is of no use if it does not enable victims to achieve their right to reparation.

According to the Unique Register of Victims, there were 9,250,453 victims of the armed conflict as of 28th February 2022, of whom 7,350,349 are eligible for support, meaning that they meet the requirements for access to assistance and reparation measures.³¹² Of these people, more than 50% are women, with 4,519,288 women registered, and a total of 34,769 persons are registered as victims of conflict-related crimes against sexual freedom and integrity.³¹³ Of this universe of CRSRV victims, more than 31,303 are women.³¹⁴

Of the total number of victims of sexual violence, when looking at the results in relation to each reparation measure granted by Law 1448, the following can be noted:

311 Nelson Camilo Sánchez León and Clara Sandoval-Villalba, 'Go Big or Go Home? Lessons Learned from the Colombian Victims' Reparations System' in Carla Ferstman and Mariana Goetz (eds), *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in the Making*. (Second Revised Edition, Brill-Nijhoff 2020); Clara Sandoval-Villalba, '¿Es Posible Deshacer el Nudo Gordiano de la Reparación en Colombia?' in Comisión Colombiana de Juristas, *Reparación en los sistemas transicionales en Colombia. Los retos de un concepto en construcción* (Comisión Colombiana de Juristas 2020).

312 UARIV, 'Red Nacional de Información' (n 11).

313 Ibid.

314 Comisión de Seguimiento y Monitoreo a la Implementación de la Ley 1448 de 2011 "Ley de Víctimas y Restitución de Tierras", 'Séptimo Informe de Seguimiento al Congreso de la República 2019- 2020' (2020) 191.

2.1.1. Rehabilitation

According to Law 1448 of 2011, this measure consists of “the set of strategies, plans, programmes and actions of a legal, medical, psychological, and social nature, aimed at restoring the physical and psychosocial conditions of the victims”.³¹⁵ In order to provide rehabilitation in these terms, the Law created the PAPSIVI, under the responsibility of the Ministry of Health and Social Protection.³¹⁶ Several protocols have been issued in order to standardise and implement common lines and strategies of work in the area of rehabilitation and health care for victims, including victims of CRSRV.³¹⁷

Victims’ perceptions in this report show the significant need they have for adequate, holistic, and timely rehabilitation measures.³¹⁸ Their multiple testimonies give an account of the various obstacles they face in accessing this form of reparation. However, what they say is at odds with what is reported through the Eighth Report presented to the Congress of the Republic of Colombia in 2021 by the Supervisory and Monitoring Commission for the implementation of Law 1448 of 2011, created by Law 1448 itself to monitor its implementation.³¹⁹ According to this report, the Ministry of Health reported that physical care was provided to 21,869 women victims of crimes of sexual violence in 2019, which implied a 99% compliance with the target set for this indicator. By 2020, the number of women who received care was 18,240, which represented a 75% compliance.³²⁰ In terms of access to psychosocial health care, the Ministry of Health reported that 2,907 women victims of crimes against sexual freedom and integrity received psychosocial care between 2015 and 2020.³²¹

Although the figures suggest progress in physical health rehabilitation for women, it is worrying that for psychosocial matters this number does not even correspond to 10% of the victims included in the RUV

for crimes of a sexual and reproductive nature. The report of the Follow-up Commission suggested that the number responds to the demand for the service. That is, without victim demand for the service, there is no service. This is highly problematic because, as mentioned above, stigma, fear, and the harm caused means that many victims do not speak out and do not use the service.

Furthermore, the report and the data from the Ministry of Health do not account for the institutional and bureaucratic violence when a victim accesses rehabilitation measures; nor do they indicate the waiting times, the quality of the service they receive, or provide information on the services provided (number of medical appointments, follow-up process, access to medicines, diagnostic tests, etc.).

Some gender experts who have worked with victims to manage women’s access to psychological rehabilitation measures, both from national and departmental institutions, point out that, although PAPSIVI establishes the provision of psychological services, the service has serious flaws. First, it is only provided in large cities, which are far away for most of women; second, appointments are sometimes given months after the request has been made, which means that women do not go; third, psychologists are constantly rotated and women have to tell different professionals their history of violence; fourth, the professionals who attend to the women are not specialised in sexual violence; fifth, there is a lack of coordination between the national and regional levels; sixth, there is a lack of coordination between the financial reparation measures and the psychosocial rehabilitation process, which means that the opportunities for financial reparation are often lost.

These factors, among many others, do not allow for a continuous, adequate, and quality treatment that dignifies women and avoids re-victimisation.

315 Ibid 135.

316 Ibid 137.

317 Ministerio de Salud y Protección Social (n 260); Gobierno Nacional, ‘Protocolo de Atención Integral en Salud con Enfoque Psicossocial a Víctimas del Conflicto Armado’ (2017).

318 International Organization for Migration (IOM), ‘Aportes desde Colombia a la Iniciativa Internacional de Reparaciones a Víctimas de Violencia Sexual en el Marco del Conflicto Armado’ (May 2020) https://repositoryiom.org/bitstream/handle/20.500.11788/2305/19082020_ESP_IIRVVS%20.pdf?sequence=1&isAllowed=y accessed 3 June 2021.

319 Ley 1448 de 2011, Article 201. According to this article, the Commission is composed of the Inspector General of the Nation or his or her presiding delegate, the Ombudsman’s Office or his or her technical secretariat delegate, the Comptroller General of the Nation or his or her delegate, and three victim representatives.

320 Follow-up Commission to Law 1448 (n 222) 430.

321 Ibid 432.

Additionally, it has been observed that doctors do not record the harms related to sexual violence in victims' medical records, for example, vaginal injuries. Because of this, the medical follow-up that could be done in response to sexual violence is very limited or non-existent.

The UARIV has generated its own emotional recovery strategy for victims through group work with victims of sexual violence. According to the information gathered to produce this report, the UARIV opted for this solution in order to respond to the unmet demand in Colombia for this service. The UARIV reports that by March 2020, 3,547 victims had benefited from this group work.³²²

2.1.2. Compensation

Administrative compensation for a victim of CRSRV is 30 times the current legal monthly minimum wage (in one lump sum) and is given to the person who suffered sexual violence.³²³ The minimum wage in Colombia is currently 1,000,000 pesos, equivalent to 265 USD in April 2022. In other words, a victim of CRSRV today receives approximately 30 million pesos. If the victim suffered more than one victimising event, e.g. displacement and sexual violence, the victim receives a maximum of 40 times the minimum wage.

In terms of administrative compensation, the Eighth Report of the Follow-up Commission indicates that between 2011 and 2021, 983,038 victims were compensated in Colombia.³²⁴ In other words, 10.62% of the 9,250,453 victims registered in the RUV have received compensation. In this same timeframe, the UARIV compensated 8,267 women victims of CRSRV and only 63 persons born of the war, which corresponds respectively to 26% and 11.8% of the persons registered in the RUV.³¹¹ The report indicated that "the goals related to compensation are not

commensurate with the universe of victims who are entitled to this measure. [...] it is clear that the ten-year extension of the law fell short of guaranteeing compensation: by 2031 only a quarter of the victims would be compensated and the remainder would have to wait up to 60 more years to receive the remedies."³²⁵

When looking at the groups that have received compensation through the Victims' Law by victimising event, the group with the highest levels of compensation is that of displacement with 64% of compensated victims, followed by homicide with 28% of compensated victims, and forced disappearance with 5%. Sexual and reproductive violence comes after kidnapping with just over 8,000 compensated victims.³²⁶ These numbers seem to suggest that, despite the seriousness of the crimes committed and the harm suffered, victims of CRSRV have not really been prioritised in Colombia for access to compensation.³²⁷

Along with the right to receive compensation, Law 1448 also establishes that the Victims' Unit must implement a support programme in order to "promote an adequate investment of the resources that the victim receives as compensation [...] in order to rebuild their life project".³²⁸ Again, according to data from the Follow-up Commission, access to this support programme, since 2013, has only benefited 2,427 victims of sexual violence.³²⁹ The Eighth Report of the Follow-up Commission does not include updated information in this regard, but indicates that the UARIV reported changes in its Strategy for Strengthening Capacities from 2021 in order to contribute to strengthening the life projects of victims.³³⁰

Once again, although the information provided in the Eighth Report of the Follow-up Commission gives parameters for assessing the state of implementation of compensation measures, it does not examine issues addressed by victims in our report. These include issues relating to security so that victims can use their

322 UARIV (n 13).

323 UARIV, 'Indemnización' <https://www.unidadvictimas.gov.co/en/indemnizacion/8920> accessed 2 March 2021.

324 Comisión de Seguimiento a la Ley 1448 (n 222) 248.

325 Ibid 265.

326 Ibid 249.

327 Victims of sexual violence were explicitly prioritised for compensation until the entry into force of Resolution 1049 of 2019, which repealed Resolution 090 of 2015. According to Resolution 1049 of 2019, there are three groups to prioritise: persons over 74 years of age, persons with orphan, ruinous, catastrophic, or high-cost diseases, and those with a certified disability. See: UARIV, 'Resolución 1049 de 2019' (15 March 2019) Article 3.

328 Law 1448 of 2011, Article 134.

329 Comisión de Seguimiento a la Ley 1448 (n 222) 268.

330 Ibid 442.

compensation, or choose the way in which they can use it, taking into account the presence of structural factors of discrimination and violence that limit or prevent victims from enjoying it rather than others.

2.1.3. Measures of satisfaction

Law 1448 of 2011 established that “actions aimed at restoring the dignity of the victim and disseminating the truth about what happened...” shall be carried out.³³¹ The Law includes several examples of such acts such as public acknowledgements, commemorative acts, public tributes, investigation, prosecution, and punishment of those responsible for human rights violations.³³²

In relation to victims of CRSRV, the UARIV, through the Comprehensive Reparation Strategy for Women Victims of Sexual Violence³³³ which has been implemented since 2014, has established three meetings with groups of victims of sexual violence (between 25 and 30 of them), who participate voluntarily. Each meeting lasts 2 days. The first meeting focuses on outreach and orientation in which psychosocial support is provided, the letter of dignity is handed out, and recognition of the support, assistance, and reparation route is given. In the second meeting, the focus is on the perspective of women’s human rights, and there are exchanges of experiences, measures of satisfaction, and financial education (see previous point on the support programme). Finally, the third meeting focuses on the exchange of experiences, the institutional offer of SNARIV for victims to satisfy their rights to truth, justice, reparation, and non-repetition, and a symbolic act organised by the victims of sexual violence themselves.³³⁴ According to the UARIV, more than 3,500 victims had benefited from this strategy by March 2020.³³⁵

In addition to the small number of victims who have benefited from this Strategy, the victims who have done so indicate that it is important for the Unit to emphasise that these symbolic acts be forms of satisfaction and not “a merely playful activity”.³³⁶ They have also indicated that “there should be technical support from the central level providing guidance on the creation of the symbolic act, because on many occasions stereotypes about femininity and gender roles in general are brought up”.³³⁷

Other measures of satisfaction have been provided in addition to these measures of satisfaction that take place through the Strategy. Victims receive their letter of dignity, which expresses recognition of the person’s victim status and “exalts their dignity, name and honour”.³³⁸

There have been other forms of satisfaction such as the creation in 2014 of 25 May as the National Day for the Dignity of Women Victims of Sexual Violence in the Framework of the Internal Armed Conflict.³³⁹ This Day was requested by Jineth Bedoya, a journalist and human rights defender in Colombia who is a survivor of sexual violence for her investigative work on several human rights violations that occurred in the Modelo prison in Bogotá at the hands of armed actors in the conflict. This measure of satisfaction has a collective impact³⁴⁰ but was established “to recognise the courage, work, and resistance of thousands of women victims of sexual violence; and will aim to vindicate their dignity and reject this crime”.³⁴¹ Additionally, in 2018, the counter-monument “Fragments”, conceived by the artist Doris Salcedo, was built as a result of the FPA between the government and the FARC, where 8994 weapons of this guerrilla were melted down and turned into a floor by a group of 60 victims of sexual violence.³⁴²

331 Ley 1448 de 2011, Article 139.

332 Ibid.

333 UARIV, ‘Estrategia de Reparación Integral’ (n 12).

334 Ibid 14.

335 UARIV, ‘Enfoques Diferenciales’ <https://www.unidadvictimas.gov.co/en/atencion-asistencia-y-reparacion-integral/enfoques-diferenciales/473> accessed 2 March 2022.

336 IOM (n 318) 44.

337 Ibid.

338 Decreto 4800 de 2011, Article 171, paragraph 3.

339 Decreto 1480 de 2014.

340 Ibid.

341 Ibid Article 1.

342 Museo Nacional de Colombia, ‘Fragmentos, Espacio de Arte y Memoria’ <http://www.museonacional.gov.co/noticias/Paginas/Fragmentos.aspx> accessed 2 March 2022 ; Ray Mark Rinaldi, ‘A Peace Monument in Colombia Is Caught in a New Crossfire’ (The New York Times, 23 October 2019) <https://www.nytimes.com/2019/10/23/arts/design/colombia-farc-peace-monument.html> accessed 2 March 2022.



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2.1.4. Collective reparations

Law 1448 broadly defines who can be subject to collective reparations. The law covers social and political groups, as well as organisations and communities determined on the basis of legal, political, or social collective recognition, or because of the culture, area, or territory in which they live, or a common purpose.³⁴³ Resolution 3143 of 2018 of the UARIV establishes the operational model of collective reparation and indicates that groups are understood as “the group of people or organisations that are related by reason of a collective project, have social recognition, and are aimed at the vindication

of human rights for which processes of stigmatisation were generated within a specific territory. The group does not have a formal organisational structure, but it does have social recognition for the defence of human rights”.³⁴⁴ Likewise, the word “organisation” is understood as “a group of people linked to each other through formal statutes that have a common and consensual objective, are recognised for this objective, and are non-profit making. They have an organisational structure and means that allow them to develop their objective, which is directly related to their collective project and determines both their collective practices and their ways of relating to each other.”³⁴⁵

343 Ley 1448 de 2011, Article 152; Decreto 4800 de 2011, Article 223.

344 UARIV, ‘Resolución 3143 de 2018’ (23 July 2018) Article 3.

345 Ibid.

According to the Eighth Report of the Follow-up Commission only 28 cases out of 768 collective subjects have had such reparations fully implemented.³⁴⁶ In other words, 10 years after the implementation of the Law, only 4% of the collective subjects have received collective reparations. The slow progress of collective reparations in Colombia is evident if one considers that 511 subjects of collective reparations are only in the initial stages of accessing reparations and only 150, that is, 20% of the total, have a Comprehensive Collective Reparation Plan (*Plan Integral de Reparación Colectiva – PRIC*), which is key to making progress in the satisfaction of this form of reparation.³⁴⁷

The route to access collective reparation includes 5 phases (identification, enlistment, diagnosis or characterisation of the harm, design and formulation of the PIRC, and implementation). Twenty-eight percent of collective subjects are in the identification phase and 26% in the enlistment phase.³⁴⁸ When looking at the list of collective reparation plans that have been fully implemented, the lack of progress with national collective reparation subjects is noteworthy. In addition, it is striking that the Follow-up Commission indicates that there continues to be “evidence of a tendency to include only actions that the UARIV can carry out, which shows a possible regression in the scope of the PIRC”.³⁴⁹ This regressivity is, in our opinion, palpable due to the change of focus, giving priority to certain symbolic measures rather than to measures of a material or developmental nature,³⁵⁰ and leaving aside measures of satisfaction and non-repetition such as the recognition of responsibility or judicial investigations.³⁵¹

The report also indicates that, although changes have been made to include a gender perspective within the collective reparation processes, such as the inclusion of questions with a differential approach in the harm diagnosis guide,³⁵² obstacles persist for the PIRCs to truly have a gender and intersectional perspective, as reported by several of the victims who participated in the preparation of this report. In fact, at present there are only 8 subjects of collective reparation who are women although 88 have been identified as having affected women.³⁵³

2.1.5. Investigation of cases of sexual violence occurring within and/or in relation to the Colombian armed conflict

As indicated in the section on satisfaction, Law 1448 includes the obligation to investigate as a form of satisfaction, but also, in various norms, reiterates the State’s obligation to investigate such violence.³⁵⁴ However, the impunity gap is alarming. The Constitutional Court, in its Judicial Act 092 of 2008, recognises that sexual violence against women “is a habitual, widespread, systematic, and invisible practice in the context of the Colombian armed conflict” and acknowledges that “an almost total cloak of invisibility, silence, and impunity has been cast over it at both official and unofficial levels.”³⁵⁵

The National Centre for Historical Memory indicates in its report *La Guerra Inscrita en el Cuerpo* (The War Engraved on the Body),³⁵⁶ that there is still 92% impunity for these cases sent by the CC to the Office of the Attorney General. A similar phenomenon occurs with the cases sent by the CC to the Office of

346 Comisión de Seguimiento a la Ley 1448 (n 222) 299.

347 Ibid.

348 Ibid.

349 Ibid 319.

350 Ibid 328.

351 Ibid.

352 Ibid 329; Procuraduría General de la República (n 272) 143.

353 Comisión de Seguimiento a la Ley 1448 (n 222) 309, 310.

354 Ley 1448 de 2011, Articles 16, 178.2, 186.

355 Corte Constitucional, ‘Auto 092 de 2008’ (n 217).

356 CNHM, ‘La guerra inscrita en el cuerpo’ (n 4) 391.

the Attorney General in its Judicial Act 009 of 2015.³⁵⁷ The Supervisory Committee³⁵⁸ to Judicial Act 092 of 2008 and Judicial Act 009 of 2015 is a committee made up of civil society organisations as a result of the mandate given by the CC to the Consulting Group on Human Rights and Displacement (*Consultoría para los Derechos Humanos y el Desplazamiento* – CODHES) to promote the accompaniment of victims and the follow-up of cases sent for investigation to the Office of the Attorney General. This Committee observed in its seventh report to the Constitutional Court (2019), that “a picture of almost total impunity is maintained with regard to the events of sexual violence reported in the reserved annexes of Judicial Acts 092 of 2008 and 009 of 2015.”³⁵⁹ The report indicates that there is 97% impunity in relation to the two reserved annexes to the Judicial Acts, and 91.5% impunity in relation to the Annex to Judicial Act 092.³⁶⁰

Other sources, such as the 2020 report of the International Organisation for Migration (IOM), a work led by the Network of Women Victims and Professionals (*Red de Mujeres Víctimas y Profesionales* – RMVP) in collaboration with other actors, reiterates that impunity levels are at approximately 98% and that is why women are demanding justice.³⁶¹

In the Justice and Peace, it has taken several years since its entry into force for a decision to be made on the issue of CRSRV. However, it is worth noting that there are important decisions on the matter, such as the judgment against Hernán Giraldo Serna and Others of December 2018.³⁶² In this case, the Court decided on the various acts of sexual violence, rape, and others carried out by Giraldo in the north-eastern zone of the Sierra Nevada de Santa Marta, which he perpetrated as punishment or

as a manifestation of his power in the area, and which the Court found to be part of the patterns of macro-criminality of gender-based violence.³⁶³

The Chamber’s reparation measures included, for example, ordering the Ministry of Health and the Secretary of Health of Magdalena to implement “a comprehensive and interdisciplinary programme aimed at providing medical and psychological support to women and men victims of sexual violence and gender-based violence, as well as to their families and children who may have been affected by such conduct”.³⁶⁴ The Chamber also ordered various State institutions to guarantee the implementation of a gender perspective in the process of land restitution, relocation of families, and restitution of land titles.³⁶⁵ As part of the sentence implementation process, Giraldo was denied release due to his non-compliance with the guarantees of non-repetition. The Court considered that the defendant “has failed to comply with the commitment to non-repetition for having committed crimes of sexual violence after his demobilisation”.³⁶⁶

Finally, although the Special Jurisdiction for Peace began to work just over four years ago as part of the Comprehensive System created by the FPA, to date no case has been exclusively prioritised to investigate the patterns of macro-criminality in relation to sexual and reproductive violence in the Colombian armed conflict. This is despite the fact that victims’ organisations have requested this on multiple occasions,³⁶⁷ and despite the fact that the systematic nature of sexual violence as a manifestation of gender-based violence in Colombia has been recognised, as mentioned above. At present, some cases prioritised by the SJP do include acts of sexual

357 Ibid.

358 The Supervisory Committee is composed of *Sisma Mujer*, *Colectivo de Abogados José Alvear Restrepo*, *Comisión Colombiana de Juristas*, *Corporación Casa de la Mujer*, *Consultoría para los Derechos Humanos y el Desplazamiento*, and *Organización Nacional Indígena de Colombia*.

359 MSSIVS (n 3) 12.

360 Ibid 17.

361 IOM (n 318) 41; CNMH, ‘Memoria Histórica con Víctimas de Violencia Sexual’ (2019) 33.

362 Tribunal Superior del Distrito Judicial de Barranquilla Sala de Justicia y Paz, ‘Bloque Resistencia Tayrona, Hernán Giraldo y Otros’ (18 December 2018); Tribunal Superior del Distrito Judicial de Bogotá, Sala de Justicia y Paz, ‘Bloque Catatumbo, Norte, Córdoba, Montes de María, Salvatore Mancuso Gómez y otros’ (20 November 2014).

363 Tribunal Superior del Distrito Judicial de Barranquilla, ‘Bloque Resistencia Tayrona’ (n 362) 332.

364 Ibid.

365 Ibid.

366 Tribunal Superior del Distrito Judicial de Barranquilla Sala de Justicia y Paz, ‘Resuelve Apelación’ Rad. 018001-22-19-002-2021-00008-00 (28 April 2021) 10.

367 IOM (n 318) 42; Cinco Claves, ‘La Alianza Cinco Claves Pide Abrir un Caso de Violencia Sexual, Reproductiva y Otros Delitos Motivados en la Sexualidad de las Víctimas’ (2019) <https://www.womenslinkworldwide.org/informate/sala-de-prensa/la-alianza-cinco-claves-pide-abrir-un-caso-de-violencia-sexual-reproductiva-y-otros-delitos-motivados-en-la-sexualidad-de-la-victima> accessed 3 July 2021.

violence, including territorial cases such as case 02 (Nariño), case 04 (Urabá), or case 07 (recruitment and use of children in the armed conflict).³⁶⁸ The SJP will open three more macro-cases in the coming months. This is despite the fact that, as indicated by the Supervisory Committee of the Judicial Act 092 and 009 in its seventh report, the Office of the Attorney General informed them that it had referred several of the cases referred to it by the Constitutional Court to the SJP, such as the case of the reports of sexual violence by the FARC-EP and State agents³⁶⁹ in 2018.

2.1.6. Guarantees of non-repetition

Law 1448 also stresses the importance of non-repetition as a reparation measure.³⁷⁰ Article 149 lists various forms of guarantees such as the demobilisation and dismantling of illegal armed groups; the verification of the facts and the full and public dissemination of the truth, to the extent that it is appropriate to do so; the application of sanctions to those responsible for the violations covered by the Law; the prevention of these violations through prevention measures for groups at greater risk, such as women [...], social leaders, [...] and human rights defenders [...]; the creation of a social education programme that promotes the constitutional values on which reconciliation is based, in relation to the events that took place according to the historical truth [...]. The Law also indicates that the State will adopt “measures leading to the dismantling of the economic and political structures that have benefited and sustained the illegal armed groups”.³⁷¹

Despite the aims of non-repetition established by the Law, impunity remains in the investigation of the cases, and the structures and conditions that enabled the gender-based violence are still present. Therefore, the conditions of risk and perpetuation

of violence for victims of CRSRV continue to exist, as depicted through the testimonies in this report. These conditions continue to generate significant challenges for women human rights defenders and leaders who constantly face threats.³⁷² In fact, the CC has explicitly indicated that one of the gender risks in the context of the armed conflict is rape.³⁷³

The national government has created an inter-institutional initiative³⁷⁴ called RedConstruyendo, created from Law 1448 of 2011 and led by the Ministry of Justice and Law and the Presidential Council for Human Rights. This initiative seeks to facilitate access to justice for victims of sexual violence and members of the LGBTIQ+ population, focusing on the local level. As part of this Strategy, measures have been implemented such as days of declaration and reporting for victims of sexual violence; and intercultural and inter-institutional strategies for a comprehensive approach to sexual and gender-based violence³⁷⁵

According to data provided by the Presidential Advisory Office for Women’s Equity, some victims of sexual and reproductive violence have been able to file complaints, as was the case, for example, with the collective reparation subjects Popular Women’s Organisation (*Organización Femenina Popular – OFP*) and the National Association of Peasant, Black, and Indigenous Women (*Asociación Nacional de Mujeres Campesinas, Negras e Indígenas de Colombia – ANMUCIC*), achieving a participation of 1,503 women victims of CRSRV, and 1402 complaints.³⁷⁶ However, it should be noted that this is an initiative focused on victims and is not sufficient in terms of guarantees of non-repetition, as measures are needed that apply directly to the perpetrators of such crimes and that transform the patriarchal system that makes such gender-based violence possible, such as judicial investigations carried out with due diligence.

368 JEP, ‘Los Grandes Casos de la JEP’ <https://www.jep.gov.co/especiales1/macrocasos/index.html> accessed 2 March 2021.

369 Mesa de Seguimiento Autos 092 y 009 Anexos Reservados de la Corte Constitucional, ‘Acceso a la Justicia para Mujeres Víctimas de Violencia Sexual. Séptimo Informe de Seguimiento al Auto 092 y Segundo Informe de Seguimiento al Auto 009 de la Corte Constitucional’ (August 2020) 26-27.

370 Ley 1448 de 2011, Articles 1, 8, 25, among others.

371 Ibid Article 150.

372 IOM (n 318) 14, 42.

373 Corte Constitucional, ‘Auto 092 de 2008’ (n 217).

374 The Presidential Advisory Office for Human Rights, the Presidential Advisory Office for Women’s Equality, the Office of the Attorney General, the Ombudsman’s Office of Colombia, the Office of the Inspector General, and the Unit for Comprehensive Victim Support and Reparation all participate.

375 Consejería Presidencial para los Derechos, ‘Red Construyendo Mujeres’ (June 2017) <https://www.minjusticia.gov.co/Sala-de-prensa/Paginas/RedConstruyendo-permite-acceso-a-la-justicia-con-atencion-y-reparacion-a-victimas-del-conflicto-armado.aspx> accessed 2 March 2021.

376 Consejería Presidencial para la Equidad de la Mujer, ‘Tercer Informe sobre la Implementación y Cumplimiento de la Ley 1719 de 2014’ (2017) 17.

2.2. Implementation of reparation measures in judicial proceedings

2.2.1. Judgement SU-599-2019 of the Constitutional Court

Helena's case is paradigmatic of the guarantee of the right to reparation adopted by the Constitutional Court and the myriad of barriers faced by victims to effectively access adequate, prompt, and effective reparation. Helena is a peasant woman who was born and raised in a rural area of Colombia with a FARC-EP presence. When she was 14 years old, she was illegally recruited by the FARC-EP. From the time she joined the ranks, she was forced to take contraceptives. Later, when she was no longer a minor, and as a result of a consensual relationship, Helena became pregnant. By order of her Front commanders, she was forced to have an abortion. The procedure was carried out by untrained personnel in unsanitary conditions, which had serious consequences for her physical and mental health that persist to this day. After this, Helena decided to flee the guerrilla group and throughout this time, her family was threatened for refusing to reveal her whereabouts.

In March 2017, Helena requested access to the administrative reparation measures provided for in Law 1448 through her registration in the RUV. The UARIV denied Helena's registration on the grounds that she was no longer a minor when she disassociated herself from the FARC-EP. They denied her registration deed based on article 3.2 of Law 1448, which states that "Members of organised armed groups outside the law shall not be considered victims, except in cases where children or adolescents have been disassociated from the organised armed group outside the law when they were minors".

Helena filed a protection action (*acción de tutela*) in July 2018 against the UARIV for violating her fundamental right to comprehensive reparation as a victim of the conflict, as well as her right to health, to personal integrity, to minimum subsistence, to education, to life with dignity, and to equality and non-discrimination. The protection action was selected by the Constitutional Court, and in December 2019 it issued a landmark decision through its Judgement SU-599 of 2019 in which it protected Helena's rights and ordered the UARIV to include her in the RUV. The Court recognised the disproportionate suffering that Helena had

experienced due to the complex and multiple victimisation she has suffered as a result of the armed conflict. Thus, the high court considered that acts such as forced contraception and abortion, as forms of sexual violence in accordance with international standards, should be considered prohibited against any person, including those who are members of an illegal armed group. Regarding Helena's inclusion in the RUV, the Court indicated that:

[...] it is extremely important to recognise the status of victim of a person whose fundamental rights have been affected by the internal armed conflict in the scenario presented in this case, since it is only through the application of the measures of the Victims' Law that the violated rights can be re-established and adequate attention can be provided to those persons in respect of whom the State has the obligation to guarantee comprehensive reparation.

This decision clarifies that acts of gender-based violence against women within armed groups are prohibited crimes, and determines that survivors have the right to access reparation measures under the administrative reparations system created by Law 1448.

After the publication of the decision, the UARIV did not immediately comply with the CC's orders, which continued to delay access to reparation measures for Helena. A contempt proceeding against the UARIV had to be initiated by Helena's lawyers in order to get the sentence enforced. Finally, the UARIV issued a new administrative resolution in compliance with judgement SU-599 of 2019 including Helena in the RUV for the victimising acts of illegal recruitment, forced displacement, and sexual violence. However, the UARIV took more than a year to issue a resolution (June 2021) granting compensation for the victimising events related to forced abortion and forced contraception. At the time of writing this report, the UARIV has not implemented, in relation to Helena, other reparation measures contemplated by Law 1448.

2.2.2. Law 975 of 2005 – Justice and Peace Law

The Justice and Peace decisions have in a way documented the massive scale of sexual and gender-based violence, including reproductive violence, as widespread practices of paramilitary forces and guerrilla groups in the Colombian armed conflict,



Workshop with victims in Bogotá (2021)
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through the construction of the macro-criminality pattern of gender-based violence (GBV).³⁷⁷ With the introduction of the GBV pattern, the Office of the Attorney General's litigation strategy is based on the recognition that there are gendered elements to the criminal policies and plans carried out by armed groups. This allows for a broader understanding of gender-based violence, one that moves away from limiting the analysis of violence against women and people of diverse sexual and gender orientations as accidental or incidental events of war and conflict.

The Justice and Peace judgements reveal the use of the human rights language and international standards in matters concerning reparations. Today, most reparation measures ordered in judicial decisions are highly complex and ambitious, demonstrating a desire to respond to the harm caused to the victims in a comprehensive manner. However, most of these measures have lacked a monitoring plan with the entities in charge of implementation, which has resulted in victims waiting for years to see compliance with these orders.³⁷⁸

From the jurisprudence of the Justice and Peace Chambers in which the Office of the Attorney General has introduced the pattern of GBV, it is evident that gender-based violence is equated with sexual violence,³⁷⁹ which limits the understanding of the violence suffered by cis heterosexual women and men and LGBTIQ+ persons in the context of the armed conflict because of their gender, which goes beyond the eminently sexual aggressions. This has an impact on the reparation measures ordered insofar as the harms are understood in terms of sexual aggression and not from an understanding of GBV as a phenomenon of structural violence that disproportionately affects women and LGBTIQ+

persons and therefore requires comprehensive reparation measures that address the harms and impacts of GBV in the context of the armed conflict.

The jurisprudence of Justice and Peace reveals that the analysis of violence based on gender identity and sexual orientation in the context of the conflict is made from a binary gender perspective that grants qualities and roles based on sex to "men" and "women" without considering non-heteronormative gender identities.³⁸⁰ This limits the understanding of the repertoires of conflict-related violence against LGBTIQ+ victims as anchored in social prejudices against this sector of the population, and which seek to fulfil purposes such as gaining legitimacy in the territories they occupy, or reinforcing the sexual and gender order as a mechanism for controlling social life.³⁸¹ Again, the lack of a comprehensive understanding of this violence has an impact on the type and scope of reparations ordered in the sentences.

In several judicial decisions, there is evidence of a "copy and paste" of international standards, but also of contexts, patterns, and reparation measures, where only the name of the Bloc or geographical area of operation of the armed group were changed.³⁸² This is problematic because it prevents a contextualised analysis of GBV as part of the armed group's operations, as related to territories, population, and the dynamics of their actions with other actors, such as economic actors. This, in turn, has an impact on reparation measures, as they do not correspond to the specific victimisations and contexts, which diminishes their potential in the lives of the victims. It should be noted that in some judicial decisions there is a gap between the analysis in the grounds for judgement and the operative part in which reparation measures are ordered. This is partly because, as noted above, elements from other decisions are often copied and pasted, only changing the names

377 Tribunal Superior de Bogotá Sala de Justicia y Paz, 'Bloque Catatumbo y otros' (n 362); Fiscalía General de la Nación, 'Directiva No. 001 de 2012 por medio de la cual se adoptan unos criterios de priorización de situaciones y casos, y se crea un nuevo sistema de investigación penal y de gestión de aquellos en la Fiscalía General de la Nación' (4 October 2012). The Directive established gender-based violence as one of the patterns of crimes within the investigation strategy of the Office of the Attorney General.

378 See, for example: Tribunal Superior de Bogotá Sala de Justicia y Paz, 'Bloque Cundinamarca, Luis Eduardo Cifuentes Galindo y otros' (1 September 2014).

379 See, for example: Tribunal Superior de Bogotá Sala de Justicia y Paz, 'Bloque Catatumbo y otros' (n 362).

380 See, for example: Tribunal Superior de Bogotá Sala de Justicia y Paz, 'Bloque Vencedores Arauca' (n 277).

381 Colombia Diversa, *Los Órdenes del Prejuicio: Los Crímenes Cometidos Sistemáticamente contra Personas LGBT en el Conflicto Armado Colombiano (Colombia Diversa 2020)*.

382 See for example: Tribunal Superior de Bogotá Sala de Justicia y Paz, 'Autodefensas Campesinas del Magdalena Medio, Ramón María Isaza y otros' (29 May 2014); Tribunal Superior de Bogotá Sala de Justicia y Paz, 'Bloque Cundinamarca, Luis Eduardo Cifuentes Galindo y otros' (1 September 2014); Tribunal Superior de Bogotá, Sala de Justicia y Paz, 'Autodefensas Campesinas del Magdalena Medio, Ramón María Isaza y otros' (29 February 2016).



Survivors engaging in a body mapping activity (2021)
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of municipalities and actors. Thus, for example, some decisions include the gendered impacts on women victims of GBV crimes in the Chamber's considerations, but the reparation measures do not apply a gender differential approach.³⁸³

Despite the abovementioned points, the jurisprudence on reparation in Justice and Peace has managed to make visible acts of conflict-related reproductive violence at a time when these forms of victimisation had almost no recognition. Thus, for example, in the judgment by the High Court of Medellín Justice and Peace Chamber, in the case of the Revolutionary Guevarist Army (2015), the

UARIV and the CNMH were urged, as far as possible and in a participatory manner, to contribute to and promote the collection, systematisation, and dissemination of public and private initiatives that contribute to the reconstruction of historical memory in order to consolidate guarantees of non-repetition, reconciliation, and sustainability.³⁸⁴ In its decision, the Court also ordered the provision of reproductive health care and diagnostic services to women who were forced to have abortions as militants of this armed group, including fertility programmes, as well as technical training, psychosocial care, work and study programmes, and ongoing contact with their children.³⁸⁵

383 See: Tribunal Superior de Bogotá Sala de Justicia y Paz, 'Bloque Libertadores del Sur, Guillermo Pérez Alzate y otros' (29 September 2014). In this decision, despite having analysed the gender impacts on girls and adolescent victims of forced recruitment and related gender-based crimes of violence, the Chamber fell short in the reparation measures and did not apply a gender approach that takes into account, for example, the specific sexual and reproductive health impacts on victims when ordering rehabilitation measures.

384 Tribunal Superior de Medellín Sala de Justicia y Paz, 'Ejército Revolucionario Guevarista (ERG)' (n 103) 2437.

385 Ibid 352.

Additionally, several measures of reparation and satisfaction were granted in this judgement.³⁸⁶ In particular, the following measures of reparation were granted: housing improvement in accordance with the characteristics of the region and following a study of the socio-cultural characteristics of the region by the Colombian State and the Ministry of Housing; preferential access for victims to training in the National Apprenticeship Service (*Servicio Nacional de Aprendizaje – SENA*) in labour and entrepreneurial skills, with maintenance support for the time of study, according to the literacy characteristics and socio-economic profile of the beneficiaries; rural employment generation programmes; and legal and administrative advice, in addition to procedural facilities for access to comprehensive reparation for victims. As measures of satisfaction, the defendants were ordered to carry out acts of reconciliation, to make public statements that restore the dignity of the victims and their families, to make public statements regarding their responsibility for the acts, of their repentance, and of their commitment not to engage in punishable conduct again, and the participation of the defendants in symbolic acts of compensation and reconciliation.

Monitoring the implementation of these measures is a challenge given that there is no unified information from the Office of the Attorney General on the execution of judgements and their orders, nor any reports on the matter.

2.2.3. Administrative dispute jurisdiction

As mentioned above, victims can also turn to the administrative dispute jurisdiction (*jurisdicción de lo contencioso administrativo*) through the direct reparation action to seek full reparation for harms suffered due to the direct responsibility of the State in accordance with the provisions of Article 86 of the Administrative Dispute Code. The Council of State has decided cases related to sexual violence and has given various forms of reparation including rehabilitation measures.³⁸⁷

However, although it is possible to access reparation through direct action, this remedy is neither effective nor adequate for victims of sexual violence, since justice in this matter is not prompt and victims of sexual violence require urgent comprehensive reparation which cannot wait the several years that a process before the administrative dispute tribunal takes. As an example, in the appeal of the judgement in the case XXX XXXX XXX and Others which deals with the rape committed against a young woman in Tame, Arauca in September 1999, by soldiers on active duty,³⁸⁸ the case began on 17 August 2001 before the Administrative Court of Arauca.³⁸⁹ The Court decided at first instance in August 2004, rejecting the pleas of the complaint.³⁹⁰ This decision was appealed by the plaintiff and was finally decided by the Council of State in October 2014, namely 15 years after the events occurred and more than 10 years after the decision by the Court. The young woman who suffered sexual violence was 18 years old at the time of the events. It took almost the same number of years for the Council of State to overturn the decision of the Administrative Court of Arauca and protect the right to reparation of the young woman and her family.

In terms of reparations, although excessively late, this decision is significant for several reasons: First, the extensive analysis that the court made using a gender approach to analyse the emotional and psychological harm caused by the sexual violence suffered by the young woman. The Council of State demonstrated the serious dimension of the harm that this type of violence has on physical and mental health and awarded the maximum amount of monetary reparations (as a severe harm). In non-pecuniary terms, although the high court could have delved more deeply into the sexual and reproductive rights aspects of the case, it carried out a comprehensive analysis of the harm to the victim's mental and emotional health and consequently ordered the Ministry of Health to provide psychological, psychiatric, and pharmacological care services necessary to overcome the trauma caused by the sexual violence and to recover an optimal state of health, for a period of two years which could be

386 Ibid 2042, 2043.

387 See e.g., Consejo de Estado, Sección Tercera, Sala Plena, Sentencia de Apelación, 'Actor XXX XXXX XXX y Otros' (9 October 2014) Consejero Ponente Ramiro de Jesús Pazos Guerrero; Consejo de Estado, Sección Tercera, Sentencia de Apelación, (28 May 2015) Consejera Ponente Luz Estella Conto.

388 Consejo de Estado, 'Actor XXX XXXX XXX and Others' (n 387) 11.

389 Ibid 12.

390 Ibid 16.

extended. This included all paid transportation and food expenses so that the victim and a member of her family could access a specialised facility.

Furthermore, in terms of comprehensive reparation measures, the Council of State ordered different measures of satisfaction and non-repetition through the implementation of a training process on gender issues and prevention of gender violence for police officers in Arauca; the publication of the judgement guaranteeing the confidentiality of the victim and its dissemination for the education of officials through the Council for Women's Equity; and the work with the Office of the Attorney General regarding the appropriate treatment of victims of sexual violence. Although no information was found on the state of implementation of the judgement, the set of actions ordered by the high court show reparations with a gender focus.

Similarly, in January 2020, in a process of jurisprudential unification, the plenary of the Council of State decided on the statute of limitations of action when suing for harms resulting from crimes against humanity³⁹¹ in relation to a case on false positives. This was due to the lack of unity in the Council's criteria on statute of limitations. The Council of State held that as long as there is no knowledge or evidence "to infer that the State was involved in the act or omission that caused the harm and that the harm was imputable to it, the limitation period for direct reparation is not enforceable". However, if the interested party

knew of the State's involvement and did not exercise the action in time, it becomes enforceable.³⁹² In Colombia, the limitation period is 2 years from the time of knowledge of the State's involvement. The Council emphasises that this "is applicable to all direct reparation cases, regardless of whether they involve crimes against humanity or war crimes [...]".³⁹³ The Council also established as an exception that statute of limitations are inapplicable in "events in which the rights to due process and access to the administration of justice are ostensibly affected, due to the configuration of circumstances that materially hinder the exercise of the right of action and, therefore, prevent the exhaustion of the actions necessary for the presentation of the claim".³⁹⁴

This decision closes the door for victims of serious human rights violations, including those that may be crimes against humanity or war crimes, to have access to the administrative dispute jurisdiction to claim reparations directly from the State. As Councillor Alberto Montaña Plata states in his dissenting opinion: "The Judgement ignored the current standard in the Colombian legal system regarding access to justice for victims of atrocious crimes and, in exchange, created a counter-egalitarian and regressive jurisprudential rule and, consequently, one that is counter-constitutional and unconstitutional".³⁹⁵ The Councillor ends by saying that the judgement "created an undesired risk of impunity for the barbarity that has unfortunately characterised our conflict and raged against the most vulnerable".³⁹⁶

391 Consejo de Estado, Sala Plena, Sección Tercera, 'Actor Juan José Coba Oros y Otros' (29 January 2020) Consejera Ponente Marta Nubia Velásquez Rico.

392 Ibid 19.

393 Ibid.

394 Ibid 28.

395 Consejo de Estado, 'Salvamento de Voto del Consejero Alberto Montaña Plata' (29 January 2020) 1.

396 Ibid 6.



Survivors of sexual violence (2021)
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VIII. ANALYSIS OF OPPORTUNITIES AND THREATS FOR REPARATIONS

| 1. Mapping of relevant actors

In Colombia, as this report demonstrates, there are multiple relevant actors who have the power and/or the will to guarantee the right to reparation for victims of CRSRV. Within the State, there are various national and territorial actors called upon to act in relation to this right. In particular, the SNARIV is crucial for the implementation of this right, and within the SNARIV, the UARIV and the Land Restitution Unit are key to ensuring that several of the reparation measures incorporated in Law 1448 are fulfilled. Likewise, the Ministry of Health and the Health Secretariats are crucial to satisfy the right to rehabilitation of victims, in terms of physical, mental, and emotional health. The FPA has created new opportunities for reparation that must be clearly and continuously articulated between the SNARIV and the other mechanisms of the SIVJRN.

Other actors such as National Planning and the Ministry of Finance are crucial to ensure that the resources required to finance reparations in Colombia are allocated. The existing gap is very large and only a real and effective financial commitment can help victims' reparations.

The justice system in Colombia, through its different jurisdictions (transitional or otherwise), is essential to continue guaranteeing that the right to reparation is protected and that the core of this right, which has been protected until now, is not violated. The role of the Constitutional Court, but also of other courts such as the Council of State, is crucial to this end.

Colombia is not alone. Alongside the many national initiatives, there are various international actors accompanying them. In particular, international organisations play an important role, such as the United Nations, especially through OCHA, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and its office in Colombia, the United

Nations (UN) Women's Organisation, IOM, the United Nations Development Programme (UNDP), among others, or the Organisation of American States (OAS), especially through the IACommHR, the IACtHR, or the Mission to Support the Peace Process in Colombia (MAPP OAS). These key organisations have been following and contributing to the transitional processes that have been implemented since 2005 through their various mandates. Colombia has also benefited from bilateral aid from States such as the United States of America, for example through the United States Agency for International Development (USAID), or countries such as Germany and Switzerland.

Similarly, there is significant capacity for organising and collective action among women victims of some forms of CRSRV, such as rape, but less so among LGBTIQ+ victims. Nevertheless, feminist and women's rights organisations have created important advocacy and organising opportunities for LGBTIQ+ victims. However, there are no victims' groups or civil society organisations working specifically on sexual violence suffered by heterosexual men or considering the consequences of sexual violence and other violations for persons born of CRSRV.

The network of survivor and civil society organisations working to combat sexual and gender-based violence has different levels, including international civil society organisations, national organisations, and local organisations, as well as indigenous organisations and authorities whose mandate includes combating sexual and gender-based violence. Some LGBTIQ+ organisations also work on combating CRSRV. All these organisations are complemented by others working on women's rights in and outside armed conflict, which come together as part of alliances working to address CRSRV.

A major advocacy campaign that has mobilised and brought together victims of CRSRV in Colombia is the campaign "*No es hora de callar*" ("It is not the time to

be silent”) by journalist and victim of sexual violence, Jineth Bedoya³⁹⁷ which began in 2010 and aims to highlight the problems of gender-based violence, including impunity, and ensure reparations for victims.

Likewise, as mentioned above, the Victims’ Law includes the participation of victims in its implementation and monitoring.³⁹⁸ There is, for example, a National Committee for Effective Victim Participation, as well as municipal, district, and departmental committees. These bring together victims’ representatives from all over the country, including more than 4,000 victims’ organisations. More than half of the participants are women. The committees include thematic committees, including sexual violence, women, LGBTIQ+, and ethnic committees.

This panorama allows us to conclude that in Colombia there is an ecosystem made up of diverse actors, which, although they face coordination challenges, create unique opportunities for the reparation of victims of CRSRV.

2. Reparation opportunities for victims of sexual and reproductive violence in Colombia

The opportunities for providing reparations in Colombia to victims of the armed conflict, including victims of sexual and reproductive violence, are diverse. This is thanks to the existing normative framework, the commitment of various State sectors – especially the judiciary –, the existence of comprehensive and reparation-friendly transitional justice frameworks – including the domestic reparations programme –, the recognition of the need for a gender and intersectional approach in the treatment and fulfilment of the rights of CRSRV victims, and the ongoing struggle of victims, victims’ organisations, and civil society in general. These

elements are unique to Colombia and are not present in the vast majority of countries facing the challenges of reparations for CRSRV victims as shown in the GSF Global Reparations Study reports.³⁹⁹

The Victims’ Law and its implementation have created important reparations processes, some of which constitute significant opportunities for survivors to obtain reparations. One such opportunity is the recent extension of Law 1448 for another decade, which allows for the continuation of reparations to survivors of CRSRV and responds to the many challenges identified in this report. For example, the CC’s ruling in Helena’s case constitutes an opportunity to respond to intra-party victims of CRSRV by recognising them as victims subject to reparations. Similarly, the very poor implementation of collective reparations, together with the need to give such processes a truly gendered and intersectional perspective, creates a unique opportunity in the future to make necessary progress in this field.

The lack of access to adequate and rapid rehabilitation services for victims could be partially addressed by considering existing opportunities and reflecting on the impact they have had. Existing opportunities that could be strengthened and applied more broadly include:

1. The (physical and mental) rehabilitation health services programme, called the “*Proceso Fénix*”, implemented by the Secretary of Health of the Department of Valle del Cauca. This programme brought together different institutions at the local level to make the most of (financial and human) health resources, in order to provide CRSRV victims with holistic – and not fragmented – health services that go beyond gynaecological services. This concept is not dissimilar to the one-stop-centres where victims can access holistic rehabilitation programmes, as requested by the victims who took part in this study.

397 Fundación para la Libertad de Prensa (FLIP), ‘No es Hora de Callar: cómo se vive la violencia contra la mujer en medios de comunicación?’ (FLIP, 25 November 2020) <https://flip.org.co/index.php/es/informacion/noticias/item/2627-no-es-hora-de-callar-como-se-vive-la-violencia-contra-la-mujer-en-medios-de-comunicacion> accessed 2 March 2021.

398 UARIV, ‘Resolución 01668 de 2020’ (30 December 2020).

399 See for example, Trial, Vive Zene and Global Survivors Fund, *Bosnia and Herzegovina Study on Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence: We Raise our Voices*, (2022); Rights for Peace, Dialogue & Research Institute, Centre for Inclusive Governance, Peace and Justice, Global Survivors Fund, and Transitional Justice Working Group, *South Sudan Study on the Status of and Opportunities for Reparations for Survivors of Conflict-Related Sexual Violence*, available at: <https://www.globalsurvivorsfund.org/guide> accessed March 2022.

2. *Entrelazando*,⁴⁰⁰ a strategy put in place by the UARIV to provide rehabilitation services to victims who have suffered collective harm, especially peasant populations. Its success seems to lie in its ability to generate ownership and restoration of the social fabric in communities, thus promoting participation, healing potential, and leadership.
3. *Vivificarte*⁴⁰¹ is a complementary, psychosocial, and differential strategy, created by the Victims' Unit and aimed at women who have suffered CRSRV. Its focus is to strengthen women's capacities with a rights-based approach.

Similarly, the normative framework and implementation gaps have shown that fragmented access, where it exists, to the reparation measures established by Law 1448 is a serious problem for victims of CRSRV. There is therefore a clear diagnosis of one of the major problems in the implementation of Law 1448, and this should enable a concerted effort by key actors, inside and outside the State, to consider how to provide a truly reparative experience and process for victims instead of scattered measures that do not provide dignity but do cause harm. Ending fragmentation also implies working to make the reparation process a simple, victim-centred process rather than a bureaucratic one.

A key element to take into account in Colombia is that a significant number of CRSRV victims, despite the obstacles they face, have spoken out about what happened to them and claimed their right to reparation. This, together with the fact that Law 1448 also establishes various participation mechanisms for victims, including the Victim Committee, creates a valuable opportunity to listen to and work together with victims on reparation processes that truly recognise what happened to them and dignify them. Reparation for victims of CRSRV is about recognition and to this end the participation of victims is paramount.

The FPA also constitutes a unique opportunity to provide reparations to victims of CRSRV. The work of the SIVJNR is key in this regard. This system includes SNARIV, as noted above, but also creates new opportunities for reparations that are not limited to State action. One

opportunity is the possible opening of a macro-case on sexual and reproductive violence by the SJP. Although to date the SJP has not adequately responded to the magnitude and gravity of these forms of violence within the armed conflict, it could still prioritise a case on CRSRV, which in turn could lead to sanctions being ordered against those most responsible who acknowledge truth and responsibility before the SJP. These sanctions should include a reparative dimension and could become an example of gender justice and reparations at the global level that significantly complements the reparation efforts of Law 1448.

Finally, the IACtHR in the case of *Bedoya Lima and another vs. Colombia*, the first judgment against Colombia in which CRSRV is addressed, ordered various forms of reparation that, if implemented, would contribute to transforming the structural causes of these forms of violence. Among other forms of reparation ordered is the obligation to investigate Jineth's case with due diligence, to investigate the threats she suffered, and to create an information mechanism that compiles data and figures on violence against women journalists. The Court also ordered the Colombian State to create a "State centre for the memory and dignity of all women victims of sexual violence in the context of the armed conflict [...]".⁴⁰²

3. Main challenges and threats to comprehensive reparation for acts related to sexual and reproductive violence

Despite the existence of various resources which would enable them to be so, reparations to victims of these violations are not effective and adequate. Law 1448, despite being a very important and ambitious law, faces significant challenges in its implementation, not only in terms of numbers (as indicated by the quantitative indicators seen above) but also in terms of processes and quality in the delivery of the various forms of comprehensive reparation. This is evident in the perceptions section in this report, and is constantly reiterated by victims' and civil society organisations that accompany them.

400 UARIV, 'Rehabilitación' <https://www.unidadvictimas.gov.co/en/ruta-integral-individual/rehabilitacion/8939> accessed 6 April 2022.

401 UARIV, 'Vivificarte. Estrategia de Reparación Integral Fortaleciendo Capacidades desde el Enfoque de Derechos para Mujeres Víctimas de Violencia Sexual' (27 November 2011) <https://www.unidadvictimas.gov.co/sites/default/files/documentosbiblioteca/55metodologiavivificartev5.pdf> accessed 2 March 2022.

402 IACtHR, *Case of Bedoya Lima and Another vs. Colombia* (n 303) para. 190.

The focus has mostly been on compensation, without the search for transformation and comprehensiveness. This is what the Inspector General Assigned to the Monitoring of the FPA indicates. According to its latest report, "It appears that the transformative approach is limited to a restorative understanding with a focus on compensation [...] which leaves aside the comprehensive, transformative, and symbolic aspects of reparation".⁴⁰³ This is explained, in part, by the lack of coordination within the SNARIV which still fails to work as the unified system conceived of in Law 1448. It should also be noted that the UARIV decided to dispense with the Gender and Differential Approaches Group, which may further accentuate the lack of gender perspective in the reparation process.⁴⁰⁴

Likewise, despite the efforts made by the UARIV and other institutions such as the Ministry of Health, there are significant challenges in terms of rehabilitation and collective reparation. What could be gained through the combination of various forms of reparation for victims of CRSRV in a comprehensive manner is lost due to the absence of a true process that satisfies the right to reparation in a comprehensive and holistic manner.

On the other hand, impunity continues to prevail in relation to the investigation of these types of cases, which shows a lack of will, but also a lack of

change in State institutions and in the various actors involved in the search for justice for these crimes. In this regard, the Office of the Inspector General also observed that "the sources consulted reiterated that the transformative approach to reparation does not include a differential and gender approach that addresses, among others, discrimination and structural violence".⁴⁰⁵

It is also noteworthy that victims constantly refer to the processes of re-victimisation they face when trying to access their right to reparation, whether through Law 1448 or through the justice system. Not only is there no consistent gender focus (which ends up depending on the official on duty),⁴⁰⁶ but unnecessary procedures are also requested⁴⁰⁷ and victims are not treated with dignity and respect according to the principle of no harm.

As for the direct remedy of reparation before the Council of State, the January 2020 decision on statutes of limitations has a significant impact on sexual and reproductive violence, which will not necessarily fit within the exception established by the Council of State and, therefore, closes the door for these victims to claim their right to reparation against the State. For this reason, this remedy is no longer effective for the vast majority of victims of the Colombian armed conflict.

403 Procuraduría General de la República (n 272) 46.

404 Procuraduría General de la Nación, 'Procuraduría Exhortó a la Unidad para las Víctimas a no Prescindir del Grupo de Enfoque Diferencial y de Género' (23 February 2021) <https://www.procuraduria.gov.co/portal/Procuraduria-grupo-UARIV-unidad-victimas.news> accessed 6 August 2021.

405 Ibid.

406 Procuraduría General de la República (n 272) 63.

407 Ibid 117.



IX. RECOMMENDATIONS

Recommendations to the national government

- The Colombian Government, headed by the UARIV, must ensure that victims of CRSRV have access to comprehensive reparation and to a reparation process that is itself reparative. The characteristics of the routes available in Colombia to access reparations make it a challenge to guarantee a reparation process capable of offering comprehensive reparation, based on respect and dignified treatment of the victims, and which does not generate new victimisation.
- The Colombian Government must guarantee that the SNARIV and the UARIV have the necessary financial and human resources to provide comprehensive reparation to victims in accordance with the provisions of international treaties ratified by Colombia, the Political Constitution, Law 1448 of 2011, and the FPA, based on principles of care and non-harm, and gender, ethnic-racial, and intersectional approaches. This includes guaranteeing the continuity of physical, emotional, psychosocial, and spiritual health care processes for victims, as well as those that strengthen their political agency and economic autonomy in rural and urban contexts.
- The Colombian Government must ensure full coordination among the many institutions that are part of SNARIV, as well as adequate human and financial resources to provide reparations to victims in a timely, comprehensive, and continuous manner. The identification of obstacles, opportunities, and challenges related to effective coordination between institutions must include a real dialogue with victims. It is victims who are in the best position to point out where there are failures and what can be improved. Key elements for better coordination are dialogue between the national and local levels, ensuring a better presence of SNARIV in the territories, as well as directly involving victims and the organisations that accompany them in the reparation process.

- The Colombian Government has an obligation to fully implement and comply with the FPA. In particular, given the clear inclusion of a gender and ethno-racial focus in the FPA, measures aimed at guaranteeing victims' right to full reparation must be implemented with victims' needs at the centre.

Recommendations to UARIV and to SNARIV

- The Victims' Unit should improve the system of access to information for victims who apply for registration in the RUV. Similarly, it must guarantee that this process is carried out from an intersectional approach that takes into account measures of care and non-harm for victims of CRSRV, which implies not re-victimising them while taking their statement, protecting their identity if the victim so wishes, referring them to other institutions if necessary so that victims can access health services and justice, and offering clear and precise information about the process that follows after the statement.
- The Victims' Unit must unify and streamline the administrative and bureaucratic processes that victims must follow to access reparation measures in a comprehensive and timely manner. Victims feel alone, reprimanded, and re-victimised when they go to the UARIV and this discourages them from starting the RUV registration process to which they are entitled. The UARIV must ensure that measures are in place to ensure that victims are supported during the reparation process.
- In line with the above two recommendations, the Victims' Unit should ensure that survivors receive accurate and timely information about reparations and the different avenues available, and that they are supported in filing claims. This includes designing a communication strategy that ensures that information is kept up to date, standardised, and in languages and forms accessible to victims and their diverse contexts, which are often rural

and lack telecommunications infrastructure. Likewise, to inform, based on the recognition of victims' contexts, of any changes ordered by the relevant bodies, such as the Constitutional Court. Finally, to create clear communication processes about reparation and humanitarian assistance, and the difference between the two concepts. Victims do not always know that what they have received is a form of reparation, or that receiving something does not imply that their right to full reparation has been fully satisfied.

- The Victims' Unit must ensure the implementation of a gender and intersectional approach in all its processes, with a view to guaranteeing the continuity of the work of the Gender and Differential Approach Group, and not jeopardise the right to reparation of people who belong to historically discriminated groups and have suffered CRSRV.
- The Victims' Unit should take active measures to register in a timely manner and without delay in the RUV those ex-combatants who have suffered sexual and reproductive violence within their families and who were unable to demobilise as minors. This is in compliance with Constitutional Court Judgement SU-599 of 2019.
- The Victims' Unit should review its policy and work on collective reparations to achieve significant progress in the delivery of this form of reparation. It should also ensure that measures are fully designed from a gender, ethno-racial, and intersectional approach.
- The Victims' Unit, as well as the institutions that are part of SNARIV, must guarantee fair, stable, and dignified security and working conditions for those who work with victims of CRSRV. Likewise, they must simplify internal processes for their workers, in order to reduce the administrative burdens that interfere so much with the implementation of processes based on care and quality. This is fundamental to guarantee the implementation of comprehensive reparation measures. Inadequate working conditions and lack of real measures aimed at the safety of workers

lead to fragmented victim support processes that lack continuity and generate new forms of violence towards the victims. Similarly, guaranteeing fair, stable, and dignified working conditions is a way of guaranteeing an efficient and responsible use of State resources, because it allows for the maximisation of budgets invested in experienced and trained professionals in the long term.

- The Victims' Unit should continue to strengthen training strategies in intersectional approaches and in principles of self-care, care, and non-harm for people who work with victims of CRSRV. Likewise, it should create links with other institutions and operators to guarantee that those who work with victims of CRSRV can do so from principles of care, non-harm, and from a gender, ethnic-racial, and intersectional approach. This requires theoretical work, but also the implementation of appropriate and sensitive practices, pedagogical processes, and tools for working with CRSRV victims.
- The Victims' Unit must guarantee clear and easily accessible routes for victims to report cases in which workers of the UARIV and other institutions working with victims are involved in bad practices, re-victimising processes, and/or obstructing victims' access to reparation with dignity and respect. For the routes and channels that already exist, clear victim-oriented communication strategies should be generated. If these processes are transparent and show results, they can promote the centrality of victims in the implementation of reparation measures, while at the same time contributing to the generation of trust in institutions.
- The Victims' Unit should design and implement a specific reparations policy and strategy, including clear, standardised, and accessible routes to ensure that victims with diverse sexual orientations and gender identities and expressions, heterosexual men, persons born of CRSRV, and ex-combatants who are victims of sexual and reproductive violence can access adequate, prompt, and effective reparation. Such a policy and strategy should include the provision of urgent forms of reparation.

Recommendations to the Ministry of Health and the Health Secretariats

- Ensure access to holistic physical and mental health rehabilitation, including psychosocial, emotional, and spiritual support for CRSRV survivors. Also ensure that these processes are provided with quality, continuity, and in a holistic manner. This prioritisation should include an intersectional approach that clearly and articulately includes aspects such as rurality, ethnicity, social class, disability status, age, gender identity and expression, and sexual orientation.
- Coordinate efforts with the UARIV on psychosocial care. Efforts should include several measures, including: that when accessing psychological care the service is provided by the same person during all sessions and that this person is specialised in dealing with cases of sexual and reproductive violence; that the psychological process is linked to the process of accessing compensation and other forms of reparation; that transportation is guaranteed for victims who have to travel from their places of residence to access services; that there are mechanisms for permanent coordination between PAPSIVI officials at the national and regional levels so that methodologies, directives, and needs are adequately disseminated in the different areas.
- Guarantee the effective implementation of the Protocol and Model of Holistic Health Care for Victims of Sexual Violence, including access to urgent sexual and reproductive health services, including voluntary termination of pregnancy.

Recommendation to the Monitoring Commission of Law 1448 of 2011

- While the Commission's reports are emblematic of serious work to monitor and evaluate the results achieved through the implementation of Law 1448 of 2011, and an example of how other States around the world should monitor and evaluate the implementation of mass reparation policies, including for victims of sexual and reproductive violence, it is important that these reports not only use quantitative indicators, but also account for victims' experiences of reparations, making use of multiple qualitative indicators.

Recommendations to the Special Jurisdiction for Peace

- Promote the investigation, prosecution, and punishment of CRSRV and, in particular, encourage the opening of a macro-case on sexual and reproductive violence. Ensure that the sanctions in such a case are developed with a focus on the victims of CRSRV and take into account the need to listen to them in a respectful, empathetic, and supportive manner, as well as to protect their life and integrity.
- Evaluate the impact of programmes such as *Vivificarte*, *Entrelazando*, or the *Proceso Fénix* to identify good practices and consider possible tools to strengthen them in order to provide comprehensive rehabilitation for all victims of CRSRV.

Recommendations to the justice system

- There are a variety of judicial remedies available to victims of CRSRV at both the national and international levels. This diversity of remedies creates major challenges of complementarity and co-existence. While judicial decisions are generally made on the basis of the harm caused and the evidence of such harm, it is important that these courts take into account the way in which reparation for victims of CRSRV is being addressed in different contexts in order to contribute to non-repetition and to strengthen measures that have already been ordered. In this context, decisions such as that of the IACtHR in the case of Jineth Bedoya offer significant opportunities to respond to the collective harm of women human rights defenders like Jineth Bedoya who have been victims of conflict-related sexual violence.
- Although there are landmark transitional and non-transitional judgments that address reparation for victims of CRSRV, there is no clear and transparent documentation or monitoring by the courts or judges on the status of compliance, with some clear exceptions such as the CC. For this reason, it is crucial to create reporting mechanisms to monitor the implementation of the various reparation measures ordered, as well as the identification of tools to advance the implementation of such orders. Once again, victims and their support and trust organisations are key when designing tools that allow for the implementation of reparation measures.

Recommendations to the international community, civil society, and academic sectors

- Continue mapping the various forms of sexual and reproductive violence against women, men, and people with diverse sexual orientations and gender identities and constructions. This should ensure that both those who have not reported and those who have already done so know their rights, can participate in safe and caring spaces, and can access comprehensive reparations. The identification of lessons learned from working with victims of CRSRV, both good practices and those that have resulted in re-victimisation, should promote truly transformative scenarios for cis heterosexual women and LGBTBIQ+ victims, as well as deepen the work with heterosexual men and open spaces for working with persons born of CRSRV.
- Continue to strengthen the transdisciplinary development of conceptual frameworks and methodological approaches to work on forms of gender-based violence that are not limited to sexual violence. The production of transdisciplinary knowledge on reproductive violence associated with armed and political violence would allow for a more comprehensive understanding of these experiences, and allow for a more adequate design and implementation of justice, truth, and reparation processes for these victims.
- It is essential to design methodological processes that allow work with victims of reproductive violence that are not extractivist, do not generate new violence and, if possible, that strengthen the political agency of victims and are restorative in themselves. This recommendation is particularly important seeking to make contact with persons born of CRSRV.
- Support the strengthening of grassroots and community processes, as well as spaces for non-instrumentalised participation, co-creation, and support networks for and among victims of CRSRV. This would contribute to the renewal and diversification of leaderships, and to the sustainability of organisational processes, participation, and accountability for victims.



X. CONCLUSIONS

- The victims and survivors who participated in this study were very clear in emphasising that their right to reparation must respond to the needs that have resulted from the impacts of CRSRV, the lack of timely attention to those impacts, and the needs that arise because they live in contexts of structural violence in which CRSRV has been enabled and legitimised. The report highlights their call for progress to be made in addressing historical demands for social justice through the guarantee of the right to reparation. For example, through access to decent housing and work, education for themselves and their children, and comprehensive rehabilitation for their physical, mental, and emotional health in specialised centres. The report also emphasises the need for adequate recognition of collective and ethnic harms that must be created and respond to the worldview of indigenous peoples and Afro-descendant, black, Raizal, and Palenquera communities.
- Another of the significant challenges faced by CRSRV victims in accessing reparation is the existence of various factors that put their lives and integrity at risk, exposing victims and their communities to new forms of violence, including CRSRV. These include the protraction of the armed conflict and the reconfiguration of the war in Colombia which prevents progress in guaranteeing non-repetition. The insecurity identified by the victims is also related to the high levels of impoverishment which are closely linked to the strengthening of extractive industries and megaprojects that have weakened peasant livelihoods and economies. These contexts of impoverishment exist alongside historic militarised State presence and have been exacerbated by the COVID-19 pandemic.
- Unlike many other countries in the world, in Colombia there are a variety of judicial and non-judicial remedies, including a domestic reparation programme to satisfy the right to reparation of victims, including victims of CRSRV and persons born of war. However, these remedies which have at least in theory been characterised as highly ambitious and sophisticated, in practice are highly complex and consequently not sensitive to the reality and needs of victims. Each of these remedies has its own infrastructure, including administrative and/or judicial processes, budgets, regulatory frameworks, and operators that are not always interconnected. For victims, this entails the need to specialise in each of these resources for their navigation. It is noteworthy that there is no unified, clear, and updated information for victims on how to use or access these resources. Victims must face multiple bureaucratic and administrative requirements that cause re-victimisation and, once they manage to access these resources, they must wait amid much uncertainty for many years to be able to access fragmented reparation.
- The participation of CRSRV victims in truth, justice, and reparation processes must be central for these processes to be transformative and not re-victimising. However, participation cannot be instrumentalised or institutionally co-opted. Victims must be able to participate based on their political agency and as builders of knowledge, including through the recognition of their contributions to the evaluation processes, and in adjusting reparation measures and implementation routes. Similarly, it is essential to strengthen both community, grassroots, and intergenerational processes, as well as spaces for co-creation with victims and the sustainability of support networks for and among victims of CRSRV. This would contribute to the renewal and diversification of leaderships, and to the maintenance of organisational, participation, and accountability processes for victims.
- It is essential to continue the work of recognising and understanding the diverse CRSRV experiences of women, men, and non-binary people, as well as their impacts and how to respond to them in a comprehensive manner and with a view to non-repetition. This includes the identification of areas and experiences, both of victims and institutions, that require strengthening and approaching from alternative methodologies to those that have been predominantly used in the work with victims of CRSRV. Throughout the course of this report we have identified at least three of these areas that we would like to highlight for future research: collective reparations, the experiences of persons born of war, and institutional initiatives that implement coordinated reparation actions. With regard to the latter, it would be important to make contact with and learn from initiatives such as the *Proceso Fénix* in Valle del Cauca.



The Cauca River in the Hidroituango Dam, Ituango Colombia, August 2021
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GLOSSARY

The definitions in this glossary are limited to the use of these terms in the context of the Global Reparations Study.

| Survivors and victims

Survivors. Persons who individually or collectively suffered harm as a result of violations of their fundamental rights through acts or omissions that constitute gross violations of international human rights law and/or serious violations of international humanitarian law. This non-legal term is often used interchangeably with the term victim (see below), as the latter is the term generally used in legal instruments. The term survivor is considered by many as empowering as it emphasises their strength and resilience instead of focusing on their suffering, but it is narrower and does not include deceased victims or indirect victims. Those who suffered or suffer harm are the ones who should decide which term best describes their situation. Both terms are used, depending on the context and the wishes of those who suffered harm.

Victims. Persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law and/or serious violations of international humanitarian law. The term “victims” also includes the immediate family or dependants of the direct victim and persons who have suffered harm while intervening to assist victims in distress or to prevent victimisation.⁴⁰⁸ Victims include not only natural persons, but also organisations or institutions, and the environment.

LGBTIQ+ (Lesbian, gay, bisexual, trans, intersex, and other queer constructs). An acronym that refers to those who “have a sexual orientation or construct a gender identity and expression outside the heterosexual norm and the binary parameters of male-female gender. [...] An acronym used to unite diverse sexual and gender identities and which is intended as a political category for the enforceability of rights”.⁴⁰⁹ In no way is the allusion or use of the acronym made under a “unitary and/or monolithic logic or connotation, as if it were a social group that is frozen and/or articulated on the basis of a common notion of identity”.⁴¹⁰

Sexual orientation. This is understood as “the capacity of each person to be emotionally, affectively, and sexually (erotically) attracted to persons of a sex or gender different from their own (heterosexual persons), of the same sex or gender (homosexual persons), or of more than one sex or gender (bisexual and pansexual persons).”⁴¹¹

Gender expression. Refers to “the way in which gender identity is expressed or manifested; the way in which people are perceived by others, their names, forms of dress, role expression and general behaviour. [...] Gender expressions are divided as follows: feminine, masculine, androgynous, and others”.⁴¹²

Black community. According to Article 2 of Law 70 of 1993, the black community refers to the “group of families of Afro-Colombian descent who have their own culture, share a history, and have their own traditions and customs within the rural-populated relationship, which highlight and preserve an awareness of identity that distinguishes them from other ethnic groups”.⁴¹³

408 UN General Assembly, ‘Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law’ (21 March 2006) A/RES/60/147 Principle 8.

409 Corporación Caribe Afirmativo, ‘Resistimos Callando, Re-existimos gritando’ (n 22) 16.

410 Ibid.

411 Ibid.

412 Ibid.

413 Ley 70 de 1993, Article 2.

Afro-descendant, Afro-Colombian community.

These are the human groups present throughout the national territory (urban-rural), who are born in Colombia, with historical, ethnic, and cultural roots and descent, with their racial, linguistic, and folkloric diversity. This human group is usually referred to as blacks, browns, mulattos, niches, and other popular denominations and euphemisms, as well as Afro-descendants. It refers to the recognition of the African ancestry of their ancestors.

Raizal community. Native population of the islands of San Andrés, Providencia, and Santa Catalina, descendants of the union between Europeans (mainly English, Spanish, and Dutch) and African slaves. They are distinguished by their culture, language (Creole), religious beliefs, and historical past which is similar to the West Indian peoples of Jamaica and Haiti. Given their cultural specificity, they are subject to particular socio-cultural policies, plans, and programmes that are different from those of other black communities in Colombia.⁴¹⁴

Palenquera Community. It refers to the descendants of enslaved people who, through acts of resistance and freedom, took refuge in the territories of the North Coast of Colombia since the 15th century, known as "palenques". Four Palenques are recognised in Colombia: San Basilio de Palenque (Bolívar), San José de Uré (Córdoba), Jaboco Pérez Escobar (Magdalena), and La Libertad (Sucre).⁴¹⁵

| Reparation and remedies

Administrative remedies. Non-judicial mechanisms or procedures that victims/survivors of gross violations of international human rights law and/or serious violations of international humanitarian law can use to access their right to reparation and/or to prevent violations.

Collective reparations. Forms of reparations owed to groups of people who have suffered collective forms of harm as a result of gross violations of international human rights law and/or serious violations of international humanitarian law. Such groups are often bound by a common identity, culture, or ancestry.

They may also have shared experiences, such as living in a community of those with such bonds or being subjected to similar violations. These collective measures can be symbolic and/or material.

Domestic/administrative reparations programmes.

Out-of-court/non-judicial processes or mechanisms established, usually at the national level, by States to provide reparation to certain categories of victims/survivors when large-scale and gross violations of international human rights law and/or serious violations of international humanitarian law occur. Such programmes are more sensitive to the victims' situation and the realities of armed conflict as they are, in theory, meant to provide prompt access to reparations at no cost and with a lower evidentiary threshold than required before a court. In such programmes, States identify the violations and victims/survivors to be redressed and provide them with reparations through an established procedure.

Judicial remedies. All judicial and quasi-judicial mechanisms and procedures at the national or international level to protect survivors' rights or to adjudicate cases involving the international crimes they have suffered. Many of these mechanisms can also order or recommend forms of reparation for the survivors. Their decisions are, per se, a form of satisfaction.

Remedies. Appropriate mechanisms that seek to address a gross violation of international human rights law and/or a serious violation of international humanitarian law and are provided by States or other duty-bearers.

Right to reparation. Right of victims of gross violations of international human rights law and/or serious violations of international humanitarian law. It consists of measures that the State or other duty-bearers must provide in response to those violations to recognise and address their consequences and the society's structural and gender inequalities that uphold systems of discrimination and violence. Reparations that victims/survivors are entitled to are generally recognised to include the five following forms: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.

414 UARIV, 'Comunidades negras, afrocolombianas, raizales y palenqueras' <https://www.unidadvictimas.gov.co/en/comunidades-negras-afrocolombianas-raizales-y-palenqueras/277> accessed 12 April 2022.

415 Ibid.

These five forms of reparation are not mutually exclusive but complement each other as each addresses different needs that victims/survivors may have.

Transformative reparations. Reparation measures that aim to have a transformative effect by addressing socio-cultural injustice, political, economic, gender, and structural inequalities, rather than simply bringing victims/survivors back to the status quo ante, one of inequality and discrimination. Doing so would merely reinstate or reinforce the structural conditions within society that allowed the violations to occur in the first place.⁴¹⁶

Urgent interim relief. Interim measures provided by States to victims/survivors of gross violations of international human rights law and/or serious violations of international humanitarian law to address the most urgent and immediate consequences of such violations and to prevent irreparable harm.⁴¹⁷ It should not be confused with humanitarian or other assistance measures. Urgent interim reparation is based on the recognition of State responsibility and requires State and political support. It is granted while victims/survivors wait for comprehensive reparation. Such measures have been provided by States in, for example, South Africa or Timor-Leste.

| Forms of reparation

Compensation. Monetary measures that seek to address harms by economically assessing and quantifying them. These harms can include economic loss, loss of one's life plan, physical and mental harm, and moral harm.⁴¹⁸

Guarantees of non-repetition/non-recurrence. A key form of reparation that includes different measures aimed at addressing the structural causes of the violation, including any kind of discrimination, that

can contribute to preventing further violations, such as (a) ensuring effective civilian control of military and security forces; (b) ensuring/putting in place justice system reforms and strengthening the independence of the judiciary; (c) providing international human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces; (d) reviewing and reforming laws and practices contributing to or allowing violations of international human rights and/or international humanitarian law; (e) working with all sectors of society to challenge expressions of patriarchal power and transform masculinities; (f) fostering an enabling environment for civil society; (g) investing in education, arts, and other cultural interventions.⁴¹⁹ Guarantees of non-repetition do not depend exclusively on State actors: civil society organisations, religious and community leaders, artists, and educators, among others, have a crucial preventive role and contribute to creating and sustaining an environment conducive to the full realisation of rights.

Recognition. Form of satisfaction for victims/survivors. It is the acknowledgement of the victim/survivor as an individual, who has a value of their own, and an acknowledgement of the fact that they have suffered gross violations of international human rights law and/or serious violations of international humanitarian law, that they are not responsible for what happened, and that they are entitled to reparations to address the harms they suffered. It implies the consideration and acknowledgement of how the person has been affected and has suffered due to the environment and actions of others. Recognition can take place through different measures such as the investigation, prosecution, and punishment of perpetrators; a public apology; or the provision of reparations as part of a domestic reparations programme.

416 United Nations, 'Guidance Note of the Secretary General: Reparations for Conflict-Related Sexual Violence' (June 2014) Principle 4, International Meeting on Women's and Girls' Right to a Remedy and Reparations, 'Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparations' (March 2007), *Case of González et al ("Campo Algodonero") v. Mexico* (Merits, Reparations and Costs) IACtHR Series C No. 205 (16 November 2009) para. 450.

417 United Nations, Guidance Note (n 416) Principle 7.

418 UN Basic Principles on the Right of Victims to Reparations (n 408) Principle 20.

419 Ibid Principle 23. See also: United Nations General Assembly, 'Report of the Special Rapporteur on the Promotion of truth, justice, reparation and guarantees of non-repetition' (12 October 2017) A/72/523.

Rehabilitation. Measures that include all essential services that victims/survivors need to carry out their lives in a dignified way. It includes adequate, comprehensive, and timely medical and psychological care, as well as legal and social services.⁴²⁰

Restitution. Measures that, whenever possible and advisable, seek to restore the victim/survivor to the original situation prior to the violations. Restitution can include measures such as restoring someone's liberty or enjoyment of rights, return to their place of residence, or restoring employment.⁴²¹

Satisfaction. Forms of reparation that aim to provide victims and survivors with a sense of dignity and recognition. Different types include (a) measures aimed to stop continuing violations; (b) full and public disclosure of the truth; (c) search for the whereabouts of disappeared persons and the remains of those killed; (d) official declarations or judicial decisions that restore the dignity, reputation, and rights of the victims and their next of kin; (e) public apologies, including acknowledgement of the facts and acceptance of responsibility.⁴²²

| Interim Reparative Measures

Interim reparative measures. Term coined by GSF to refer to measures provided to victims/survivors of gross violations of international human rights law and/or serious violations of international humanitarian law by non-duty bearers (e.g., international organisations, civil society organisations, and other actors) in situations where States or other duty-bearers are unable or unwilling to comply with their responsibility to provide reparations. Receiving these measures does not substitute the obligations that States or other responsible parties have to provide reparations.

| Assistance

Humanitarian assistance/relief. Provision of resources or services that aim to respond to the basic needs of populations suffering from armed conflict, natural disasters, or other human-made crises. They are generally provided as part of development aid and humanitarian assistance programmes.

Interim assistance/relief. Provision of resources or services that apply during a particular period to respond to the urgent and immediate needs of populations suffering from armed conflict, natural disasters, or human-made crises.

| Principles and approaches

Intersectionality/intersectional approach. Term coined by Professor Kimberlé Crenshaw, it describes an approach and category of analysis that considers how social, cultural, political, economic, generational, racial, ethnic, gender, and territorial hierarchies connect or interconnect to condition the position and roles of individuals and communities. An intersectional approach seeks to understand the ways in which patriarchy, racism, social, and class inequalities and other systems of discrimination converge and overlap, emphasising the impact of such convergence as limiting access to opportunities and rights.

Gender-sensitive approach. Approach that seeks to analyse and acknowledge how acts, experiences, violence, and harms can have different meanings and impacts for individuals because of their gender or gender identity, sexuality, or sexual orientation. This approach should be used in the mapping, design, implementation, monitoring, and evaluation of reparation processes. It should include the adoption of safeguards against gender biases, adequate training, and the development of gender-sensitive research methodologies.

420 UN Basic Principles on the Right of Victims to Reparation (n 408) Principle 21.

421 Ibid Principle 19.

422 Ibid Principle 22.

Ethno-racial approach. Approach that recognises that “doctrines, policies, and practices based on or advocating the superiority of certain peoples or individuals on grounds of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable, and socially unjust”.⁴²³ This approach helps to analyse the strategies and conditions that reproduce and perpetuate subordination and discrimination against ethnic-racial groups historically excluded from the rest of the population.

Participation. The process by which affected individuals or groups of people, such as victims/survivors, take part in an activity. It can imply different modalities and levels of involvement. Regarding reparation measures, victims/survivors have a right to participation, which should be meaningful and effective throughout the whole process of mapping, design, implementation, monitoring, and evaluation.

Victim/survivor-centred approach. Approach that places survivors at the centre of the process by prioritising their rights, needs, and wishes and ensures they are treated with dignity and respect. Often, the term survivor-centred refers to the actual approach of working with victims/survivors. The term survivor-centric refers to the policies, procedures, and broad responses that prioritise the rights, needs, and wishes of the victim/survivor.

| Sexual and reproductive violence

Conflict-related sexual and reproductive violence (CRSRV). Acts or patterns of sexual and/or reproductive violence against persons of all genders and ages occurring during a conflict or post-conflict setting and that have direct or indirect links with the

conflict or that occur in other situations of concern such as in the context of political repression. CRSRV includes all violations of a person’s sexual and reproductive autonomy, integrity, and freedom; it can be an expression of discrimination exacerbated by the conflict and is generally characterised by humiliation, domination, and destruction. Sexual and reproductive violence is an expression of gender-based violence and can take many forms, including, but not limited to, acts of rape, forced pregnancy, forced sterilisation, forced abortion, forced prostitution, sexual exploitation, trafficking for sexual purposes, sexual enslavement, forced circumcision, castration, sexual torture, forced nudity, or any other form of sexual violence of comparable gravity.

Sexual violence. Acts of a sexual nature or attempts to obtain a sexual act or other acts which target sexual functions against people of all gender and ages committed without consent or in a coercive context that makes genuine consent impossible. These acts violate their sexual autonomy or sexual integrity; sexual violence is an expression of discrimination that is generally characterised by humiliation, domination, and destruction. Under certain conditions, sexual violence can amount to genocide, crimes against humanity, and war crimes.

Reproductive violence. Acts that violate a person’s reproductive capacity and bodily autonomy, to be understood as an individual’s freedom to determine one’s reproductive choices and whether and in what circumstances to reproduce. Reproductive violence can include acts of forced contraception, forced abortion, forced sterilisation, forced contraception, forced pregnancy and the denial of abortion services when the pregnancy results from rape. Under certain conditions, sexual violence can constitute genocide, a crime against humanity, and a war crime.

423 CEV, ‘Metodología del enfoque étnico y contra el racismo, la discriminación racial y formas conexas de intolerancia’ (March 2018).



Women engaging in body mapping (2021)
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