

Women in the colombian armed conflict

La mujer en el conflicto armado colombiano

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Abstract

Colombia has one of the largest armed conflicts in its history, and the violence against women during this current conflict has reached epidemic proportions.¹ In that sense, this paper presents a gender legal approach, also an analysis of the different roles of women and the types of violence that women have to experience in the Colombian armed conflict. The key questions this paper seeks to answer are: First, whether Colombian national legislation, the human rights laws (HRL) and the International humanitarian law (IHL) are addressing the needs of women in situations of armed conflict. Second, what are the different roles of women in the Colombian armed conflict and what types of violence they have to endure, specifically sexual violence?. Third, whether or not women are more vulnerable than men in situations of armed conflict. Regarding the first question I argue that the Colombian national law, the HRL and IHL, provides adequate protection to women in the Colombian armed conflict. However, there is a gap between that aforementioned legislation and the reality of the Colombian women in the conflict. For that reason, the national law, the HRL and IHL has to be reviewed in a practical context.

1. Amnesty International, Colombian Authorities Fail Survivors Of Sexual Violence, 21 September 2011. Available at: <http://www.amnesty.org/en/for-media/press-releases/colombian-authorities-fail-survivors-sexual-violence-2011-09-21> (March 24, 2012).

The paper start with a brief summary of Colombian armed conflict. Then, the document presents a gender legal approach. Next, there is an analysis of the different roles of women and the types of violence that women have to experience in the Colombian Armed Conflict, specifically, sexual violence. Finally, there are some recommendations and final conclusions.

Keywords: women, armed conflict, sexual violence, human rights.

Resumen

Colombia tiene uno de los mayores conflictos armados de la historia y la violencia contra las mujeres durante el conflicto actual ha alcanzado proporciones epidémicas. En ese sentido, este trabajo presenta un enfoque legal basado en un enfoque de género y un análisis acerca de los diferentes roles de las mujeres y los tipos de violencia que experimentan en el conflicto armado colombiano. Las preguntas claves que este trabajo intenta responder son: la legislación nacional de Colombia, las leyes de derechos humanos y el derecho internacional humanitario ¿están abordando las necesidades de las mujeres en situaciones de conflicto armado? ¿Qué papeles desempeñan las mujeres en el conflicto armado colombiano y qué tipos de violencia tienen que soportar? ¿Son las mujeres más vulnerables que los hombres en situaciones de conflicto armado? Diversas hipótesis sostienen que los derechos humanos y el derecho internacional humanitario proporcionan una protección adecuada a las mujeres en el conflicto armado colombiano. Sin embargo, hay una brecha entre la legislación antes mencionada y la realidad de las mujeres colombianas en el conflicto, razón por la cual la ley nacional, los derechos humanos y el derecho internacional humanitario tienen que ser revisados en un contexto práctico.

El documento comienza con un breve resumen del conflicto armado colombiano para luego presentar un enfoque legal basado en una perspectiva de género. A continuación, se hace un análisis de los diferentes roles de las mujeres y los tipos de violencia que tienen que experimentar en el conflicto armado colombiano, específicamente, la violencia sexual. Por último, se hacen algunas recomendaciones y se concretan las conclusiones finales.

Palabras clave: mujeres, el conflicto armado, violencia sexual, derechos humanos.

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Colombian armed conflict²

For more than six decades Colombia has endured one of the longest armed conflicts³ in the world. Three possible reasons about that are: *First*, land concentration⁴ and usurpation, severe social inequalities, and the geostrategic control of territories for drug smuggling, among others, is one of the main reasons for the initiation of the conflict.⁵ *Second*, the multiple actors of the conflict. In other words, the confrontation between armed forces, the *Fuerzas Armadas Revolucionarias de Colombia*

(hereinafter "FARC-EP") and the *Ejército de Liberación Nacional* (hereinafter "ELN"), and paramilitary forces, mainly grouped into the *Auto defensas Unidas de Colombia* (hereinafter "AUC"), and the Emerging Criminal Bands (*Bandas Criminales Emergentes-BACRIM*),⁶ make more complex the conflict.⁷ *Third*, it is impossible to ignore that drug trafficking has been a central protagonist in the Colombian armed conflict.⁸ Drug lords sustain complex relations with armed groups, which vary from financing their activities to becoming more directly involved in them, to the point of beco-

2. In this paper, I am not going to be immersed in the controversy about whether the conflict that Colombia is living is or no an "armed conflict". However, I will take into account the International Humanitarian Law (IHL) that established in the Protocol II, 1977, that in order to call a conflict as an armed conflict, this must be: 1. Clashes between the state and dissident armed forces, which 2) must have responsible command and 3) those groups must have sufficient control over the territory for military operations, and 4) the conflict have to implement IHL. That is why, henceforth, I will refer to an armed conflict, because I believe that Colombia meets the entire element that was established in the IHL.
3. Along with the Palestinian-Israeli and the India-Pakistan conflicts. On this, see Colombian National Commission for Reparations and Reconciliation (CNRR for its Spanish initials). 2006. Hoja de Ruta [Road Map], available at: www.cnrr.org.co/hoja_de_ruta.htm. Also see: Uprimny Yepes, Rodrigo & Saffon, Maria Paula, Uses and Abuses of Transitional Justice in Colombia, 2009. International Peace Research Institute in Oslo (PRIO). Pg. 3.
4. One area where rural inequality is most profoundly expressed is in the inequitable distribution of land. Land concentration in Colombia is biased towards large landowners at the expense of rural small-scale farmers: 0.4 per cent of landowners own 61 per cent of rural land. Concentration of land ownership has increased over recent years, fuelled by the forced displacement of rural communities: it is estimated that around 6 million hectares of land have been abandoned by people fleeing the conflict. Unequal landownership deprives rural farmers of a livelihood and so perpetuates income inequality. Additionally, by reducing the land available for small-scale farmers to produce food for subsistence, unequal landownership contributes to food insecurity, with resulting health problems including malnutrition, anaemia, calcium deficiencies, and deficiencies in calorie intake. Visited at webpage: <http://www.abcolombia.org.uk/mainpage.asp?mainid=76> (April 16, 2012)
5. First Survey on the Prevalence of Sexual Violence against women in the context of the Colombian armed conflict 2001-2009. Executive Summary (2011). Campaign Rape and other Violence: Leave my Body Out of War. Oxfam; The US Office on Colombia & The International Women's Program of the Open Society Foundations Bogota, Colombia. Visited at webpage: http://www.peacewomen.org/assets/file/Resources/NGO/vaw_violenceagainstwomenincolombiaarmedconflict_2011.pdf (March 24, 2012)
6. *Bandas criminales Emergentes, BACRIM*. On the other hand, some political sectors and civil society see them as the seed of a possible "third generation paramilitary (Tercera generacion de Paramilitares)". National Commission for the Reparation and Reconciliation, Comisión Nacional de Reparación y Reconciliación (CNRR), *Disidentes, rearmados y emergentes: ¿Bandas criminales o tercerageneraciónparamilitar?*, 2007. Pages. 6, 19. Visited on Webpage: http://www.cnrr.org.co/new/interior_otros/informeDDR.pdf (December 11, 2011)
7. Conservative Politicians' estimates by the Colombian National Police put the new paramilitary groups' numbers at over 4,000. They have a substantial presence in 24 of Colombia's 32 departments, most heavily concentrated in the city of Medellín, the Uraba region of Choco state, and the states of Meta and Nariño. They take names like the "Águilas Negras" (Black Eagles), the "Rastrojos" (Weeds) and the "Nueva Generación" (New Generation) Their proliferation has coincided with a significant increase in the national rates of internal displacement from 2004 at least through 2007. Jennifer Jo Janisch, *The Next Generation of Threat in Colombia*, September 29, 2010, <http://www.pbs.org/wnet/women-war-and-peace/features/6160/> visited on November 24th, 2011.
8. López, A. "Narcotráfico, ilegalidad y conflicto en Colombia" ("Drug-traffic, illegality and conflict in Colombia"), 2006. In Sánchez, G. and Peñaranda, R. 1991. *Pasado y presente de la violencia en Colombia [Past and present of violence in Colombia]*. Bogota: IEPRI-CEREC. Also see: Uses and Abuses of Transitional Justice in Colombia, *Supra* note 3. Pg. 5.

ming their most visible leaders in some cases. In any case, drug trafficking⁹ constitutes a key element for explaining why the conflict tends to go on and on, since it works as an almost unlimited source of financing.¹⁰

Apart from the previous traits inherent to the Colombian conflict, there are some elements that uniquely to the context in which it takes place and that render it even more complex. The first element has to do with the deep influence that the international community in general, and the United States in particular, have on Colombian politics. This influence has led to the internationalization of the Colombian conflict, which has become more and more evident as time goes by. The international community's concern with the humanitarian crisis in Colombia, and especially the United States' interest in the politics against drug trafficking have shaped to a great extent both the dynamics of the conflict and the legal treatment given to armed actors that decide to demobilize.¹¹ The second element of complexity of the context in which the Colombian conflict takes place consists in the uncertain political regime. In spite of the persistence of the armed conflict and the seriousness of the human rights abuses therein produced, Colom-

bian institutions have managed to maintain important democratic features.¹² The third and final element of the context that renders the conflict even more complex has to do with the profound polarization of the Colombian society. This polarization brings about a tendency to criticize more severely or to only criticize the violence produced by one of the sides of the conflict depending on the side of the political spectrum in which the critic is. As a consequence of this tendency, there is a lack of a general minimal agreement on the wrongness of gross human rights violations committed by the armed actors, which seems essential for finding a long-lasting peace.¹³

Finally, it's clear that Colombia is a country without a post conflict *transition*, because even though several thousands paramilitaries have demobilized and surrendered their weapons and many top paramilitary leaders are currently on trial, there are a lot of doubts about the effective dismantling of paramilitary economic and political organizations and the Colombian internal armed conflict is still far from ending.¹⁴ In the best scenario, Colombia will have partial peace,¹⁵ but full peace will take more time.

9. Colombia is among a handful of countries leading the world in drug cultivation, processing and trafficking. Plan Colombia, the Colombian government's antinarcotics programme, funded primarily by U.S aid since 2000, focuses on intensive aerial fumigation and manual eradication of coca crops but it has failed to reduce levels of coca cultivation in the country. The UN Office of Drugs and Crime, which had reported a reduction of coca growing in the early years of Plan Colombia, reported a 27 per cent increase in 2007 (from 78,000 ha to 99,000 ha). Other elements of the antinarcotics strategy include arresting leading drug 'kingpins'; an extradition policy for drugs traffickers; interdiction programmes (to intercept illegal drugs being smuggled by air, river, sea, and land); and government social development programmes, such as Guardians of the Forest (Familias Guadabosques) which aims to encourage farmers to uproot all the coca plants in the area and discourage them from growing illicit crops. Visited at webpage: <http://www.abcolombia.org.uk/mainpage.asp?mainid=76> (April 16, 2013) More info see: Plan Colombia.

10. Supra note 9. Pg. 7.

11. Id. Pg. 7

12. Id. Pgs. 7 -8.

13. Id. Pg. 8.

14. Id.

15. Uprimny Yepes Rodrigo, *Transitional Justice Without Transition? Possible lessons from the use (and misuse) of transitional justice discourse in Colombia*, Expert paper "Workshop 5 – Lessons from Negotiated Options in South Africa and Colombia", International Conference, Building a future on Peace and Justice, Nuremberg 2007. Visited on Webpage: <http://www.peace-justice-conference.info/download/WS%205%20-%20expert%20paper%20-%20Uprimny.pdf> (November 11, 2013)

Legal framework: a gender legal approach in Colombia

Taking into consideration the brief explanation about the Colombian armed conflict, the question here is whether Colombian national legislation, the human rights law and the international humanitarian law are addressing the needs of women in situations of armed conflict?. And the answer is that the law provides adequate protection to women as a victim, as a person taking an active part of the conflict and as defenders of peace. However, the law has to be reviewed in a practical context. And then, could be reach a different answer.

National legislation

High number of legislation was enacted to improve the protection afforded to women. Eight laws ratifying international treaties on women were passed between 1999 and 2003. In addition, 22 laws provide special protection to women.¹⁶ As an example, Act 581 of 2000 on effective participation of women at the decision-making levels; Law 294 of 1996 on intra-family violence; Act 823 of 2003 on equality of opportunities for women; Act 731 that was enacted in 2000;¹⁷ Decree 2998

(2003) establishes regulations governing the granting of title-deeds to properties for persons who have been abandoned by their spouse or partner and provides for the women to participate on an equal footing with men in procedures pertaining to the assignment and use of land. Other measures designed to benefit rural women include Decree 1042 (2003) on rural housing, and the project on Support for Rural Microenterprises (PADEMÉR).¹⁸

Finally, Colombia enacted the Law 1257 of 2008 on "*Measures to raise awareness, prevent and punish all forms of violence and discrimination against women*".¹⁹ This law is intended to guarantee women a violence-free life in the public and private spheres. To that end, the law begins by defining violence against women and contemplates various modalities according to the characteristics or the arena in which it takes place.²⁰ Also, the law acknowledges the ownership of certain rights by women victims of violence and lays out the obligation of national, departmental, and municipal State agencies to prevent and sanction violence against women and to protect and provide adequate and timely assistance to women victims.²¹

16. United Nations, Convention on the Elimination of All Forms of Discrimination against Women, Committee on the Elimination of Discrimination against Women, CEDAW/C/COL/5-6, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms Discrimination against Women, Combined fifth and sixth periodic reports of States parties: Colombia. Pgs. 12-17

17. This law includes provisions designed to benefit rural women, such as the creation of the Development Fund for Rural Women (FOMMUR). Id. Pgs. 12-17

18. Id. Pg. 8

19. Colombia, Law 1257 of 2008. Visited at: http://www.dmsjuridica.com/CODIGOS/LEGISLACION/LEYES/LEY_1257_DE_2008.htm (April 16, 2012)

20. Article 2 of Law 1257 defines violence against a woman as "any act or omission that may cause death, harm, or physical, sexual, psychological, economic or patrimonial suffering on account of her gender, as well as the threats of such acts, the constraint or deprivation of freedom, regardless of whether they take place in the public or the private sphere. Violence Against Women In Colombia, Casa de la Mujer. Visited at: <http://www.casmujer.org/INFO.%20CIDH%20VIOLENCIA%20CONTRA%20LAS%20MUJERES.%20DEFINITIVO%20EN%20English.pdf>

21. Supra note 21.

International humanitarian law and international human rights law

International human rights law is reflected, *inter alia*, in the Universal Declaration of Human Rights, as well as in a number of international human rights treaties and in customary international law.²² In particular, the core universal human rights treaties that have special protection to women are:

- The International Covenant on Economic, Social and Cultural Rights and its Optional Protocol;
- The International Covenant on Civil and Political Rights and its two Optional Protocols;
- The Convention on the Elimination of All Forms of Discrimination against Women (hereinafter "CEDAW") and its Optional Protocol;
- The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- The International Convention for the Protection of All Persons from Enforced Disappearance;
- Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará)
- Security Council resolution 1325 (Women, Peace and Security, 2000)

Regarding this human rights instruments, the CEDAW and Convention of Belém do Para, are

particularly relevant to this research. CEDAW was adopted by United Nations by Resolution 34/180 of 18, December 1979), entered into force in September 1981 and Colombia in 1981 ratified by Law 051 and the CEDAW Optional Protocol was ratified in 2007. Since Colombia ratification of the CEDAW, the state submitted the Fourth periodic report (1999) and fifth and sixth periodic reports (2007). The CEDAW obliges the Colombian State that ratified the instrument, to take concrete measures against gender discrimination through laws and public policies that guarantee not only rights but also its actual exercise.²³

By the other hand, Security Council (SC) resolution 1325 indicates that the SC has recognized the relevance of women's experiences of conflict to its peace and security mandate, and it engages the Security Council in advancing women's rights in conflict resolution and peace processes. Indeed, resolution 1325 (Women, Peace and Security) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) can be used together to broaden, strengthen and operationalize gender equality in the context of conflict, peace-building and post-conflict reconstruction.²⁴

The Convention of Belém do Pará was ratified in 1996. This Convention reflects a uniform concern throughout the hemisphere of the seriousness and gravity of the problem of violence against women, its relationship with the discrimination historically suffered by women, and the need to adopt comprehensive strategies to prevent, punish and eradicate it.²⁵

22. United Nations, International Legal Protection Of Human Rights In Armed Conflict, 2011. HR/PUB/11/01. Page. 8-9. Visited on: http://www.ohchr.org/Documents/Publications/HR_in_armed_conflict.pdf (April 5, 2013)

23. *Id.*

24. United Nations, UNIFEM, CEDAW and Security Council Resolution 1325: A Quick Guide. Visited at: http://www.unifem.org/attachments/products/CEDAWandUNSCR1325_eng.pdf (April 18, 2013)

25. IACHR, Third Report on the Human Rights Situation in Colombia (1999), Chapter 1, para.8. Organization Of American States, Inter-American Commission On Human Rights, Report Violence and discrimination against women in the armed conflict in Colombia, OEA/Ser.L/V/II. Doc. 67 October 2006. Pg. 8. Available at: <http://www.cidh.org/countryrep/colombiamujeres06eng/TOC.htm> (March 12, 2012).

International humanitarian law in armed conflict

International humanitarian law is a set of rules that seek to limit the effects of armed conflict on people, including civilians, persons who are not or no longer participating in the conflict and even those who still are, such as combatants. To achieve this objective, international humanitarian law covers two areas: the protection of persons and restrictions on the means and the methods of warfare. IHL finds its sources in treaties and in customary international law. The rules of IHL are set out in a series of conventions and protocols.²⁶ The instruments that has special protection to women in the armed conflict are:

- The Geneva Convention (I), (II), (III) and (IV).
- The Protocol Additional to the Geneva Conventions and relating to the Protection of Victims of International Armed Conflicts (Protocol I); and
- The Protocol Additional to the Geneva Conventions and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

Other international treaties dealing with the production, use and stockpiling of certain weapons are also considered part of IHL, insofar as they regulate the conduct of armed hostilities and impose limitations on the use of certain weapons.²⁷

Indeed, the International Committee of the Red Cross (ICRC) has a special role under IHL. The Geneva Conventions stipulate that it will visit prisoners, organize relief operations, contribute to family reunification and conduct a range of humanitarian activities during international armed conflicts.²⁸

In sum, in the IHL there are provisions dealing specifically with women in all of the four 1949 Geneva Conventions, both the Protocols,²⁹ etcetera. Certain points should, however, be borne in mind are the following: the rule of separate quarters and conveniences for women prisoners of war and internees³⁰ (rule that was violated in the case study of Ingrid Betancourt that I will show later); the protection against sexual assault;³¹ and the range of provisions about pregnant women and maternity cases.³²

The different roles of women in the Colombian Armed Conflict. Women as victims of conflict

As the author Charlotte Lindsey claims the issue here is whether or not women are more vulnerable than men in situations of armed conflict.³³ The answer is both yes and no.³⁴ They should not be more vulnerable, but it must be recognized that women are particularly susceptible to marginalization, poverty and the suffering engendered by armed conflict, especially when they are already victims of

26. Barraza Morelle, Cecilia. La Cedaw: un instrumento fundamental para los derechos de las mujeres (CEDAW: an essential tool for women's rights) 2006. Visited on: http://www.11.be/landen/artikel/detail/cedaw_instrumento_fundamental_para_los_derechos_las_mujeres (April 5, 2013)

27. United Nations, supra note. 24. Pg. 13.

28. Id.

29. Gardam, Judith G., Jarvis, Michelle J. Women, Armed Conflict and International Law (2001). Kluwer Law International. Pgs. 62 -63.

30. Id.

31. Id. Pg. 64.

32. Id. Pg. 65.

33. Supra note 2. Pg. 28-29

34. Id.

discrimination in peacetime.³⁵ Women may be particularly vulnerable if they are held up as "symbolic" bearers of cultural and ethnic identity and the producers of the future generations of the community.³⁶ In such situations, women may be vulnerable to attack or threats from their own community for not conforming to this role, e.g. by not wearing a veil or by cutting their hair, or conversely they may be targeted by the enemy in order to destroy or subvert this role. Present-day conflicts show that women are increasingly becoming the target of fighting.³⁷ That being said, men also have to be clearly recognized as vulnerable, as in some conflicts as many as 96% of the detainee populations are men and 90% of the missing are men. They are also prone to be wounded or killed as legitimate targets as members of armed forces or groups, who still largely recruit amongst male populations.³⁸

In this sense, although entire communities have suffered the consequences of armed conflict, women and girls are particularly affected because of their status in society and their sex. Also, lesbian, bisexual and transgendered

(Transvestite, Transsexual) face rape, murder, mutilation, public humiliation, persecution and displacement.³⁹ Parties in conflict situations often rape women, sometimes using systematic rape as a tactic of war. Other forms of violence against women committed in armed conflict include murder, sexual slavery, forced pregnancy and forced sterilization.⁴⁰

Moreover, the Indigenous and Afro-descent women are also victims of the armed conflict. They face discrimination because of their Indigenous status, their gender and their poverty. The particular impact of sexual violence on Indigenous women in Colombia was acknowledged by the Inter-American Commission on Human Rights (hereinafter "IACHR") in its 2010 Annual Report said that "one of the most disturbing signs of the impact of the armed conflict on indigenous women is sexual violence".⁴¹ The report said that rape, forced prostitution and sexual slavery were "a war tactic that severely impact indigenous women, who are particularly exposed to the crimes perpetrated by armed groups in a context of multiple discrimination."⁴² Indeed,

35. *Id.*

36. *Id.*

37. *Id.*

38. *Supra* note 2. Pg. 28-29.

39. CEDAW Shadow Report, 37th CEDAW Session (15 January to 2 February 2007). Visited on: <http://www.limpalcolombia.org/pdf/Informesombra.pdf> (April 7, 2013)

40. Women 2000: Gender Equality, Development and Peace for the Twenty-First Century, Fact Sheet No. 5, Women and Armed Conflict. Visited on: <http://www.un.org/womenwatch/daw/followup/session/presskit/fs5.htm> (April 3, 2012)

41. Inter-American Commission on Human Rights Annual Report 2010, OEA/Ser.L/V/II. Doc. 5, rev. 1, 7 March 2011. Also see: Amnesty International, 'this is what we demand. Justice!' Impunity For Sexual Violence Against Women In Colombia's Armed Conflict (2011). Pg. 35. Visited at: <http://www.amnesty.org/en/library/asset/AMR23/018/2011/en/d4396a83-c078-46f0-96ff-94f6d667b6bc/amr230182011en.pdf> (April 18, 2013)

42. In Judicial Decision 004 of 2009 the Constitutional Court also noted these concerns and stated that "many of the cases of sexual violence that were reported by the Court [in Judicial Decision 092] to the competent authorities involved Indigenous women, girl and adolescent victims throughout the country". Many of the obstacles to justice that Indigenous women face are similar to those affecting other women living in poverty in rural areas, but these are exacerbated by the multiple discrimination they face. Women from Indigenous organizations told Amnesty International that they feel invisible. Indigenous women and girls rarely report crimes of sexual violence, both out of fear for their own safety, but also because the collective nature of Indigenous society means that the act of reporting has an impact on the whole community. There is also often significant pressure on women from their own communities not to report such crimes; sometimes a killing may be reported, but the fact that the victim was raped is not. Inter-American Commission on Human Rights Annual Report 2010, OEA/Ser.L/V/II. Doc. 5, rev. 1, 7 March 2011. Also see: Amnesty International, 'this is what we demand. Justice!' Impunity For Sexual Violence Against Women In Colombia's Armed Conflict (2011). Pg. 35. Visited at: <http://www.amnesty.org/en/library/asset/AMR23/018/2011/en/d4396a83-c078-46f0-96ff-94f6d667b6bc/amr230182011en.pdf> (April 18, 2013)

indigenous women survivors of sexual violence suffer additional hurdles, including a lack of translators, difficulties in travelling between remote areas and places where they can get official assistance, and the significant presence of combatants in the areas where they live.⁴³

Indeed, according to the IACHR, women can be direct or collateral victims of different forms of violence, as a result of their affective relationships as daughters, mothers, wives, partners or sisters.⁴⁴ The investigations conducted shows that 43 out of every 100 women affected by the internal armed conflict have been victims of different norms of violence based on their gender. The crimes perpetrated against women and girls during these manifestations of violence result in: (1) attacks, massacres and homicides committed against communities intended to cause their displacement; (2) homicides, acts of torture and markings against women who sustain affective relationships with supporters or combatants or because they or their relatives are involved in political activities; and (3) home searches and kidnappings to obtain information, terrorize, punish, intimidate or coerce the women. Both men and women are the victims of crimes perpetrated by all the actors in the armed conflict, but in the case of women, acts of physical and psychological

violence are joined by aggressions and crimes of a sexual nature.⁴⁵

That different type of violence against women and those violent acts has been in the context of the Colombian armed conflict⁴⁶ on the last years. Millions of women and girls bear the brunt of armed conflict in Colombia. The problem is that for decades, violence against women in conflict is one of history's great silences.⁴⁷ Undeniably, for Colombian women the armed conflict is an everyday reality. It is not an isolated event or incident, it has been part of their life for more than six decades. Violence against women in this context continues, it is redefined and acquires different characteristics. Facing these old and new realities is an unavoidable challenge in uncovering the magnitude of violence against women and finding alternatives that would allow its eradication.⁴⁸

Indeed, violence against women during conflict has reached epidemic proportions. Civilians have become the primary targets of groups who use terror as a tactic of war. Men and boys as well as women and girls are the victims of this targeting, but women, much more than men, suffer gender-based violence. Their bodies become a battleground over which op-

43. Amnesty International, *supra* note 1.

44. Organization Of American States, Inter-American Commission On Human Rights, Report Violence and discrimination against women in the armed conflict in Colombia, OEA/Ser.L/V/II. Doc. 67 October 2006. pg. 19-20. Available at: <http://www.cidh.org/countryrep/colombiamujeres06eng/TOC.htm> (March, 12, 2013).

45. *Id.*

46. Rehn Elisabeth, Johnson Sirleaf Ellen, (2002). *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building United Nations Development Fund for Women (UNIFEM)*. USA. pg. 9

47. We knew that 94 per cent of displaced households surveyed in Sierra Leone had experienced sexual assaults, including rape, torture and sexual slavery.¹ That at least 250,000 – perhaps as many as 500,000 – women were raped during the 1994 genocide in Rwanda.² We read reports of sexual violence in the ongoing hostilities in Algeria, Myanmar, Southern Sudan and Uganda. We learned of the dramatic increase in domestic violence in war zones, and of the growing numbers of women trafficked out of war zones to become forced labourers and forced sex workers. Rehn Elisabeth, Johnson Sirleaf Ellen, (2002). *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building United Nations Development Fund for Women (UNIFEM)*. USA. pg. 9

48. *Id.*

posing forces struggle.⁴⁹ Women are raped as a way to humiliate the men they are related to, who are often forced to watch the assault. In societies where ethnicity is inherited through the male line, 'enemy' women are raped and forced to bear children. Women who are already pregnant are forced to miscarry through violent attacks. Women are kidnapped and used as sexual slaves to service troops, as well as to cook for them and carry their loads from camp to camp. They are purposely infected with HIV/AIDS, a slow, painful murder.⁵⁰

Type of violence against women. Sexual violence

Sexual violence is often a part of the modes of operation of an armed conflict, and that is certainly the case in Colombia.⁵¹ The most widely used definition of violence against women (VAW) is provided by the United Nations' General Assembly Declaration of the Elimination of Violence against Women (resolution 48/104 of December 1993). Article 1 and 2 of this resolution offer the following definition:⁵²

"Violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation o

f liberty, whether occurring in public or in private life.

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

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

(b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.⁵³

Moreover, the Convention of Belém do Pará establish that violence against women shall be understood to include physical, sexual and psychological violence:

a. that occurs within the family or domestic unit or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual abuse;⁵⁴

Similarly, the Commission on Human Rights, in the *Elimination Of Violence Against Women*,⁵⁵ that:

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49. Radhika Coomaraswamy, "Sexual Violence During Wartime," paper prepared for UNIFEM, January 2002. Also see: Rehn Elisabeth, Johnson Sirleaf Ellen, (2002). *Women, War and Peace: The Independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building* United Nations Development Fund for Women (UNIFEM). USA. Pg. 10
 50. *Women, War and Peace*, supra note 48. Pg. 10
 51. Colombia's women will 'make or break' peace process (2012). Visited at: <http://colombiareports.com/colombia-news/news/23110-women-will-make-or-break-colombian-peace-process.html> (April 16, 2013)
 52. United Nations, Declaration on the Elimination of Violence against Women. A/RES/48/104, 23 February 1994. General Assembly. Available at: <http://www.unhcr.ch/huridocda/huridoca.nsf/%28Symbol%29/A.RES.48.104>. (March, 24, 2013).
 53. Id.
 54. Organization of American States, Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belem do Para"), 9 June 1994, available at: <http://www.unhcr.org/refworld/docid/3ae6b38b1c.html>. Art. 2
 55. United Nations, The High Commissioner for Human Rights, Elimination of violence against women. Resolution 2003/45. 59th meeting, 23 April 2003. General Assembly. Available at: <http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/92369a7e29927af3c1256d1f004196ce?Opendocument> (March, 24, 2013).

*"violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life, and including domestic violence, crimes committed in the name of honour, crimes committed in the name of passion, trafficking in women and girls, traditional practices harmful to women, including female genital mutilation, early and forced marriages, female infanticide, dowry-related violence and deaths, acid attacks and violence related to commercial sexual exploitation as well as economic exploitation*⁵⁶

Oppositely, Cedaw had omitted any reference to the obligations of a state to protect women from violence, including sexual or gender based violence.⁵⁷ But, *General Recommendation No. 19* provides that:

States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity.⁵⁸

Taking into account those instruments, in practice in the Colombian armed conflict violence against women, primarily that of a sexual nature has the objective of wounding, terrorizing and weakening the enemy to advance in the control over territories and economic resources.⁵⁹ Women can be direct or collateral victims of different forms of violence,

as a result of their affective relationships as daughters, mothers, wives, partners or sisters.⁶⁰ Through acts of physical, psychological and sexual violence, the armed actors seek to intimidate, punish and control women for having affective relationships with members of the opposing faction, for disobeying the norms imposed by the armed actors or for participating in organizations perceived as the enemy. These acts, however, do not solely intend to dehumanize the victims as women. These aggressions additionally serve as a tactic to humiliate, terrorize, and wound the "enemy", either in the family nucleus or community of the victim.⁶¹

According with the IACHR, the sexual violence wounds the opposing faction in a special way because men are traditionally considered the protectors of the sexuality of women in their communities.⁶² Therefore, when the sexuality of women is abused and exploited, this aggression becomes an act of domination and power over men in the community or over the group under control.⁶³ Moreover, sexual violence can also join murders, acts of torture and targeting against women for their affective relations with some actor in the conflict or for their involvement with certain political tendencies.⁶⁴ During conflict, women and girls experience violence at the hands of many others besides armed groups. Women are physically and

56. Id.

57. Venter Christine M., *Rape and Other Gender based Crimes during Armed Conflict* (Chapter 10) (upcoming 2012). At. 1.

58. The Committee on the Elimination of Discrimination against Women. *General Recommendation No. 19* (11th session, 1992). Visited at: <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> (April 6, 2013)

59. IACHR, *Supra* note 46. Para. 49

60. IACHR, *Supra* note 46. Para. 4

61. Id.

62. Id. Pg. 19.

63. See Contribution of Ms. Radhika Coomaraswamy, Special Rapporteur on violence against women, its causes and consequences of the United Nations in preparation of the World Conference against Racism, Discrimination, Xenophobia and Intolerance (27 July 2001), A/CONF.189/PC.3/5), para. 120; United Nations Development Fund for Women, *Women, War and Peace, Assessment of Independent Experts about the Impact of the Armed Conflict on Women and their Role in Peace-Building*, 2002, pp. 1-10. See also: IACHR, *Supra* note 46. Pg. 19

64. United Nations, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 15. See also: IACHR, *Supra* note 46. Pg. 19

economically forced or left with little choice but to become sex workers or to exchange sex for food, shelter, safe passage or other needs; their bodies become part of a barter system, a form of exchange that buys the necessities of life. Government officials, aid workers, civilian authorities and their own families have all been complicit in using women in this way.⁶⁵ Police and other civilian officials often take advantage of women's powerlessness even when they are in custody. Women have been raped and tortured as a form of interrogation. In many instances, sex workers are routinely arrested and forced to have sex with police officers.⁶⁶

During conflict women and girls are attacked because they are related to political adversaries, because they are political leaders themselves, or simply because they were at home when the soldiers arrived.⁶⁷ That confirms that in Colombia women are doubly victims under the both sides of the conflict, because on the other side, women are abducted by armed groups and forced to accompany them on raids and to provide everything from food to sexual services. Many sexual slaves are also used for dangerous work like demining contested areas, forced to risk their lives to make a field or a hillside safe for soldiers.⁶⁸

Related to that, Amnesty International said that the Colombian authorities have failed to tackle the lack of justice for women and girl survivors during the country's long-running armed conflict. Since President Santos took office in 2010, the government has made clear

commitments to tackle the human rights crisis but we have yet to see real improvements in bringing to justice those responsible for human rights abuses, such as sexual violence against women.⁶⁹

Barriers to justice include a historical lack of political will to combat impunity, ineffective protection measures for witnesses and survivors, poor gender training for judicial officials, and a lack of definitions in the national legislation on rape as a crime under international law.⁷⁰ The lack of reliable official statistics, and the fear around reporting such crimes, makes it very difficult to evaluate the true scale of the problem. The statistics available do not clearly indicate cases of sexual violence against women and girls that may be conflict-related. In 2010, the National Institute of Legal Medicine and Forensic Science carried out 20,142 examinations into suspected cases of sexual violence, compared to 12,732 in 2000. But only 109 of these were classified as being related to the conflict, underlining the invisibility of such crimes. Even when women muster the courage to report a case of rape or sexual violence, these are rarely investigated effectively.⁷¹ Another research said that the rate of sexual violence for the studied period (2001-2009) in the 407 municipalities with a presence of the armed forces, guerrillas, paramilitaries, and other armed actors, was estimated at 17.58%. This means that during the period studied 489,687 women were victims of sexual violence. It also means that on average 54,410 women were

65. Women, War and Peace, *supra* note 48. Pg. 10

66. *Id.*

67. *Id.* Pg. 10

68. *Id.* Pg. 12

69. Amnesty International's report, showed that women want justice. Impunity for sexual violence against women in Colombia's armed conflict, documents how the rights of survivors of sexual violence to truth, justice and reparation continue to be denied by the authorities. Amnesty International, *supra* note 1.

70. Amnesty International, *supra* note 1.

71. *Id.*

victims of sexual violence per year, 149 per day, or 6 every hour.⁷²

Rape

Rape is a sexual violence act that women have to suffer in Colombia. Rape is the action of forcing a person to have sexual relations or sexual contact by using violence or the threat of it. It is therefore the nonconsensual or forced sexual contact that can include vaginal or anal penetration, oral sex, or penetration with objects.⁷³ According to the research called "Sexual Violence against Women in the context of the Colombian armed conflict 2001-2009", they estimated that 94,565 women between the ages of 15 and 44 in 407 municipalities of the country with armed conflict, equivalent to 3.4% of the estimated total female population, were victims of rape during the period 2001-2009.⁷⁴

Forced prostitution

Forced prostitution is considered to be the action or group of actions that involve imposed performance of sexual services through rape

or other forms of sexual violence in exchange for which the victim or generally the person that controls the victims receives monetary remuneration⁷⁵ The statistic about forced prostitution said that 7,754 women between the ages of 15 and 44 in 407 municipalities of the country with armed conflict, equivalent to 0.28% of the estimated total female population, were victims of forced prostitution during the period 2001-2009.⁷⁶

Forced pregnancy and forced abortion

Forced pregnancy is understood to be the act of control over a pregnant woman, seeking to ensure the continuation of the pregnancy or the birth of the child against the will of the mother; forced pregnancy can on some occasions be the result of rape. In many instances this control includes confinement of the pregnant woman.⁷⁷ According to the survey it is estimated that 26,353 women between the ages of 15 and 44 in 407 municipalities of the country with armed conflict, equivalent to 0.95% of the estimated total female population, were victims of forced pregnancy during the period 2001-2009.⁷⁸

72. In Colombia the rearea series of studies that measure violence against women including: 1-The National Health and Demography Survey of 2005 carried out by ProFamily that inquired about rape within the life cycle of women, concluding that 6% of women were victims of rape by a person other than their partner or spouse, and 11.5% of women were raped by their partner or spouse. It is important to highlight that these percentages cannot be added because there are cases of women that were raped by an unknown person and by their partner or spouse, and adding them will distort the percentage. 2-The Sexual and Reproductive Health Survey in marginal zones of 2005 by ProFamily that inquired about rape in the vital cycle of women, concluding that 8.2% of women were victims of rape by persons other than their spouses or partners, and 13.2% by their partner or spouse. The data of the two surveys cannot be compared to the results produced by the SSV due to the fact that the SSV includes different types of sexual violence besides rape against women between ages 15 and 44 and covers the period 2001-2009. First Survey on the Prevalence of Sexual Violence against women in the context of the Colombian armed conflict 2001-2009. Executive Summary (2011). See: Campaign Rape and other Violence: Leave my Body Out of War. Oxfam; The US Office on Colombia & The International Women's Program of the Open Society Foundations Bogota, Colombia. Visited at webpage: http://www.peacewomen.org/assets/file/Resources/NGO/vaw_violenceagainstwomenincolombiaarmedconflict_2011.pdf (March 24, 2012)

73. First Survey on the Prevalence of Sexual Violence, supra note 75. Pg. 18.

74. Id. Pg. 15

75. Id. Pg. 16

76. Id.

77. Id. Pg. 18

78. Id.

Forced abortion is understood to be an action intended to interrupt a pregnancy against the pregnant women's will. In this sense, the statistics showed that 27,058 women between the ages of 15 and 44 in 407 municipalities of the country with armed conflict, equivalent to 0.97% of the estimated total female population, were victims of forced abortions during the period 2001-2009.⁷⁹

Ingrid Betancourt case study

The case study is an example of the vulnerability of the woman in armed conflict. Ingrid Betancourt was another victim. Ms. Betancourt⁸⁰ is a French-Colombian citizen who was kidnapped in February 2002 by FARC a group of rebels who stopped their car while the women were campaigning in a region of southern Colombia controlled by them.⁸¹ Ms. Betancourt, her colleague Clara Rojas, and other political aides had been holding talks with the paramilitary organisation in an attempt to end the chaos and bloodshed that have blighted modern day Colombia. Ms. Betancourt and her colleagues were detained for over six years in appalling and inhumane conditions.⁸² While she was kidnapped she wrote a poignant letter to her mother, where she had been severely affected mentally by the unspeakable cruelty of the conditions in which she had been held for so long.⁸³ The first proof that she was still alive came in a

video five months after her kidnap. In a second video a year later, she could be seen appealing to the government to rescue her.⁸⁴ Her family urged the Colombian authorities not to launch a rescue attempt so as not to put her life in danger. She was among some 40 high-profile hostages whom the Farc rebels had offered to free if the government released hundreds of jailed rebels and set up in a demilitarised zone. But Colombian President Alvaro Uribe had maintained a tough line, insisting that any freed rebels must give guarantees that they will not pick up arms again.⁸⁵ Over those six-year, protests were held in different cities across the world, notably in France, calling for the release of Ms. Betancourt.⁸⁶

Ms. Betancourt was rescued by Colombian security forces on 2 July 2008. She was rescued along with 14 other hostages (three US citizen and eleven Colombian policemen and soldiers) in an *Operation Jaque*. This was a secret operation a U.S. official called "brilliant," the Colombian military infiltrated rebel group FARC and deceived its members into giving up 15 hostages including former Colombian presidential candidate Ingrid Betancourt, Colombia's Defense Ministry said.⁸⁷ According to Ms. Betancourt "*God carried out this miracle*" (...) "*This is a miracle because I know that all of you suffered with my family, my children, with me. This is a moment of pride for all of Colombia for such a perfect operation*".⁸⁸

79. Id. Pg.19

80. Ingrid Betancourt was born in Colombia on 25 December 1961, but grew up in Paris where her father was a diplomat. Profile: Ingrid Betancourt, 2008. Visited at webpage: <http://news.bbc.co.uk/2/hi/americas/7266587.stm> (April 5, 2013)

81. Ingrid Betancourt's detention, 2008. Visited at webpage: <http://www.betancourt.info/Eng/IngridDetention.htm> (April 5, 2013)

82. Profile: Ingrid Betancourt, 2008. Visited at webpage: <http://news.bbc.co.uk/2/hi/americas/7266587.stm> (April 5, 2013)

83. Ingrid Betancourt's detention, supra note 84.

84. Id.

85. Id.

86. Id.

87. Betancourt, U.S. contractors rescued from FARC, 2008. Visited at webpage: <http://www.cnn.com/2008/WORLD/americas/07/02/betancourt.colombia/index.html> (April 5, 2013)

88. FARC women, abused and raped (Las mujeres de las FARC, abusadas y violadas), 2011. Visited on: <http://america.infobae.com/notas/27272-Las-mujeres-de-las-FARC-abusadas-y-violadas> (April 5, 2013)

Finally, the case reaches two things: First, Ms. Betancourt was considered as politic kidnapped. In that sense for her freedom the guerrilla of FARC does not ask the payment of money but the realization of a humanitarian exchange with *guerrilleros* in jail. But, the Colombian Government never accepted those conditions. Second, in this specific case what it called the attention of the world was that Ms. Betancourt is not a ordinary women. She is a French-Colombian citizen and she's the first woman to run for president of Colombia. In this sense, the people were concerned because they couldn't understand how that kind of women can be victim of the armed conflict. Then, the world realized that in the Colombian armed conflict all women are vulnerable and any woman can be a victim.

Women as part of the conflict

Certainly the picture of violence against women during conflict is not monochromatic. Women are not always victims. They actively work to improve their situation, and they often actively support one side or another in conflict.⁸⁹ Given that many conflicts arise out of social and economic inequality, it is not surprising that women take sides in an effort to better their lives, or to protect themselves and their families. Women become combatants, provide medical help, protect and feed armed groups. But this can put them at even greater risk if they are caught by the opposing side.⁹⁰ However, women who have the chance to escape from the jungle, because although they were former hostages and guerrillas demobilized, agree on the same point: the abuse. As an

example, there was a case where a commander of the FARC who had been diagnosed with syphilis raped four girls. The man forced the girls to have sex with him and then he infected them. Another case, the woman Rina Bolaños was kidnapped by the FARC in 2003 and during the 16 days she was captured and raped by the chief of command that kept hostage. Then, the victim was freed and she put the complaint to the Prosecutor. The competent prosecutor decided to initiate investigation only for the crime of kidnapping and rape was dismissed. The prosecutor complaint was on the argument that there was consent of the victim. Later, the victim was charged for the crime of rebellion, and she was detained for more than 40 days, now she is in exile.⁹¹

By the other hand, there is an elite of women in the guerrilla group. This is the other side of the coin. Women who have achieved a status within the FARC and are treated differently from the regular women (*guerrilleras*) that have to have up to seven male partners in a year. For example, in the case of "Sandra", the former partner (couple) of the guerrilla leader called "Tirofijo" (Sureshot). After his death she is now who handles the backbone of the finances of the Eastern bloc (*Bloque Oriental*). She is an administrator.⁹² Similarly, is the case of Nilfa Simanca, better known as 'Victoria', the main political leader of the Central Joint Command of the FARC and she is one of the top leaders.⁹³

Finally, is clear that some women are actively engaging in many armed conflicts around the world and have played a part in wars throughout history.⁹⁴ However, without trying to

89. Id.

90. Id.

91. CEDAW Shadow Report, supra note 41.

92. FARC women, abused and raped, supra note 83.

93. Id.

94. Supra note 2. Pg 22.

justify it some women, I could argue that one of the main reasons about why the women become a combatant or leaders of those armed groups', is because most of them come from poor families with differences ideological and they belong to depressed socioeconomic areas. As a result, those kinds of women are going to receive a payment and also they are going to feel empower working by armed group. So, that could be a reason, but cannot be justified.

Women waging peace

Just as women have taken up arms, women have also been at the forefront of activities for peace, ranging from spontaneous demonstrations by women who do not want their husbands, sons, fathers and brothers to take part in war.⁹⁵ Specially, women have been working extremely hard for peace in Colombia. Many human rights organizations, although men usually lead them, most of the participants are women, with a tremendous capacity to mobilize, analyze and implement. They are not just waiting to be included they are demanding it.⁹⁶ Women's network has organized follow-up events, including a campaign to promote demilitarization and recovery of civilian life. In addition, women are leading vigils for kidnap victims, who are held for ransom or

"disappeared," in towns across the country and continue to raise awareness of the toll of the conflict on the people of Colombia.⁹⁷ A number of women's groups have also joined forces to develop a common agenda for peace, positioning themselves as participants in future talks. In particular, the Women's Emancipatory Constitution (WEC) has emerged as a model for promoting ownership, participatory decision-making, and consensus building across divergent groups. The work of the WEC is largely funded by the women's wing of the Swedish trade union movement, which seeks to support the Colombian women's trade union movement. The WEC's goal is to produce a collective agenda for peace from a women's perspective.⁹⁸ Indeed, as documented in the 2003 UN Human Development Report⁹⁹ and the 2004 US Institute of Peace (USIP) Report,¹⁰⁰ women, in addition to indigenous peoples and Afro-Colombians, are at the forefront of local resistance efforts. Their strategies include organizing a protective "guard" over indigenous communities; mediating disputes within the community to avoid escalation; symbolically naming their villages "peace communities" free of violence; and liaising with armed actors to establish informal humanitarian agreements.¹⁰¹

95. Id. Pg. 27.

96. Make or break, *Supra* note 53. Some of the women organizations waging for peace are: Ruta Pacifica de las Mujeres (Women's Peaceful Path); Association for Women's Rights in Development (AWID); Women's Emancipatory Constitution (WEC); Women of the World for Peace; Organizacion Femenina Popular (Popular Femenine Organization); Red Nacional de Mujeres (National Network of Women); and Iniciativa de Mujeres por la Paz (Women's peace Initiative).

97. In the Midst of War: Women's Contributions to Peace in Colombia (2004). Women Waging Peace, Executive Summary. Visited at: http://www.huntalternatives.org/download/1794_colombia_exec_summ.pdf (April 17, 2013)

98. Id.

99. Id.

100. United States Institute of Peace. Special Report 114: Civil Society Under Siege in Colombia. Washington, DC: USIP, 2004. Also see: In the Midst of War: Women's Contributions to Peace in Colombia (2004). Women Waging Peace, Executive Summary. Visited at: http://www.huntalternatives.org/download/1794_colombia_exec_summ.pdf (April 17, 2012)

101. United Nations Development Programme (UNDP), Human Development Report 2003, Millennium Development Goals: A Compact Among Nations To End Human Poverty. Visited at: http://hdr.undp.org/en/media/hdr03_complete.pdf (April 17, 2012). Also see: In the Midst of War: Women's Contributions to Peace in Colombia (2004). Women Waging Peace, Executive Summary. Visited at: http://www.huntalternatives.org/download/1794_colombia_exec_summ.pdf (April 17, 2012)

In conclusion, women are demonstrating their willingness and capacity, in this highly dangerous context, to address the needs of their communities, acting as intermediaries between civilians and fighting units. Although the post-conflict stage in Colombia seems to be a distant scenario, women are aware that negotiating peace is the first step in a long process of reconciliation. Responding to this challenge, women's organizations in Colombia are working on a proposal for post-conflict tribunals, to ensure that the voices and experiences of civilians are not lost.¹⁰²

Recommendations

This final part is going to give some recommendations that could be helpful to make the situation of the women in the armed conflict better. *First*, is important to be clear that war affects men and women differently,¹⁰³ and so do peace accords, which is why both sexes must be involved in forming an agreement for it to be successful.¹⁰⁴

Second, the existence of rules and the need to respect them, as well as mechanisms for enforcing rights and redressing violations, are of crucial importance.¹⁰⁵ In that sense, the state has to ensure full respect of the law and especially in the right to justice the state has to strengthen their capacity to provide adequate remedy to women victims of human rights violation in armed conflict.

Third, is necessary to increment the role of women in decision-making¹⁰⁶ with regard to armed conflict. In other words, Colombia has to remember the Resolution 1325¹⁰⁷ call upon the members state to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict. Indeed, the Resolution calls on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia: (a) The special needs of women and girls during repatriation and resettlement and for rehabilitation, re-

102. Id.

103. Women and men have different roles and responsibilities in society, which are socially and culturally determined, and consequently they also experience armed conflict in "gendered" ways. It is important to recognize these differences and to adapt responses and activities accordingly, while at the same time avoiding portrayal of women solely as victims or vulnerable individuals and recognizing their traditional role as well as the fact that this role is changing in nature owing to armed conflict. Charlotte Lindsey, *Women facing war: ICRC study on the impact of armed conflict on women* (2001). Pg. 216. Visited at: http://www.icrc.org/eng/assets/files/other/icrc_002_0798_women_facing_war.pdf (April 18, 2012).

104. Colombia's women will 'make or break' peace process, *supra* note 92.

105. *Supra* note 2. Pg. 215.

106. Article 7. States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:
a. to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
b. to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
c. to participate in non-governmental organizations and associations concerned with the public and political life of the country. Article 8. (...) women should have the same opportunities as men to represent their countries internationally and be involved in the work of international organizations. UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13. Visited at: <http://www.unhcr.org/refworld/docid/3ae6b3970.html> (April 2, 2012)

107. United Nations, Resolution 1325 (2000). Adopted by the Security Council at its 4213th meeting, on 31 October 2000. S/RES/1325. Visited at: http://www.un.org/events/res_1325e.pdf (April 18, 2012). Also see: Li Fung, *Engendering the Peace Process: Women's Role in Peace-building and Conflict Resolution* (2001), on Helen Durham and Tracy Gurd, (eds) *Listening to the Silences: Women And War* (2005). Pgs. 224- 241.

integration and post-conflict reconstruction;¹⁰⁸ (b) Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;¹⁰⁹ (c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary.¹¹⁰

Fourth, the State has to implement adequate measures to improve the high levels of poverty and vulnerability among women living in rural areas.

Fifth, taking into account article 21 (CEDAW), I recommend that the CEDAW Committee have to submit a *General Recommendation* addressing the situations of the women in the armed conflict. I urge the CEDAW Committee to recommend all the state parties, which has been immersed in an internal armed conflict to adopt all measures to protect the women from any type of violence, especially, sexual violence, that they have to suffer through during armed conflict.

Final thoughts

This paper reaches three conclusions: *First*, the role of the women in the armed conflict is not black-and-white. They could have different roles. On one side they could be a victims often because of their status in society and their sex, on the other side they could have an active participation of the conflict and on the final side women work hard for peace.

Second, armed conflicts greatly affect the lives of women and can completely change their role in the family, the community and the "public" domain.¹¹¹ Increased insecurity and fear of attack often causes women and children to flee, so they form the majority of the world's refugees and displaced.¹¹² *Third*, the Colombian national law, the HRL and IHL, provides adequate protection to women in the Colombian armed conflict. However, there is a gap between that aforementioned legislation and the reality of the Colombian women in the conflict. For that reason, the national law, the HRL and IHL has to be reviewed in a practical context.

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108. Id.

109. Id.

110. Id.

111. *Supra* note 2. Pg. 30.

112. Women are heads of households and breadwinners, taking over responsibility for earning a livelihood, caring for farms and animals, trading, and being active outside the home activities often traditionally carried out by men. Charlotte Lindsey, Women facing war: ICRC study on the impact of armed conflict on women (2001). Pg. 30. Visited at: http://www.icrc.org/eng/assets/files/other/icrc_002_0798_women_facing_war.pdf (April 18, 2012).

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