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Laying Down Arms

Reclaiming Souls

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Sexual violence against men and boys in the
context of the armed conflict in Colombia

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Red de Mujeres Víctimas y Profesionales
All Survivors Project

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Design

This public report presents the main findings submitted to the justice component of Colombia's system of Truth, Justice, Reparation and Non-Repetition, the Special Jurisdiction for Peace (SJP). The joint submission was made in March 2022 by:

Red de Mujeres Víctimas y Profesionales (RMVP) - a national organisation of women victims of sexual violence and human rights defenders, and a founding member of the Global Network of Victims and Survivors to End Sexual Violence (SEMA).¹ RMVP aims to (1) achieve an adequate institutional response and recognition of sexual violence as a crime, not a cultural practice; (2) make private and community environments safe for girls and women; (3) ensure that peace benefits women and girls (peace in the home, peace in the country); and (4) eradicate the stigmatisation generated by this crime.

The Colombia-based **Focal Groups of Male Victims of Sexual Violence** (the Focal Groups) - supported by the gender and differential approach group of the SJP's Unit of Investigation and Accusation, in alliance with the RMVP. One Focal Group represents male victims who identify as heterosexual; the other represents those who identify with a diverse sexual orientation. The Focal Groups represent the interests of a larger group of male victims of conflict-related sexual violence in Colombia, the National Group.

All Survivors Project (ASP) - an independent, neutral and impartial international non-profit organisation whose mission is to support global efforts to eradicate conflict related sexual violence, and to strengthen national and international responses through research and action on such violence against men, boys and/including people with diverse sexual orientation, gender identity and expression and/or sex characteristics. ASP conducts research and facilitates interdisciplinary dialogue and learning to ensure that the rights and dignity of all victims/survivors are respected and protected.



¹ SEMA in Swahili means to raise one's voice or speak out in a public setting. Its English counterpart is Speak out. This global movement is supported by the foundation of Dr Denis Mukwege (Nobel Peace Prize 2018).

****Note that this report contains graphic descriptions of sexual violence. Reader discretion is advised.**

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Acronyms



ASP – All Survivors Project
AUC – United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia)
BACRIM – criminal bands (bandas criminales)
CNMH – National Centre for Historical Memory (Centro Nacional de Memoria Histórica)
CNRR – National Commission for Reparation and Reconciliation (Comisión Nacional de Reparación y Reconciliación)
FARC-EP – Revolutionary Armed Forces of Colombia – People's Army (Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo)
IACHR – Inter-American Commission on Human Rights
ICBF – Colombian Institute for Family Welfare (Instituto Colombiano de Bienestar Familiar)
ICC – International Criminal Court
ICRC – International Committee of the Red Cross
IHL – International humanitarian law
LGBTI – Lesbian, gay, bisexual, transgender, and intersex
MSF – Médecins Sans Frontières
OMC – Memory and Conflict Observatory (Observatorio de Memoria y Conflicto)
OTP – Office of the Prosecutor (ICC)
RMVP – Red de Mujeres Víctimas y Profesionales
SJP – Special Jurisdiction for Peace (Jurisdicción Especial para la Paz – JEP)
SRVR – Chamber for the Acknowledgment of Truth, Responsibility and Determination of Facts and Conduct (Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de los Hechos y Conductas)



Executive summary

This report concerns sexual violence committed against men and boys during the armed conflict in Colombia and the investigation of such violence pursuant to the truth and justice framework established under the 2016 Peace Agreement between the Government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP – Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo).

Sexual violence was pervasive in the context of Colombia’s armed conflict and was perpetrated by all parties. Recognising the serious nature of this crime, the Constitutional Court of Colombia ordered that it be prioritised by the Special Jurisdiction for Peace (SJP), the justice component of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition established under the Peace Agreement.

While sexual violence is known to have affected countless women and girls in the context of the Colombia conflict, less well documented is the impact of this crime on men and boys, who were also seriously impacted. In this regard, this public report presents the main findings jointly submitted to the SJP on 17 March 2022 by the Red de Mujeres Víctimas y Profesionales (RMVP), the Focal Groups of Male Victims of Sexual Violence (the Focal Groups), and All Survivors Project (ASP).

The joint submission documented 75 cases of sexual violence against men and boys that occurred between 1989 and 2015. The cases were initially reported to authorities in Colombia in 2019 and 2021 during three “Collective Complaint Days” organised by RMVP, the Focal Groups and ASP. The joint submission focused on analysing incidents and patterns of sexual violence in the territories with the highest number of complaints received during this process – Montes de María sub-region (13 cases), and Magdalena (41) and Chocó (9) departments. This report outlines the experiences of these men and boys from these three geographic areas. Based on their accounts, the main alleged perpetrators of sexual violence were members of FARC-EP and the paramilitary group, United Self-Defence Forces of Colombia (AUC – Autodefensas Unidas de Colombia).

ASP carried out a detailed analysis of 51 of the 75 cases, finding that these victims were typically attacked in their homes; while cultivating their land; or while travelling along roads and highways where armed groups were present and in confrontation. Their experiences were characterised by extraordinary levels of brutality – the vast majority involved anal rape often by more than one person and sometimes in public or in the

presence of family members. The testimonies tell of being bound and beaten. In addition, the victims were threatened with violence and death if they reported the incidents. In many cases, sexual violence was accompanied by or took place in the context of other serious violations of international law, including unlawful killings, torture and other ill-treatment, and extortion. In almost all the analysed cases, victims were forcibly displaced because of the sexual violence, which deprived them of their livelihoods. Most reported severe physical and psychological injuries because of the sexual violence they suffered, for which most had not received any medical or psychosocial support. Indeed, the impact of the experiences of sexual violence on the victims who provided their testimonies has been devastating. Even now, many years after the events, most are still living with the physical, psychological, economic and other consequences of the crimes committed against them.

Under-reporting of sexual violence, against all genders, in conflicts across the globe, typically disguises its true magnitude. In Colombia, the Constitutional Court has referred to a "triple process" of invisibility, silence, and impunity in facilitating sexual violence against women, and the National Centre for Historical Memory (CNMH – Centro Nacional de Memoria Histórica) has noted that in Colombia the silence is far greater in the cases of men and boy victims of sexual violence. Most of the 75 victims whose testimonies were analysed for the joint submission in early 2022 did not report to the authorities at the time of the sexual violence committed against them, for reasons such as that they felt ashamed, did not want their families to know, feared reprisals from the perpetrators, or felt that the authorities would not protect them.

The accounts of sexual violence given by the 75 individuals were consistent with patterns described by the CNMH, national and international human rights organisations and others. They provide a reasonable basis to believe that FARC-EP and AUC used sexual violence against the victims in the context of strategies of domination and control of the civilian population and for territorial gain. Sexual violence has also been directly linked to the practice of forced recruitment and use of children, notably by FARC-EP which, is reported to have systematically and forcibly recruited and used teenage boys and girls.

The report outlines the framework of international humanitarian law, international human rights law, and international and national criminal law, under which Colombia is required to investigate the crime of sexual violence and to bring the perpetrators to justice.

There is a reasonable basis to believe that the acts of sexual violence perpetrated against the victims whose testimonies were included in the joint submission may have constituted of torture, a crime under international law. The detailed testimonies and impact on the victims' physical and mental health clearly indicate that the perpetrators inflicted severe physical and/or mental pain and suffering on the victims by subjecting them to sexual violence. Based on the evidence and research conducted, including on the existing context of armed conflict in each geographic area at the time of the events, there



are sufficient indications that this suffering may have been inflicted for a specific purpose, in particular to intimidate, punish and/or coerce the victims, and sometimes their communities, with the objective of gaining social and territorial control. In the case of the victims with diverse real or perceived sexual orientation, information suggests that the purpose of the rape may have been to discriminate against them and punish them on the basis of their diverse sexual orientation.

Under certain circumstances, acts of sexual violence may constitute war crimes or crimes against humanity. Indeed, the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) has found "sufficient basis to believe" that the FARC-EP and the AUC, among others, committed crimes against humanity. According to the OTP, numerous attacks - of a systematic and widespread nature - against the civilian population were perpetrated in different parts of the country, including in the territories of Montes de María, Magdalena, and Chocó.

Cases documented in the joint submission provide a harrowing account of the dynamics and patterns of sexual violence committed against men and boys during the armed conflict in Colombia. They merit the attention of the SJP. Meanwhile, victims report that they have had no response from the authorities and that they continue to face barriers in accessing justice. The continuing state of impunity further exacerbates the profound harms suffered by victims, who continue to seek redress for these crimes.

Victims are calling for sexual violence against men and boys, including those with diverse sexual orientation, gender identity and/or gender expression, to be investigated by the SJP as part of a macro-case on sexual violence. In the absence of such a macro-case, there is a real risk that the sexual victimisation of men and boys in the context of the conflict, which remains largely under-investigated by the justice system, will be further overshadowed and rendered invisible. Alternatively, if a macro-case on sexual violence is not opened, the victims urge the SJP to investigate sexual violence against men and boys as part of its ongoing macro-cases (including Case 007) and as part of other future macro-cases, in line with their rights as victims of the armed conflict.



Introduction

Sexual violence, a profound attack on human dignity and a grave violation of fundamental rights, was pervasive in the context of the armed conflict in Colombia. The Constitutional Court of Colombia has explicitly recognised that sexual violence against women has been a "*habitual, widespread, systematic and invisible*" practice in this context.² As of 30 April 2022, Colombia's Unit for the Attention and Integral Reparation for Victims (the Victims Unit) (Unidad para la Atención y Reparación Integral a las Víctimas) had recorded 32,904 victims of *crimes against sexual freedom and integrity in the course of the armed conflict* between 1985 and 2016.³

The Peace Agreement between the Government of Colombia and the Revolutionary Armed Forces of Colombia – People's Army (FARC-EP – Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo) signed in November 2016 recognised sexual violence as one of the most invisible and painful crimes committed during the armed conflict.⁴ In recognition of the serious nature of this crime, the Constitutional Court ordered that it be prioritised by the Special Jurisdiction for Peace (SJP) (JEP – Jurisdicción Especial para la Paz), the justice component of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition established under Chapter V of the Peace Agreement.⁵

Sexual violence in the context of the armed conflict in Colombia is known to have affected countless women and girls, as well as lesbian, gay, bisexual, transgender (LGBT+) people.⁶ Less well documented is the impact of this crime on men and boys, including both heterosexual men and men with diverse sexual orientation, gender identity and/or gender expression, who were also seriously affected.

The joint submission to the Special Jurisdiction for Peace

This public report presents the main findings jointly submitted to the SJP on 17 March 2022 by the Colombian NGO, Red de Mujeres Víctimas y Profesionales (RMVP), two groups of male victims of conflict-related sexual violence in Colombia (the Focal Groups), and the UK-based NGO, All Survivors Project (ASP), calling for sexual violence against men and boys to be investigated as part of current and future macro-cases, as relevant.

The SJP's jurisdiction is defined by three concurrent factors. The first is subject-matter jurisdiction over crimes committed by reason, occasion or directly or indirectly related to



² Constitutional Court, Special Chamber for the monitoring of Judgment T-025 of 2004, Order 092 of 2008, Judge: Manuel José Cepeda Espinosa.

³ The Victims Unit was established under the 2011 Victims and Land Restitution Law (Law 1448) to mandate humanitarian assistance and reparations measures for victims of the armed conflict.

⁴ [Final agreement to end the armed conflict and build a stable and lasting peace](#), 24 November 2016, p. 126.

⁵ Constitutional Court, Judgment C-579 of 2013, Judge: Jorge Ignacio Pretelt, August 2013.

⁶ See, National Centre for Historical Memory (CNMH – Centro Nacional de Memoria Histórica), [La Guerra Inscrita en el Cuerpo, Informe Nacional de Violencia Sexual en el Conflicto Armado](#), 2017, pp. 270-271 (hereinafter CNMH, [La Guerra Inscrita en el Cuerpo](#), 2017). Only available in Spanish.

the armed conflict, including political and related crimes, serious human rights violations, crimes against humanity and war crimes. The second is personal jurisdiction, for crimes committed by three main groups: the FARC-EP; the State security forces, as well as State officials who would have contributed to the commission of serious crimes.⁷ The third factor is temporal jurisdiction, over crimes perpetrated prior to 1 December 2016.⁸

The submission documented 75 cases of sexual violence against men and boys that occurred between 1989 and 2015. The cases were initially reported to the Attorney General's Office and the Ombudsman's Office in 2019 and 2021 in three workshops of "Collective Complaints Days" organised by RMVP, the Focal Groups and ASP.⁹

All the victims who provided testimonies were civilians, mainly from Montes de María sub-region, and Magdalena and Chocó departments, although allegations from other areas were also documented. Most of those who testified were farmers or fishermen. None was taking part in the hostilities at the time that the crimes of sexual violence occurred. Eighteen were children at the time of the events and nine identified as gay men.

The joint submission focused on analysing incidents and patterns of sexual violence in the territories with the highest number of complaints received during this process, namely Montes de María (13 cases), Magdalena (41) and Chocó (9). ASP conducted a detailed analysis of 51 cases.

In these 51 cases, the victims were typically attacked in their homes; while cultivating their land; or while travelling along roads and highways where armed groups were present and in confrontation. Their experiences are characterised by extraordinary levels of brutality – the vast majority involved anal rape often by more than one person and sometimes in public or in the presence of family members. The testimonies tell of being bound and beaten. In addition, the victims were threatened with violence and death if they reported the incidents. In many cases, sexual violence was accompanied by or took place in the context of other serious violations of international law, including unlawful killings, torture and other ill-treatment, and extortion. In almost all the analysed cases, victims were forcibly displaced as a result of the sexual violence, which deprived them of their livelihoods and damaged community relations. Most reported severe physical and psychological injuries because of the sexual violence they suffered, for which most had not received any medical or psychosocial support.

In each of the three territories named above, the joint submission presented an analysis – based on collected information, expert opinion, and research – of:

(i) the characterisation of the armed conflict and the presence, structure, and mode of operation of the armed groups, including, where relevant, the direct or indirect contribution of the security forces, state agents not members of the security forces, and civilian third parties to the commission of the crimes;



⁷ The SJP has mandatory jurisdiction over such individuals, whereas it can only investigate civilians or State agents who were not members of the State security forces if they voluntarily accept its jurisdiction; See Constitutional Court, Judgement C-674 of 2017; SJP, Appeals Chamber, Ruling TP-SA019, 21 August 2018.

⁸ For an overview of the SJP's jurisdiction, see Legislative Act 01 of 2017, transitory clauses 5 and 6; and International Commission of Jurists (ICJ), *Colombia: The Special Jurisdiction for Peace, Analysis One Year and a Half After its Entry into Operation*, June 2019, pp. 31-32.

⁹ Two of the "Collective Complaints Days" took place in 2019 and were organised by RMVP with the participation of the Attorney General's Office. The one held in 2021 was co-organised by RMVP, the Focal Groups, and ASP with the participation of the Attorney General's Office and the Ombudsman's Office.



¹⁰ Legislative Act 01 of 2017, "Whereby a title of transitory provisions of the Constitution is created for the termination of the armed conflict and the construction of a stable and lasting peace and other provisions are enacted", 4 April 2017. Unofficial translation. Replicated in the Statutory Law on the Administration of Justice in the SJP, Article 62. Judgment C-080 of 2018, p.411, Judge: Antonio José Lizarazo Ocampo.

¹¹ See: Judgment 2006-00703/46667 of 6 November 2018, Council of State, Section Three, Direct Reparation Action: "The analysis of the various and numerous elements of evidence gathered during the investigative phase and trial stage, allow us to affirm with certainty that JORGE AURELIO NOGUERA COTES, in his capacity as Director of the Administrative Department of Security (DAS), took advantage of the power that the position conferred on him and the powers of the entity, to promote and facilitate the criminal activities of the "Northern Bloc of AUC" of which the "Tayrona Resistance Front" was a part, favouring the interests of its two leaders: Rodrigo Tovar Pupo, alias "Jorge 40" and Hernán Giraldo Serna, alias "el Viejo". Unofficial translation.

¹² For instance, the Memory and Conflict Observatory (OMC – Observatorio de Memoria y Conflicto) of the CNMH reports 58 men and boy victims of sexual violence at the hands of state security forces from 1958 to 2016. See CNMH, OMC, with a cut-off date of 21 December 2021.

¹³ These groups have been categorised as "criminal bands" (BACRIM – bandas criminales) by the Colombian government. For more information on BACRIM, see: Center for International Security and Cooperation (CISAC), "Bandas Criminales", n.d.

- (ii) the patterns of criminality, forms of victimisation, and objectives seemingly pursued with the use of sexual violence; and
- (iii) individual and command responsibility of the alleged perpetrators.

Based on the testimonies, the main alleged perpetrators of sexual violence were members of the non-state armed group FARC-EP and the paramilitary group, United Self-Defence Forces of Colombia (AUC – Autodefensas Unidas de Colombia). Although the legal framework of the SJP is limited on personal jurisdiction to hear crimes committed by paramilitaries,¹⁰ there are elements that suggest that members of the security forces, state agents who were not members of the security forces, and civilian third parties contributed directly or indirectly to the commission of crimes by the AUC.¹¹

The submission included one case of anal rape of a teenage boy perpetrated by six or seven members of the Colombian army. This is not indicative of the scale of sexual violence committed against men and boys by state security forces.¹²

The submission also included cases of sexual violence committed by other non-state armed actors such as the Popular Liberation Army (EPL – Ejército Popular de Liberación) and the National Liberation Army (ELN – Ejército de Liberación Nacional); as well as some cases of sexual violence committed by "Los Rastrojos" and "Águilas Negras", criminal and drug-trafficking gangs that emerged following the demobilisation of the AUC in 2006.¹³ While these cases, and potentially others, do not fall under the jurisdiction of the SJP, they still provide relevant contextual information and the basis for analysis on the dynamics and patterns of sexual violence committed against men and boys. The joint submission requested that cases not falling under the SJP's jurisdiction be referred to the competent authorities for investigation.

Methodology

The original joint submission was based on the statements of 75 men that were collected during the three "Collective Complaint Days" run in 2019 and 2021. RMVP designed these workshops to facilitate a safe and secure environment in which victims could give their testimonies to the Attorney General's Office and the Ombudsman's Office, and simultaneously receive information about their rights and potential routes for seeking justice and psychosocial support. ASP conducted additional interviews with members of the Focal Groups, and experts on the conflict dynamics in Montes de María, Magdalena and Chocó.

Following the workshops, regular consultations between the participating organisations were held, including with victims represented by the Focal Groups. The research and documentation were guided by the principles of the centrality of victims and of "do no harm", which included ensuring the safety, privacy and well-being of participating victims. To this end, the original submission and this report only includes information to which the victims gave their informed consent and where disclosure would not lead to identification or harm.

In order to analyse and contextualise allegations of sexual violence contained in victim testimonies, ASP conducted an extensive review of secondary sources, including reports from national and international human rights and humanitarian organisations; national databases of serious human rights violations committed during the armed conflict such as the databases of the Victims Unit and of the National Centre for Historical Memory (CNMH – Centro Nacional de Memoria Histórica)¹⁴; UN reports; judicial decisions; and other relevant documents produced by state institutions, including CNMH reports.¹⁵

Several constraints, largely linked to the Covid-19 pandemic and the security situation in Colombia, limited the organisations' ability to undertake some planned research, including further interviews. This had an impact on their ability to conduct further investigations or to corroborate some facts. The submission applied the "*reasonable basis to believe*" standard of proof to consider individual incidents of sexual violence and patterns and to establish, based on existing information, whether they could **(i)** amount to violations of international humanitarian law (IHL) and/or international crimes within the jurisdiction of the SJP; and **(ii)** reveal patterns of macro-criminality, justifying investigation by the SJP's Chamber for the Acknowledgment of Truth, Responsibility and Determination of Facts and Conduct (SRVR – Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de los Hechos y Conductas). The submission ultimately served to gather sufficient evidence for the organisations to call on the SJP to consider and further investigate cases of sexual violence included in the submission, and beyond.



¹⁴ These are the Victim's Registry (RUV – Registro Único de Víctimas) of the Victims Unit and the OMC of the CNMH respectively.

¹⁵ The CNMH was created by the Colombian government to implement programs established under the Victims Law (Law 1448 of 2011).

Background: Sexual violence in the context of armed conflict in Colombia

¹⁶ National Commission for Reparation and Reconciliation (CNRR – Comisión Nacional de Reparación y Reconciliación) – Historical Memory Group, *Mujeres y Guerra, Víctimas y Resistentes en el Caribe Colombiano*, 2011, p. 211 (hereinafter CNRR – Historical Memory Group, *Mujeres y Guerra*, 2011). Only available in Spanish.

¹⁷ Constitutional Court, Special Chamber for the monitoring of Judgment T-025 of 2004, Order 009 of 2015, Judge: Luis Ernesto Vargas Silva.

¹⁸ ICC-OTP, *Situation in Colombia, Interim Report*, November 2012, para. 50; ICC-OTP, *Report on Preliminary Examination Activities*, 14 December 2020, pp. 27–39.

¹⁹ See Caballero Santana and Delgado v Colombia (1995) and Jineth Bedoya v Colombia (2021).

²⁰ Victims Unit, RUV, with a cut-off date of 30 April 2022. ²¹

CNMH, OMC, with a cut-off date of 21 December 2021.

²² Daniela P. López Gómez, 'Apuntes para entender la violencia sexual contra los hombres en el marco del conflicto armado colombiano', *Revista Controversia*, No. 210, June 2018 (hereinafter López Gómez, 'Apuntes para entender la violencia sexual contra los hombres en el marco del conflicto armado colombiano', *Revista Controversia*, 2018). According to the article, 223 of the cases were attributed to the Colombian Armed Forces and 91 to paramilitary groups and BACRIM. Only available in Spanish.

²³ MSF Colombia, *Colombia: In the Shadow of the Peace Process. The Impact of other Situations of Violence on the Population's Health*, August 2017, p.21 (hereinafter MSF Colombia, *Colombia: In the Shadow of the Peace Process*, 2017). Full report only available in Spanish.

Prevalence of sexual violence

Sexual violence affected countless women and girls during the armed conflict in Colombia. Men and boys were also targets of sexual violence, including those with diverse sexual orientation, gender identity and/or gender expression. According to a 2011 report by the Historical Memory Group of the National Commission for Reparation and Reconciliation (CNRR – Comisión Nacional de Reparación y Reconciliación), all armed actors (both state and non-state) used sexual violence as a form of strategic violence that sought to reassert their authority in the territories.¹⁶

In its Order 009 of 2015, the Constitutional Court of Colombia recognised that sexual violence against women and girls had been a widespread and systematic practice in the context of the armed conflict.¹⁷ Likewise, the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) has determined that sexual violence in Colombia was used in a systematic and widespread manner, due to the organised nature of the acts of violence, their large-scale commission and the multiple victims they have left behind.¹⁸ Judgments issued by the Inter-American Court of Human Rights (Inter-American Court) have also recognised sexual violence as a crime committed in the context of the armed conflict and the responsibility of the Colombian state.¹⁹

As of April 2022, the Victims Unit had registered **32,904** victims of *crimes against sexual integrity and freedom in the course of the armed conflict* between 1985 and 2016. Of these, **29,724** were women and girls, **2,669** were men and boys, **507** were identified as LGBTI and three people as intersex.²⁰ For its part, the Memory and Conflict Observatory (OMC – Observatorio de Memoria y Conflicto) of the CNMH has documented **15,001** victims of sexual violence in the context of the armed conflict between 1985 and 2016, including **1,320** men and boys.²¹

Cases of sexual violence against men and boys have also been documented by medical institutions and humanitarian organisations. The National Institute of Legal Medicine and Forensic Sciences (through medico-legal examinations) registered 373 men and boy victims of sexual violence during the period 2004–2016.²² Médecins Sans Frontières (MSF) has reported that in 2016 it supported 722 victims of sexual violence in its clinics in the district of Buenaventura in the department of Valle del Cauca and the municipality of Tumaco in the department of Nariño, of whom 10% were men. In these cases, alleged perpetrators were reported to include family members, partners, ex-partners and neighbours, but also included members of "[criminal] band(s) or armed group(s)".²³

Available information also points to potentially high levels of sexual violence involving boy victims. Of the 2,669 men and boy victims documented by the Victims Unit, for instance, more than 20% (584) were under the age of 18 when they were victims of sexual violence.²⁴ MSF has reported that children under the age of 15 accounted for 40% of the male victims it treated in Buenaventura and Tumaco during 2016.²⁵ According to a report published in 2014 by 10 Colombian women's and human rights organisations, tens of thousands of children allegedly suffered some form of sexual violence at the hands of state security forces and armed groups between 2008 and 2012, including an estimated 7,600 boys.²⁶

There are also indications that children associated with paramilitary and non-state armed groups were vulnerable to sexual violence. A 2016 report by Colombia's Office of the Attorney General found that sexual violence was the crime most commonly associated with the unlawful recruitment and use of children by the FARC-EP, and that boys were among the victims.²⁷ According to information provided to ASP by the state child protection agency, the Colombian Institute for Family Welfare (ICBF – Instituto Colombiano de Bienestar Familiar), 24 boys who had participated in its rehabilitation and reintegration programs for children associated with armed forces and armed groups had been victims of sexual violence.²⁸

Under-reporting of sexual violence

Under-reporting of sexual violence typically disguises its true magnitude against people of all genders, sexual orientations, gender expressions and sex characteristics in conflicts across the globe.²⁹

In Colombia, according to analysis by its Constitutional Court, a "triple process" facilitated sexual violence against women: *"official and unofficial invisibility; silence on the part of the victims; and impunity for perpetrators"*.³⁰ The Court attributed this three-pronged issue to various factors, including **(i)** distrust of the justice system on the part of victims and their families; **(ii)** fear of or threats of retaliation by perpetrators or members of their group against those who speak out about what happened, coupled with the lack of state protection for the victims and their families in the face of such risks; **(iii)** cultural factors such as shame, isolation and social stigmatisation experienced by victims of sexual violence; **(iv)** misrepresentation of sexual violence as "crimes of passion" by the authorities responsible for investigating them; **(v)** the almost total impunity for perpetrators, which the Court said was particularly the case for those belonging to illegal armed groups – adding that the impunity was predicated on both the ordinary criminal justice system and the system established by the Justice and Peace Law, Law 975 of 2005.³¹

Reinforcing the findings of the Constitutional Court, the CNMH has noted that in Colombia, *"the silence is much more overwhelming"* for men and that the *"mobilisation of men as victims of sexual violence has been scarce and poorly organised, which contributes greatly to the neglect and fear of these people."*³²



²⁴ Victims Unit, RUV, with a cut-off date of 30 April 2022.

²⁵ MSF Colombia, *Colombia: In the Shadow of the Peace Process*, 2017, p.21.

²⁶ Campaign – Rape and other Violence: Leave my Body Out of the War, *Stop Hunting Children! Report on Sexual Violence committed against Children and Adolescents in the Armed Conflict in Colombia*, March 2014, p.21.

²⁷ Verdad Abierta, "Violencia sexual intrafilas en las Farc: el debate apenas comienza", 3 August 2016. Only available in Spanish.

²⁸ ICBF responses to ASP's official request for information, No. 20201306343542, 30 July 2020, information on file with ASP.

²⁹ See, for example, Note by the Secretary-General, *The Gender Perspective in Transitional Justice Processes*, UN Doc. A/75/174 (2020).

³⁰ Constitutional Court, Order 092 of 2008, 14 April 2008, III.1.1.6, Judge: Manuel José Cepeda Espinosa. Unofficial translation.

³¹ Constitutional Court, Order 092 of 2008, 14 April 2008, III. 1.1.6. (i) to (xi), Judge: Manuel José Cepeda Espinosa; Law 975 of 2005 (known as the Justice and Peace Law) was enacted under the government of Álvaro Uribe to facilitate peace processes and the individual or collective reintegration into civilian life of members of organised illegal armed groups, guaranteeing the rights of victims to truth, justice and reparation.

³² CNMH, *La Guerra Inscrita en el Cuerpo*, 2017, p.49. Unofficial translation.

In a 2014 ruling, the High Court of Bogotá reiterated the need for further attention on sexual violence against men and boys:

"The case of sexual violence against men and boys deserves *special attention* [emphasis added by ASP] because of the scarce information available on the subject. The study of men and boys, not only as aggressors, victims or armed actors, but also as men, i.e. as persons with normative or non-normative gender identities, is also situated within the framework of cultural processes and power relations in society."³³

For men and boy victims, forms of stigmatisation based on socially constructed concepts of masculinity and femininity, as well as established gender roles, can lead to reluctance to report or disclose experiences of sexual violence.³⁴ According to researcher Daniela P. López Gómez, one of the main reasons for under-reporting in Colombia is *"the permanence of gender patterns that reproduce the idea that sexual violence is only a victimising event suffered by women"*.³⁵ In her 2018 study on sexual violence against men and boys, she attributes the lack of knowledge about and neglect of these victims to the shame, fear and confusion they experience, which discourages disclosure, as well as the lack of routes through which men and boys can relate their experiences; and a tendency to consider only women and girls as victims of this type of violence.³⁶

MSF has pointed out that in Colombia, *"there is an even greater under-reporting of cases of sexual violence among men. The male population is also subject to sexual aggression but, for cultural reasons such as the prevalence of machismo or the belief that homosexuality is directly linked to male sexual violence, men do not seek care or report cases to the authorities."*³⁷

Other factors may contribute to under-reporting, including the fact that sexual violence against men is often accompanied by other abuses that frequently result in death, and that sexual forms of torture are not always accurately documented or classified during data collection.³⁸

Documented patterns of sexual violence

In a landmark 2017 report on sexual violence in the context of the armed conflict in Colombia, the CNMH concluded that sexual violence was embedded *"in the logic"* of the armed conflict. The report described the different modalities, purposes and temporalities that support the conclusion that sexual violence was used as a war strategy. It argued that sexual violence had been exercised *"(...) to draw up the geographies of power, the control of territories, the government of populations and the disciplining of bodies"*. Under this logic, armed actors used sexual violence as a tool to communicate to the population and to victims that they hold "sovereign" power over the territory.³⁹

The report also emphasised the role of sexual violence in reaffirming power dynamics and gender hierarchies, and specifically identified two main patterns of sexual violence used by

³³ High Court of Bogotá, Peace and Justice Chamber, Judgment Arnubio Triana Mahecha and Others, No. 11001-22-52000-2014-00058-00, December 2014, Judge: Magistrate Eduardo Castellanos Roso, para. 956, p. 601. Only available in Spanish. Unofficial translation.

³⁴ ASP, *Briefing on Conflict-related Sexual Violence against Men and Boys for Colombia's Truth, Coexistence, and Non-Repetition Commission*, 11 December 2020, p.7.

³⁵ López Gómez, 'Apuntes para entender la violencia sexual contra los hombres en el marco del conflicto armado colombiano', *Revista Controversia*, 2018. Unofficial translation.

³⁶ López Gómez, 'Apuntes para entender la violencia sexual contra los hombres en el marco del conflicto armado colombiano', *Revista Controversia*, 2018.

³⁷ MSF Colombia, *Colombia: In the Shadow of the Peace Process*, 2017.

³⁸ For further information see López Gómez, 'Apuntes para entender la violencia sexual contra los hombres en el marco del conflicto armado colombiano', *Revista Controversia*, 2018.

³⁹ CNMH, *La Guerra Inscrita en el Cuerpo*, 2017, pp.24 and 50. Unofficial translations.

groups. In areas where armed groups already exercised territorial control, the sexual violence to impose social control was closely linked to the moral regulation of the civilian population. In areas of territorial dispute, armed groups used sexual violence as part of a strategy to gain control of the area where it was used to terrorise and/or punish people identified as the enemy, or to eliminate, reduce or subdue resistance.⁴⁰

According to the CNMH and others, the presence of armed actors resulted in the exacerbation of pre-existing patterns of sexual violence and other forms of violence against LGBTI+ people.⁴¹ Strategic ends for targeting these populations included social legitimacy, territorial control, and the disciplining and regulation of the civilian population.⁴²

These findings have been supported by national and international human rights organisations and regional bodies. For example, in 2006, the Inter-American Commission on Human Rights (IACHR) reported on the use of sexual violence as a means of warfare by the FARC-EP and the AUC, among others, to advance control of territories and economic resources. The IACHR indicated that sexual violence was used *"as a tactic to humiliate, terrorize, and wound the 'enemy', either in the family nucleus or community of the victim"*.⁴³

Amnesty International has similarly noted that armed groups committed acts of sexual violence as part of a policy aimed at sowing terror in communities to facilitate military control over them; force people to flee in order to facilitate the acquisition of their territory; eliminate those perceived to support the "enemy"; and to "cleanse" territories of economic or strategic interest.⁴⁴

Sexual violence has also been directly linked to the practice of forced recruitment and use of children, notably by FARC-EP which, is reported to have systematically and forcibly recruited and used teenage boys and girls.⁴⁵ Sexual violence was reportedly used by FARC-EP in this context; in particular, girls would have frequently been victims of rape, sexual slavery, forced abortions and the forced use of contraceptive methods.⁴⁶

The Justice and Peace jurisdiction⁴⁷ has recognised that sexual violence has been committed by paramilitary actors within the framework of macro-criminal patterns of gender-based violence.⁴⁸ The SRVR of the SJP which is responsible for assessing the criminal responsibility of the accused, opens cases not to resolve individual crimes, but rather to identify crime patterns and establish links between perpetrators. In that sense, instead of using a case-by-case approach to the investigations, the Chamber follows a more systematic approach to identifying those bearing most criminal responsibility, which is referred to as "macro-criminality".⁴⁹ According to the Colombian research centre



⁴⁰ CNMH, *La Guerra inscrita en el Cuerpo*, 2017; CNMH, *MEMORIA HISTÓRICA CON VÍCTIMAS DE VIOLENCIA SEXUAL: aproximación conceptual y metodológica*, December 2018, pp. 25-30. Only available in Spanish.

⁴¹ CNMH, *ANILQUILAR LA DIFERENCIA LESBIANAS, GAYS, BISEXUALES Y TRANSGENERISTAS EN EL MARCO DEL CONFLICTO ARMADO COLOMBIANO*, December 2015 (hereinafter CNMH, *Aniquilar la Diferencia*, 2015). Only available in Spanish.

⁴² Colombia Diversa, *Orders of Prejudice: Systematic Crimes against LGBT People in the Colombian Armed Conflict*, July 2020, p.84; Corporación Caribe. *Afirmativo, Resistimos callando, re-existimos gritando. Memorias*

y experiencias de sujetos colectivos LGBT en el marco del conflicto armado en Colombia, 2020, p.84. Only available in Spanish.

⁴³ IACHR, *Violence and Discrimination against Women in the Armed Conflict in Colombia*, OEA/Ser.L/V/II., Doc. 67, 18 October 2006, paras. 49-50; see also, Watchlist on Children and Armed Conflict, *No One to Trust. Children and Armed Conflict in Colombia*, April 2012, p.24 (hereinafter Watchlist, *No One to Trust*, 2012).

⁴⁴ Amnesty International, *Colombia: Datos y Cifras, Cuerpos Marcados, crímenes silenciados, Violencia sexual contra las mujeres en el marco del conflicto armado*, 13 October 2004, p.3. Only available in Spanish.

⁴⁵ SJP, SRVR, Order 029 of 2019, Opening of case 007 on forced recruitment, No. 291932300600 93, 1 March 2019 (hereinafter SJP, SRVR, Order 029 of 2019).

⁴⁶ SJP, SRVR, Order 029 of 2019, p.24; Watchlist, *No One to Trust*, 2012.

⁴⁷ The Justice and Peace jurisdiction was created through Law 975 of 2005, which established provisions for the reincorporation of members of organised illegal armed groups and provided for the demobilisation of the AUC.

⁴⁸ Liliana Chaparro et al., Universidad Santo Tomás, 'La violencia sexual y la justicia transicional en Colombia, Análisis de la violencia sexual como parte del patrón de macrocriminalidad de violencia basada en género en las sentencias de Justicia y Paz (2010-2021)', October 2021. Paper to be published. Only available in Spanish.

⁴⁹ To this end, the SJP has opened formal investigations into seven macro-cases, which represent the most serious acts of the armed conflict, analysed through patterns of "macro-criminality", which, if proven, could lead to the individual responsibility of

Corporación Humanas, the sexual crimes committed by the paramilitaries responded: "(...) to a policy designed within the group whereby the commission of sexual violence against women was promoted and tolerated as a weapon of war. This practice is common to all paramilitary structures who implemented it with the purpose of obtaining information, as a means of punishment, to cause terror in the victims and in the general community, among other purposes".⁵⁰

Sexual violence against men and boys

The accounts of rape and other forms of sexual violence provided by the 75 men and boy victims who presented their cases for the joint submission to the SJP are consistent with the patterns described above. There is a reasonable basis to believe that the FARC-EP and the AUC used sexual violence against the victims in the context of strategies of domination and control of the civilian population and/or for incursions and consolidation within the territory, including through attacks against persons identified as "enemies".

The victims were in a situation of vulnerability at the time of the events, often living in remote areas and belonging to communities characterised by exclusion and marginalisation, without or with only limited state protection from the violence by armed actors.

Most of the 75 victims whose testimonies were analysed for the submission did not report to the authorities at the time, for reasons such as that they felt ashamed, did not want their families to know, feared reprisals from the perpetrators, or felt that the authorities would not protect them.

The following sections set out the experiences of men and boys in three regions - Chocó, Montes de María and Magdalena where the majority (63) of the 75 acts of sexual violence described in the testimonies took place. The other 12 cases were documented in the departments of Antioquia, Caldas, Cauca, La Guajira, Meta, Norte de Santander, Valle del Cauca and Vichada.

Sexual violence in Chocó

The department of Chocó is in western Colombia, in the Pacific region. It has the largest Afro-descendant and Indigenous population in Colombia who, despite the department's wealth of natural resources, are economically poor and socially excluded.



commanders and participants.
See: www.jep.gov.co/especiales1/macrocasos/index.html

⁵⁰ Corporación Humanas, Amicus Curiae submitted to the Attorney General's Office regarding the Sexual Crimes committed by the Catatumbo Bloc of the United Self-Defence Forces of Colombia, April 2011. Cited in: Constitutional Court of Colombia, Order 009 of 2015, p. 12. Unofficial translation.

Afro-descendant communities in Chocó, especially those living in rural areas, have endured systematic discrimination, marginalisation and exclusion, despite being afforded special protection under the Constitution.⁵¹ The strategic importance of the territories inhabited by these communities has been closely linked with human rights violations against them in the context of the armed conflict.⁵² Densely forested, with a network of rivers, and rich in mineral resources including gold, Chocó was strategically important during the armed conflict as a place of refuge for armed groups, for arms and drug trafficking, and for generating revenue for armed actors who controlled mines.⁵³

During the period in which the crimes of sexual violence against men and boys documented in the joint submission to the SJP took place (1989-2015), several groupings of armed actors were reported to be present in Chocó. These included the 34th and 57th Fronts of the North-Western Bloc of the FARC-EP, the Elmer Cárdenas Bloc, the Pacific Heroes of Chocó Bloc of the AUC, as well as the First Division and the IV Brigade of the National Army of Colombia and the Colombian Naval Infantry.

Sexual violence was committed both by paramilitary groups and the FARC-EP in Chocó with particularly devastating effects on Afro-descendant and Indigenous peoples. Between 1996 and 2005, the Victims Unit registered **678** victims of *crimes against sexual integrity and freedom in the context of the armed conflict* in the department, of whom 91% were women and girls. They also included 48 men and boys, 40 of whom were black or Afro-Colombian.⁵⁴

The failure of state security forces to protect the civilian population, and their collusion with paramilitary groups, which included the AUC and its predecessors, contributed to the facilitation of crimes and reinforced impunity for them.

The joint submission to the SJP included details of the experiences described by six men and boys who reported that they were raped and subjected to other sexual violence by members of the FARC-EP between 1989 and 2004 in Chocó. All were civilians not taking part in the hostilities. All the incidents took place in rural areas, in or near the homes of the victims, during times of intensified conflict between FARC-EP and the AUC.

Of the six cases of sexual violence allegedly committed by FARC-EP, one took place in 1989, and the others in 2000 (one case), 2003 (one case), and 2004 (three cases). Most cases are alleged to have been perpetrated by members of the 34th Front of FARC-EP's North-Western Bloc.

All six of the victims are of Afro-descent and four were under the age of 18 at the time of the reported incidents. The four children were subjected to anal rape by more than one perpetrator, in one of the cases the perpetrators used their fingers for the anal penetration. One of the adults was subjected to anal rape by one perpetrator while the other was raped anally in front of his children, two of whom were also raped. The victim was raped (anally and orally) by the same perpetrators eight days after the first incident.



⁵¹ According to 2018 census data from the National Administrative Department of Statistics (DANE), 73.8% of the population of Chocó identifies as Afro-Colombian, while 15% identifies as indigenous and 5% as white and mestizo. The extreme poverty rate in 2017 in the department was close to 80%. See Amnesty International, *The Years of Solitude Continue. Colombia: the Peace Agreement and Guarantees of Non-Repetition in Chocó*, 2017, p.11.

⁵² IACHR, *Preliminary Observations of the Inter-American Commission on Human Rights after the Visit of the Rapporteurship on the Rights of Afro-descendants and against Racial Discrimination to the Republic of Colombia*, 27 March 2009.

⁵³ Expert opinion, 28 February 2022.

⁵⁴ Victims Unit, RUV, with a cut-off date of 30 April 2022.

Two of the victims described being forced to undress and two described being tied up while they were sexually abused. Most of the testimonies also referred to beatings or other forms of physical violence in addition to the sexual violence. All were threatened not to report the assault to the authorities, and all fled their homes after the incidents.

In at least three of the cases that occurred when the victim was a child, the sexual violence appears to have been linked to the forced recruitment of children by FARC-EP. In one case, the victim reported that a group of between 15 to 20 FARC-EP members attempted to recruit the boy and, when he refused, subjected him to sexual violence. This pattern of targeting boys for sexual violence for refusal to join the FARC-EP was documented in another case as was an incident of a boy being taken out of school by FARC-EP members and subsequently raped.

These cases appear to be consistent with the forced recruitment of children by FARC-EP in Chocó where the Victims Unit registered 108 cases of children and adolescents being involved in activities related to armed groups between 1996 and 2005.⁵⁵ According to an expert interviewed for the report, it was also closely related to social control, insofar as it *"imposed a level of terror, which was capitalised on to control the population"*.⁵⁶ In other words, the FARC-EP reportedly used sexual violence against children to generate terror and to control the local population. In many of the documented cases, children were allegedly raped as punishment for their refusal to be recruited.

Sexual violence in Montes de María

The Montes de María sub-region is made up of 15 municipalities in the central part of the departments of Bolívar and Sucre.⁵⁷ Located between the foothills of the eastern mountain range and the Caribbean Sea and bordered by the Magdalena River, and with a network of roads and rivers, it is a strategic corridor between the ports of the Caribbean coast and the interior of the country. Its geographic location, combined with a long history of land struggles, the precariousness of the state presence, the illicit drugs trade and a lucrative trade in kidnapping and extortion of cattle ranchers and farmers, made it one of the main areas of territorial dispute during the armed conflict.⁵⁸

The sub-region witnessed widespread violence during the conflict, including serious violations of IHL and international human rights law against civilians by the FARC-EP and the AUC, such as massacres and other unlawful killings, torture, forced displacement, kidnappings and sexual violence often aimed at exerting control over strategic corridors.⁵⁹ Various armed actors were reported to be present in Montes de María during the armed conflict, including the 35th and 37th fronts of the FARC-EP's Bloque Caribe, the AUC's Bloque Héroes de los Montes de María, as well as battalions of the Colombian Naval Infantry and troops of the National Army of Colombia.

Out of the 13 cases of sexual violence in Montes de María, the joint submission to the SJP included the detailed analysis of 11 cases. Of these, four men reported being raped by members of the FARC-EP in Montes de María between 1999 and 2003 at a time when

⁵⁵ Victims Unit, RUV, with a cut-off date of 30 April 2022.

⁵⁶ Expert opinion, 28 February 2022.

⁵⁷ These are: San Jacinto, San Juan Nepomuceno, María La Baja, Córdoba, Zambrano, El Guamo and El Carmen de Bolívar in the department of Bolívar and San Onofre, Ovejas, Chalán, Colosó, Morroa, Toluviejo, Los Palmitos and San Antonio de los Palmitos in Sucre.

⁵⁸ Observatorio de Restitución y Regulación de Derechos de Propiedad Agraria, *Informe sobre el Estado actual e impactos del proceso de restitución de tierras en Montes de María*, 2015. Only available in Spanish; Observatorio de los Derechos Humanos en Colombia de la Vicepresidencia de la República de Colombia, *Panorama actual de la región de Montes de María y su entorno*, August 2003. Only available in Spanish.

⁵⁹ See Fundación Cultura Democrática (FUCUDE), *Consultoría para los Derechos Humanos y el Desplazamiento (CODHES)*, Corporación Opción Legal, Universidad Tecnológica de Bolívar Grupo Regional de Memoria Histórica, Mesa de Organizaciones de Población Desplazada (OPDS) de los Montes de María, *Los Montes de María bajo fuego, voces de las víctimas de la violencia*, March 2020. Only available in Spanish; and Observatorio de los Derechos Humanos en Colombia de la Vicepresidencia de la República de Colombia, *Panorama actual de la región de Montes de María y su entorno*, August 2003, among others. Only available in Spanish.

FARC-EP controlled much of the area, and another seven men who reported being raped by the AUC between 2000 and 2006.

All four victims of sexual violence committed by FARC-EP were civilians who were not taking part in hostilities. Of these, two were teenage boys at the time of the events, and one, who was 20 years old at the time of the incident, identified as being gay.

The two victims who were under 18 at the time of the incident recalled frequently seeing FARC-EP patrols near the place where they lived. Both endured oral and anal rape and were masturbated over. The boys and their families fled their homes following the assaults.

The fourth case of rape took place in 2003. According to the testimony, the victim was approached by a large group of uniformed/armed men and women who told him to vacate the plot because they said it belonged to them. The victim was taken into the bush by three FARC-EP members where he was stripped naked, had his hands tied behind his back and was raped anally by each of three perpetrators in turn. He and his family were forced to flee the area because of the attack.

All seven of the victims who provided testimonies of sexual violence committed by the AUC in Montes de María were also civilians and were not participating in hostilities. Of these, two were children at the time. The incidents took place in 2000 (one case), 2001 (one case), 2004 (two cases), 2005 (two cases, one of which involved five victims under the age of 18), and 2006 (one case). All were forcibly displaced as result of their experiences.

In at least six of the cases, victims were subjected to anal rape and in at least three cases by more than one perpetrator. In the seventh case the victim had been beaten unconscious so did not know what had happened to him. When he woke up, however, he was naked and bleeding, and so believes that he was raped.

Other reported incidents took place at AUC checkpoints or when victims were stopped while travelling by road. In one case in 2005, the victim was just six years old when he was stopped along with other young relatives and friends by members of the AUC and subjected to sexual violence.

Sexual violence in Magdalena

The department of Magdalena, located in the north of the country, became a disputed area in the 1960s as various armed actors sought to gain territorial and social control, and consolidate smuggling routes for drug and arms.

Armed actors present in the department at the time (1998 – 2015) included the FARC-EP's 19th Front and the AUC's Northern Bloc.⁶⁰ They also included state armed forces, including the Second Brigade of the First Division, the Mechanised Infantry Battalion



⁶⁰ CNRR – Historical Memory Group, *Mujeres y Guerra*, 2011, p.224.

No. 5, the General High Mountain Battalion No. 6, and the Training and Retraining Battalion No. 2 of the National Army, and the department's Police Command.

As the FARC-EP and AUC expanded and sought to exercise control over Magdalena, the civilian population was subjected to numerous violations of IHL and international human rights law. FARC-EP is reported to have been responsible for, among other crimes, kidnappings and extortion, targeting business sectors and cattle ranchers.⁶¹

The Northern Bloc of the AUC, which became increasingly active in the area after 2000, is also reported to have relied heavily on violence against civilians to exercise social and territorial control.⁶² This included massacres and other unlawful killings of civilians, torture, forced displacement, and sexual violence against women.⁶³

Of the 41 cases which took place in Magdalena from 1998 to 2015, the joint submission to the SJP analysed in detail the testimonies of three men who reported having been raped by members of FARC-EP between 2000 and 2008, and of another 31 men who reported being raped by members of the Northern Bloc of the AUC in Magdalena between 1998 and 2003.

The three victims of sexual violence by FARC-EP were civilians and were not taking part in hostilities. All three men were anally raped, in one case by two different perpetrators, and one was also orally raped. All three were beaten, forced to undress, and/or threatened with death. As with all other victims whose testimonies were included in the submission to the SJP, the three men were all forcibly displaced because of the incidents of sexual violence.

The incidents in which the 31 men reported being subjected to sexual violence by members of the AUC took place between 1998 and 2003. All the victims were civilians and were not directly participating in the hostilities. Nine were under the age of 18 at the time, two were of Afro-descent, and one identified as being gay.

All 31 testified to having been anally raped (mostly with penises but in one case the perpetrators also used their fingers), two of the victims were also raped by means of forced oral penetration of the mouth with the penis. In some cases, the violence was committed by two or more people and sometimes in the presence of other members of the armed groups and/or family members.

According to many of the accounts, the rapes were often accompanied by kicking and beatings, including with guns and machetes, sometimes leaving victims with broken bones and in several cases unconscious. Many of the victims testified to having been stripped, bound and either thrown to the ground or tied to trees. In at least two cases, the victims were gagged and one reported having been urinated on. The violence was also typically accompanied by death threats against the victims themselves or against family members. In some cases, family members or others who were with the victims were unlawfully killed.

The accounts also indicate that the violence was in many cases closely linked to extortion and looting of farms and other property, to effect the forced displacement of the civilian



⁶¹ Alejandro Reyes Posada, *Guerreros y Campesinos: El Despojo de Tierras en Colombia*, 2016. Editorial Planeta Colombiana: Bogotá. Only available in Spanish.

⁶² CNRR – Historical Memory Group, *Mujeres y Guerra*, 2011.

⁶³ High Court of Bogotá, Justice and Peace Chamber, Order 19 of 2014, Judgment against Salvatore Mancuso and Others, No. 11 001 22 52 000 2014 00027, 20 November 2014, Judge: Dr. Léster María González (hereinafter High Court of Bogotá, Justice and Peace Chamber, Order 19 of 2014, Judgment against Salvatore Mancuso and Others, November 2014).

population. In others, it appeared to be a form of punishment for being a suspected FARC-EP informer or supporter.

The impact of sexual violence on victims

The impact of the experiences of sexual violence on the victims who provided their testimonies has been devastating. Even now, many years after the events, most are still living with the physical, psychological, economic and other consequences of the crimes committed against them.

Most of the victims reported that they had suffered severe pain during the assaults and physical injuries from the sexual violence, including anal fissures and haemorrhoids, faecal incontinence, bleeding, bruising, and pain during defecation. One explained that he suffered from exposure of the colon and has had to have two operations to treat this. Another said he suffered from loss of sight and severe headaches due to blows to the head that accompanied the rape.

The psychological impacts have been equally devastating and debilitating. Among those reported in the testimonies were feelings of anger, rage, anxiety, sadness, depression, shame and humiliation. Several victims reported that they continue to suffer insomnia, flashbacks or suicidal thoughts. Several explained that they avoided interactions with other people, and had become isolated from families, friends or neighbours as a result.

One victim whose mother and siblings were also raped along with him explained how each member of his family had suffered psychological consequences because of the violence and the damage to their dignity. Others feared that the act of sexual violence would lead others to view him as homosexual.

Most of the victims have not sought medical treatment or mental health care. Shame, concerns over confidentiality, fear of reprisals and insecurity, and limited availability of services acted as main deterrents. Instead, many victims self-medicated and treated their injuries using traditional home remedies. Those victimised as children were often helped by family members. In addition, those who did access services often did not disclose that their injuries were the result of having been subjected to rape or other forms of sexual violence. One victim explained that the reason he had not gone to a medical centre was because of his deep sadness and anguish as well as his fear of being ridiculed.

Fear also prevented most of the 75 victims from reporting what had happened to them to the authorities. Many were threatened by perpetrators with death or other violence if they filed a complaint, but as one victim explained the levels of social control exercised by armed groups were such that threats were unnecessary. He explained that the reason he had not filed a complaint before was because of the widespread fear of the paramilitary groups.



As a result of forced displacement, injuries sustained, and because of other human rights violations that often accompanied the acts of sexual violence, including unlawful killings and lootings, many victims and their families also suffered considerable economic losses. Forced to abandon their homes, belongings, animals and crops and other livelihoods, most had no means of generating an income. According to one who fled with his family after his family home was invaded by members of a paramilitary group and he was raped and his father shot dead, the financial loss following the abuse was acute. Other victims requested economic assistance in order to be able to lead a life of dignity.

Applicable legal framework and analysis

Applicable legal framework

International humanitarian law

According to the SJP, the existence of a non-international armed conflict in Colombia "*is not a matter of debate*".⁶⁴ Both the FARC-EP and the AUC have been recognised as "organised armed groups" and are bound by international obligations provided under IHL and international criminal law.⁶⁵

Rape and other forms of sexual violence against any person are prohibited by IHL including in non-international armed conflicts.⁶⁶ Article 3 common to the four Geneva Conventions establishes minimum standards of treatment for civilians and persons "*hors de combat*". It implicitly prohibits sexual violence by establishing an obligation of humane treatment and prohibiting violence to life and person, including mutilation, cruel treatment and torture, and outrages upon personal dignity, in particular humiliating and degrading treatment.⁶⁷ The International Committee of the Red Cross (ICRC) has confirmed that this prohibition covers violence against any person, including men and boys.⁶⁸

Additional Protocol II, which is binding on Colombia, contains explicit prohibitions on rape, enforced prostitution and any form of indecent assault, regardless of the sex of the victim (Article 4(2)(e)). Additionally, Customary IHL (Rule 93) prohibits rape and other forms of sexual violence; this prohibition applies to both men and women, as well as to adults and children.⁶⁹



⁶⁴ SJP, SRVR, Order 19 of 2021, paras. 711, 716.

⁶⁵ High Court of Bogotá, Justice and Peace Chamber, Order 19 of 2014, Judgment against Salvatore Mancuso and Others, November 2014, para. 411.

⁶⁶ Common Article 3 of the Geneva Conventions (1949); Article 4(2)(e) Additional Protocol II; International Committee of the Red Cross (ICRC), Customary International Law, Rule 93, Commentary on Convention (III) relative to the Treatment of Prisoners of War 1949, paras. 732-743.

⁶⁷ Common Article 3 of the Geneva Conventions (1949).

⁶⁸ ICRC, Customary International Law, Rule 93.

⁶⁹ ICRC, Customary International Law, Rule 93.

International criminal law

Sexual violence as an international crime can constitute a war crime, a crime against humanity and a constituent element of genocide. It can also be an underlying act of persecution as a crime against humanity and a form of torture that could constitute a crime against humanity, a war crime and/or genocide.⁷⁰

The Rome Statute's Elements of Crimes define sexual violence as: "*an act of a sexual nature against one or more persons or has caused such person or persons to perform an act of a sexual nature by force or by threat of force or by coercion, such as that caused by fear of violence, intimidation, detention, psychological oppression or abuse of power, against such person or persons or another person or by taking advantage of an environment of coercion or the inability of such person or persons to give his or her free consent*".⁷¹

Sexual violence can take many forms. The Rome Statute lists rape, sexual slavery, enforced prostitution, forced pregnancy and enforced sterilisation as war crimes and crimes against humanity,⁷² as well as any other form of sexual violence "*of comparable gravity*"⁷³ or "*which also constitutes a grave breach of Article 3 common to the four Geneva Conventions*".⁷⁴

Acts of sexual violence may constitute war crimes if the following contextual elements are established: **(i)** the sexual violence was committed in the context of, and associated with, an international or non-international armed conflict and **(ii)** the perpetrator was aware of the factual circumstances that established the situation as one of armed conflict.⁷⁵

Acts of sexual violence may constitute crimes against humanity if the following contextual elements are established: **(i)** the sexual violence was committed "as part" of a widespread or systematic attack against a civilian population; and **(ii)** the perpetrator had knowledge of the attack.⁷⁶

International human rights law

International human rights law continues to apply in times of armed conflict. While the primary obligation to uphold human rights falls on States, it is increasingly understood that armed groups, notably those in effective control of territory and over the populations therein, also have human rights obligations.

Rape and other forms of sexual violence can infringe upon a number of human rights, including the right to life; liberty and security of the person; the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment; freedom from all forms of discrimination. Sexual violence also constitutes a violation of the highest attainable standard of physical and mental health. These rights are enshrined in international and regional human rights treaties to which Colombia is a party.⁷⁷ The right to life and the prohibition of torture are also peremptory norms of international law.⁷⁸

⁷⁰ ICC, Rome Statute, Articles 7 and 8.

⁷¹ ICC, Elements of Crimes, Article 7(1)(g)-6 and Article 8(2)(e)(vi)-6.

⁷² ICC, Rome Statute, Articles 7 and 8.

⁷³ ICC, Rome Statute, Articles 7 and 8.

⁷⁴ ICC, Rome Statute, 8, para. C.

⁷⁵ Unlike the ICC, it is not necessary for the SJP to determine, in addition, whether the crimes committed were carried out as part of a plan or policy, and whether they were committed on a large scale, or whether they are of particular gravity, in order to determine that they are war crimes. Nor is the gravity of the acts a contextual element, since although the violation of IHL that represents a war crime must be serious or grave to be a war crime, this gravity is not part of the context but of the crime itself.

⁷⁶ ICC, Rome Statute, Article 7(1)(g).

⁷⁷ For example, International Covenant on Economic, Social and Cultural Rights (Colombia's ratification/accession 1969); International Convention on the Elimination of All Forms of Racial Discrimination (1981); International Covenant on Civil and Political Rights (1969); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); Convention on the Rights of the Child (1991); American Convention on Human Rights (1973); Convention on the Elimination of All Forms of Discrimination Against Women (1982); International Convention for the Protection of all Persons from Enforced Disappearance (2012).

⁷⁸ See UN Human Rights Committee, General Comment No. 29, States of Emergency, Article 4, 31 August 2001, UN Doc. CCPR/C/21/Rev.1/Add.11, para. 11.



⁷⁹ See, for example, UN Human Rights Committee, General Comment No. 31, The nature of the general legal obligation imposed on States Parties to the Covenant, 26 March 2004, UN Doc. CCPR/C/21/Rev.1/Add. 13, paras 8, 15, 18; UN Committee Against Torture, General Comment No. 2, Implementation of article 2 by States Parties, 24 January 2008, UN Doc. CAT/C/GC/2 and General Comment No. 3, Implementation of article 14, 13 December 2012, UN Doc. CAT/C/GC/3.

Inter-American Convention to Prevent and Punish Torture (ratified by Colombia in 1998); Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para) (ratified by Colombia in 1996), Chapter III.

⁸⁰ Penal Code of Colombia, Law 599 of 2000, Article 135, added by Law 1719 of 2014.

⁸¹ Penal Code of Colombia, Law 599 of 2000, Article 138, "Carnal Access of a protected person", added 1719 of 2014. This provision is complemented by the definition of "carnal access", provided for in Article 212.

⁸² "Anyone who, on the occasion and in the course of the armed conflict, by means of violence, forces a protected person to undress totally or partially or to remain naked, shall be sentenced to imprisonment of sixty-four (64) to one hundred and sixty-two (162) months", Penal Code of Colombia, Article 139D, added by Law 1719 of 2014. Unofficial translation.

⁸³ "Anyone who, on the occasion and in the course of the armed

conflict, through violence interrupts or forces the interruption of the pregnancy of a protected person without their consent, shall be imprisoned for one hundred and sixty (160) months to three hundred and twenty-four (324) months", Penal Code of Colombia, Article 139E added by Law 1719 of 2014. Unofficial translation.

⁸⁴ "Anyone who, through the use of force and on the occasion and in the course of the armed conflict, forces a protected person to provide sexual services", Penal Code of Colombia, Article 141 added by law 1719 of 2014. Unofficial translation.

⁸⁵ "Anyone who, on the occasion and in the course of the armed conflict, recruits, transfers, harbours or receives a protected person within the national territory or abroad, for the purpose of sexual exploitation, shall be liable to imprisonment of one hundred and fifty-six (156) to two hundred and seventy-six (276) months and a fine of eight hundred (800) to one thousand five hundred (1,500) legal monthly minimum wages in force", Penal Code of Colombia", Articles 141B added by Law 1719 of 2014. Unofficial translation.

⁸⁶ "Anyone who, on the occasion and in the course of the armed conflict, exercises one of the attributes of the right to property by means of violence against a protected person so that they perform one or more acts of a sexual nature, shall be liable to imprisonment for one hundred and sixty (160) to three hundred and twenty-four (324) months and a fine of six hundred and sixty-six point sixty-six (666.66) to one thousand five hundred (1,500) legal monthly minimum wages in force. Penal Code of Colombia, Article 141A added by Law 1719 of 2014. Unofficial translation.

⁸⁷ Congress of Colombia, Law 1719 of 2014.

States have an obligation to act with due diligence to prevent, investigate and prosecute acts of sexual violence perpetrated by State and non-State actors, and to provide redress to victims.⁷⁹

Under international human rights law, States are responsible for protecting all persons from acts of sexual violence but also for investigating, prosecuting and punishing perpetrators of sexual violence, be they state or non-state actors.

National law

Colombian criminal law defines sexual violence in the context of the armed conflict, based on the provisions of Law 1719 of 2014. This amended some articles of the applicable Criminal Codes and adopted measures to guarantee access to justice for victims of sexual violence, especially that committed during and in the context of the armed conflict.

This law establishes the definition of protected persons in the framework of the armed conflict as those members of the civilian population who do not take part in hostilities and civilians in the power of the adverse party, among others.⁸⁰

Within the crimes of sexual violence in the Colombian legal framework, violent carnal access on a protected person is defined in a gender-neutral manner as "*penetration of the virile member by anal or vaginal or oral means, as well as vaginal or anal penetration of any other part of the human body or other object*", by means of violence against a protected person.⁸¹

The law also proscribes sexual acts other than "carnal access by means of violence", forced nudity;⁸² forced abortion;⁸³ forced prostitution;⁸⁴ trafficking in persons for the purpose of sexual exploitation⁸⁵ and sexual slavery of a protected person.⁸⁶

Law 1719 of 2014 also incorporates into the Criminal Code sexual violence as a crime against humanity when committed as part of a widespread or systematic attack against the civilian population, in accordance with the definitions of the Rome Statute of the ICC.⁸⁷

Legal analysis

The OTP of the ICC has found “sufficient basis to believe” that the FARC-EP and the AUC, among others, committed crimes against humanity. According to the OTP, numerous attacks - of a systematic and widespread nature - against the civilian population were perpetrated in different parts of the country, including in the Montes de María, Magdalena, and Chocó areas. Rape and other forms of sexual violence were among the many underlying acts of crimes against humanity.⁸⁸ In Order 19 of 2021, the SJP determined that the FARC-EP carried out a systematic and widespread attack of deprivation of liberty against the civilian population and that they committed a number of acts that amounted to crimes against humanity, including sexual violence and forced displacement against captives.⁸⁹

The AUC have also been tried under the Justice and Peace Law as perpetrators, amongst other crimes, of forced displacement, forced disappearances, and sexual violence against women and girls.⁹⁰ These crimes have been classified in the Justice and Peace jurisdiction as crimes against humanity (and war crimes).⁹¹ The Supreme Court of Justice of Colombia has reiterated that, “the serious conducts committed by the paramilitaries must be framed, primarily, within the context of crimes against humanity, since the attack perpetrated against the civilian population acquired such dimensions of generality and systematisation that it significantly altered the minimum order of civility, implying the disregard of the fundamental principles of the prevailing social order”.⁹²

In a series of judgments, the Inter-American Court has upheld Colombia's international responsibility for violations of IHL and human rights committed by paramilitaries against the civilian population in different periods and geographical contexts. According to the Court, Colombia's state responsibility arises from (i) concrete actions of collaboration, support or collaboration⁹³ and (ii) omissions that allowed or facilitated the commission of serious crimes by non-state actors.⁹⁴ In particular, in several judgments the Court has found the Colombian State responsible for acts of sexual violence perpetrated in the context of the armed conflict.⁹⁵

Colombia's Constitutional Court has affirmed that numerous sexual crimes have occurred in territories controlled by armed groups and are therefore closely related to the armed conflict. In this way, the Court established the presumption that an act of sexual violence occurring in a region or locality with the presence of armed actors has a close and sufficient relationship to the armed conflict.⁹⁶

The acts of sexual violence included in the submission all occurred in disputed regions at a time when the armed conflict was ongoing. The alleged perpetrators were members of the FARC-EP and/or the AUC involved in this conflict and the victims were all civilians.

⁸⁸ ICC-OTP, *Situation in Colombia, Interim Report*, November 2012.

⁸⁹ SJP, SRVR, Order 19 of 2021, p.2.

⁹⁰ ICTJ, Justice and Peace Judgments, available in Spanish at:

www.ictj.org/sites/default/files/subsites/colombia-linea-tiempo/sentencias.html

⁹¹ Superior Court of the Judicial District of Bogotá, Justice and Peace Chamber, 31 October 2014, No. 110016002525320068 0008 N.I. 1821, Judge: Alexandra Valencia Molina.

⁹² Supreme Court of Justice, Judicial Chamber for Criminal Cases, No. 32022, 21 September 2009, Judge: Sigifredo Espinoza Pérez.

⁹³ See Case of the Mapiripan Massacre v. Colombia, Merits and Reparations, para. 123; Case of the Rochela Massacre v. Colombia, Merits, Reparations and Costs, paras. 82, 93, 101(a); Case of the Ituango Massacres v. Colombia, Preliminary Objection, Merits, Reparations and Costs, paras. 125.57, 125.86 and 132, and Case of Manuel Cepeda Vargas v. Colombia, Preliminary Objections, Merits, Reparations and Costs, paras. 114 and 124.

⁹⁴ See Case of 19 Merchants v. Colombia, Merits, Reparations and Costs, Judgment of July 5, 2004. Series C No. 109 para. 86(c); Case of the Pueblo Bello Massacre, Colombia, Fond, paras. 126 and 140; Case of Valle Jaramillo et al. v. Colombia, Merits, Reparations and Costs, para. 92.

⁹⁵ See Caballero Santana and Delgado v Colombia (1995) and Jineth Bedoya v Colombia (2021).

⁹⁶ Constitutional Court of Colombia, Special Chamber for the monitoring of Judgment T-025 de 2004, Order 009 of 2015. See judgments C-291 of 2007, C-914 of 2010, C-253A of 2012, C-781 of 2012, C-084 of 2016, C-080 of 2018.

Investigating rape as a war crime and/or crime against humanity

In the vast majority of cases included in the joint submission, victims provided accounts of being subjected to oral and/or anal rape. In each of the documented cases, the rape was committed by force; threat of force or coercion; and/or taking advantage of a coercive environment. Victims were variously threatened with death and physical violence, beaten, or tied up by perpetrators.⁹⁷

It also appears from the circumstances described in the testimonies that the perpetrators intentionally invaded the victims' bodies and did so by force, and/or by threat of force or coercion. The allegations indicate that the acts of penetration were voluntary.

The information gathered and submitted indicates the presence of material elements that call on the SJP to investigate if the acts of rape described may amount to war crimes or crimes against humanity.

Investigating torture or cruel treatment as a war crime

The detailed testimonies and impact on the victims' physical and mental health also clearly indicate that the perpetrators inflicted severe physical and/or mental pain and suffering on the victims by subjecting them to sexual violence. Based on the evidence and research conducted including on the existing context of armed conflict in each geographic area at the time of the events, there are sufficient indications that this suffering may have been inflicted for a specific purpose, in particular to intimidate, punish and/or coerce the victims – and sometimes their communities, with the objective of gaining social and territorial control. In the case of the victims with diverse real or perceived sexual orientation, information suggests that the purpose of the rape may have been to discriminate against them and punish them on the basis of their diverse sexual orientation.

What is evidenced by the submission is the need for the SJP to investigate these acts of sexual violence, including those committed against individuals with diverse real or perceived sexual orientation, as they may amount to torture or cruel treatment, as a war crime and/or a crime against humanity.

Investigating persecution as a crime against humanity

In the case of some of the gay victims, there are strong indications that they might have been raped or subjected to other forms of sexual violence because of their sexual orientation, in contexts where armed groups targeted LGBT+ persons for violence and deprived them of their fundamental rights. This was the case for instance in Montes de Maria, where LGBT+ people were specifically at risk and where paramilitary groups used pamphlets amongst other means to threaten and intimidate LGBT+ populations.⁹⁸ The crimes of sexual violence against gay men documented in this report may therefore also amount to persecution as a crime against humanity.



⁹⁷ According to Rule 71 of the ICC Rules of Procedure and Evidence, these accounts do not need to be corroborated to establish that the alleged crimes occurred.

⁹⁸ See: J. F. Serrano Amaya, 'Contribución a la historia de las violencias por orientación sexual e identidad de género en la violencia sociopolítica de Colombia', 2013, *Revista Controversia*, No. 201, pp. 86-87; Colombia Diversa, *Vivir bajo sospecha. Estudio de caso: Personas LGBTI víctimas del conflicto armado en Vistahermosa y San Onofre*, mayo de 2017; CNMH, *Aniquilar la Diferencia*, 2015, pp. 138 and 185. Only available in Spanish.

Conclusion

Cases documented in the joint submission provide a harrowing account of the dynamics and patterns of sexual violence committed against men and boys during the armed conflict in Colombia. They merit the attention of the SJP. It is important to reemphasise the need for further investigations and that the absence of reported cases in other territories and/or the scarcity of documented sexual violence committed by other armed actors and state security forces does not necessarily indicate its absence against men and boys in those contexts, but instead may point to barriers to reporting and to accessing justice.

Based on the information gathered, there is a reasonable basis to believe that the acts of sexual violence perpetrated against the victims whose testimonies were included in the joint submission to the SJP amount to crimes of sexual violence and/or were intentionally inflicted to cause severe mental and/or physical pain and suffering, rising to the level of torture. Furthermore, there are reasonable grounds to believe that the acts were committed in close and sufficient connection with the armed conflict and as part of a widespread and/or systematic attack against the civilian population, to render the acts possible war crimes and/or crimes against humanity.

In cases where individuals were targeted by members of armed groups because of their diverse sexual orientation or gender expression, the sexual violence against them may also constitute persecution as a crime against humanity.

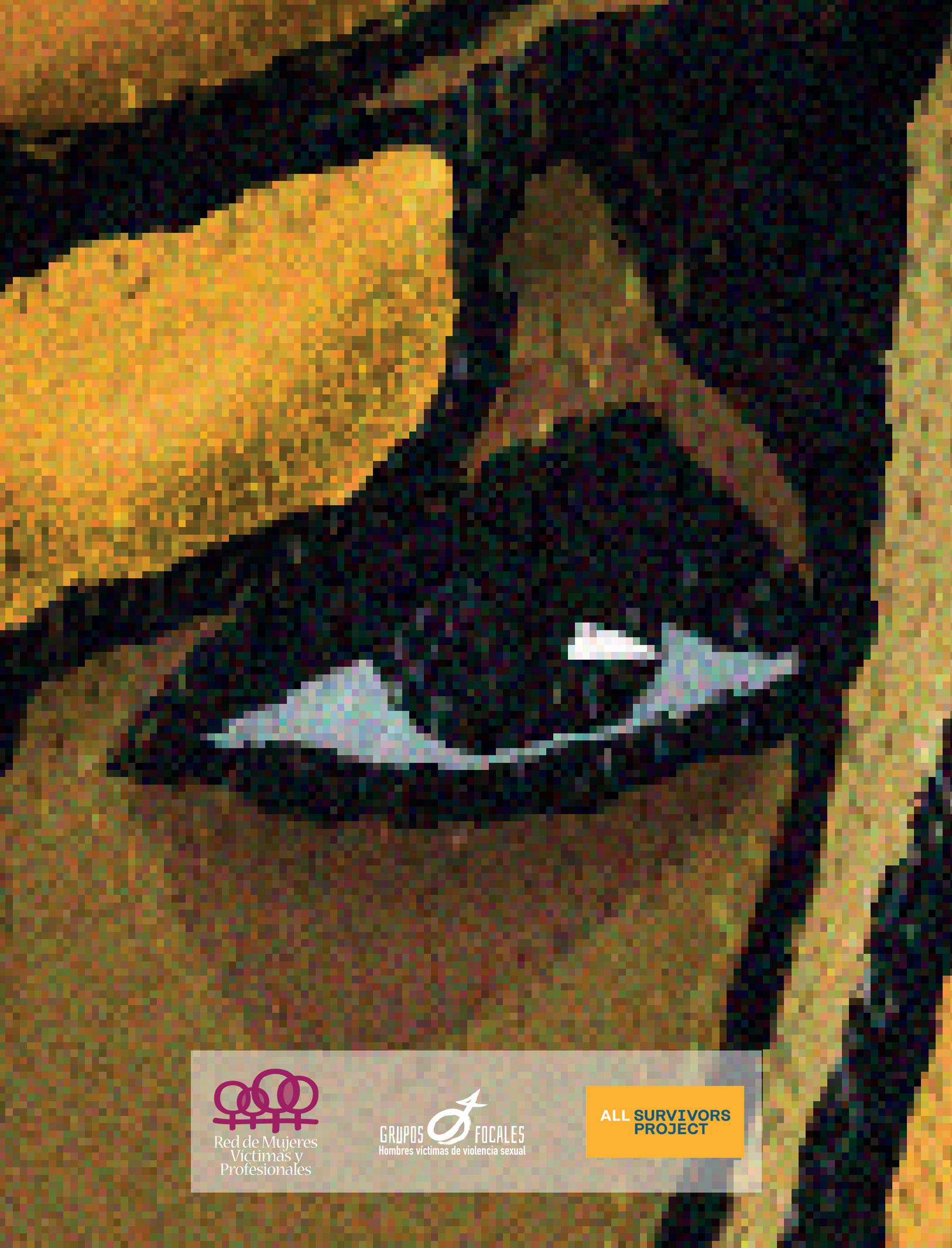
The experiences of victims whose cases were documented have had profoundly negative impacts on their health and well-being, as well as serious economic consequences. Their testimonies brought to the attention of the SJP demonstrate how the impacts of sexual violence are exacerbated due to a range of intersectional factors which include sexual orientation, gender identity, ethnicity, age, socioeconomic status, and race.

Victims report that they had no response from the authorities and that they continue to face barriers in accessing justice. Victims feared disclosing what had happened to them and were afraid to seek justice at the time of the events due to the stigma and shame that inevitably accompanies sexual violence-related crimes, and because of fear of reprisals due to continued presence of armed actors in the areas in which they lived and lack of effective protection. This continuing state of impunity further accentuates the impacts of profound harms suffered by victims, who continue to seek redress for these crimes.



Victims are calling for sexual violence against men and boys, including those with diverse sexual orientation, gender identity and/or gender expression, to be investigated by the SJP as part of a macro-case on sexual violence. If such a macro-case is not opened, the sexual victimisation of men and boys in the context of the conflict, which remains largely under-investigated by the justice system, risks being further overshadowed and rendered invisible. Alternatively, if a macro-case on sexual violence is not opened, the victims urge the SJP to investigate sexual violence against men and boys as part of its ongoing macro-cases (including Case 007) and as part of other future macro-cases, in line with their rights as victims of the armed conflict.





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